

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

ADMINISTRATION COMMISSION
BOARD OF TRUSTEES

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Bush
presiding, in the Cabinet Meeting Room, LL-03, The
Capitol, Tallahassee, Florida, on Tuesday, August 23,
2005, commencing at approximately 9:15 a.m.

Reported by:

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Representing the Florida Cabinet:

JEB BUSH
Governor

CHARLES H. BRONSON
Commissioner of Agriculture

CHARLIE CRIST
Attorney General

TOM GALLAGHER
Chief Financial Officer

* * *

I N D E X

ADMINISTRATION COMMISSION
(Presented by Barbara Leighty)

| ITEM | ACTION | PAGE |
|------|----------|------|
| 1 | Approved | 4 |
| 2 | Deferred | 52 |

BOARD OF TRUSTEES
(Presented by Colleen Castille)

| ITEM | ACTION | PAGE |
|------|-----------|------|
| 1 | Accepted | 57 |
| 2 | Approved | 60 |
| 3 | Approved | 67 |
| 4 | Approved | 78 |
| 5 | Approved | 79 |
| 6 | Approved | 124 |
| 7 | Withdrawn | 124 |

| | | |
|-------------------------|--|-----|
| CERTIFICATE OF REPORTER | | 126 |
|-------------------------|--|-----|

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

2 GOVERNOR BUSH: The Administration
3 Commission.

4 CFO GALLAGHER: Motion on the minutes.

5 ATTORNEY GENERAL CRIST: Second.

6 GOVERNOR BUSH: There's a motion on Item 1
7 and a second. Without objection, the item
8 passes.

9 MS. LEIGHTY: Item 2 is --

10 GOVERNOR BUSH: Good morning, Barbara.

11 MS. LEIGHTY: Good morning. How are you?

12 GOVERNOR BUSH: I'm doing well.

13 MS. LEIGHTY: We recommend approval to
14 finalize rulemaking to amend the Comprehensive
15 Plan and land development regulations for Monroe
16 County. As you know, this item was deferred from
17 the August 9th meeting to allow Monroe County and
18 the Florida Keys Aqueduct Authority to finalize
19 the wastewater interlocal agreement --

20 CFO GALLAGHER: Could you put the microphone
21 a little closer to you so everybody can hear you?

22 MS. LEIGHTY: I'm sorry.

23 CFO GALLAGHER: Thank you.

24 MS. LEIGHTY: This item was deferred to
25 allow Monroe County and the Florida Keys Aqueduct

1 Authority to finalize the wastewater interlocal
2 agreement and also to allow Monroe County to
3 address habitat protection provisions. Secretary
4 Cohen is here to give a progress report on those
5 efforts, and then we have several speakers that
6 will follow.

7 GOVERNOR BUSH: Welcome, Secretary.

8 MR. COHEN: Good morning. This presentation
9 will give you a progress on the work that has
10 taken place since your direction on August 9th,
11 which, as was said, we were asked to get a clear
12 consensus from Monroe County on habitat
13 protection and hurricane evacuation, and you
14 further directed us to work with Monroe County,
15 the Florida Aqueduct Authority, as well as the
16 cities, to resolve the issue of ownership for
17 wastewater.

18 And what we've been able to do with Monroe
19 County is, on August 17th, they approved an
20 action plan that will revise two ordinances to
21 move forward on the protection of their habitat
22 that will be part of the Comprehensive Plan that
23 will be consistent with the proposed rule.
24 Additionally, on that same day, that action says
25 that on September 21st, they will then move

1 forward with the adoption of their Comprehensive
2 Plan amendments, and then complete no later than
3 December 21st the development of regulations that
4 will then implement that, and then complete the
5 mapping by the end of December as well.

6 On the issue of wastewater, at the 17th
7 meeting, they had a reaffirmation of the fact
8 that they will assist in providing the funds for
9 centralized wastewater treatment facilities in
10 the Keys.

11 And the agreement further establishes a
12 coordinating committee between the executive
13 director of the Aqueduct Authority and the county
14 administrator for the County that will move
15 forward with the following items: They will
16 develop an implementation schedule, a financial
17 plan, a request for proposal for procurement, and
18 a staff review and joint approval as they go
19 forward. What this does is allows the two
20 organizations to work jointly as they move
21 forward on the issues of wastewater.

22 Furthermore, this coming Friday, we will be
23 having a meeting with the two staffs and Ben
24 Watkins of the Division of Bond Finance to be
25 able to start working our way through the issues

1 of ownership, which we understand and know is a
2 very critical issue.

3 Additionally, as part of what you directed
4 us to do, is to work with the cities, which in
5 this case includes Marathon, on wastewater
6 issues, on August 12th I had an opportunity to
7 meet again with FKAA, and in this case, Marathon,
8 and we had a very constructive meeting in which
9 they reaffirmed their July 28th interlocal
10 agreement. The City has hired a engineer that is
11 being financed through their taxing units.
12 They're being reimbursed by the Aqueduct
13 Authority. And they've again created a joint
14 organization that's taking a look at each of
15 these issues.

16 On August 22nd, yesterday, we had a very
17 constructive meeting with DEP, myself, and the
18 two staffs, the chair and the mayor of Marathon
19 to start off working our way through the process
20 of discussions of what it is we can do in order
21 to move forward on the ownership agreement
22 issues. They're proposing to meet this coming
23 Wednesday, tomorrow, to put options on the table
24 between the two staffs in order to provide a
25 broader policy framework for their elected

1 officials and the board members to consider.

2 The Aqueduct Authority will have a meeting
3 on Thursday in which they will then in turn talk
4 in terms of what the various options are for them
5 and their future as far as how they will handle
6 wastewater in relationship to the County and in
7 relationship to the City of Marathon.

8 And then finally, you asked us what was the
9 status of hurricane evacuation. As we indicated
10 here, Comprehensive Plan amendments have been
11 adopted by Key Colony Beach, Marathon, and
12 Layton. Amendments have been transmitted to the
13 DCA from Monroe County and Islamorada, and Key
14 West currently has those before their Planning
15 Commission. We are expecting all of them to be
16 transmitted by the 23rd of October and adoption
17 by the local governments by the end of December.

18 So as far as the actions that have taken
19 place, I think that we've done a lot of work.
20 We're not quite there yet on the issue of
21 ownership between the Aqueduct Authority and the
22 County, but we'll be having conversations on
23 Friday to move that ball forward. We're still in
24 the beginning stages, and we'll be having
25 conversations again. We did that Monday, but

1 there will be conversations on Wednesday between
2 the Aqueduct Authority and the City of Marathon
3 taking care of the issues of ownership,
4 jurisdiction, and how we can construct the
5 language so that we can move forward.

6 As you realize, there's a lot of dollars at
7 stake, some 17 million between funding that's
8 available currently. There's access to another
9 \$25 million. So we're encouraged with the
10 conversations that are taking place currently,
11 and we believe that some important steps have
12 been taken at this moment in time.

13 GOVERNOR BUSH: Treasurer.

14 CFO GALLAGHER: I want to congratulate all
15 the parties on the habitat part, getting it
16 behind us and finished.

17 GOVERNOR BUSH: Well done.

18 CFO GALLAGHER: So that's a kudo.

19 I am still concerned that we don't have any
20 finality on ownership, on the sewer agreements
21 and everything else. I read the interlocal
22 agreement, and, you know, it was a lot of words
23 about nothing, in my opinion, other than the
24 things that we've agreed on. It basically said
25 that everybody was going to sit down some other

1 time and work out the details, and that if
2 anybody didn't like the details that they were
3 going to work out, they could back out of it in
4 90 days. It just didn't get us anywhere.

5 I'm real concerned about moving ahead with
6 this rule at this time, realizing that there's
7 a -- some people would look and say there's just
8 a little bit further to go, and others would say
9 that little bit further, you know, is a million
10 miles in other people's minds.

11 So we're in a situation now that there's
12 another meeting, which is September 7th. We
13 could wait till then, which is what I think we
14 ought to do, and give the parties another week or
15 so to get something a little more final. And if
16 they don't have it by then, we have to start
17 rulemaking all over again. The whole process
18 starts over, and I don't think any of us are
19 looking forward to that happening.

20 But at the same time, I'm not sure that it's
21 to anybody's advantage for us to have a rule in
22 place without knowing how we're going to handle
23 the ownership and the movement ahead. We've seen
24 the problems that happened on Stock Island, and I
25 don't think any of us want to face that again.

1 GOVERNOR BUSH: Why don't we do this. We
2 have some speakers.

3 CFO GALLAGHER: Okay.

4 GOVERNOR BUSH: Let's see if they can speak
5 in two-minute segments or less and hear them out.
6 I do agree. I think we all agree that the
7 progress that has been made in the last two weeks
8 has been pretty darn significant, particularly
9 when you -- gosh, it looks like there must be a
10 meeting a day going on in Monroe County. And,
11 Thaddeus, you've done a great job of bringing the
12 parties together. But this ownership question is
13 a substantive one, and I would love to hear from
14 all the parties that are here that want to speak,
15 and then maybe we'll have a discussion and figure
16 out where to go from here.

17 MR. COHEN: The first speaker will be Kim
18 Wiggington.

19 GOVERNOR BUSH: Welcome back.

20 MS. WIGGINGTON: Thank you, Governor and
21 Cabinet. I'm Kim Wiggington. I'm a private
22 citizen from Monroe County. And I really
23 appreciate what you're doing. I trust what you
24 said on August the 9th. I believe it's important
25 to make sure everyone keeps their word, and I do

1 have concerns about this interlocal agreement.
2 I'm not clear on what's being agreed to except to
3 schedule the fight for a later date.

4 I think you have an opportunity to forge out
5 a clear and lasting agreement consistent with
6 existing law. I would like to see you make it
7 clear that when the report card is due that there
8 will be no passing grades for failing students.

9 I want you to hear from a gentleman who's
10 here --

11 GOVERNOR BUSH: What's your view on the
12 FCAT? Is that directed to me, or is that a --

13 (Laughter.)

14 MS. WIGGINGTON: I want you to hear from a
15 gentleman who's here to speak on behalf of
16 several large groups of homeowners and citizens.
17 They've come together, and they've easily reached
18 consensus. They're speaking in one voice, and
19 they're speaking clearly. In fact, a lot of
20 these people are down in the Keys this morning
21 listening to this meeting. They've gathered in
22 homes, and they've gathered in workplaces, and
23 they're even in churches listening to this
24 meeting, and I want you to hear what they have to
25 say.

1 Thank you.

2 GOVERNOR BUSH: Thank you.

3 MR. COHEN: Our next speaker will be Don
4 Riggs.

5 GOVERNOR BUSH: Welcome, sir.

6 MR. RIGGS: Thank you. Good morning,
7 Governor Bush, Cabinet members, and staff. My
8 name is Don Riggs, and I represent the M10
9 Coalition, an alliance of property owners and
10 property owner associations from the Middle and
11 Lower Keys. Our coalition, just so you know, is
12 comprised of Duck Key Property Owners
13 Association, Seaside Resort, Inc. of Big Coppit
14 Key, Tamarac Park Property Owners Association of
15 Geiger Key, and individual concerned citizens
16 from Big Coppitt Key.

17 The position of the M10 Coalition with
18 regard to wastewater systems in the Keys is, as
19 provided by state law, we want the FKAA to be
20 responsible for the design of our wastewater
21 systems, to oversee construction of those
22 systems, and then own, operate, and maintain the
23 systems. Additionally, we want the County to
24 meet its responsibility to identify sources of
25 funding for these wastewater systems and then

1 secure and provide that funding. We had also
2 hoped that within that legislatively established
3 framework, the County Commission and the FKAA
4 directors could work in a cooperative spirit that
5 would benefit the property owners of Monroe
6 County.

7 And, Governor, apparently frustrated by the
8 constant bickering and squabbling, and at times
9 all-out war waged over this issue, on August 9th
10 you called for action to put an end to the
11 fighting and resulting delays in sewer
12 construction in the Keys. And in a blunt
13 admission, you said the behavior of some Keys
14 politicians and governmental officials had
15 created a pain in the gubernatorial posterior.
16 Well, Governor, we citizens of Monroe County
17 share your pain. We too are tired of it.

18 GOVERNOR BUSH: You sound like Paul Harvey,
19 by the way.

20 (Laughter.)

21 MR. RIGGS: I haven't said "the rest of the
22 story" yet.

23 We do applaud the effort of DCA Secretary
24 Thaddeus Cohen, who involved himself immediately
25 in the negotiations between the County and the

1 FKAA. Those talks resulted in a document
2 approved by both entities as an ILA.
3 Unfortunately, we do not think this ILA will
4 solve the problems, for two reasons.

5 First, it elevates the County to equal
6 partner status with the FKAA for much of the
7 wastewater process, a position they do not enjoy
8 under state law. It creates the potential for
9 deadlock on important decisions such as the
10 selection of a contractor, with no mechanism to
11 break that deadlock. While we support the
12 concept of a partnership between the County and
13 the FKAA, we believe that one of these two
14 entities needs to be in charge, and that is a
15 role we believe should be filled by the FKAA.

16 Second, the issue of sewer infrastructure
17 ownership, which has been an avowed goal of this
18 County Commission, has not been dealt with and
19 will continue to be a source of trouble and
20 friction until it is finally resolved. We
21 believe the ownership issue should be resolved
22 now so there is no confusion.

23 We are concerned that the issues not
24 addressed by the ILA will quickly overwhelm this
25 arrangement and result in still more delay in the

1 construction of wastewater treatment systems in
2 the Keys.

3 Thank you.

4 GOVERNOR BUSH: Thank you very much.

5 By the way, ILA is interlocal agreement;
6 right?

7 MR. RIGGS: Yes.

8 GOVERNOR BUSH: Okay. I just wanted to make
9 sure all those people listening in the houses in
10 the Keys know what that is.

11 MR. COHEN: The next speaker will be Sandra
12 Walters.

13 GOVERNOR BUSH: Good morning.

14 MS. WALTERS: Good morning. Honorable
15 Governor Bush and honorable members of Florida's
16 Cabinet, thank you for the opportunity to address
17 you today. My name is Sandra Walters, and I have
18 resided and had my environmental and land use
19 consulting business in the Florida Keys for more
20 than 20 years. I also have the honor of having
21 served for four years as one of your appointees,
22 Governor Bush, on the Acquisition and Restoration
23 Council and presently serve as one of your
24 appointees on the South Florida Regional Planning
25 Council.

1 I truly believe your leadership in Florida
2 can have no greater legacy than adoption of the
3 rule before you today. And it is the culmination
4 of a number of your decisions, most importantly
5 your appointments of exceptional secretaries to
6 the Florida Department of Community Affairs,
7 starting with Steve Seibert, continuing with
8 Colleen Castille, and now with Thaddeus Cohen.

9 I know your roles serving at the top of
10 Florida's government have been very challenging,
11 but I suggest that if you were to spend one day
12 in the shoes of one of our five county
13 commissioners here today, you would run screaming
14 back to your present roles.

15 GOVERNOR BUSH: God bless them for doing it.

16 MS. WALTERS: There can be no harder task
17 than to serve as a county commissioner in the
18 Florida Keys, having all your decisions second
19 guessed and often overridden by state officials,
20 and trying to juggle the issues and concerns of
21 your constituents with the goals and objectives
22 of every regional, state, and federal agency
23 known to man.

24 Previous DCA administrations implemented the
25 policy of divide and conquer between different

1 Keys jurisdictions and planted seeds of
2 divisiveness that served to greatly hinder
3 accomplishing the goals established for us by
4 distant bureaucrats who did not have to face the
5 residents and taxpayers our county commissioners
6 must serve.

7 Steve Seibert, having served himself as a
8 county commissioner, began turning that
9 divisiveness around and started the process of
10 consensus building in the Keys. Colleen Castille
11 built on that foundation and worked with the
12 Commission to create the agreement for the rule
13 before you today. Thaddeus Cohen has shown
14 remarkable restraint and statesmanship in helping
15 overcome the last remnants of divisiveness so we
16 can finally move forward to actually accomplish
17 mighty and important tasks for this rare and
18 special national treasure, the Florida Keys.

19 It has taken the new insight of your state
20 agency leadership, Governor Bush, to recognize
21 that a population of 80,000 simply cannot
22 accomplish these goals by itself. The preamble
23 of the 1986 Monroe County Comprehensive Plan
24 stated this. Only with a solid partnership with
25 the State could the Keys accomplish the massive

1 goals of habitat conservation, water and
2 wastewater improvements, and affordable housing
3 that are critical to protecting this special
4 place. All of the mandates in the world won't
5 get these tasks done that a tiny local government
6 cannot do by itself. Only with this newly forged
7 strong partnership will we see real progress.

8 Thank you for your sometimes challenged
9 patience in helping turn the Keys from divide and
10 conquer to working as a team, both locally and
11 with our state partners. Adoption of the rule
12 before you today will be the final stroke to
13 accomplish that and create the solid foundation
14 to make real progress in protecting the Keys,
15 both for the residents and the many visitors from
16 all over the world.

17 To address the issues that have been raised
18 before you today regarding ownership, I recommend
19 that you establish a compliance schedule. But
20 let's move ahead now so that we can effectively
21 address these critical issues.

22 Again, thank for this opportunity to address
23 you today and for your adoption of this milestone
24 rule. Thank you.

25 GOVERNOR BUSH: Thank you very much.

1 MR. COHEN: We have two Monroe County
2 officials. We'll start first with the Honorable
3 Mayor Dixie Spehar.

4 GOVERNOR BUSH: Good morning.

5 MS. SPEHAR: Good morning. Governor Bush
6 and members --

7 GOVERNOR BUSH: By the way, thank you for
8 your great work on hurricane preparedness and all
9 the work.

10 MS. SPEHAR: Oh, well, thank you.

11 GOVERNOR BUSH: You've got a great team down
12 there.

13 MS. SPEHAR: Thank you for your telephone
14 call. That was --

15 GOVERNOR BUSH: Hopefully we won't have to
16 call again in the next three months, but you
17 never know.

18 MS. SPEHAR: Let's say our prayers.

19 Thank you for allowing me to speak this
20 morning. I would like to introduce two of my
21 commissioners that are here today, and we have
22 two that were unable to attend. That would be
23 Commissioner Murray Nelson and Commissioner David
24 Rice, and also our county administrator, our new
25 county administrator, Tom Willi.

1 We have inherited a reputation for lack of
2 action, failure to comply with commitments, and
3 being downright renegades in the past. This
4 reputation was earned by our predecessors, but
5 that was then. This is now. That is not a
6 reputation, in my feeling, of this Commission.

7 It has been a struggle, but in my opinion,
8 we have accomplished more than any Commission in
9 the past in reference to our environmental
10 issues, our land development regulations,
11 wastewater, stormwater, and now the hottest
12 issue, providing affordable housing. This has
13 not been an easy role due to the designation of
14 the area of critical concern, penalties in the
15 past, and unfunded mandates.

16 I am proud to serve on this board. Our
17 board is as diversified as you can get, but we
18 are moving forward. To the person, there is not
19 one commissioner that is not truthfully committed
20 to saving the environment while providing the
21 housing and protecting property rights. It is a
22 fine balance, and we are striving to keep it
23 balanced.

24 When you stop to think that each island is
25 unique in its needs and capabilities, we now have

1 a general consensus of the public that we must
2 meet advanced wastewater standards, where just a
3 few years ago people didn't even realize the
4 importance of it. They now are accepting a
5 financial commitment that for the rest of their
6 lives, they will maintain a central system. That
7 really is progress.

8 It is difficult and sometimes unpopular with
9 our constituents, but we have had a clear
10 direction of our role for the future of the
11 Florida Keys. Thanks to Secretary Cohen, we
12 stand here today with a good interlocal agreement
13 for wastewater that defines the roles of the
14 County and the Florida Keys Aqueduct Authority
15 and the additional protection for sensitive lands
16 and habitat protection that met the directions of
17 the Governor and this Cabinet. We thank you for
18 your leadership, and we stand behind this
19 agreement.

20 And, Chief Gallagher, in your comments of
21 the interlocal agreement, you felt that it was
22 something that we would walk away from. This is
23 a commitment by this board. I strongly want you
24 to understand, this is a commitment. This board
25 wants to go through with the wastewater projects.

1 We have struggled back and forth about the costs
2 of them, because we do have our constituents that
3 are, some people, living from day to day. \$5
4 makes a difference in their lives. We're trying
5 to find a balance.

6 This interlocal agreement is the beginning
7 of this commitment. We have already had
8 meetings, and Secretary Cohen told me this
9 morning that he will be there Friday for two
10 appointments for this interlocal agreement. The
11 county administrator and the executive director
12 at the Aqueduct will meet with Secretary Cohen to
13 start to discuss the financial arrangements. We
14 just passed the interlocal. I know that the
15 administrator and the director have had their
16 first meeting, and at the second one, we are
17 going to pound this out, and we are going to make
18 this happen. We must do this. And I have to be
19 very selfish in saying Big Coppitt is my
20 district, and I want to see this happen first.

21 Thank you.

22 GOVERNOR BUSH: Thank you, Mayor. Thank you
23 for being here.

24 Any other speakers?

25 MR. COHEN: Our next speaker will be

1 Commissioner David Rice.

2 GOVERNOR BUSH: Welcome, Commissioner.

3 MR. RICE: Thank you very kindly, Governor,
4 Cabinet, and staff.

5 I would like to say that I'm here today
6 representing Monroe County, which I've heard
7 described as three warring countries peopled by
8 27 hostile tribes. I've lived there since 1973
9 and haven't found that to be too far from the
10 mark.

11 In recent days, due to your efforts and the
12 efforts of this gentleman over here -- and by the
13 way, his efforts have been outstanding -- we have
14 made great strides. I wish you could have seen
15 our last County Commission meeting, during which
16 we really moved together toward some common
17 goals, goals that you had requested and goals
18 that the Secretary had established.

19 We moved in that direction with a spirit of
20 common purpose that I have not seen on that
21 Commission since I began my term approximately
22 three years ago. I think we owe you a great deal
23 of credit for that. We certainly owe the
24 Secretary a great deal of credit for that.

25 I believe that any, any agreement involves a

1 great deal of trust between the parties involved.
2 I agree there are issues in this agreement that
3 could be tightened up. On the other hand, the
4 best agreement still requires that level of trust
5 and commitment from all the parties involved. I
6 believe that you have that commitment from the
7 Monroe County Commission. We've made that
8 commitment. I believe we will continue in that
9 direction working cooperatively with you and with
10 the Florida Keys Aqueduct.

11 I would like to say that I'm only one member
12 and one vote on that Commission, but you have my
13 total commitment to that process and to
14 continuing the progress that has been made in
15 Monroe County. And in spite of the difficulties,
16 we are and we have been making progress. I thank
17 you very much for what you've done for us and
18 look forward to working with you into the future.

19 And I would like to add one word, since
20 Chief Gallagher, I believe, alluded to the Stock
21 Island project. The Stock Island project has
22 been rather controversial in the county, as you
23 probably know. As a follow-up to our wastewater
24 discussion at our last meeting, I requested an
25 opinion from the remainder of the Commission as

1 to their feelings about their receptivity to a
2 plan that could bring up the level of service on
3 Stock Island to that level enjoyed by other
4 projects throughout Monroe County. My impression
5 was that I received a universal head nod. We
6 refer to ourselves that way as the bobble-heads,
7 and we all bobbled at that point. And I take
8 that commitment very seriously. I think we are
9 going to make progress there, and I really look
10 forward to it and certainly thank you for your
11 help.

12 CFO GALLAGHER: How long do you think it
13 will take?

14 MR. RICE: That may be a real issue. It's a
15 complex process, probably far more complex than
16 you would want to take the time to hear about
17 today. We have a private utility. We need to
18 spend some public money there. It could take a
19 fairly short period of time. And I guess there's
20 no secret that there is a discussion going on
21 currently that would have the Florida Keys
22 Aqueduct purchasing that wastewater system. If
23 that proves successful, it will be simpler,
24 cleaner, and will happen in a shorter period of
25 time. If we have to figure out how to put more

1 infrastructure into the public right-of-way and
2 pay for it with public money and have it work on
3 a parallel system with a privately owned utility,
4 that's going to get -- I agree with you, it's
5 going to get very complicated.

6 CFO GALLAGHER: I was really asking more on
7 how long you think it will take to get the County
8 and Marathon and the Keys water authority all on
9 the same page.

10 MR. RICE: Well, I believe that the
11 County -- I can only speak to the County and my
12 conversations with the Aqueduct. Marathon is a
13 little bit out of my area of knowledge at this
14 point. I think we are, for the most part, on the
15 same page. As you indicated, there are some
16 issues, such as ownership, that are as yet
17 unresolved. They could prove to be difficult.
18 Perhaps they will not be difficult. I would be
19 very reluctant to answer that question, because
20 I'm simply not totally in charge of that
21 schedule, as you know.

22 I personally have a double level commitment.
23 You may or may not know that since I was 19 years
24 old, I'm married to the chairwoman of the Florida
25 Keys Aqueduct, so I have a major incentive

1 personally, one might say. I believe you could
2 judge my level of commitment fairly accurately.

3 COMMISSIONER BRONSON: Smart man.

4 MR. RICE: That's about as good an answer as
5 I can give you today.

6 CFO GALLAGHER: That's a pretty good answer.

7 MR. RICE: Thank you very kindly.

8 GOVERNOR BUSH: Thank you. Thank you,
9 Commissioner. Let's hear the rest of the
10 speakers, including, I'm sure, your wife.

11 MR. COHEN: Next for the County will be
12 Commissioner Murray Nelson.

13 GOVERNOR BUSH: Welcome back, Commissioner.

14 MR. NELSON: Governor and Cabinet, nice to
15 be here today, and I am back from our last
16 conversation.

17 GOVERNOR BUSH: Thank you for being back.
18 If we gave you a hard time last time, I
19 apologize, but you're a tough guy. We've dealt
20 with you before. You're forthright and --

21 CFO GALLAGHER: He can handle it.

22 GOVERNOR BUSH: He can handle it.

23 MR. NELSON: I've got big shoulders.
24 Actually, it was a real pleasure to be here last
25 month, and it was really an eye-opener --

1 GOVERNOR BUSH: It was?

2 MR. NELSON: -- to me in a way, because the
3 County was sort of looking in a manner that the
4 Governor and Cabinet maybe was looking in a
5 different direction. Because of that meeting, I
6 think that we have come to a meeting of the minds
7 and basically getting focused and following down
8 the same direction.

9 But I would just like to say, in the last --
10 or 19 months ago, the elected officials of the
11 State of Florida and Monroe County entered into
12 an agreement. This agreement provides
13 \$93 million for environmentally sensitive land,
14 \$20 million for affordable housing, and \$30
15 million for wastewater by the State to be
16 provided by the County. The County will provide
17 \$120 million for wastewater, \$10 million for
18 affordable housing, and \$10 million for
19 environmentally sensitive land purchases.

20 The County also has an agreement with the
21 Florida Keys Aqueduct Authority to move forward
22 on wastewater as required by the rule, raise the
23 protection for the environmentally sensitive
24 lands, and are moving rapidly forward on
25 workforce housing issues.

1 This agreement was challenged by two
2 environmental groups. The result was a loss of
3 19 months to implement the rule and agreement,
4 doubling the cost to acquire environmentally
5 sensitive lands and affordable housing land, and
6 no permits to solve the affordable housing
7 crisis.

8 It is now time to implement this agreement.
9 The administrative law judge found no merit in
10 the challenges case, and the County has moved
11 forward with this part of the agreement.

12 And talking about Commissioner Gallagher's
13 issue about faith, I think probably with the
14 issues here of the dollars to be provided by the
15 County to these issues, and also the amount of
16 dollars to be provided by the State to Monroe
17 County, it does require a leap of faith. We are
18 here basically with an agreement that both of us
19 actually have to adopt and participate in. And
20 as Commissioner Rice said, there is no agreement
21 that's ironclad. It's based on faith, trust, and
22 moving issues forward. And I think based on what
23 we have done in the last 19 months by moving
24 forward on issues, we have extended, or bonded,
25 or committed \$43 million already as our part of

1 this agreement.

2 And as you well know, Governor, you cannot
3 bind the House or the Senate for next year's
4 wastewater funding. But we are moving forward
5 based on the fact that you're going to provide
6 those dollars to us, that you're going to provide
7 those dollars for workforce housing, even though
8 it has to go through another agency. So the
9 County is burdened by this multiple layer of
10 agencies, the House, the Senate, and then, of
11 course, the Governor can veto things. So it's a
12 leap of faith for us to be here today. It was a
13 leap of faith for us to go ahead and obligate
14 \$43 million.

15 So I would recommend highly that we move
16 together as two elected bodies with a level of
17 faith, knowing that nothing is ironclad. But
18 this Commission voted 5 and 0 to do this ILA and
19 to move forward on the protection of habitat, and
20 also workforce housing issues.

21 I would also like to say, Governor, before I
22 leave today, that your friend from 120 says to
23 give you the best regards and that he is thinking
24 of you.

25 So I would urge you today, let's move

1 forward. This has been hanging around long
2 enough. We're both ready to go and start this
3 process. Thank you so much.

4 GOVERNOR BUSH: Give him a big bear hug for
5 me and tell him to quit smoking.

6 MR. NELSON: I will.

7 MR. COHEN: The next speaker is Steve
8 Seibert.

9 GOVERNOR BUSH: Welcome.

10 MR. SEIBERT: Thank you, sir. Good morning.

11 GOVERNOR BUSH: Good morning.

12 MR. SEIBERT: I have been asked by Monroe
13 County to help them tackle the workforce housing
14 crisis, and it is more dramatic than any place I
15 have seen in this state. And although that issue
16 is not squarely on your minds today -- you've
17 been focusing on other issues -- it is included
18 in the rule. And until the rule is approved,
19 that effort is stopped in its tracks.

20 As it relates to workforce housing,
21 affordable housing, community housing, whatever
22 we call it, the County is already moving in one
23 of the most aggressive approaches I have ever
24 seen. They are buying land, even without the
25 ability to put anything on them right now because

1 the rule is not approved. They are spending
2 millions doing that. They are working with the
3 Florida Housing Finance Corporation. They are
4 working to establish community land trusts and
5 put housing, affordable housing in perpetuity. I
6 am facilitating a task force. We have met once.
7 We are meeting again on September 8th. In order
8 to proceed with this issue, we need approval of
9 the rule.

10 In a broader sense, in a broader sense, I
11 believe there is a significant commitment for
12 cooperation, and that is not to be taken lightly.
13 I believe that Secretary Cohen will not rest
14 until he has helped to broker agreement on the
15 remaining issues. I believe you should give a
16 blessing to these efforts and allow the local
17 governments and the local agencies to prove
18 themselves. And I believe the best action you
19 could take this morning is to support these
20 efforts by approving the rule. It is important
21 to recognize that you can address some of these
22 other broader questions probably within the next
23 month as you review the annual work product of
24 the Keys.

25 And with that, I thank you for your time.

1 GOVERNOR BUSH: Thank you, Steve.

2 CFO GALLAGHER: Steve, how long do you think
3 it would take to get some finality into, you
4 know, financing, ownership, those kinds of issues
5 that seem to be hanging out there that have kept
6 any of us from being comfortable with a final --
7 you know, everybody is still -- the agreement
8 they have is saying that they're going to work on
9 agreeing to something, but basically, everybody
10 is still sitting where they were.

11 MR. SEIBERT: Right. I'm working on the
12 affordable housing piece, so I'm not part of that
13 other conversation. I'm going to jump in,
14 though. Can I -- one second.

15 Okay. All right. Boy, that worked. I know
16 it's his intention to get this wrapped up by the
17 time that this comes back to you in September in
18 the annual review that you all are used to doing.
19 You've done it forever. I know that's what he
20 would like to do, and he is spending an enormous
21 amount of time down there in personal commitment.

22 CFO GALLAGHER: For those listening, that's
23 Secretary Cohen that he's talking about.

24 MR. SEIBERT: That would be him. I'm sorry.
25 Go ahead.

1 CFO GALLAGHER: As you work on affordable
2 housing, this is an issue that is probably most
3 critical in the Keys.

4 MR. SEIBERT: It is.

5 CFO GALLAGHER: But it is an issue that is
6 taking place in every one of our major
7 communities in the state.

8 MR. SEIBERT: Yes.

9 CFO GALLAGHER: And nobody has really come
10 up with something that I think is a sustainable
11 answer. I mean, there's ways of coming up with
12 some kind of subsidy to build housing that the
13 first people that buy it can come into. But
14 right after that, and there even may be some
15 period of time they make them hold it, all of a
16 sudden it's back in the market. And, you know,
17 these people are great. They get some of the
18 American dream, because they get the inflated
19 value for their home, but then we -- you know, we
20 don't have any way to sustain it.

21 MR. SEIBERT: Right.

22 CFO GALLAGHER: And I hope that because you
23 all have such a huge challenge down there
24 compared to everyone else, although they're going
25 to be there soon the way it's going, your answer

1 may be some kind of a sustainable issue that
2 others can follow, because we haven't had that
3 yet. I know there's talk, but actually doing it
4 is what's going to be tough.

5 GOVERNOR BUSH: I think they're doing it in
6 the Keys, and maybe you could describe what
7 they're doing, because it's --

8 CFO GALLAGHER: A good model?

9 GOVERNOR BUSH: I think it answers -- I
10 don't know if it's a good model for the rest of
11 the state. It is a good model as it relates to
12 Monroe County. And I think -- describe it,
13 because I think it's kudos to the County for
14 coming up with a one-of-a-kind solution.

15 MR. SEIBERT: Thank you. And remember,
16 there's a geographic problem the Keys has that's
17 different than almost any place else. You
18 simply --

19 GOVERNOR BUSH: Why don't you describe the
20 housing situation that relates to --

21 CFO GALLAGHER: We know about the geographic
22 problem, I promise you.

23 MR. SEIBERT: Got it, got it. All right.
24 Here is the bottom line. The basic principle is,
25 the County and others buy land. They establish a

1 community land trust so that this is owned by a
2 public or semi-public entity. They establish
3 deed restrictions that last in perpetuity. And
4 so people -- I mean, 50 years from now -- and
5 we're actually talking about 50 years, and Murray
6 keeps saying, "Fifty years isn't enough. We must
7 solve this problem now so 90 years from now, that
8 unit is still affordable."

9 You're right. It is a market intervention.
10 It does affect a little bit of that American
11 dream, but this is a crisis unlike we have ever
12 seen. And so that -- I think that's the nut of
13 an answer.

14 CFO GALLAGHER: I got that part. Now, a
15 person does buy the improvement on the land?

16 MR. SEIBERT: Right.

17 CFO GALLAGHER: And are they restricted to
18 how much they can profit from it when they sell
19 it?

20 MR. SEIBERT: Yes, they are. They are.
21 There is a restriction on that. They do get some
22 back. They do get part of that appreciation,
23 clearly.

24 CFO GALLAGHER: At least inflation or
25 something.

1 MR. SEIBERT: Correct, correct. And it's
2 not insubstantial. I mean, it actually is
3 something, but the key being that it stays
4 affordable, it does not get back into the market.
5 There's plenty of market down there to deal with
6 what they need to, not what -- what they need, as
7 you know, are firemen, policemen, school
8 teachers.

9 CFO GALLAGHER: Exactly.

10 MR. SEIBERT: And this is the only way to
11 solve that problem so far. And the task force
12 has just had one meeting, and we're continuing to
13 work on it. But I've never seen that level of
14 commitment really in any community I've dealt
15 with, but the crisis is worse.

16 CFO GALLAGHER: Nobody has that kind of
17 crisis. How many units do we end talking about
18 in this thing?

19 MR. SEIBERT: For the rule or in general?

20 CFO GALLAGHER: No, just -- one, what's the
21 need, and what kind of answers are there going to
22 be?

23 MR. SEIBERT: People have different views on
24 that, because you also have downstairs enclosures
25 issues, but that's a whole 'nother discussion.

1 But it's in the many thousands. I mean, the
2 numbers that I've heard have ranged from like
3 4,000 to 9,000. And if you keep losing them,
4 which is one of the great concerns, you lose
5 trailer parks, for example, and they get
6 converted to something else, then you're not
7 adding more units. You're taking more off, so
8 the problem just gets worse.

9 CFO GALLAGHER: And are you -- are these
10 condominium type structures, or single-family, or
11 what's the makeup of -- what's the plan?

12 MR. SEIBERT: There will be both. But the
13 truth is, you get the most bang for your buck
14 from multi-family. But there will be both.
15 You've got a very active Habitat for Humanity
16 program in all of the Keys, and others, and there
17 will be some single-family.

18 CFO GALLAGHER: And the Habitat for
19 Humanity, are they putting it on some of this
20 public land, or are they just putting it on --

21 MR. SEIBERT: Yes, yes, they are.

22 CFO GALLAGHER: Okay. Thank you.

23 MR. SEIBERT: You're welcome.

24 GOVERNOR BUSH: Thank you, Secretary.

25 MR. SEIBERT: Thank you, sir.

1 GOVERNOR BUSH: Secretary Seibert, that is.
2 Secretary Cohen?

3 MR. COHEN: For the Florida Keys Aqueduct
4 Authority, we have Chairwoman Mary Rice.

5 GOVERNOR BUSH: Good morning.

6 MS. RICE: Good morning. Governor and
7 members of the Cabinet, thank you for having me
8 here today. I'm currently serving my third term
9 as an appointee of the Governor. I'm not sure
10 whether I should thank you for that or not.

11 GOVERNOR BUSH: Second and a half term, I
12 hope.

13 MS. RICE: But, no, seriously, we do
14 appreciate the confidence that you've given in
15 the board.

16 In 1998 I was on the board when the Florida
17 Keys Aqueduct was asked to become the wastewater
18 authority for most of the County. Since that
19 time, I believe our board has endeavored to meet
20 our obligations. At this time, we have completed
21 a system on Little Venice. We recently completed
22 one on Conch Key and Bay Point. We are currently
23 building one in Layton. We have plans for the
24 Big Coppitt facility and for Duck Key. I think
25 our board is dedicated to moving ahead on

1 wastewater.

2 Most recently, the endeavors of Secretary
3 Cohen have been very, very good to help us reach
4 out to the County Commission and to the cities to
5 try to work out some of the difficulties that we
6 have. And all I can really say to you today is
7 that we stand ready to move forward with these
8 projects and get them going as quickly as
9 possible, and we appreciate any assistance he has
10 given us and any assistance he's going to give
11 us.

12 CFO GALLAGHER: You know my question is
13 going to be how long it's going to take you and
14 the County and Marathon to all come to agreement.

15 MS. RICE: Well, I wish I could say within
16 the next week or two. I think that from the
17 meeting we had with Marathon yesterday, they want
18 something decided very, very quickly, and I think
19 the Aqueduct board feels the same way. I'm
20 hoping that within a matter of a few weeks we can
21 have all of the issues ironed out, including the
22 ownership issue.

23 CFO GALLAGHER: Great.

24 GOVERNOR BUSH: Are there any other issues
25 outstanding other than ownership?

1 MS. RICE: Well, the financing issue and --

2 GOVERNOR BUSH: But that's an ownership
3 issue.

4 MS. RICE: But that's an ownership issue. I
5 think the big issues are the ownership issues and
6 -- you know, we've reached a new level. I mean,
7 our board meetings -- and I reiterate what was
8 said about the County Commission meeting. There
9 was a level of cooperation we haven't seen there.
10 And our board also, everyone was unanimously --
11 unanimous in their agreement that we want to try
12 to work together. And I do realize, as has been
13 said before, that this is all based on trust,
14 because the agreement is not an ironclad
15 agreement.

16 GOVERNOR BUSH: Well, it's more than trust.
17 I mean, trust is great. That's a term that --
18 it's a nice term. But in order to have a true
19 legal, binding agreement, you can't have one
20 entity that has veto power over financing and the
21 other entity that by law has the right to own. I
22 mean, you have to resolve that, because it isn't
23 an agreement. I think the Treasurer and -- I
24 don't know what my colleagues think about that.

25 I really appreciate the good work that has

1 been done, particularly in the last two weeks.
2 It's historic, and it's phenomenal. And my
3 frustration, I apologize to the people of Monroe
4 County for expressing a long-held belief that
5 people, you know, kind of take themselves not as
6 seriously as they should, because Monroe County
7 is full of people that are more than competent to
8 deal with these issues.

9 But if you can't -- let me put it this way.
10 Why can't you give up ownership in an interlocal
11 agreement and have all of the concerns dealt with
12 in a tight interlocal agreement to make sure that
13 your statutory responsibilities are taken care
14 of? And likewise, why can't the City or the --
15 maybe I can ask the mayor this. Why can't the
16 mayor have a similar kind of arrangement through
17 an interlocal agreement where the taxpayers and
18 the citizens they serve are protected and let you
19 own it? Why can't that be done in the next two
20 weeks?

21 Why is that so -- I mean, you're avoiding --
22 you know, as I was hearing you all speak, it kind
23 of reminds me on a smaller scale of what's going
24 on in Iraq right now. You know, you have the
25 Sunnis, the Shiites, and the Kurds trying to do

1 something incredibly complex. They had a week
2 delay, and they have another week delay, but
3 they're making pretty good progress. I'm pretty
4 confident that in two weeks time if you sat in a
5 room that you could figure out -- one of you can
6 give on the ownership question, and the other can
7 give on, you know, a tight interlocal agreement
8 as it relates to how this would operate so that
9 we get beyond this, because if we don't, we
10 really don't have -- I mean, the rule, without
11 having the commitment to build the wastewater, is
12 not a rule. Or it's a rule, but it's not a rule
13 that accomplishes this one element.

14 MS. RICE: Well, I think if we sat down and
15 we said, "Okay. These are the issues, and we
16 have to resolve those issues today," that we can
17 get that done.

18 GOVERNOR BUSH: In two weeks?

19 MS. RICE: I'm willing to make that
20 commitment.

21 GOVERNOR BUSH: And are you willing to -- I
22 know you're one member of the board of the
23 Aqueduct Authority, but is it essential for you
24 all to own the facility if you can have a
25 contractual relationship that is tight enough to

1 give you the ability to move forward?

2 MS. RICE: Well, one of the suggestions that
3 one of our staff members came up with recently
4 was, if the ownership is such a big issue,
5 perhaps what we could say is, "Okay, County, you
6 own it and lease it to us, and then we will build
7 it, run it, and control it."

8 GOVERNOR BUSH: Mayor, come on up. Come on
9 up. Stop. Don't say anything else.

10 MS. SPEHAR: Don't say anything else?

11 GOVERNOR BUSH: No, no, her. Please say
12 something.

13 MS. SPEHAR: You know, actually, we've never
14 had this conversation, and it was when Secretary
15 Cohen was sitting with Mary and myself that this
16 was -- it was the first time it was brought up,
17 and she did mention that she was thinking about
18 that.

19 The Secretary asked us why it was so
20 important that we have ownership. And when I
21 tried to explain that infrastructure sales tax
22 can only spread so far, and we have many things
23 to pay for with the funds that we needed to have,
24 such as the hookup fees, to reduce the bonds.
25 And he understood a little more, because we have

1 not only wastewater, we have affordable housing,
2 environmental, you know, many, many, many.

3 And Mary said, "You know, I was thinking
4 about that," and she said joint ownership, as she
5 just mentioned, which we have never discussed. I
6 think it's a wonderful idea.

7 GOVERNOR BUSH: Well, do you think you can
8 discuss it in two weeks' time?

9 MS. SPEHAR: Oh, yes.

10 GOVERNOR BUSH: Less than two weeks' time?

11 MS. SPEHAR: I would like to see the two
12 boards sit together and really have a --

13 CFO GALLAGHER: How about Marathon? Have we
14 got the mayor of Marathon here?

15 MS. SPEHAR: I don't believe so.

16 MR. COHEN: No, they're not here.

17 GOVERNOR BUSH: But they would be in a
18 similar kind of situation, wouldn't they,
19 Thaddeus?

20 MR. COHEN: Yes, they are.

21 CFO GALLAGHER: Yes, they've got a dog in
22 this hunt too.

23 GOVERNOR BUSH: Basically, there's one
24 clause of their interlocal agreement where the
25 Aqueduct Authority and the City had a dispute,

1 and it relates to the ownership again.

2 MR. COHEN: That's correct.

3 GOVERNOR BUSH: The meeting -- Ben
4 Watkins -- Mr. Secretary, could you please come
5 up?

6 This is a nice picture.

7 (Laughter.)

8 CFO GALLAGHER: Where's the camera when we
9 need it?

10 GOVERNOR BUSH: Where's James?
11 You're going down to Paradise this week?

12 MR. COHEN: Yes.

13 GOVERNOR BUSH: With Ben Watkins?

14 MR. COHEN: That's correct.

15 GOVERNOR BUSH: For our guests here, Ben is
16 the --

17 CFO GALLAGHER: Bond man, finance man.

18 GOVERNOR BUSH: He's the bond man. I don't
19 know what his real title is, but he's really the
20 -- he's the guy we go to for advice on how to
21 structure these deals, and I think he might be
22 really valuable in a conversation that could deal
23 with these financing issues. And maybe that
24 could be part of the way to structure a deal that
25 satisfies both parties.

1 MR. COHEN: And that's the intent.

2 GOVERNOR BUSH: And that's this Thursday?

3 MR. COHEN: No, that's Friday. This
4 Thursday is the opportunity for the FCAA board to
5 have that conversation, because they have not had
6 it before, about the relationship if they don't
7 own the facility, or any other kind of joint
8 ownership arrangement that may surface. Friday's
9 meeting is then with staff, between the Aqueduct
10 Authority and the County and Mr. Watkins and
11 myself to talk then in terms of how do we solve
12 and resolve the issues of ownership with his
13 knowledge of how the financing works to address
14 both the organizations' concerns. So that's the
15 time frame in which we're working. It was not
16 months. We're talking weeks to be able to press
17 these issues.

18 GOVERNOR BUSH: Are we going to talk about a
19 specific project rather than every project that
20 may come up?

21 MR. COHEN: I would think first maybe a
22 specific project. I know that the Aqueduct
23 Authority is looking at Big Coppitt and some of
24 the other projects that are associated with that.
25 But there's also the overarching issue of how you

1 take a look at all of the facilities in Monroe
2 County and create a structure that will allow all
3 of those to be able to go forward.

4 CFO GALLAGHER: I think it's important that
5 instead of looking at -- I mean, obviously,
6 you've got some important ones that need to move
7 up. But the idea is that all of them have to be
8 the same. Otherwise, you know, it's a big
9 cluster.

10 MR. COHEN: Sure.

11 CFO GALLAGHER: And so what you need to do
12 is have the agreement and then start plugging it
13 in that agreement for every one of the projects
14 that needs to be done over as many years as it's
15 going to take.

16 MR. COHEN: And we had the same conversation
17 yesterday with Marathon and the Aqueduct
18 Authority with the able assistance from DEP
19 staff. Jeff Mansfield and Mr. Banks outlined for
20 them what the responsibilities are, what the
21 issues are for jurisdiction/ownership. We had a
22 constructive conversation with them. And then
23 tomorrow, those staffs are meeting to be able to
24 put options on the table.

25 CFO GALLAGHER: Well, is it time for me to

1 make a motion?

2 GOVERNOR BUSH: Yes.

3 CFO GALLAGHER: I would like to move that we
4 defer voting on this until September 7th to give
5 all these great folks a chance to finalize an
6 agreement that will carry them forward into the
7 next century.

8 COMMISSIONER BRONSON: Second.

9 GOVERNOR BUSH: Okay. That's a fairly
10 informal motion, but we're just deferring this
11 item for two weeks. And there's a second. Any
12 discussion?

13 CFO GALLAGHER: Well, we know why. I mean,
14 we're --

15 COMMISSIONER BRONSON: Governor, I --

16 GOVERNOR BUSH: Yes, Commissioner.

17 COMMISSIONER BRONSON: I would like to say--
18 and I know we tend to kind of pick on Monroe
19 County a little bit.

20 GOVERNOR BUSH: I'm not going to do it
21 anymore, not after today.

22 COMMISSIONER BRONSON: They're so far down,
23 and the whole issue of the Conch Rebellion and
24 all this stuff over the years that everybody
25 makes a lot of fun with. But I don't know if

1 there's a county in this state, quite frankly,
2 that had your issues as complex as they are, with
3 your housing issues for affordable housing, and
4 sewage and water. And there's not a person out
5 there in the county that doesn't want clean water
6 and a good sewage system.

7 But there's not a county commission I know
8 of in the State of Florida that would say, "Okay,
9 separate board, you go out and design it and bond
10 it, and we'll raise all the money you want to
11 raise for it without any attachments." I doubt
12 there's a county commission anywhere in this
13 state that would be willing to do that.

14 So I just want you to know, we don't take it
15 lightly. We know you're in a real situation
16 here. We know you've got some real tough issues
17 to work out. We just hope that they do get
18 worked out. And maybe you'll be -- as other
19 counties begin to have these problems down the
20 road, you'll be the shining light that everybody
21 will look at as to how this was solved. So we're
22 not taking it lightly, and we wish you a lot of
23 luck. I hope you can get it done.

24 MS. SPEHAR: Thank you.

25 CFO GALLAGHER: And I would like to just say

1 that I really appreciate the amount of work that
2 has gone into this in the last two weeks and
3 realize that you came a long way. Obviously, we
4 would like to see it all settled, and I know you
5 would too. But hopefully in the next two weeks,
6 everybody is back from vacation, school is in,
7 and you all can sit down and get it hammered out.

8 MS. SPEHAR: Thank you.

9 GOVERNOR BUSH: There's a motion to defer
10 and a second. Without objection, the motion
11 passes.

12 Thank you all very much for coming.
13 Thaddeus, thank you for your hard work.

14 MR. COHEN: There's a clarification that I'm
15 being asked to ask for.

16 GOVERNOR BUSH: Okay.

17 MR. COHEN: Which is, are you asking for the
18 two boards, and actually, I guess it would also
19 be the City of Marathon, to have a document of
20 some sort?

21 GOVERNOR BUSH: Interlocal agreement?

22 MS. LEIGHTY: Officially, right, both boards
23 to have acted locally.

24 MR. COHEN: Or some other kind of document,
25 because I'm looking in terms of special meetings,

1 when they meet, how they can --

2 CFO GALLAGHER: Well, I don't want to be --
3 we're deferring it. Obviously, we want to see it
4 as final as it can be. And I can tell you if
5 it's finalized, we'll move right ahead. If it's
6 right where it is now, my guess is nothing might
7 happen. So I don't want to give -- I don't want
8 to say it's got to be exactly here, because I
9 think that would be a mistake on our part. But
10 obviously, as far as it can be done, the happier
11 we'll be. We'll look at where everybody is two
12 weeks from now.

13 GOVERNOR BUSH: Legally it's simply a
14 deferral. The intent is clear.

15 CFO GALLAGHER: The rule is still hanging
16 here. We've got until the 7th to --

17 GOVERNOR BUSH: We've got to get this done
18 so we can build some houses.

19 CFO GALLAGHER: But if not then -- I mean,
20 then it's -- we have to start all over again if
21 we don't do it then. So there's a real push to
22 get this done as far as you all can get it done.

23 MR. COHEN: Thank you.

24

25

1 GOVERNOR BUSH: All right. Board of
2 Trustees.

3 That's a nice picture of Thaddeus with the
4 mayor and the chairman.

5 MS. CASTILLE: Yes, sir.

6 GOVERNOR BUSH: Item 1.

7 MS. CASTILLE: Item 1 is the 2005 Florida
8 Forever interim report and the interim priority
9 list from the Acquisition and Restoration
10 Council.

11 GOVERNOR BUSH: You want to give us a little
12 review of it?

13 MS. CASTILLE: I do, sir. During --
14 January 25, 2005, the Acquisition and Restoration
15 Council recommended that the Nokuse Plantation --

16 GOVERNOR BUSH: The what? I'm sorry?

17 MS. CASTILLE: Nokuse Plantation.

18 GOVERNOR BUSH: Nokuse?

19 MS. CASTILLE: Nokuse. And the Harris
20 School be removed from the A list, because we had
21 contingent -- we had contracts for acquisition of
22 those properties. So Nokuse Plantation was
23 acquired and is being removed from the list. And
24 the Harris School has not yet been acquired, but
25 is under contract, and is on this agenda for your

1 consideration a couple of items down.

2 What happened during the process of -- just
3 a little background on Harris School. During the
4 process of printing, the Harris School dropped
5 off the list in one of the iterations of the
6 printing, but it was on your agenda for remaining
7 on the list for acquisition. Both projects were
8 moved to the B list and were awaiting
9 acquisition.

10 GOVERNOR BUSH: What happened to the Battle
11 of Wahoo Swamp land?

12 MS. CASTILLE: The Battle of Wahoo Swamp was
13 removed in error. It was a --

14 GOVERNOR BUSH: Is that different than being
15 removed by printing error?

16 MS. CASTILLE: Yes, it is.

17 GOVERNOR BUSH: Wow. How many other forms
18 of errors do we have to be on the list? Is this
19 kind of a catchall?

20 MS. CASTILLE: We had mistakenly been told
21 that the property was being developed.

22 GOVERNOR BUSH: I'll tell you what. If the
23 name -- unless there's a name change, if you
24 develop the Battle of Wahoo Swamp, then I hope
25 you have a hard time getting a permit.

1 MS. CASTILLE: Well, it is part of the
2 Second Seminole War. It's one of the Seminole
3 War sites. Yes, Second Seminole War site.

4 GOVERNOR BUSH: Change the name to Seminole
5 Landings maybe, or something.

6 Go ahead.

7 MS. CASTILLE: So we are asking -- we also
8 have some projects that have boundary amendments,
9 Atlantic Ridge Ecosystem, Coupon Bight in the
10 Keys, Florida Keys Ecosystem, Indian River Lagoon
11 Blueway, and North Key Largo Hammocks.

12 Another project that was moved from group A
13 to group B is the Bear Creek Forest. That was
14 one that was on the A list. It was acquired by a
15 third party. The third party has told us that
16 they are still interested in talking with us, and
17 we've been discussing things with them. I'm not
18 sure if we could call it negotiations yet or not.

19 And then we had some projects that were
20 moved from group B to group A so that we would
21 finalize the acquisitions in those, Charlotte
22 Harbor Estuary, Estero Bay, Mill Creek, and
23 St. Johns River Blueway.

24 So before you now is the consideration of
25 the approval of the interim report of the

1 Acquisition and Restoration Council and the
2 approval of the interim priority list.

3 ATTORNEY GENERAL CRIST: Motion on 2.

4 GOVERNOR BUSH: There's a motion to accept.

5 CFO GALLAGHER: Second.

6 GOVERNOR BUSH: Any discussion? Without
7 objection, the motion is accepted. Item 1 is
8 accepted.

9 MS. CASTILLE: Item 2 is LaBelle Ranch.
10 This is an approved conservation easement. In
11 the conservation easement -- we've changed the
12 conservation easements since then, but in this
13 conservation easement, it did not allow any
14 expansion of the existing home. However, it did
15 allow the addition of some additional homes, the
16 construction of some additional homes of up to
17 3,000 square feet between the outbuildings and
18 the core home.

19 What the property owner is asking for right
20 now is to be able to expand his house with an
21 additional bedroom and a garage and a breezeway,
22 and it will not exceed 3,000 square feet. So
23 we're asking for an amendment to the conservation
24 easement.

25 CFO GALLAGHER: Let me ask you a question,

1 Colleen. When we did the original conservation
2 easement, this house was existing, and we were
3 going to allow three additional homes, or four,
4 to be built?

5 MS. CASTILLE: Four.

6 CFO GALLAGHER: Four. And those could all
7 be up to 10,000 square feet. Is that because
8 they would need like a barn or something? I
9 mean, that's a huge house.

10 MS. CASTILLE: Including outbuildings.

11 GOVERNOR BUSH: If you're going to speak,
12 speak at the microphone.

13 MS. CASTILLE: Oh, I'm sorry. Including
14 outbuildings.

15 CFO GALLAGHER: Okay. At the time that we
16 did this -- is the owner living in this house?

17 MS. CASTILLE: Jim, the Treasurer -- is the
18 owner living in this house?

19 MR. FARR: There is a manager living at the
20 house at the moment, a property manager.

21 CFO GALLAGHER: All right. And so the owner
22 wants to expand the house for the property
23 manager?

24 MR. FARR: Yes, correct.

25 CFO GALLAGHER: Now, is there a reason

1 why -- I mean, did he just not think -- I mean,
2 are there no outbuildings involved in this
3 original house, not counting the other four?

4 MR. FARR: There is a pole barn and a
5 covered shed nearby. I don't know if they're
6 considered part of the residence or not. But
7 there's no existing garage or anything that he
8 wants now.

9 CFO GALLAGHER: All right. Those would be
10 outbuildings, but you don't know if they're
11 included in -- they can't be included in the
12 3,000 square feet.

13 MR. FARR: Correct.

14 CFO GALLAGHER: So he may be -- if you
15 counted those, he could be pushing his 10,000, if
16 he had 10,000.

17 MR. FARR: If he had 10 -- I don't think it
18 would get that close. I'm not sure of the square
19 footage of the barn and the shed nearby.

20 CFO GALLAGHER: Is the reason that he has to
21 come back to us because nobody thought ahead that
22 he might would expand that house as opposed to
23 build other ones, or is it some other reason?

24 MR. FARR: I wasn't there at the time that
25 this one was negotiated. It was just standard to

1 allow expansions of existing structures up to 125
2 or 150 percent. It just wasn't contemplated at
3 the time that --

4 CFO GALLAGHER: So he would have been able
5 to add 1,500 square feet under the normal
6 conservation easement or not?

7 MR. FARR: No, no. He has 1,640 square
8 feet. He would be allowed to go another
9 25 percent above that, which would be roughly 410
10 square feet, so up to 2,010 or something.

11 CFO GALLAGHER: All right. And he's looking
12 to go up to the 3,000, I guess. So we're really
13 not talking about a whole lot here.

14 MS. CASTILLE: No.

15 MR. FARR: No.

16 CFO GALLAGHER: Okay. I'll move Item 2.

17 GOVERNOR BUSH: There's a motion.

18 ATTORNEY GENERAL CRIST: Second.

19 GOVERNOR BUSH: And a second. Without
20 objection, the item passes. Thank you, Mr. Farr,
21 for not leaving the room.

22 MS. CASTILLE: Item 3 is the J. A. Tierney
23 purchase agreement and survey requirement waiver
24 for Coupon Bight/Key Deer. This is a purchase
25 agreement to purchase .88 acres within Coupon

1 Bight. Additionally, it consists of eight
2 single-family lots plus two single-family lots
3 that are submerged land. And in the Keys, the
4 policy decision that the board has made
5 previously is for us to go ahead and buy those
6 parcels rather than to litigate the issue because
7 it's cheaper to buy them than litigate.

8 GOVERNOR BUSH: Are we paying 10 bucks a
9 foot for sovereign submerged land now?

10 MS. CASTILLE: Your math is usually better
11 than mine, so if it's --

12 GOVERNOR BUSH: Well, just roughly, 40,000
13 -- I'm just using fuzzy math here, but .88 acres.
14 How much of it is submerged?

15 MS. CASTILLE: Only eight of the 10 lots --
16 two, four, six, eight. Eight of the 10 lots --
17 two of the 10 lots are submerged lands.

18 COMMISSIONER BRONSON: But I've got to have
19 a follow-up here. Under the original purchase --
20 Governor, if you don't mind.

21 GOVERNOR BUSH: Yes, please, Commissioner.

22 COMMISSIONER BRONSON: Under the original
23 purchase of this property by the original owners,
24 were those lots above or below water at that
25 time? You know, we do have wave action,

1 including on some of our lakes, that actually are
2 eating up people's property that they bought
3 originally and are on the tax rolls as land, not
4 submerged land. I would love to clarify whether
5 these lots originally were above water or below
6 water at the time they were originally purchased
7 and resold over time. That helps me in a lot of
8 the decision-making here. If it was always under
9 water and it was submerged land, that's another
10 issue. But if it became submerged land because
11 of wave action and storm weather action, I need
12 to know that.

13 GOVERNOR BUSH: I don't know if it's
14 submerged if it's under your description, I mean
15 sovereign submerged.

16 MS. CASTILLE: I can't answer the question
17 right now. I can tell you that it has been -- in
18 the history of this board and of this state, it
19 has been a policy, it was a long time ago, to
20 sell submerged lands and to allow the filling and
21 the development of them. There was a significant
22 case that was filed by Governor Askew that
23 changed the State's policy dramatically that we
24 would not allow the filling of those submerged
25 lands.

1 COMMISSIONER BRONSON: Well, Governor, to
2 follow up -- and there's a reason for my question
3 here, and it goes to a number of issues
4 concerning, quote, submerged lands and actions of
5 the State about submerged lands. And, quite
6 frankly, if you go back to statehood, which is
7 when all of this -- statehood and right after
8 statehood is when all this submerged land and
9 swamp and overflowed land issue really was an
10 issue to determine who owns what.

11 I think you're going to see more actions.
12 And not knowing the situation here, because I'm
13 not sure that I can determine from what you said
14 whether this was originally on the tax rolls as
15 land owned by somebody or if it was originally
16 put under the sovereign submerged lands at the
17 time of statehood. And that's going to be an
18 argument that's going to be brought up and in
19 court for many, many years here in the State of
20 Florida as to whether counties were collecting
21 taxes as land from the landholder all these
22 years, and now all of a sudden the State, because
23 of other actions, are going to claim submerged
24 lands, or whether it was originally submerged
25 lands. And those are the issues that are going

1 to keep coming up.

2 And I just -- I would like to make that
3 distinction on any of these issues of submerged
4 land, whether at the time, going all the way back
5 to the original owner, whether this land was
6 above water and was considered either swamp and
7 overflowed and valuable land, or whether it was
8 originally on the list as sovereign submerged
9 lands of the State. And that makes a big
10 difference.

11 MS. CASTILLE: Bud, do you want to come?

12 Yes. Go ahead, Eve.

13 MS. ARMSTRONG: Good morning. Eve
14 Armstrong, Division of State Lands.

15 This actually was part of a deed that was
16 deeded out by the Board of Trustees in the past,
17 and it is submerged lands today. It is not part
18 of an area that is under current wave action as
19 an evulsion or not. This is a mangrove swamp
20 area on the edge of this.

21 And what we're doing here is, we're buying
22 it back in lieu of litigation because it would
23 cost us a lot to prove that it is in fact owned
24 by the State or was in the past. And so you
25 delegated to us some months back the authority to

1 go ahead and offer these people the price as
2 though it's an upland parcel, because it's a lot
3 cheaper to do it that way than to go through
4 court.

5 GOVERNOR BUSH: I was only trying to make
6 a -- I apologize for bringing up a bigger
7 subject. All I was trying to make a point was to
8 go back to land prices in the Keys. Part of our
9 commitment is to spend \$93 million to buy these
10 parcels, and the challenge is that we're
11 spending, you know, in the dollars per foot for
12 these lots. It's a real challenge. That's all.

13 CFO GALLAGHER: Let me ask a question real
14 quick here. We're paying 409,000 an acre for I
15 guess those eight lots. And the other two, are
16 we only paying \$2,000 for those? Is that what
17 we're doing here, or am I reading it wrong?

18 GOVERNOR BUSH: That would have been the
19 better answer, to start, to my question.

20 MS. CASTILLE: We're paying \$1,000 per lot
21 for the submerged lots.

22 GOVERNOR BUSH: Thank you. Thank you for
23 answering my question.

24 CFO GALLAGHER: Let me ask you this.
25 There's a lot of other submerged -- now, are we

1 buying this from the same owner?

2 MS. CASTILLE: Are they all from the same
3 owner? Yes, right.

4 GOVERNOR BUSH: The other submerged lots
5 that are sitting here that don't have a color,
6 whose are they? Do we already own those?

7 MS. ARMSTRONG: Various owners. Offers have
8 been made to all of them, but various owners.

9 CFO GALLAGHER: Okay. So basically, those
10 guys all have a shot at a thousand bucks if they
11 want to take it. Otherwise, they're not going to
12 build on it. It's under water.

13 MS. ARMSTRONG: Correct.

14 CFO GALLAGHER: Okay. And the other yellow
15 ones I guess we have offers out for too? Those
16 are the other parcels to be acquired, it says?

17 MS. ARMSTRONG: Yes, yes. Yellow are yet to
18 be bought.

19 CFO GALLAGHER: But we have offers out?

20 MS. ARMSTRONG: Yes.

21 CFO GALLAGHER: Okay. Same price range
22 because of the appraisal?

23 MS. ARMSTRONG: Uh-huh, based on the
24 appraisals for the property.

25 CFO GALLAGHER: Beg your pardon?

1 MS. ARMSTRONG: It's based on the appraisals
2 for their individual lots.

3 CFO GALLAGHER: But we're paying 125 percent
4 here?

5 MS. ARMSTRONG: Yes, sir.

6 CFO GALLAGHER: Okay.

7 GOVERNOR BUSH: Any other questions? Is
8 there a motion?

9 CFO GALLAGHER: Motion on 3.

10 ATTORNEY GENERAL CRIST: Second.

11 GOVERNOR BUSH: There's a motion and a
12 second. Without objection, the item passes.

13 MS. CASTILLE: Item 4 is the Board of Public
14 Instruction, otherwise the School Board, in
15 Monroe County option agreement for the purchase
16 of Harris School, which is on the Florida Forever
17 list. This item was deferred from the August 9th
18 agenda because of some concern that it was not on
19 the list, as I explained to you on the earlier
20 item how it got dropped from the list that was
21 printed, but it was approved from your
22 standpoint, the Governor and Cabinet. It was on
23 the list on the agenda.

24 So what we have before us is an option
25 agreement to acquire 1.96 acres within the Harris

1 School Florida Forever project from Monroe County
2 and designate Studio Key West as the managing
3 agency and confirmation of the management policy
4 statement.

5 Key West has also included a reverter clause
6 that if Key West Studio, who is going to be the
7 designated managing agency, fails to renovate or
8 rebuild as their contract requires with Monroe
9 County, that Monroe County -- and it has to be
10 done in 13 months, then Monroe County will take
11 the property back and give us our money back.

12 The acquisition is \$5,412,000, which is
13 82 percent of appraised value. And it is the
14 oldest school building in Key West, which was
15 dedicated in 1909, and it is considered the
16 second most significant structure in the City of
17 Key West and its historic district.

18 GOVERNOR BUSH: What's the most?

19 MS. CASTILLE: The Customs House? The
20 Customs House.

21 CFO GALLAGHER: San Carlos doesn't get in
22 there?

23 GOVERNOR BUSH: Third. Okay. Now, we have
24 some history with this property; right?

25 MS. CASTILLE: We do? Is that what you're

1 asking, sir?

2 GOVERNOR BUSH: It's a question.

3 MS. CASTILLE: Yes, we do have some history
4 with this property. We had been trying to work
5 with the School Board, and we had gone back and
6 forth on several issues as to what we were going
7 to be doing and what they were going to be doing
8 with the project.

9 I believe that all of the entities that are
10 involved, the School Board, Studio Key West, and
11 historical resources are all in -- have a
12 consensus as to what they would like to do with
13 the project. And we have all those speakers here
14 to present to you, including Eileen Quinn, who is
15 the chairperson for the Monroe County School
16 Board, Board of Public Instruction.

17 CFO GALLAGHER: Well, I would like to hear
18 from her first to tell us what they're going to
19 do with the \$5.4 million that we're supposedly
20 paying for it.

21 MS. CASTILLE: Let's talk with Ms. Quinn,
22 Chairperson Quinn.

23 GOVERNOR BUSH: Welcome.

24 MS. QUINN: Good morning. Thank you very
25 much for allowing us to be here today to talk

1 about this possibly great partnership with the
2 State. Shall I answer your first question?

3 CFO GALLAGHER: Just before you finish to
4 answer it will be fine.

5 MS. QUINN: Okay. I would like to give a
6 little background if I may.

7 It was about two years ago that the School
8 Board officially declared this property as
9 surplus for educational purposes. For as long as
10 I can remember, probably the last 15 years, the
11 building has been used for offices for nonprofit
12 organizations, and a yoga school was there. We
13 couldn't even use the building to its full
14 capacity because the wiring it so old, it
15 couldn't handle a computer and a fax machine.
16 It's a beautiful, stately, castle-like building.

17 But the capital dollars that we generate for
18 our schools from the 2-mill money and the
19 half-cent sales tax, that money is just barely
20 going to cover what we need to renovate our
21 existing schools where our students actually go,
22 so we just do not have the money to renovate this
23 building.

24 So we think that the Rodel and Studio Key
25 West idea is a fabulous idea. There's a great

1 amount of community support for it, and we would
2 love to see the ProStart culinary school continue
3 past the high school level so that our career ed
4 students will have that sort of an edge out there
5 in the world.

6 We would like to, if Florida law provides,
7 use the capital dollars from the sale of this
8 building to give us some flexibility in creating
9 some housing for our teachers and bus drivers,
10 et cetera. We have some RFPs out right now
11 looking for what kind of ideas people have to
12 provide housing units, and it would be great to
13 have this capital on hand to be able to say,
14 "Yes, let's do something."

15 GOVERNOR BUSH: Is that an idea, or is that
16 an official policy of the School Board, that the
17 proceeds would go for workforce housing?

18 MS. QUINN: There was not an actual vote by
19 the School Board to do this, but it has been
20 discussed. For us, the affordable housing issue
21 for our employees, it's that elephant that we
22 keep taking another bite of it, and one of these
23 days we're going to finish that elephant. And we
24 really do need housing for our employees. And
25 there's a letter --

1 GOVERNOR BUSH: So you would be willing to
2 make that part of the agreement?

3 MS. QUINN: Well, I can't do that by myself,
4 because I can't take a vote with the board
5 members right now. We --

6 GOVERNOR BUSH: Well, let's suppose -- if we
7 made it part of the agreement, do you think that
8 the board would warmly embrace that concept?

9 MS. QUINN: Well, actually, we reached the
10 consensus that we would use some of the money,
11 but we have not hammered out how many pennies and
12 dollars were going for affordable housing. I
13 know that some of the money is going to help
14 relocate the Monroe Association for Retarded
15 Citizens that was in that campus to another
16 location, and there's a lot of renovations
17 necessary to accommodate their clients.

18 I'm not going to tell you we're not going to
19 use it for that. I don't know that I can legally
20 speak to it that, yes, we're using 100 percent of
21 the proceeds for housing. But we know we need to
22 use that money for housing. And we have a letter
23 from the superintendent. Do you have copies of
24 that?

25 GOVERNOR BUSH: Yes, I have it.

1 MS. QUINN: Oh, you have a copy?

2 GOVERNOR BUSH: I just got it, yes. But it
3 doesn't -- it just kind of says it the way you
4 said it, which is that it's a great idea. We're
5 back to this trust thing, I think. I mean,
6 we're -- how far along have you guys gotten as it
7 relates to the proceeds, where it's going, in all
8 honesty? Because we don't want to box you in,
9 but this is an uncharacteristic type purchase for
10 us through --

11 MS. QUINN: I understand that.

12 GOVERNOR BUSH: This is noting, again, the
13 special nature of Monroe County. I doubt we
14 would do this other places. And so if the
15 critical issue, as we all heard, is workforce
16 housing, I think I would -- go ahead.

17 CFO GALLAGHER: Most times we're on the
18 other side here. We're making a deal to get land
19 for a school board that we're holding in the
20 state that they need to build a school,
21 et cetera, so almost all the time it's the other
22 way around. We're not buying it and facilitating
23 it the other way, and so this is unusual. In
24 fact, I don't even remember us doing this before
25 as long as I've been here.

1 GOVERNOR BUSH: Almost as long as Bronson
2 has been in Florida.

3 MS. QUINN: I don't know how familiar you
4 are with the Customs House, but that was a
5 federally owned property that was purchased
6 through this same process, and that has become a
7 beautiful museum in Old Town Key West. It's one
8 of our jewels.

9 CFO GALLAGHER: So was San Carlos.

10 MS. QUINN: But I don't think -- San Carlos
11 was done this way?

12 CFO GALLAGHER: It was purchased -- we
13 purchased it and turned it over to the foundation
14 that's running it.

15 MS. QUINN: Oh. People don't talk about
16 that as one of these projects.

17 CFO GALLAGHER: I was around for that one.

18 MS. QUINN: We currently have an RFP out for
19 affordable housing for a property we have in Old
20 Town right now that if the Harris School sells at
21 the price that we were offered, we could go ahead
22 with that. If the Harris School doesn't sell, we
23 can't go ahead with that.

24 CFO GALLAGHER: Well, let me move this item,
25 with the covenant that the dollars that we pay

1 must be used by the School Board for workforce
2 housing. And that way, I think we'll feel like
3 we've done something good for the school district
4 and Monroe County. You know, one, we've taken
5 the building and let it be used for other
6 purposes, and at the same time, help you all with
7 your workforce housing and sort of put you all
8 where you want to be.

9 GOVERNOR BUSH: Treasurer, if we could --
10 there may be a consensus on this, but you
11 mentioned that there were some other issues that
12 you have committed, the ARC, moving ARC out of
13 the building, I assume, to another location.

14 MS. QUINN: Yes, we're moving them to
15 another campus.

16 We have a declining enrollment. You know,
17 we're just the anomaly county. That's what we
18 are.

19 GOVERNOR BUSH: Well, is there a percentage
20 of this that could go to workforce housing that
21 gives a little bit of flexibility, since you've
22 apparently made some commitments on the proceeds?

23 MS. QUINN: I have to admit, I don't know if
24 I can make that commitment solely --

25 GOVERNOR BUSH: Well, you don't have to.

1 MS. QUINN: -- without the vote of my board.

2 GOVERNOR BUSH: No, I know that.

3 MS. QUINN: I don't know if I can legally do
4 that.

5 GOVERNOR BUSH: Obviously, you can't.

6 MS. QUINN: Okay. Thanks.

7 GOVERNOR BUSH: But I'm trying to make it --
8 I think there's a consensus.

9 CFO GALLAGHER: Well, let's do 5 million of
10 it. It's 5,412,000. That leaves 412,000 to fix
11 up and move. That sounds like a decent amount to
12 me. I don't know.

13 MS. QUINN: That sounds like a great amount,
14 but I don't know if I can commit to that.

15 GOVERNOR BUSH: Well, you don't have to.

16 CFO GALLAGHER: You don't have to do
17 anything.

18 GOVERNOR BUSH: You don't have to. You just
19 go back to the School Board and say, "Look what
20 we did, and look what I got," and then they can
21 either say -- and they can say yes or no, and we
22 can either take it up again or, you know, the
23 deal won't happen. So we're not asking you to
24 commit to the School Board today. That's why I
25 was asking the question, and the Treasurer was

1 kind enough to modify his resolution a little bit
2 to give you a little bit of leeway.

3 MS. QUINN: Okay.

4 GOVERNOR BUSH: Now, we've done all this
5 without hearing any other speakers.

6 MS. QUINN: I'm just so persuasive.

7 GOVERNOR BUSH: You are, trust me. Given
8 where this was going, you should get credit when
9 you go home.

10 MS. QUINN: Oh, thanks.

11 CFO GALLAGHER: This had a good chance of
12 not making it, I can promise you that.

13 MS. QUINN: I understand that, and I really
14 appreciate you hearing us.

15 GOVERNOR BUSH: Would anybody else like to
16 speak? No, they're all nodding. Bobble-heads,
17 negative bobble-heads.

18 COMMISSIONER BRONSON: I'll second the
19 motion.

20 GOVERNOR BUSH: There's a motion and a
21 second. You want to restate the motion again,
22 Treasurer?

23 CFO GALLAGHER: I will. I will. The sale,
24 or the purchase of this property for \$5,412,000
25 is contingent upon the School Board accepting the

1 agreement that 5 million of that will be used for
2 workforce housing for School Board personnel.

3 GOVERNOR BUSH: There's a motion and a
4 second. Any discussion?

5 Without objection, the motion passes.

6 MS. QUINN: Thank you all very much.

7 GOVERNOR BUSH: Thank you very much. Good
8 luck.

9 MS. CASTILLE: Item 5. Item 5 is the Board
10 of Trustees/Tarmac America exchange agreement and
11 authorization to sell to the South Florida Water
12 Management District the lands that we purchase.
13 This is an exchange agreement in which the Board
14 of Trustees will convey approximately 277 acres
15 of state-owned land in exchange for 320 acres
16 owned by Tarmac America in the Pennsuko wetlands.
17 It is also a determination that the sale of
18 approximately 320 acres to the South Florida
19 Water Management District provides a greater
20 benefit to the public than its retention in Board
21 of Trustees ownership, and it also provides
22 authority to waive the survey requirement. The
23 State will receive Tarmac's property and a cash
24 payment of \$5,113 000 to be deposited into the
25 Internal Improvement Trust Fund.

1 CFO GALLAGHER: Motion on 5.

2 ATTORNEY GENERAL CRIST: Second.

3 GOVERNOR BUSH: We just paid for the Harris
4 School. There's a motion and a second. Without
5 objection, the item passes.

6 I was wondering how we were going to pay for
7 that.

8 MS. CASTILLE: Item 6. Governor and
9 Cabinet, this is an amendment to Rule Chapter
10 18-21 in the Florida Administrative Code. It is
11 a proposed rule amendment for the unit-to-slip
12 ratio. The consideration of the adoption of this
13 proposed rule was direction that came to us
14 pursuant to an item that came before the Board of
15 Trustees, where our rule did not allow the Board
16 the flexibility of deciding on an expansion of
17 the 40-to-1 unit-to-slip ratio requirement in the
18 rule.

19 The changes here specify that the maximum
20 number of slips and the preemption allowed for
21 private residential docks or piers, including
22 those serving mixed upland residential and
23 revenue-generating activities, shall be on a
24 one-unit-per-one-slip ratio up to the 40-to-1
25 unit-to-slip ratio. At that point in time, a

1 proposed development and the developer associated
2 with it is welcome to come to us and to make a
3 public demonstration that the project is in the
4 public benefit and exceed that 40-to-1 ratio.

5 Just a little bit of history. Governor and
6 members of the Cabinet, as you recall, early in
7 our statehood, the navigable waterways were
8 considered a commercial and navigational usage.
9 The idea of natural resource protection was not
10 something that we had as a state for our
11 waterways. It was our I-10 and our I-75.

12 In the 1968 constitutional revision process,
13 the Board of Trustees were give the
14 responsibility to protect public waterways and to
15 protect the -- and to be the keepers of the
16 public trust in that protection, and we began to
17 begin looking at our waterways more in terms of
18 natural resource protection and the beauty and
19 ecosystem protection that goes along with that
20 versus the commercial uses of the previous 180
21 some odd years or 200 some odd years before that.

22 The rule before you takes a little bit of a
23 flexible look at this and allows the resource
24 protection to be the driver of your decisions
25 versus the development frontier that would open

1 up if we opened the unit-to-slip ratio to a
2 greater number or to no cap at all. It places
3 the burden of demonstrating the public good
4 squarely in the developers' hands and in your
5 staff's hands in presenting a development to you.

6 So you will have a number of people who will
7 stand up here on both sides of the issue, those
8 who want no unit-to-slip ratio, those who want to
9 expand the unit-to-slip ratio, and those who want
10 no change to the rule at all.

11 We are of the opinion that the rule can be
12 changed and that there's a balance that can be
13 presented to you, but it needs to be a decision
14 that the Governor and Cabinet make and not a
15 delegated decision to us.

16 So in particular, there are a number of
17 communities here or people who are representing
18 developers in those communities or contractors in
19 those communities who have been considering
20 restoration of a community and redevelopment of a
21 downtown. We are saying that that is allowable
22 under this rule, and through the consolidated
23 intent process, we'll be able to bring to you a
24 permitting viewpoint from our permitters on the
25 permitting side of the house at the Department of

1 Environmental Protection, but also a resource
2 protection perspective which comes from our
3 historical representatives of you as the public
4 trust protectors.

5 We have a number of speakers.

6 Again, let me reiterate the rule. The rule
7 allows a 1-to-1 unit-to-slip ratio up to a cap of
8 the existing 40-to-1 ratio. Once that cap is
9 desired to be exceeded, then the proposed
10 developer can bring to us a development that
11 includes not only privately owned slips, but
12 allows publicly owned slips to be developed as
13 well so that we are not delineating most of our
14 coastal and condominium shoreline for private
15 development, but we continue to have a public
16 access opportunity there as well.

17 GOVERNOR BUSH: Colleen, as the speakers
18 come forward, at least the ones responsible for
19 the rule, I hope that someone will explain the
20 impact of this rule on the overall supply and
21 demand. This is all an issue of balancing access
22 to the water, which is part of who we are and
23 part of our economy, to protection of the
24 critters in the water. And so I was -- Chris was
25 kind enough to give me my remarks from the last

1 time we discussed this, and that was the concern,
2 and there was an assurance that there would be a
3 discussion of that when we came to finalize the
4 rule, and I hope someone has remembered that.

5 MS. CASTILLE: We can. Governor and members
6 of the Cabinet, we can give you at this point our
7 opinion as to what we think --

8 GOVERNOR BUSH: That's all I'm asking.

9 MS. CASTILLE: -- access and demand is. But
10 we are in the process, with the Fish and Wildlife
11 Conservation Commission taking the lead, of
12 conducting a study of what the existence is of
13 slips, both marinas and private docks, what the
14 demand is, both for ownership and for rental,
15 what the size of that demand is, and --

16 GOVERNOR BUSH: When is that going to be
17 ready?

18 MS. CASTILLE: Two years. And so we're
19 proposing to you to adopt the rule as it is --

20 GOVERNOR BUSH: Well, someone else will be
21 Governor.

22 MS. CASTILLE: To adopt the rule as it is
23 now to allow that --

24 GOVERNOR BUSH: I'm going to have fun in the
25 last year of my tenure sitting between these two

1 guys.

2 MS. CASTILLE: And I think that the market
3 is different in many different places.

4 GOVERNOR BUSH: Sure. That's why I asked.
5 It's an important point. You're asking us to
6 approve a rule that has been thoroughly vetted,
7 and it has been a long time coming. But at the
8 same time, that's kind of the issue --

9 MS. CASTILLE: It is.

10 GOVERNOR BUSH: -- that the users and the
11 people concerned about the manatees and others
12 probably want to have an answer to. And so even
13 an opinion would be good, since two years from
14 now I'll be watching this on the Florida Channel.

15 CFO GALLAGHER: Sure you will.

16 Colleen, I don't really need to sit and see
17 a study to need to know that there's a tremendous
18 demand for slips. And when people or developers
19 are putting in -- whether it's revitalizing a
20 downtown, and we've had issues like that, or
21 whether it's a new multi-family condominium unit,
22 or whatever else is being built, almost every one
23 of those that are on the water comes to you all
24 wanting more slips than would normally be granted
25 and larger slips than would normally be granted

1 for some of the larger boats and things. And as
2 long as it isn't an environmental problem, I've
3 been one that has said, you know, we need to make
4 arrangements for people to have access for boat
5 slips.

6 There seems to be a -- you know, we've
7 gotten a lot of e-mails on this. I'm sure
8 everybody has like I have, and from both sides.
9 But there seems to be a real concern among
10 builders and developers of putting this 40-to-1
11 in the rule. I guess we'll hear from someone on
12 that, and maybe I should wait until after that
13 to -- maybe my questions will be answered by the
14 speakers, and I'll wait until they're finished.

15 GOVERNOR BUSH: All right. Who are the
16 speakers?

17 MS. CASTILLE: Can I -- do you want an
18 opinion first?

19 CFO GALLAGHER: Well, let's hear from them,
20 and then you give me one.

21 MS. CASTILLE: Okay. We have many pages of
22 speakers. We have Peggy Matthews. Is Peggy here
23 today?

24 GOVERNOR BUSH: Did you say many pages of
25 speakers?

1 MS. CASTILLE: I do have a couple of
2 different pages of speakers, yes, sir.

3 GOVERNOR BUSH: How are you?

4 MS. MATTHEWS: Fine, thank you. My comments
5 will be short. I represent the Florida Marine
6 Contractors Association of Florida, and we are
7 the dock builders.

8 Our organization agrees, along with Marine
9 Industries and the other folks that you'll hear
10 from today, with the 1-to-1 ratio. The 40-to-1
11 ratio is a very antiquated standard that was
12 never based on science. It does not -- it's
13 impossible to meet the exemption criteria that
14 has been developed in the new rule.

15 The real world today is that waterfront
16 properties do not have large accesses to
17 waterfront. Developers might have three acres of
18 uplands, but they may only have 100 feet on the
19 water for access for the developers. That's the
20 real world, especially pretty much south of
21 Gainesville, in addition to the boats are bigger.

22 The 1-to-1 slip, quote, gain that we will be
23 getting through this rule is very restricted with
24 the 40-to-1 that's still in the rule. It's
25 basically almost a wash, except in possibly some

1 areas in North Florida.

2 As you stated, we've been dealing with this
3 for two years. We feel that this rule does not
4 adequately address the increase in slips that is
5 in demand today. In addition, this rule will
6 perpetuate the buying of public marinas, because
7 they'll not be able to get permits to build
8 marinas for their facilities, you know, such as
9 condos and so forth.

10 So with that, we would like to reiterate
11 that we would like the 40-to-1 to be completely
12 eliminated or greatly expanded to meet the needs
13 of the boating community today.

14 Thank you.

15 MS. CASTILLE: Thank you.

16 GOVERNOR BUSH: Thank you.

17 MS. CASTILLE: Hans Wilson, board member of
18 the Southwest Florida Marine Industries
19 Association.

20 GOVERNOR BUSH: I'm sorry. What
21 organization?

22 MR. WILSON: Southwest Florida Marine
23 Industries out of Fort Myers, Lee County.

24 GOVERNOR BUSH: Welcome.

25 MR. WILSON: Thank you for the time. I'm a

1 professional engineer and also do marina design
2 and permitting, and have for the last 20 years.
3 And I'm painfully and intimately familiar with
4 Chapters 18-20 and 21 and trying to operate
5 within those Florida Administrative Codes. I've
6 designed numerous docking facilities, from
7 single-family to commercial, in both the public
8 sector and the private sector.

9 Specific to the proposed amendment, it's my
10 opinion that the 10-to-1 and the 40-to-1
11 limitations, where you have to have a certain
12 linear footage of shoreline to accommodate an
13 acreage of coverage, is outdated and needs
14 revision.

15 You have limited the total number of slips
16 available to upland units for private facilities
17 at 1-to-1. That's your growth management tool,
18 and that's reflecting changes in the industry,
19 and I commend staff for recognizing that.

20 The 40-to-1 limitation does not reflect
21 either the current boat market relative to vessel
22 size nor the geophysical features of each site,
23 which I deal with in every project. The 40-to-1
24 limitation creates in many cases almost a
25 prejudice between regions, east coast versus west

1 coast, and in many cases results in a design
2 that's less than optimum for protecting
3 resources. In many cases, a site that's very
4 suitable for a private facility based on upland
5 access, close proximity to marked navigation
6 channels, and minimal resource impact is
7 otherwise not feasible because of the 40-to-1
8 limitation.

9 My suggestion is to allow the state
10 regulatory agencies charged with managing our
11 resources and the resource impacts to do their
12 job. And I would also focus on the use of
13 sovereign submerged lands to emphasize public
14 access, yet recognize that private facilities
15 have both a favorable economic impact on our
16 marine industry and the economic resources to
17 fund future public access, such as boat ramps and
18 public marinas. Reducing available private slips
19 simply puts more strain on our limited public
20 facilities.

21 I do urge you to adopt the remaining rule
22 changes. And I would like to thank the DEP staff
23 for their cooperation and availability for us to
24 comment and work with them on developing this
25 rule.

1 Thank you very much.

2 GOVERNOR BUSH: Thank you. Thanks for
3 coming up.

4 MS. CASTILLE: Thank you, Mr. Wilson.

5 Bonnie Basham representing Standing Watch
6 and the Florida Council of Yacht Clubs.

7 MS. BASHAM: Thank you and good morning.
8 And, Governor, I went back and read the
9 transcript as well. I even marked it up.

10 GOVERNOR BUSH: It was totally incoherent,
11 though.

12 MS. BASHAM: No, you did a good job.

13 GOVERNOR BUSH: It's embarrassing to read
14 yourself in writing after you speak.

15 MS. BASHAM: Think of how I felt.

16 I agree, the 1-to-1 is a great step forward.
17 You asked, as all of you did, for some hard, cold
18 facts about what the market demands are now as
19 opposed to what they were in 1984, so let me
20 just -- and several other folks who live out
21 there every day will be able to tell you this as
22 well.

23 First of all, let me remind you, and you
24 remembered this last year, boating is a
25 \$14 billion industry in this state. And you're

1 absolutely right. There are a bunch of folks
2 with pent-up demand, and there are not slips to
3 accommodate them. So we see the 40-to-1 as being
4 limiting in terms of forcing those developers to
5 go buy up those marinas, and we see the public
6 access being limited because of that.

7 Back in 1984, a 20-foot boat was a big boat.
8 A slip 9 feet by 15 feet was a pretty adequate
9 slip. We're not talking dock. We're talking
10 slip. Well, today the average boat that's out
11 there that's looking for that slip is 35 to
12 40 feet, and that slip is minimum 14 by 35. So
13 the market has moved this way, and the rule is
14 still back here.

15 GOVERNOR BUSH: Well, you make it sound like
16 the private -- I'm sure there's a business deal
17 out there to buy up the public marinas, but they
18 still have to come -- wouldn't that require a
19 modification of our sovereign submerged land
20 lease, and aren't we pretty much saying that
21 we're going to keep public access?

22 MS. BASHAM: Yes, sir, you are. And those
23 criteria are good criteria, and we like the idea
24 that you're keeping public access.

25 GOVERNOR BUSH: Okay.

1 MS. BASHAM: But, however, comma, we are
2 concerned that that criteria, because it's every
3 single solitary piece in that, not a mix of them,
4 we're concerned that that criteria can't
5 completely be met, and therefore it holds that
6 false promise out to the developer that they can
7 meet it. And Jim Kalvin and a couple other folks
8 will talk more specifically about that. But
9 we're not convinced that the criteria that's
10 there, that we can jump that hurdle. We just
11 aren't. We don't believe that removing -- I'm
12 sorry.

13 CFO GALLAGHER: The concern I have, just so
14 you know -- and I'm probably philosophically on
15 your side. We have a 40-to-1 ratio that was
16 agreed upon 20 years ago. It has been in the
17 rule. It was a huge battle back then.

18 MS. BASHAM: Absolutely.

19 CFO GALLAGHER: If we were to mess with it
20 now, we have opened up a whole new battle for
21 challenge and everything else that we went
22 through 20 years ago. That's why I'm personally
23 a little reluctant to change that, although
24 allowing, you know, people come to us and to come
25 and apply for additional public slips and

1 everything else I'm very much in favor of. I'm
2 just -- you might want to speak to and others
3 speak to, you know, why we would want to open
4 this up again for all the battles that we've been
5 through already.

6 MS. BASHAM: I don't want to give you a
7 completely flip answer, but my sense is that
8 probably -- well, I won't answer that that way.

9 I think that the numbers are there to show
10 you why taking the 40-to-1 cap off is a
11 defensible position to be in. I believe that
12 you -- I'm not a lawyer. I just act like one.
13 But I believe that you can defend that position.
14 I believe that the market forces are behind you,
15 that the numbers that were in the 1984 report,
16 certainly those numbers are different today. I
17 believe that that's a defensible position. And
18 I've had other folks who are attorneys tell me
19 that that's a defensible position.

20 So that's my short answer. And my red
21 button is on, so I know I can't talk to you for
22 much longer.

23 We don't believe taking the 40-to-1 away is
24 a blank check. There are so many other
25 constraints on dock development. There are 80A

1 constraints. There are so many other constraints
2 that we don't believe taking 40-to-1 away opens
3 Pandora's box, and we would really like you to
4 consider that.

5 Thanks.

6 GOVERNOR BUSH: Thank you.

7 MS. CASTILLE: Jim Calvin, also representing
8 Standing Watch.

9 MR. KALVIN: Thank you. Good morning.

10 GOVERNOR BUSH: Good morning, Jim.

11 MR. KALVIN: Thanks for having me. I'm also
12 here as a representative of the committee with
13 the Fish and Wildlife Conservation Commission
14 that's looking at the dock slips throughout
15 Florida. And there certainly is a heavy change
16 in the demographics of the boating market, and
17 Bonnie touched a little bit on it, but I also
18 have a little bit of a background as a marine
19 contractor in building these slips that we're no
20 longer doing that.

21 What's in question is the multi-family
22 units. The multi-family units on the water tend
23 to be very expensive. And to take Bonnie's
24 remarks just a little further, I'm going to pick
25 my area -- don't anybody faint. But if you pay

1 waterfront condos come to us through DEP for
2 exceptions because of large boats. And we
3 recognize that, you know, there's a good economic
4 advantage to have those large boats be here
5 instead of somewhere else, in other countries or
6 something, and we've made exceptions on those.
7 So that's always available to someone who's --
8 to doing that. For whatever it's worth, I just
9 think you need to be aware of that. Am I
10 correct, Colleen?

11 MS. CASTILLE: Yes, sir.

12 CFO GALLAGHER: So I think -- you know, it
13 depends on who's sitting here, but this Governor
14 and Cabinet has pretty much recognized certain
15 needs of having larger slips and larger boats.
16 So we haven't just said this is it the way the
17 rule is. We're here for exceptions to that when
18 in fact it makes sense.

19 MR. KALVIN: I appreciate that. There will
20 be others, I'm sure, who have experienced what we
21 have in Collier County, in that the process to
22 address those exceptions -- we have one marina
23 that has been considered now for going on 10 to
24 12 years, and in the meantime, five private
25 facilities in the vicinity have gone out of

1 business for redevelopment. So if there's any
2 way to streamline it -- that language kind of
3 scares us. If there's any way we could address
4 that, it might make people feel a little easier.

5 GOVERNOR BUSH: Yes, Commissioner.

6 COMMISSIONER BRONSON: Thank you. Is the
7 big issue really whether or not you're going to
8 have multi-family facilities built and whether
9 there's enough boat slips there -- and that's
10 assuming that people can still buy enough
11 property on the water or get a new place if it's
12 being built -- or is one of the bigger issues
13 that there's not enough public access facilities
14 around the state for people who now can own a
15 boat, who in '84 may not have been able to own a
16 boat, but they have it at their house, and they
17 need a place to unload to go fishing? Which is
18 the two biggest issues here?

19 MR. KALVIN: Well, that's a whole 'nother
20 set of market demographics that have changed, in
21 that those -- the place where people can go put
22 their boat in the water, all three of the
23 facilities on Naples Bay that went out had public
24 launch facilities that are no longer available.
25 Yes, there's waterfront there, and there are

1 private condominium docks there, but the public
2 access per se -- I can't load my boat up and go
3 launch it there, and there's nowhere for me to
4 keep it overnight.

5 And the land that was available once to
6 built new public access facilities, again, the
7 red tape of the current regulatory procedures
8 that are already in place makes that virtually
9 prohibitive in many cases.

10 So, yes, you've got the problem of
11 streamlining permitting, you've got environmental
12 language that might be impossible to meet, and
13 we've got a lack of real estate to develop
14 anything further.

15 GOVERNOR BUSH: By the way, how is the Army
16 Corps doing these days on permitting?

17 MR. KALVIN: Actually, I've got one right
18 here if you want to --

19 GOVERNOR BUSH: No, I don't.

20 MR. KALVIN: I'll let you know this
21 afternoon.

22 GOVERNOR BUSH: Okay.

23 MR. KALVIN: Thank you.

24 MS. CASTILLE: Tasha Buford.

25 GOVERNOR BUSH: Good morning.

1 MS. BUFORD: Good morning. I will also be
2 very brief. I would like to thank the staff for
3 the hard work on the 1-to-1. It is a big first
4 step. Yes, the 40-to-1 criteria is quite
5 problematical, and I await how we're going to
6 deal with the exemption. I have several clients
7 who are eager to try to work their way through
8 it. But we urge you to adopt the 1-to-1 as it
9 is. It is a necessary first step.

10 I do think that overall access for both
11 owners of private property on the water who live
12 there, as well as for people who trailer their
13 boats, all these boating interests are helped by
14 the 1-to-1 change to the rule, so I simply urge
15 your adoption. And hopefully in the future we
16 will go forward and amend the 40-to-1 criteria.
17 But please, at least today, let's take the big
18 first step. Thanks.

19 GOVERNOR BUSH: Thank you.

20 MS. CASTILLE: Cathy Sellers from Broad &
21 Cassel. Is Cathy here?

22 Richard Brightman from Hopping Green.

23 Richard? Sandra?

24 MS. WALTERS: Good morning again, Gentlemen.
25 I was at the Board of Trustees meeting --

1 MS. CASTILLE: I'm sorry. For the record,
2 this is Sandra Walters from Sandra Walters
3 Consultants.

4 MS. WALTERS: Thank you. I'm sorry for not
5 introducing myself again.

6 I was at the Board of Trustees meeting on an
7 ARC issue when the direction was giving by this
8 board the revisit the rule, and I am pleased to
9 see the progress, but I'm very concerned it isn't
10 quite far enough.

11 As an example, I have a client who is
12 redeveloping a site that has historically had 115
13 boat slips and over 300,000 square feet of state
14 submerged land under lease. They now want less
15 slips and less leased area, and I do not see what
16 public purpose is served by reducing the historic
17 use even further, which would be the result from
18 maintaining a 40-to-1 ratio.

19 As you know, the WCI case before you a
20 couple of years ago dealt specifically with a
21 variance from the 40-to-1 ratio, and hence your
22 direction to look at the rule, because the
23 circumstances have changed. And you've heard
24 statistics and will probably hear more in that
25 direction.

1 And the environmental constraints from DEP
2 and the water management districts and Corps of
3 Engineers permitting for marina facilities
4 already address the issues that are being
5 addressed by applying the 40-to-1 arbitrary
6 ratio. I strongly urge that you delete this
7 duplicative and arbitrary standard.

8 Thank you.

9 CFO GALLAGHER: Let me just say one thing.
10 It would be hard for me to imagine that your
11 client would come in front of us and say that we
12 would like to have less slips than we're already
13 allowed, less lease than we're already paying for
14 in order to change the makeup of the slips. You
15 know, less may be larger, et cetera. I can't
16 imagine that we wouldn't give that exception. I
17 could be wrong. I mean, I'm speaking for just
18 one person here. But those kind of things, when
19 they make sense, you know, we try to go along
20 with those. And I know they don't fit right in
21 with the rule, but that's why we have this
22 process where it can come up to us and be able to
23 look at those individual issues.

24 MS. CASTILLE: Let me respond to that.

25 Treasurer, what's happening on that

1 situation is, the upland use -- in order for us
2 to say that we would not approve the existing
3 square footage and number of slips, even if they
4 wanted to keep that same number and the same
5 square footage, what's obviously happening here
6 is the upland usage is going to condo, and under
7 the condominium usage, the slips are now going
8 private. They are public slips available and
9 open on the public, and now they're going
10 private.

11 So in terms of going private, we would now
12 filter them through this rule, and we would say,
13 okay, you're limited to 40-to-1, you know,
14 1-to-1, up to 40-to-1. And I don't know how much
15 shoreline they have, so I can't tell you what
16 square footage they would be allowed. But what
17 we would say then is, you are allowed to exceed
18 the 40-to-1 cap if you (a) go to the Governor and
19 Cabinet and demonstrate that you will have some
20 of the slips remaining open to the public, that
21 you will -- and provide other public benefits,
22 such as ramps, building additional slips -- what
23 was the other one in the rule? And donation of
24 land or conservation easements. So those are
25 examples, and not limited to those examples.

1 CFO GALLAGHER: All right. Obviously, we're
2 taking these away from what was a public use
3 before.

4 MS. CASTILLE: Right.

5 CFO GALLAGHER: When you say public use,
6 does that mean that someone that's not a
7 condominium owner would be able to have a slip
8 and like have a year's lease on it, or is it just
9 drop by and use it once in a while?

10 MS. CASTILLE: We limit to it a year's
11 lease.

12 CFO GALLAGHER: So they could come --

13 MS. CASTILLE: Open to the public on a first
14 come, first served basis, limited to a year's
15 lease, an annual lease. That's what we would do.

16 GOVERNOR BUSH: Well, can I ask a question
17 about this? This exception policy that is kind
18 of the escape valve for the fact -- the gentleman
19 in orange said something that was really true,
20 which is, you're trying to create a rule around
21 something that -- I mean, every one of these
22 properties has a different geometry.

23 MS. CASTILLE: Yes.

24 GOVERNOR BUSH: I mean, the coast line is
25 not a -- we don't live in a rectangle. So you've

1 got unique circumstances, unique design criteria.
2 And I know you can't anticipate with the passage
3 of this rule what the impact will be, but are we
4 going to create so many exceptions to the rule
5 that that's the rule, that the rule is that
6 there's an exception to the rule, which means
7 that if it takes a while to get here now, imagine
8 what it would be like if more and more people
9 have to do it.

10 MS. CASTILLE: It doesn't really take a
11 while to get here. We are required to --

12 GOVERNOR BUSH: Someone said it took 15
13 years.

14 MS. CASTILLE: That's because of lawsuits.
15 It is not because of DEP. We've approved the
16 marina.

17 GOVERNOR BUSH: So how long does it take
18 when someone says I've got a deal, I've got
19 approval from the local --

20 MS. CASTILLE: It's generally a consolidated
21 intent, and under the sovereign submerged lands
22 environmental resource permit, otherwise known as
23 SSLERP, we are required to make a decision in 90
24 days. We are, however, allowed to ask for or
25 request for additional information on another

1 30-day time frame. And if you look at all of our
2 environmental resource permits, as reported by
3 Craig Pittman in the St. Pete Times --

4 GOVERNOR BUSH: Don't be defensive.

5 MS. CASTILLE: -- it's only -- I didn't.
6 It's only an average of six weeks that it takes
7 us to make our permits. Now, that does not -- I
8 can tell you that that does not apply to marinas.
9 That would be the extreme in making a decision on
10 six weeks.

11 GOVERNOR BUSH: Then they've got to come to
12 us too, which -- getting on the agenda, does that
13 take a little longer?

14 MS. CASTILLE: Generally there's a couple of
15 weeks delay because it doesn't always fit so
16 neatly in that 90-day time frame.

17 CFO GALLAGHER: Now, if we pass this rule,
18 as the Governor says, there's going to be a lot
19 of exceptions because everybody has got different
20 layouts of property and submerged land and
21 everything else. But this rule all of a sudden
22 becomes the basis, for somebody that doesn't like
23 the exceptions that somebody wants, to go through
24 the court system and hold it up for 15 years.

25 MS. CASTILLE: Well, Commissioner, every

1 rule that we have really provides that
2 opportunity.

3 CFO GALLAGHER: Exactly. So if we don't
4 have this, then maybe that doesn't offer that
5 opportunity.

6 MS. CASTILLE: Oh, it does. The due process
7 that we have with our administrative law allows
8 any affected party to petition the State for a
9 challenge. And in fact, we have to sometimes
10 define whether a person is an affected party.

11 CFO GALLAGHER: So do you think this rule
12 would cause less suits or more suits?

13 MS. CASTILLE: I'm more afraid that changing
14 the rule to take the 40-to-1 cap off will provide
15 a new development frontier for our waterways, and
16 I don't believe that our waterways are meant to
17 be a development frontier. I think they're meant
18 to be a protection for the resource, and
19 providing public access and balancing those two
20 things with allowing a little bit of development
21 in our waterways.

22 You know, every boat has an impact, every
23 marina, every slip has an impact. What we try to
24 decide at the Department of Environmental
25 Protection is, can the resource withstand that

1 impact. And we feel that it is better to allow a
2 little flexibility in the rule right now and to
3 see what the market will bring us.

4 If you ask me what the market is bringing,
5 what I'm seeing across the community, across the
6 State of Florida is a transition of our uplands,
7 on our uplands associated with waterways, a
8 transition to condominium, privately owned
9 property and privately owned docks that go with
10 that.

11 So while I appreciate Standing Watch coming
12 here to say that they feel like we should open it
13 up more, what I'm hearing from not only Standing
14 Watch members and the marine industry people is
15 that condominiums are taking away our public
16 access to our waterways. It is a transition to a
17 privately owned, luxury yacht type of facility.

18 I mean, we can take one little community
19 here in north Florida called Carrabelle and look
20 at the miles of privately owned, but publicly
21 accessed waterfront that we've had historically
22 and that generations of fisherman and their
23 families have been able to access, to the
24 community, and in other areas, tourism, and
25 tourists are able to access the waterways.

1 But now with the condominium market so hot
2 in this state -- and you can look at many
3 business magazines and look at the whole story on
4 flipping condominiums. Before they're even
5 built, they're flipped. The ownership is flipped
6 two and three times before they're even -- the
7 construction is even completed. And to associate
8 waterfront ownership with that condominium will
9 make the condominium market even hotter.

10 So I suspect that, yes, this exception may
11 become the rule. But what I'm saying is, let's
12 put the rule in place while we do the Fish and
13 Wildlife Conservation Commission study so that we
14 understand the market in full, but during that
15 process, we have a way to come here and say,
16 "Gee, City of South Daytona Beach, you want to
17 redevelop your community, and you want to clean
18 up the Halifax River. We think that's a great
19 idea, and we're going to come help you do it, and
20 we're going to take it the Governor and Cabinet,
21 and you can publicly demonstrate that it is in
22 the public good to redevelop that and to allow
23 more slips. And if you want to exceed the
24 40-to-1 ratio, you have to include public slips
25 that are open to the public on a first come,

1 first served basis."

2 So rather than letting the genie out of the
3 bottle completely, we're saying let's kind of,
4 you know, open the stopper a little bit and see
5 what happens.

6 GOVERNOR BUSH: God bless America.

7 CFO GALLAGHER: You're such a salesman. I
8 move Item 6.

9 GOVERNOR BUSH: Wait. We have more
10 speakers.

11 MS. CASTILLE: You do have more speakers.
12 And because --

13 CFO GALLAGHER: Well, she had me sold.

14 GOVERNOR BUSH: I know. That was awesome,
15 Colleen.

16 MS. CASTILLE: Thank you, sir. There was a
17 little bit of passion coming out.

18 GOVERNOR BUSH: Well, that's good. We like
19 that.

20 MS. CASTILLE: It's good television.

21 GOVERNOR BUSH: We have some other speakers,
22 I know.

23 MS. CASTILLE: We do. Richard, have you
24 spoken?

25 COMMISSIONER BRONSON: Lucky you.

1 (Laughter.)

2 MR. BRIGHTMAN: Man, that's a hard act to
3 follow.

4 GOVERNOR BUSH: That was pretty strong.

5 MR. BRIGHTMAN: I'm Richard Brightman from
6 Hopping, Green & Sams here today on behalf of
7 Point One LLC.

8 GOVERNOR BUSH: On behalf of what?

9 MR. BRIGHTMAN: Point One LLC.

10 GOVERNOR BUSH: Is that one of those --

11 MS. CASTILLE: Condominiums.

12 GOVERNOR BUSH: -- condominiums?

13 MR. BRIGHTMAN: That would be the case, yes.

14 GOVERNOR BUSH: Your timing is impeccable.

15 MR. BRIGHTMAN: I want to point out that she
16 made the list, not me. I could have gone before
17 her, but I didn't get to make the list.

18 Nobody is asking for unfettered and
19 uncontrolled access to the waterways, to make
20 megabasins where they shouldn't be. The
21 Treasurer hit the regulatory nail on the head at
22 the outset of this discussion when he said that
23 there's a mechanism in place that right now
24 controls the size of these facilities based on
25 resources. There are places where large

1 facilities are appropriate, and there are places
2 where there aren't. We ought not to have an
3 arbitrary cap of 40-to-1 that might prevent those
4 larger facilities in a place where the resources
5 can bear it and might allow a larger facility
6 where the resources can't bear it.

7 The agenda item points out that right now,
8 you've had the 40-to-1 for a long time, but it is
9 not an entitlement. Your regulatory process,
10 your resource-based analysis operates within that
11 40-to-1 cap to keep the facilities smaller when
12 it's appropriate from a resource basis. And what
13 I'm suggesting to you the today is that the
14 40-to-1 is an arbitrary cap that ought to be done
15 away with and replaced instead with a resource
16 analysis as to how large a facility is
17 appropriate for a given location.

18 Thank you very much.

19 GOVERNOR BUSH: Thank you.

20 MS. CASTILLE: Hap Cameron with Cline
21 Construction.

22 GOVERNOR BUSH: Good morning, sir.

23 MR. CAMERON: Good morning, and thank you
24 for the opportunity to speak.

25 We're marine contractors and engineers. We

1 design marinas, we permit marina facilities, and
2 we also construct them. We're located down in
3 primarily the Volusia and Flagler County markets.
4 I'm the fellow that forwarded the letter from the
5 City of South Daytona. Unfortunately, because of
6 the League of Cities meeting, I'm sure that we
7 could have had every coastal community sign up
8 and send you a similar letter.

9 Some of our older communities are under
10 redevelopment, especially along our riverfronts.
11 We need your help with these situations. Whether
12 it goes to private or whether it goes to
13 commercial, our position is that a slip is a
14 slip. If the slip becomes a private slip, that
15 takes more pressure off of the commercial
16 facilities.

17 Unfortunately, Volusia County has been under
18 a --

19 GOVERNOR BUSH: Well, that's really not
20 true. If the demand, which is back to my
21 anxiously awaiting as a private citizen the
22 two-year study, demand is growing, so a slip is
23 not just a slip in terms of public access.

24 MR. CAMERON: Demand --

25 GOVERNOR BUSH: You could have --

1 MR. CAMERON: In Volusia County, for the
2 last five-year period, we haven't had any new
3 multi-family slip facilities permitted that I'm
4 aware of, primarily because of the lack of a
5 manatee protection plan.

6 GOVERNOR BUSH: All right. So my guess is
7 that there's a demand for public slips and
8 there's a demand for private slips, and they
9 exceed the supply with this rule or maybe the
10 next rule.

11 MR. CAMERON: Yes, sir.

12 GOVERNOR BUSH: And we don't know that, and
13 it's kind of hard to --

14 MR. CAMERON: And the pressure for
15 conversion of facilities is coming to bear very
16 heavily on the area.

17 GOVERNOR BUSH: That's right.

18 MR. CAMERON: We're looking to find a way to
19 satisfy this need. Obviously, our municipalities
20 have come forward -- with the lack of a county
21 manatee protection plan, the individual
22 municipalities have come forward.

23 GOVERNOR BUSH: What's wrong with Volusia
24 County in that regard?

25 MR. CAMERON: I have no idea. I don't

1 participate with the County. We're involved with
2 four major cities that are under redevelopment.
3 This is Port Orange, South Daytona, the City of
4 Daytona, and also Holly Hill. You know, in
5 trying to find a resolution to this problem,
6 we've been approached to help the cities develop
7 their marine facilities along the shoreline.

8 Obviously, I see this as if we leave the
9 40-to-1 rule in place, every single project is
10 going to end up on your desk. Every single
11 project is going to end up at the Board of
12 Trustees for approval, because they're going to
13 appeal the decisions from the Department.

14 We would like to see this logjam break. We
15 would like to see things come forward and start
16 moving in the right direction. We think the
17 1-to-1 is a very, very good solution. We think
18 doing away with the 40-to-1, due to the other
19 constraints in place, that things would get much
20 better.

21 Thank you for your time.

22 GOVERNOR BUSH: Thank, sir.

23 MR. CAMERON: Do you have any questions?

24 MS. CASTILLE: I just wanted to express to
25 Mr. Cameron that it's not an appeal process, that

1 the City can come in with an exceedance of the
2 40-to-1 cap with a redevelopment plan, and we
3 would consider all of the construction associated
4 with that, including dredging some of the harmful
5 silt from the river. So it could be -- it's not
6 an appeal process, but it is a process that
7 ultimately will come to the Governor and Cabinet.

8 GOVERNOR BUSH: Okay. Who else is speaking,
9 Colleen?

10 MS. CASTILLE: Preston Robertson, and then
11 Pat Rose. Preston is representing the Florida
12 Wildlife Foundation.

13 MR. ROBERTSON: Federation.

14 MS. CASTILLE: I'm sorry.

15 MR. ROBERTSON: That's okay.

16 Good morning, Governor and Cabinet. I'll be
17 brief. I just wanted to make a couple of points.

18 One is, the vast majority of boaters,
19 recreational boaters, at least that are in our
20 federation, can't afford a wet slip. This rule
21 seems to be increasing wet slips, but most folks
22 trailer their boats to the water. So if the goal
23 is more public access, I'm not sure how this rule
24 reaches that goal.

25 Our major concern, though, is the lack of a

1 study behind this rule. This is a rule that has
2 been in place for 20 years. It's statewide. It
3 affects everybody up and down the coast whether
4 they're a recreational angler or in the
5 development community.

6 And right now we've got a pending study on
7 boating access that's being done by the Florida
8 Fish and Wildlife Conservation Commission. Our
9 suggestion is to keep the present rule, defer
10 this amendment, let the Commission come forward
11 with their study, a statewide study. And we look
12 at this as an opportunity, an opportunity to see
13 where boating access for the public needs to take
14 place in an environmental way, and then move
15 forward with that information.

16 Thank you.

17 GOVERNOR BUSH: Thank you. Any questions?

18 MS. CASTILLE: Mr. Rose.

19 GOVERNOR BUSH: Good morning.

20 MR. ROSE: Good morning, Governor and
21 members and trustees. I appreciate this
22 opportunity to speak before you. My name is Pat
23 Rose. I'm an aquatic biologist. I've been
24 working in boating issues and manatee issues in
25 Florida for 30 years.

1 And I want to speak briefly to begin with
2 and let you know the other organizations I'm
3 speaking on behalf of this morning. There's in
4 fact 18, and we're going to save you a lot of
5 time by doing that so we didn't have to have all
6 those here to stand before you.

7 GOVERNOR BUSH: Thank you.

8 MR. ROSE: The organizations that I'm also
9 speaking for besides Save the Manatee Club are
10 the Animal Welfare Institute, the Conservancy of
11 Southwest Florida, Defenders of Wildlife,
12 Environmental Confederation of Southwest Florida,
13 Florida Consumer Action Network, Friends of the
14 Everglades, Florida League of Conservation
15 Boaters, Florida Office of Southeast Clean Water
16 Network, Florida Public Interest Research Group,
17 Floridians for a Sustainable Population, Gulf
18 Restoration Network, Legal Environmental
19 Assistance Foundation, Pegasus Foundation, Sea
20 Turtle Survival League, Sierra Club, Tropical
21 Audubon, and Wildlife Advocacy Project. All of
22 those organizations make the same request of you
23 as the Board of Trustees to defer the rulemaking
24 at this time until we have better scientifically
25 based information to make decisions.

1 And I would like to just go through just a
2 few items quickly to tell you why we ask for
3 that. You yourself, Governor, almost a year ago
4 in October asked for information to substantiate
5 why we needed to change this rule. And in fact,
6 I presented to you at that time a number of
7 issues that were sort of contrary to what we are
8 hearing out there.

9 We do know that there is a substantial
10 conversion of current public marinas going to
11 private condominium development. We know that.
12 That's a fact. What I would submit to you is
13 that even this rule change, without taking off
14 the 40-to-1 cap, will exacerbate that. If you
15 were to take off the 40-to-1 cap, you would see
16 almost a wholesale conversion, because you have
17 projects, and I think, not knowing the exact
18 details of the one that came -- the person who
19 spoke today about one, they want to convert from
20 a public marina, which, by the way, does not have
21 to meet the 40-to-1 criteria. There is no cap on
22 preemptive area for public marinas, so I just
23 want make that point soundly.

24 So those current public marinas that don't
25 have to meet the requirement of the limitation to

1 40-to-1, when they're converted, they're
2 oftentimes exceeding the 40-to-1. So if you were
3 to take that cap off, you're going to see, in my
4 opinion, more conversions to condominiums, not
5 less. And so I think you would actually be
6 doing -- perhaps if you're trying to increase
7 public access, you may be doing the opposite of
8 what you think you might be doing. I just want
9 to point that out as an issue of real concern.

10 Additionally, a lot of the studies that have
11 been done to this point in terms of slip
12 availability in the various counties, the best
13 information that exist are in counties where
14 manatee protection plans, with your support,
15 Governor, have moved forward. And they did
16 shoreline surveys. They looked at access. They
17 did projections of what the needed future slips
18 were going to be.

19 A question came up just a minute ago about
20 Volusia County. Volusia County basically is
21 divided with its coastal communities and the
22 St. Johns River. It wasn't projected in their
23 2002 report that their coastal area would be
24 needing new slips until this year, in fact, 2005.
25 So those projections I think are true. There are

1 going to be new slips needed on the coastal side
2 of Volusia County. The slip availability for the
3 St. Johns River are not projected to be needed
4 until the year 2020.

5 And I can go down the list, which I'll save
6 you today, but I can tell you that a lot of these
7 data do exist. Brevard County, when it did its
8 manatee protection plan just a little over a year
9 and a half ago, were only at about 55 percent
10 capacity. There was tremendous capacity
11 remaining in Brevard County. And since the
12 protection plan was put in place, more than 1,000
13 slips have been permitted that would allow for
14 new boating access in Brevard County.

15 And again, I won't go through all the
16 different counties and where they are, but these
17 data are out there in bits and pieces. They're
18 just not organized. They're not pulled together,
19 and they're not updated like they will be when
20 the Fish and Wildlife Commission completes its
21 study.

22 So with all that said, I'll also remind you
23 that you do have two letters that came in from
24 the Fish and Wildlife Conservation Commission,
25 one before the rule action went forward for all

1 of its public hearings that cautioned about what
2 the implications would be from a cumulative
3 impact standpoint of new slips that would result
4 from the rule change, and a subsequent letter
5 from the executive director that also cautioned
6 about how you would treat the 40-to-1 issue and
7 whether or not you would be expanding it and
8 under what conditions it would be expanded,
9 because there has been a longstanding number of
10 projects out there that were adopted under those
11 rule provisions.

12 And I think you'll see there's going to be a
13 huge waiting list of folks that are going to come
14 in, even under the current proposal, for
15 expansion of those facilities. We're not saying
16 that that would be inappropriate. But what we
17 are saying is that we don't know what the impacts
18 of that are going to be.

19 And in particular, in closing, because I
20 know you all are busy, I would urge you that even
21 the rule proposal in its current form, if you
22 look at public access as the issue, which, by the
23 way, we supported during the current legislative
24 session and strongly supported new public access
25 in many forms in that legislation, that this

1 change will actually exacerbate that situation,
2 not as bad as if you remove or increase the
3 40-to-1, but in its present form will also do
4 that.

5 So we in closing would urge you to delay
6 until you really know what the implications will
7 be for both boating, boating safety, and resource
8 protection in Florida.

9 Thank you.

10 GOVERNOR BUSH: Thank you, Pat.

11 Yes, General.

12 ATTORNEY GENERAL CRIST: Do you happen to
13 have a copy of that letter from Game and Fish?

14 MR. ROSE: I do. I have both of them with
15 me, and I would assume that they would also have
16 them.

17 MS. CASTILLE: Mr. Jim Brown representing
18 the Fish and Wildlife Conservation Commission
19 also has some additions to the letter.

20 MR. BROWN: Thank you, Governor and Cabinet.
21 The letter does reflect not concerns, I would
22 say, but just letting DEP know that it may
23 require more staff review if the rule passes. I
24 don't necessarily consider that a bad thing. It
25 would just mean more staff review of individual

1 projects.

2 However, overall, Mr. Haddad did support DEP
3 in their efforts in the rule and believe that
4 this is a good beginning point, and also request
5 that they take into consideration our study when
6 it's completely in approximately 18, or about 20
7 months now.

8 Thank you.

9 GOVERNOR BUSH: Thank you.

10 So, Colleen, we've managed to have about 20
11 or 15 speakers, none of which support your rule,
12 based on what I can tell, other than you. You
13 made an impassioned appeal. That's a first.

14 CFO GALLAGHER: It must be good.

15 GOVERNOR BUSH: Well, that's one way of
16 looking at it. Are there any other speakers?

17 MS. CASTILLE: That concludes our speakers.

18 GOVERNOR BUSH: Any comments, any motions?

19 CFO GALLAGHER: I'll move 6.

20 GOVERNOR BUSH: There's a motion. Is there
21 a second?

22 Can I give the floor up to --

23 ATTORNEY GENERAL CRIST: Second.

24 GOVERNOR BUSH: There's a motion and a
25 second. Any discussion? All in favor say aye.

1 (Affirmative responses.)

2 GOVERNOR BUSH: All opposed? Was there a --
3 I didn't hear. What was your vote?

4 COMMISSIONER BRONSON: Well, I'm going to
5 vote aye on it. I wasn't going to make the
6 motion or the second, but I'm going to --

7 GOVERNOR BUSH: You're a yea vote. Okay.

8 COMMISSIONER BRONSON: I figure there's
9 enough legality in this that it will all go to
10 court anyway.

11 GOVERNOR BUSH: It's a great country we live
12 in.

13 CFO GALLAGHER: I move to withdraw 7.

14 GOVERNOR BUSH: There's a motion and a
15 second. Without objection, the item passes.

16 Item 7.

17 CFO GALLAGHER: Withdraw.

18 ATTORNEY GENERAL CRIST: Withdraw.

19 GOVERNOR BUSH: And a second. Without
20 objection, the motion is withdrawn.

21 MS. CASTILLE: And that concludes our
22 agenda.

23 GOVERNOR BUSH: Thank you, Colleen.

24 MS. CASTILLE: Thank you, Governor and
25 members of the Cabinet.

1 GOVERNOR BUSH: Thank you, gentlemen.

2 (Proceedings concluded at 11:30 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 125 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 31st day of August, 2005.

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