

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:

DIVISION OF BOND FINANCE
FSC - OFFICE OF INSURANCE REGULATION
DEPARTMENT OF LAW ENFORCEMENT
ADMINISTRATION COMMISSION
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
STATE BOARD OF ADMINISTRATION

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 the 4th day of October, 2005, commencing at approximately
9:30 a.m.

Reported by:

KRISTEN L. BENTLEY
Certified Court Reporter

ACCURATE STENOGRAPHY REPORTERS, INC.
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APPEARANCES:

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

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(Presented by BEN WATKINS)

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PROCEEDINGS

THE GOVERNOR: The next cabinet meeting is Tuesday, October 25th. Division of Bond Finance.

MR. WATKINS: Good morning, Governor, cabinet. Item 1 is approval of the minutes of the September 22nd meeting.

GENERAL CRIST: Motion.

CFO GALLAGHER: Second.

THE GOVERNOR: There's a motion and a second. Without objection, the resolution passes.

MR. WATKINS: Item No. 2 is a resolution authorizing the competitive sale of up to \$150 million in Florida Forever bonds for the continued implementation of that program.

GENERAL CRIST: Motion.

CFO GALLAGHER: Second.

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

MR. WATKINS: Item No. 3 is a resolution authorizing the issuance of up to \$500 million in Everglades restoration bonds. This program was originally authorized statutorily in 2002 and was contemplated to be \$100 million a year for eight years. But for the prior three fiscal years, consistent with our conservative financial management practices, we used cash instead of bonding.

1 And so this is the first year that bonds have been
2 authorized in the Appropriation Act and are expected to be
3 used to fund the Everglades Restoration Program. So this
4 is the initial authorizing resolution. We will bring back
5 to you the four -- we actually execute the first
6 transaction, a sale resolution, so you will see this
7 again, \$100 million piece of the \$500 million
8 authorization to fund the appropriation and current fiscal
9 year.

10 Additionally, I expect this to be the first issuance
11 of debt that we've incurred on a variable rate basis and I
12 will bring back to you, when I bring the sale resolution
13 back, definitive, the actual details of the financing we
14 expect to implement.

15 CFO GALLAGHER: Is this going to be a negotiated sale
16 or --

17 MR. WATKINS: A negotiated sale. We did an RFP
18 process to select underwriters for this transaction back
19 in 2003 right after the program was initially statutorily
20 authorized.

21 CFO GALLAGHER: And we never used them so they're
22 still online?

23 MR. WATKINS: Yes, sir.

24 THE GOVERNOR: Why variable now?

25 MR. WATKINS: It modernized our balance sheet, a
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1 better asset liability match. We have lots of cash that
2 the treasurer invests on an ongoing basis, probably \$5
3 billion on a short-term basis. And this is to have some
4 variable rate debt to offset that. And overall, Governor,
5 to try to achieve lower debt service costs. That's really
6 fundamentally the objective on moving to the short end of
7 the yield curve, is that over time the interest rate on
8 the financing on the variable rate basis will be less than
9 what our long-term fixed cost will be.

10 So this is our first venture into the variable rate
11 debt and I'm bringing the appropriation staff along with
12 being on board with respect to implementing debt on a
13 variable rate basis because the real consequence of that
14 is budgetarily and not having absolute certainty with
15 respect to what the appropriation will be next year. And
16 we need to have a process in place to effectively manage
17 that and I believe we do, but I need to circle back with
18 them. They okayed it three years ago so it was a good,
19 sound strategy and they can effectively manage it. But
20 people have changed and I need to revisit with them before
21 we move forward with this which I will do.

22 CFO GALLAGHER: The other thing that makes a
23 difference is using the variable rate scenario, there is a
24 liquidity requirement which normally would cost money
25 because you have to purchase that outside. We're lucky
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1 enough in the treasury because we have it and therefore
2 there is basically no cost to the State, in one pocket out
3 of the other. So there is a savings there which makes
4 this really attractive.

5 THE GOVERNOR: There's a limit to the amount of
6 variable debt you would be proposing, right?

7 MR. WATKINS: Absolutely.

8 THE GOVERNOR: But, I mean, this is the only
9 instrument, this is the only program that would be
10 variable right now or could you use variable debt --
11 variable rates for the other programs we have?

12 MR. WATKINS: We could use it for the other programs,
13 Governor, but I don't think it makes a lot of sense. This
14 being the initial issuance, it makes it a better candidate
15 for structuring on a variable rate basis. And there is a
16 healthy mix. I'm going to bring you policy changes to
17 provide limitations on the amount of variable rate debt
18 that can prudently be incurred at the state level. So I
19 expect there to be a tend to checks and limitations in
20 place before we actually implement this financing program.

21 THE GOVERNOR: You anticipate putting that in
22 statute?

23 MR. WATKINS: I just anticipated doing it by policy.
24 But we can certainly, if you're interested in pursuing
25 doing it statutorily, we can do that as well.

1 THE GOVERNOR: I just think our debt situation is how
2 we've structured it and the limits we've put in is a very
3 sound policy and the more that it's in statute, the
4 policy, the greater the chance it will be continued.

5 MR. WATKINS: Right.

6 THE GOVERNOR: Something about laws that bring out
7 the best in us.

8 CFO GALLAGHER: The other thing --

9 MR. WATKINS: Sense of permanence.

10 CFO GALLAGHER: These have no prepayment penalties.
11 So if, in fact, there was the ability to pay them, you
12 could pay them off at any time and there is a plus to that
13 also. You have these variables. Any month you know what
14 your new interest rate is, like we were on a cash basis
15 before, these will have to be issued probably by January.
16 But if the Legislature made up their mind in the next
17 fiscal year to go ahead and cash finance them like they
18 did the other three years, then we'd only pay the interest
19 for that short period of time and we'd be out again after
20 the session, when the year starts. So it gives you that
21 advantage also, right, Ben?

22 MR. WATKINS: Yes, sir.

23 THE GOVERNOR: Correct.

24 MR. WATKINS: Correct.

25 (Laughter.)

1 THE GOVERNOR: Okay.

2 CFO GALLAGHER: Motion on 3.

3 COMMISSIONER BRONSON: Second.

4 THE GOVERNOR: There's a motion and a second on
5 Item 3. Without objection, the motion passes.

6 MR. WATKINS: Item No. 4 is a resolution authorizing
7 the competitive sale of up to \$24.5 million of Florida
8 State University parking facility revenue bonds for the
9 construction of two parking garages, 2000 state parking
10 garages on the FSU campus.

11 CFO GALLAGHER: Motion on four.

12 COMMISSIONER BRONSON: Second.

13 THE GOVERNOR: There is a motion and a second.
14 Without objection, the item passes.

15 (Off-the-record comment.)

16 THE GOVERNOR: Ask, General, because I don't know
17 why.

18 GENERAL CRIST: Ben, I'm curious. You mentioned that
19 Item 4 was a competitive sale and that Item 3 is not and I
20 don't know. Why can you explain?

21 MR. WATKINS: Yes, sir. Our fundamental policy is
22 we -- the policy of the Governor and cabinet is to execute
23 transactions on a competitive basis. That is it is
24 presumed that that's the best business practice which we
25 do on a vast majority of our transactions. When there is
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1 a new program or an unusual credit, we will analyze all of
2 the factors to determine what's in the best interest of
3 the State, a competitive sale or a negotiated sale. So on
4 the Everglades restoration --

5 GENERAL CRIST: Can you describe the difference?

6 MR. WATKINS: The negotiated sale is where you engage
7 a group of underwriters to negotiate the interest rate on
8 the bonds or the loans.

9 GENERAL CRIST: How is the group determined?

10 MR. WATKINS: Through an RFP process where we do a
11 solicitation, establish a committee that requests
12 proposals, we take the proposals and grade those out and
13 rank those firms and then bring that back to you-all for
14 review and approval. And that also is our policy with
15 respect to engaging professionals on financing
16 transactions, we are required to use a competitive
17 selection process which we do.

18 So we went through that process on Everglades, but it
19 was three years ago. And so the fundamental differences,
20 hiring a group of underwriters ahead of time because of
21 the characteristics of the transaction and negotiating an
22 interest rate with them when we actually sell the bonds
23 versus what we call putting the bonds out to bid, in other
24 words, selling them on a competitive basis and in that
25 scenario, we notify the investment community that bonds

1 will be available for bid at 11:00 tomorrow and we will
2 notify them the day before we sell and we actually take
3 bids over the Internet. And whatever underwriting firm
4 submits to us the lowest interest rate on those particular
5 bonds is the winner. And that's the way -- so that's the
6 fundamental difference between competitive and
7 negotiating.

8 CFO GALLAGHER: The basic reason that we would use
9 one or the other -- obviously when all you're looking at
10 is an interest rate to be delivered on a normal simple
11 bond issue for 30 years or 20 years, whatever it would be,
12 is a real simple transaction. People can bid it and it's
13 real easy to figure out what that price should be. When
14 you're dealing with a complicated transaction which a
15 variable rate is because it's not --

16 THE GOVERNOR: It's got more variables --

17 CFO GALLAGHER: And not been out there as long. But
18 that probably marks a month every month.

19 MR. WATKINS: Weekly, daily.

20 CFO GALLAGHER: Whatever the way is. Anyway, it's
21 complicated, therefore, you'll get a better deal on a
22 complicated one by negotiating it because what will happen
23 is if you put it out to bid, because of complications,
24 people will cover the unknowns and you'll end up paying
25 more money for it if you don't negotiate it. And so

1 that's why certain complicated ones are negotiated. The
2 preference of all of us is to competitively bid them.

3 MR. WATKINS: Contrasting item, the Everglades
4 Restoration Program with the FSU parking deal, the FSU
5 parking transaction is a known credit in the market, a
6 very strong credit, an A-rated institution and the market
7 is familiar with it. On the Everglades Restoration
8 Program, it's a new credit. This will be the inaugural
9 issue for that program. It is being done or statutorily
10 required to be done junior and subordinate to the existing
11 P2000 and Florida Forever bonds secured by documentary
12 stamp taxes and it's being done on a variable rate basis
13 so the rate is resetting on a daily or weekly basis so the
14 absolute pricing on that is not as critical as it is on a
15 long-term fixed rate deal. So for those reasons, or the
16 reason that one is being done negotiated with the FSU
17 parking transaction, is being done competitively.

18 GENERAL CRIST: So normal rules of competition don't
19 work if it's complicated, is that the explanation?

20 THE GOVERNOR: The RFP process is competitive.

21 CFO GALLAGHER: It's still competitive. Just the
22 price itself is not competitive because it changes every
23 couple days.

24 GENERAL CRIST: Outstanding.

25 THE GOVERNOR: Okay. The next one is a little
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1 more -- I have a particular interest in the next one. So
2 maybe you could explain Item 5 for us.

3 MR. WATKINS: Item 5 is a resolution authorizing the
4 issuance of up to \$11.2 million in dining facility revenue
5 bonds for construction or renovation of two different food
6 service operations at the Florida State University campus.
7 This transaction is that there are some unusual aspects of
8 this transaction that were recommended or were necessary
9 to accommodate the underlying business arrangement that
10 FSU has with its vendor for the operation of their food
11 service operations. So first it's being done on taxable
12 rather than a tax-exempt basis. And the reason for that
13 is to accommodate the underlying business arrangement
14 which --

15 THE GOVERNOR: Has the money already been spent?

16 MR. WATKINS: Yes, sir. Or is in the process of
17 being spent.

18 CFO GALLAGHER: This is to give the money back.

19 THE GOVERNOR: This is a refinancing kind of money
20 they've already allocated?

21 MR. WATKINS: Correct. They advanced from --

22 THE GOVERNOR: Did we give them -- is this a PECO
23 allocation or was this money that was raised privately?

24 MR. WATKINS: They have a number of different
25 auxillary enterprises at the university and these were
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1 cash balances that they had available from their auxillary
2 enterprises.

3 CFO GALLAGHER: Knowing that they were going to
4 finance it sooner or later and use the cash flow that
5 comes in from the vendor to pay the bonds down. And then
6 at the end, they'll be getting about a million dollars a
7 year net to them for food service.

8 THE GOVERNOR: My concern about this relates to there
9 is no full faith and credit of the State but this is one
10 of those questions where there is a little bit of
11 friction, I think, between the autonomy that universities
12 seek and the State's implied support of our public
13 universities because the support is there. I mean, it's
14 implied, it's not direct, it's not legal. But if these
15 financing schemes were underwritten poorly, and I'm not
16 suggesting this one is at all, everybody's got to eat. I
17 assume the debt service and all this, it's a well-financed
18 transaction. But we do have a responsibility of while we
19 may not have oversight on these things, there are lots --
20 isn't there pressure from universities to use this means
21 of financing to be able to achieve an objective where the
22 State doesn't have a role to play?

23 MR. WATKINS: Yes, sir, there is.

24 CFO GALLAGHER: It's a little different than the
25 issue like in central Florida where they don't even come
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1 around at all, they just do it. This is one we're
2 involved in. Ben has the other ones --

3 MR. WATKINS: From a big picture perspective,
4 Governor, there is this issue about who's in charge, the
5 Board of Trustees of the University, the Board of
6 Governors or the Legislature in terms of how debt is
7 authorized and issued. And there are clearly financial
8 implications, long-term financial implications to the
9 State, because of our historical support of the
10 universities. And, in fact, we are joined at the hip so
11 to speak. And notwithstanding evolution and independence,
12 there is an interest in the State in maintaining or having
13 some degree of interest in the way universities use debt
14 to finance infrastructure. And that is an issue because
15 of the statutory scheme that's currently in place, it's
16 less than clear exactly how that should operate and what
17 the policy should be underlying that, and that is
18 something that I would expect to be worked on
19 prospectively.

20 In fact, we have been in conversations trying to
21 decide what the best framework for authorizing issuance of
22 debt at the university should be. With respect to this
23 particular transaction, I can say the university is to be
24 commended in coming through the process. In other words,
25 there are techniques, financing techniques, that are

1 available that other institutions have used which ignore
2 the historical checks and balances that have been in
3 place.

4 THE GOVERNOR: Why is it taxable?

5 MR. WATKINS: Because of the underlying business
6 arrangement with the vendor.

7 THE GOVERNOR: But is it a private -- it's a private
8 vendor managing the food service area. But the facility
9 itself is owned by the university?

10 MR. WATKINS: Yes, sir.

11 CFO GALLAGHER: See, the problem is if they were
12 going to issue bonds to build this, they could have been
13 tax free. What they did though is they went ahead and
14 started building it before they issued the bonds. So
15 therefore, you can't issue bonds tax free to build a
16 building that's already being built.

17 MR. WATKINS: Well, that's part of the issue and
18 there is another issue as well. And that is there is a
19 complicated set of rules under the federal tax law that
20 grant tax exempt status on bonds. And one of the things
21 those regulations are wrapped around is prohibiting
22 private businesses from benefitting from tax exempt
23 financing. So if you want to structure a management
24 contract or an operating agreement with a private company,
25 there is a set of prescribed conditions that that
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1 agreement has to reach -- meet. And the deal negotiated
2 by the university ignored those conditions.

3 THE GOVERNOR: So they could have structured this --

4 CFO GALLAGHER: They should have. In fact, if they
5 had come to Ben in the front end instead of building this
6 and then coming at the back end, they could have done tax
7 free and saved probably 100 basis points.

8 THE GOVERNOR: Okay.

9 MR. WATKINS: So it's a guaranteed payment from
10 Aramark, which is the vendor, of some \$1.2 million on an
11 annual basis. FSU finances and provides the facilities,
12 the vendor has an operating agreement to run the food
13 service operations. FSU in return is out of the food
14 service business, in effect, and gets a million two a year
15 from the vendor. So it's a --

16 THE GOVERNOR: Sounds like a good deal.

17 MR. WATKINS: It's a fundamentally sound business
18 arrangement. I cannot quibble with the terms of their
19 business arrangement. It's just it ignored the
20 requirements to do it on a tax exempt basis.

21 CFO GALLAGHER: Now the other interesting thing is
22 the facility, which obviously both facilities provide food
23 for FSU students, but it's open to the public also.

24 THE GOVERNOR: If you can get parking.

25 (Laughter.)

1 We financed the parking garage here too so we're
2 okay.

3 CFO GALLAGHER: Yeah, we took care of that earlier.
4 \$7.50 I think, isn't it, guys, for pretty much all you can
5 eat? So it's quite a deal. So I'm sure everybody will be
6 rushing over there now. But I don't think they're going
7 to be short of people eating there.

8 THE GOVERNOR: That's where the commissioner is
9 taking you for lunch, by the way.

10 (Laughter.)

11 CFO GALLAGHER: On this item.

12 THE GOVERNOR: Yes.

13 CFO GALLAGHER: One of the things I noticed here is
14 that normally when we're approving an issue, and I know we
15 don't do it on some of those university issues, but when
16 we are approving them, we have State Board of
17 Administration do a fiscal sufficiency. This one did not
18 go through that. I'm uncomfortable not having that been
19 done and so I would like to move to approve this but with
20 the caveat that prior to bonds being issued, the State
21 Board of Administration does its fiscal sufficiency
22 finding so that we have done our due diligence as the
23 cabinet in approving this. So would you make sure that
24 happens?

25 MR. WATKINS: Yes, sir. We will bring -- before we
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1 actually close the loan for this, we will bring back to
2 you a sale resolution authorized with the specific terms
3 as well as a companion fiscal sufficiency to go along with
4 that.

5 CFO GALLAGHER: I'll move Item 5.

6 THE GOVERNOR: There's a motion.

7 GENERAL CRIST: Second.

8 THE GOVERNOR: And a second subject to fiscal
9 sufficiency. The motion is approved without objection.

10 Item 6.

11 MR. WATKINS: Item No. 6 is a resolution authorizing
12 the issuance and competitive sale of up to \$50 million in
13 housing refunding bonds for the University of Central
14 Florida.

15 CFO GALLAGHER: Motion on 6.

16 GENERAL CRIST: Second.

17 THE GOVERNOR: There's a motion and a second.
18 Without objection, the item passes.

19 MR. WATKINS: And Item No. 7 is a resolution
20 authorizing the issuance and competitive sale of up to
21 \$45 million in housing revenue refunding bonds for the
22 University of Florida.

23 CFO GALLAGHER: Motion on 7.

24 COMMISSIONER BRONSON: Second.

25 THE GOVERNOR: There's a motion and a second.
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1 Without objection, the item passes.

2 MR. WATKINS: Thank you, gentlemen.

3 THE GOVERNOR: Thank you, Ben.

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1 THE GOVERNOR: Financial Services Commission. Office
2 of Financial Regulation. Good morning, Don.

3 MR. SAXON: Good morning, Governor, members of the
4 cabinet. We have one action item. Approve the
5 publication in the Florida Administrative Weekly notices
6 of proposed rulemaking for Rule 69W-301.002, Florida
7 Administrative Code. And Rules .001, .002, .004, .007,
8 .008 and .0092 and .0093 of Rule 69W-600 of the Florida
9 Administrative Code.

10 CFO GALLAGHER: Motion on one.

11 GENERAL CRIST: Second.

12 THE GOVERNOR: There's a motion and a second.
13 Without objection, the motion passes.

14 CFO GALLAGHER: This just allows all the Florida
15 broker dealers to be able to use electronic licensing and
16 updates --

17 THE GOVERNOR: Sure it does. I'm joking.

18 MR. SAXON: Actually, it's been a three-year work in
19 progress whereby the states have all agreed to a uniform
20 definition with the SEC, the New York Stock Exchange, and
21 the NASD so that all broker dealers operate under the same
22 definition of branch offices. They all use the same forms
23 and all the amendments that would go with the original
24 application. So it's a good thing for industry that they
25 can all play by one set of rules.

1 THE GOVERNOR: Excellent. Thank you, Don. You
2 want -- weren't you going to give us an update on the
3 hurricane, what you're doing?

4 MR. SAXON: I can do that, certainly. I'll probably
5 start out by saying the operative word here is
6 communication and it's very important for what we do on
7 the regulatory side as far as working with our
8 institutions and our consumers out there. Some of the
9 things that we've done prestorm in anticipation of a
10 possible disaster again is we've established an emergency
11 contact list with all of our institutions, those being our
12 banks and our credit unions so that in the aftermath of a
13 storm we have information on names and phone numbers of
14 how we can contact those institutions to find out what
15 their situation is and any needs they may have.

16 We've also developed a Web site that you can go to
17 for institutions and consumers. Information they will
18 provide is information such as whether or not your bank
19 may be open or your credit union. They will provide
20 information about how we may want to go about dealing with
21 their institution about getting some relief as far as
22 lending practices and stuff like that so they can start
23 the recovery themselves.

24 Also before a storm we contact the federal reserve.
25 The one thing we've learned from the past is that there's
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1 to allow those institutions to stay closed for an extended
2 period of time. In a post storm situation, again, one of
3 the first things we do is we activate our emergency
4 contact list. The first thing we do is we want to contact
5 all of our employees in a given area to make sure they are
6 safe and there's no needs that they may have.

7 And then we initiate our contact list by contacting
8 all the institutions to see what their situation is and
9 any needs that they may have and how we might be able to
10 help them as far as the recovery itself. A couple of
11 things we did, for instance, in the situation with
12 Hurricane Katrina, as you know, we had a lot of refugees
13 that came into the state of Florida. Because of
14 regulations and so forth, some of those people probably
15 couldn't have gotten some of their needs done as far as
16 transactions involving securities so we did an emergency
17 order through the work of your office so that they can
18 engage in those activities even though those persons may
19 not have been licensed in the state of Florida.

20 Something else we did is with the credit unions.
21 Because credit unions are isolated or restricted to only
22 dealing with their own members in a given area, we did
23 issue an order to allow credit unions to do business with
24 others that may not necessarily be members of their trade
25 association. Finally, we have regular conference calls.

1 Florida that I don't see in Mississippi or Louisiana is
2 that under our statutes we have a lot of flexibility about
3 making exceptions. And what we would do in a situation
4 like that is we would go to those institutions and
5 encourage them to allow for temporary relief of payments
6 on loans, if you will. Maybe allow for an extension of
7 loans, allow for an advancement of credit on credit cards
8 and things of this type or allow for the restructuring of
9 their loans that they may have with an institution to
10 allow people to get over the hump.

11 And my guess would be that institutions obviously
12 they don't want to lose that customer and they want to see
13 that community be rebuilt and so forth. Institutions went
14 out of their way to try to serve those people and those
15 businesses as best they could. And I think you'll find
16 the federal regulators as well as state will certainly be
17 amenable to making any kind of exceptions they could with
18 their regulations to allow them to do those kinds of
19 loans, if you will.

20 THE GOVERNOR: Have you seen the preparation recovery
21 relief plans of the financial institutions that you
22 regulate? Are you comfortable that they're adequate?

23 MR. SAXON: Yeah. Most institutions, obviously,
24 because of computer and technology and everything, they
25 all have backup systems. And really for an institution

1 the key is having a location where they can serve their
2 customers once the storm has passed. We have had
3 situations where a location has been totally destroyed.
4 And, again, because of our regulations, we can allow for
5 that location being moved to another area, if you will,
6 for a temporary basis until they can get back on their
7 feet and rebuild their original location.

8 THE GOVERNOR: Do you see all of their plans --

9 MR. SAXON: We can look through them as part of our
10 examination process.

11 THE GOVERNOR: Do you?

12 MR. SAXON: We don't do it every time we do an
13 examination but we do require them to have backup systems
14 and a recovery program.

15 THE GOVERNOR: I would encourage you to do it for
16 every financial institution given the fact that we know
17 that there is going to be a series of years where we're
18 going to have storms getting closer to the W storm than
19 the A storm when we finish. We're at whatever Tanya -- I
20 forget what the T storm is that's coming. Probably this
21 weekend we may have a tropical storm hitting, possible at
22 least, here in the Panhandle area. And after that, you've
23 got W and then you're going to the Greek alphabet.

24 So it just seems to me knowing this, we should
25 have -- we should really, since there is such a large
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1 large institutions and best practices for mid size and
2 small institutions to help them prepare for this. Because
3 it just makes -- if everybody is operating on all
4 cylinders after a storm, it just makes it so much easier
5 to recover. If the private sector expects the government
6 to do this by itself, we will have a more difficult time.
7 Maybe you could help us identify some -- because I know
8 banks are sensitized to this because of how their
9 businesses are impacted disproportionately. Maybe they
10 have the best plans, I don't know. If you can get a
11 couple of them, let me know. I'd like to be able to steal
12 them and pass them on to other people.

13 MR. SAXON: We'll bring that up on Friday when we
14 meet with the recovery center.

15 THE GOVERNOR: Okay.

16 CFO GALLAGHER: While we're mentioning hurricanes,
17 one of the things you know, everybody looks and realizes
18 we in Florida, I think in all honesty since Hurricane
19 Andrew, realized we needed to be in better shape and I
20 think the public around the country recognized the great
21 job that Florida does with your leadership, Governor, on
22 emergency management and the coordination that exists with
23 the counties and the state as these storms are on their
24 way in and certainly after they've left.

25 One of the things I think it might -- that we should
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1 look at is that each individual needs to have a hurricane
2 plan. And although we have our counties and state pretty
3 well set, we've done practices, everybody seems to know
4 what to do and is organized. As you're talking about
5 businesses knowing what to do and be organized, I really
6 think we need to make sure that the local governments know
7 exactly what they're going to do and they let their
8 individual citizens have a plan.

9 In other words, we now know that we can't evacuate
10 everywhere. It just will not work. But each citizen,
11 some need to be evacuated if they're sitting down in the
12 Keys. Others need to go to a shelter. They need to know
13 where their local shelter is. If they're a person that
14 has special needs, they need to know -- we need to know
15 where they are and they need to know where their shelter
16 is and a way to get there. And those kinds of things we
17 know because of this past year. Many counties are right
18 on top of it and some aren't.

19 But, you know, I think it would be good for us as a
20 state to eat -- listen, we're as good as there is out
21 there, but we need to add it up a bit with these kinds of
22 storms that are continually out there.

23 THE GOVERNOR: Absolutely. I wholeheartedly agree
24 with that. And I think, you know, if we can make it easy
25 for individuals to give them a template from which they

1 can plan their family's preparation. And give a template
2 or a variety of ones for businesses to do the same. And
3 make sure that local communities have the same zeal for
4 improvement that I think at the state level we have, which
5 I believe they do have, that we'll get through this
6 period.

7 CFO GALLAGHER: For example, everybody that's
8 registered to vote gets a memo from their election
9 supervisor where their precinct is and where they vote.
10 Likewise, everybody that could get hit by a hurricane
11 should get from their local government where they should
12 go and what they should do under certain circumstances.

13 THE GOVERNOR: Or when they get their license
14 renewed, driver's license renewed or their professional
15 license renewed. There are ways for us to intervene in a
16 noninvasive way to give them the tools. And the good news
17 is people seem to be pretty sensitized these days.

18 CFO GALLAGHER: They will listen today. I don't know
19 if they would have before Katrina but they definitely will
20 listen today.

21 One other issue that doesn't have to do with this but
22 does have to do with Financial Services Commission and I
23 think if I could have the floor a second.

24 THE GOVERNOR: Sure.

25 CFO GALLAGHER: As we're all aware, sitting on the
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1 Financial Services Commission, there has been some
2 reported problems with Citizens Property Insurance and I
3 need to be a little bit careful with my comments because
4 there is an existing fraud investigation going on at
5 Citizens that our office, the Division of Fraud, is
6 handling. With that being said, it's become clear that
7 there is some staffing and structural issues at Citizens
8 that need to be dealt with immediately. And I believe as
9 the Financial Services Commission we should look at
10 providing greater transparency in dealing with Citizens'
11 issues.

12 And I think I'd like to make some recommendations
13 that we, as a Financial Services Commission, could make in
14 the overall scheme of things and they would be as follows:
15 One, to request the Legislature have a joint legislative
16 committee that oversees all the quasi governmental
17 insurers. That would include Citizens, many people don't
18 even know these exist. The Auto JUA, the workers' comp
19 JUA, and the medical malpractice JUA. These are all quasi
20 government insurers. Many people just think there's only
21 Citizens but the truth of the matter is, there's quite a
22 few others. And require the staff of those quasi
23 governmental insurers to provide notification to their
24 respective boards for any financial transactions in excess
25 of \$10,000 which would be consultant fees, advisors,
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1 vendors, those kinds of issues.

2 Three would be to require a background check of all
3 the executive officers of all the quasi governmental
4 insurers, obviously including Citizens. And four would be
5 to require that the Division of Insurance fraud within the
6 Department of Financial Services be notified within 48
7 hours of any suspected fraud or compromise of public trust
8 by a quasi governmental employee. I think that that being
9 said, we need to give the chairman of the board over at
10 Citizens the tools to restore our faith in Citizens
11 certainly while this hurricane season is still active and
12 to make sure they are prepared for next year. So I'd like
13 to make that a motion.

14 THE GOVERNOR: All right.

15 CFO GALLAGHER: We can certainly discuss it.

16 THE GOVERNOR: Any discussion?

17 GENERAL CRIST: Second.

18 THE GOVERNOR: There's a motion and a second. This,
19 I think, is very timely. The idea is to bring greater
20 transparency and to encourage the Board of Citizens to
21 take responsibility for setting higher standards as it
22 relates to employment, both incoming, I assume, background
23 checks and then when they're outgoing, which is the part
24 that's been troubling to me, is taking kind of advantage
25 of the position to immediately go out and to set up a
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1 business which was reported in the paper doesn't make
2 sense. There ought to be some period, I don't know
3 exactly, how they should set it up, but there are some
4 common sense things, I think, just in terms of conflicts
5 that could apply.

6 CFO GALLAGHER: Exactly. And I think that it's
7 important to have some legislative oversight into this
8 also. Let them be part of it because every one of these
9 is a legislative --

10 THE GOVERNOR: Have you talked to anybody in the
11 Legislature about it?

12 CFO GALLAGHER: No, but I will. I wanted to have us
13 agree that we'd want to make recommendations first.

14 THE GOVERNOR: I think they're going to probably
15 assume responsibility of oversight anyway based on, again,
16 the same article I was reading.

17 CFO GALLAGHER: They should.

18 THE GOVERNOR: Okay. There is a motion and a second.
19 Any other discussion? All -- everybody good with it?

20 GENERAL CRIST: Good to me.

21 THE GOVERNOR: Without objection, the motion passes.
22 We need to make sure that it's -- this really isn't your
23 deal, Don, but happy to have you here. If we could just
24 make sure that the motion gets to Kevin but also maybe if
25 we could just look at it to make sure we're all good with
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1 the specifics of it.

2 CFO GALLAGHER: One of the things -- and this, again,
3 doesn't have to do with Don, none of these JUA's or quasi
4 legislative bodies need to get a certificate to operate
5 and so that's one of the reasons that the normal things
6 that happen with insurance companies, background checks
7 and everything else that the Office of Insurance
8 Regulation will do, don't necessarily happen. And so I
9 think it's incumbent upon the Legislature or whatever to
10 make sure that those same things do happen in all of those
11 bodies. Citizens is one that sort of popped up and, you
12 know, shown its head. But this is something that should
13 be done in all of those bodies to make sure those
14 employees that work there and everything are
15 background-checked and make the transactions more
16 transparent.

17 THE GOVERNOR: Very good. Thank you, Don.

18 MR. SAXON: Thank you.

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1 THE GOVERNOR: Department of Law Enforcement.

2 CFO GALLAGHER: Motion on the minutes.

3 GENERAL CRIST: Second.

4 THE GOVERNOR: Commissioner Tunnell, how are you?

5 MR. TUNNELL: Good morning, Governor, members of the
6 cabinet.

7 THE GOVERNOR: There is a motion on Item 1 and a
8 second. Without objection, the motion passes.

9 MR. TUNNELL: If I may, we've already addressed the
10 first item. We've got two items on the agenda and I'd
11 like to give a short activity report but I think first I'm
12 compelled to share with the members of the cabinet, I got
13 some very sad news early this morning. I was able to
14 mention it to a couple of you. But we lost one of our
15 special agents during the night. He was found dead and
16 had been with us about a month and a half, Special Agent
17 Yurman who had been assigned to Protective Operation
18 Services through the mansion, Capitol Police. Came to us
19 from the Alachua County Sheriff's Office where he served
20 about 17 years. He was a resident of Wakulla County.
21 Don't have a lot of details right now on the situation.
22 It would appear natural causes, but it's very preliminary
23 right now. So it's a sad day for FDLE.

24 In terms of the items on the agenda, the second item
25 has to do with our approval of FDLE's 2006/2007 proposed
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1 legislative budget request. I'll elaborate a little bit
2 about that in a few minutes. In terms of activity, I was
3 not able to be at the September 7th cabinet meeting
4 wherein you approved our annual performance report. I was
5 doing my duty in Mississippi that week, serving my stint
6 at the command center in Gulfport, Mississippi.

7 I wanted to report that during four-week deployment,
8 over 2,000 local and state law enforcement officers
9 provided assistance, some 205 of those being from FDLE.
10 Our missions included search and rescue, security for
11 food, water, fuel shipments and dispersing equipment and
12 supplies. We already alluded to earlier in the meeting
13 some of the actions that Florida has taken in terms of
14 emergency response. I just wanted to let you know, and
15 I'm sure all the members of the cabinet share the deep
16 sense of pride that I think our state should feel over our
17 response to assist those less fortunate neighbors of ours
18 in the state of Mississippi in particular, not just law
19 enforcement but certainly our Emergency Management, our
20 fire and EMS, medical folks, et cetera. Tremendous
21 support to that state and a tremendous response and
22 gratitude from the folks in Mississippi. They are very
23 appreciative as you-all know, Governor, in your travels
24 over there.

25 And also our citizenry, I was there to see a number
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1 of supplies coming in from the state of Florida through
2 generous donations of our citizens. It was very
3 heartwarming. It made me proud to be a Floridian and see
4 the work in action.

5 Since I missed last meeting, I was hoping today to
6 quickly mention some of our recent accomplishments. As
7 you may recall, last year, we, at FDLE, implemented a new
8 program called the Child Abduction Response Teams, or
9 CARTs, given our tendency towards acronyms. But the
10 concept was really developed in response to a number of
11 the high profile cases in particular that we had last year
12 with regard to child abductions. As a result, we've been
13 recipients of some international recognition. Just last
14 week we were honored at the International Association of
15 Chiefs of Police, the IACP, where I accepted, on behalf of
16 FDLE and our state and local partners, the IACP choice
17 point award for best investigative practices in regards to
18 our CART project.

19 Also, last week, we announced the availability of a
20 new jail inmate locator service called Justice Exchange.
21 This system allows investigators to determine whether
22 someone has been incarcerated in all the participating
23 local or state facilities through a single mouse click.
24 It contains data from 66 percent of the total inmate
25 population in the country and close to 80 percent of
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1 Florida's inmate population. We believe that this
2 implementation, this system, demonstrates a success story
3 or data sharing in our state with regard to criminal
4 justice and criminal history. We're providing the access
5 to this system to all of our sheriffs' offices, police
6 departments, prosecutors as well as our sister state law
7 enforcement agencies. The funding for this, approximately
8 \$600,000, came from the National Governor's Conference --
9 or association rather, through federal grant monies.

10 Also wanted to share some additional good news from
11 our crime labs. We just received notice, I think week
12 before last, from the National Institute of Justice, that
13 we received a \$3 million federal grant award, these
14 dollars to be used to further outsource our DNA cases and
15 to purchase additional equipment. This grant will help us
16 also work on our backlog of cases that we've been trying
17 to whittle down ever so efficiently.

18 Of the 20 positions that we were approved in our last
19 year's budget, ten of those are going to serology for the
20 DNA side of the house. Finally, I'd like to mention that
21 FDLE is now preparing for our state and national
22 reaccreditation. I think this will be our third state
23 reaccreditation and our fourth national reaccreditation.
24 Later this month we'll have our mock inspection, if you
25 will, reviewed and look to early spring for our official

1 visit from the accreditation folks.

2 If I could, I'd like to close with a little overview
3 of our proposed budget, if that's okay. You have in your
4 packets our full request, our issues are listed in
5 priority order. The total request is \$14.4 million. It
6 represents an increase of approximately 5 percent in total
7 budget. You'll see there atop, three priorities are for
8 pay plans to award and retain our senior members. Our
9 request also includes funding for continued development of
10 our integrated criminal history system, Falcon. As you
11 know, that system will allow us to integrate our current
12 fingerprint criminal history system, to upgrade it from a
13 platform that I think was originally designed in the early
14 '70s. So we patched it as long as we can and we're
15 continuing to move forward in that effort.

16 Our request also includes 25 new domestic security
17 positions. The resources that we provide to domestic
18 security, as you can well imagine, have expanded
19 tremendously since we first got into this business of
20 domestic security. Our role as statewide coordinator has
21 evolved tremendously in the last four years. In addition
22 to the investigative and intelligence responsibilities, we
23 also have a tremendous amount of planning, coordinating,
24 and training responsibilities. We're requesting these new
25 25 positions to support our statewide domestic security

1 efforts. We've calculated that we need the 25 new
2 positions when we looked at our total manhours we have
3 dedicated in terms of FTEs, the equivalent of which equals
4 about 60 FTEs. We're only asking for 25 additional ones.

5 I did want to touch briefly on our last priority in
6 funding which was to help with the growth in criminal
7 history records checks. We've had a tremendous growth in
8 recent years as the Legislature has mandated background
9 checks as a condition of employment for many professions
10 especially for groups coming into contact with the
11 vulnerable populations, our elderly, disabled and our
12 citizens -- or our children, I'm sorry. Last year, we did
13 over 880,000 background checks. Everything from
14 firefighters to nursing home employees to real estate
15 agents.

16 The passage of the Lunsford Act this year, in
17 addition to the requirement to background-check
18 contractors in schools has been resulting in a large
19 increase as well. As you know, FDLE has developed the
20 shared school results -- Shared School Results System.
21 That's easy for some folks to say.

22 THE GOVERNOR: What's that stand for?

23 MR. TUNNELL: I'm not sure other than we share
24 background information among the schools. I can't come up
25 with an acronym right now. I probably could but I'd get
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1 in trouble if I tried. It is an automated way for school
2 districts to share criminal history records. We created
3 the system in an effort to alleviate the situation we
4 found where multiple fingerprint checks for vendors and
5 contractors who sign concurrent contracts with multiple
6 school districts was creating a real problem for the
7 school districts.

8 CFO GALLAGHER: What it is, once someone has gotten
9 their fingerprints done at one district to work in that
10 district, they all share it and they can go to the other
11 district because they've already had their background
12 done. They don't have to get it done in 67 different
13 districts.

14 MR. TUNNELL: For instance, vendors that provide soft
15 drinks with several contracts with several different
16 school districts, they can share that information from one
17 district to another. Class ring salespersons that travel
18 the various school districts. The information is in the
19 system for up to 90 days which is the standard schools use
20 for the freshness of the information. After 90 days,
21 someone would be required to resubmit and be rechecked
22 again and background.

23 THE GOVERNOR: In other words, for next year, the
24 start of the school year is probably when much of this
25 would be done. You would have a window in which you could
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1 do it much more efficiently than this last school year
2 where we weren't, you know, it's a problem with the law of
3 unintended consequences, kind of hit us.

4 MR. TUNNELL: Caught up with us. For sure. These
5 are the key priorities in our budget request. They're
6 essential to our key mission in providing support to our
7 criminal justice community and those others that rely on
8 us for support.

9 THE GOVERNOR: Can I ask you about the DNA?

10 MR. TUNNELL: Sure.

11 THE GOVERNOR: Your proposal is to have DNA samples
12 for every felony? Is that what it was?

13 MR. TUNNELL: Well, we're working with the
14 Legislature to better define that. There were some
15 felonies, one of them that's been cited to me, violating
16 crab traps, for instance.

17 THE GOVERNOR: Violating what?

18 MR. TUNNELL: Crab traps. That may not be the
19 official title. I yield to our legal experts.

20 THE GOVERNOR: It's a felony?

21 MR. TUNNELL: It's a felony, third degree felony.

22 CFO GALLAGHER: Going to somebody else's crab traps
23 and taking their crabs.

24 THE GOVERNOR: That's serious business. Why wouldn't
25 that be --

1 MR. TUNNELL: If you're a crabber, that's serious
2 business. It's kind of like cattle rustling, I suppose.
3 But we're looking at the validity of including all
4 felonies. We're working with the Legislature. We've come
5 up with some counter proposals that will give us -- and I
6 don't have all the specifics here in front of me, but give
7 us some latitude. Obviously, when you include all of
8 anything, you have a tremendous storage problem. We have
9 to retain these samples for a long, long time. And to
10 include all these samples, these specimens for future
11 court purposes can be very cumbersome.

12 THE GOVERNOR: It's -- we're way ahead of the rest of
13 the country on this, aren't we?

14 MR. TUNNELL: Yes, sir, we are.

15 THE GOVERNOR: At least several years ago, we had
16 half of the DNA samples in the entire country in our
17 database. And so I'd be curious to know, I've always
18 thought it was a wise investment, I'd be curious to know
19 how much enhancement to crime fighting -- I would think
20 that this is a significant tool for local law enforcement.

21 MR. TUNNELL: It really is, Governor. We've had a
22 lot of instances where we had cold cases that because the
23 technology was not available when the case was first
24 investigated, these agencies have been able to go back and
25 reinvestigate and resubmit evidence for DNA testing.

1 We've cleared a lot of cases that way. It's pretty
2 significant. Homicides and different things around the
3 state. It's worked out very well.

4 THE GOVERNOR: We now have all violent felonies are
5 required to have DNA samples, right?

6 MR. TUNNELL: Yes, sir.

7 CFO GALLAGHER: Commissioner, you know, storage
8 capability is a lot cheaper than it used to be. To me,
9 that's an investment we ought to make. If we're already
10 collecting the samples, why not store them indefinitely.

11 THE GOVERNOR: We do.

12 MR. TUNNELL: Yes, sir, we're doing that but we're
13 trying to do it the way we can be most efficient with it.
14 Right now, because of all the other requirements through
15 Jessica Lunsford and some of the other acts to do the
16 complete, all felonies, would be very -- would be
17 overwhelming for our staff right now and our current
18 storage capabilities. So we're proposing some
19 alternatives to just throwing a blanket over all felonies
20 and trying to get those that seem to have the most impact
21 in terms of crime solution. We've done some staff studies
22 on different categories of types of crimes and we feel
23 very comfortable the way we're moving in this direction.

24 THE GOVERNOR: Your report says there is a statutory
25 mandate for the expansion of the DNA database?

1 MR. TUNNELL: Yes, sir.

2 THE GOVERNOR: To all felonies? Is that what the
3 Legislature -- in the Lunsford Act?

4 MR. TUNNELL: Well, in addition to the Lunsford Act.
5 But all felonies --

6 THE GOVERNOR: When did that happen?

7 MR. TUNNELL: That's been subject to appropriation
8 every year.

9 THE GOVERNOR: Okay. So it's a mandated without
10 meaning?

11 MR. TUNNELL: Every year it's automatic. And we're
12 trying to work with the Legislature to come up with some
13 logical amenable compromises.

14 THE GOVERNOR: Well, if you could get -- I'd love to
15 get more information about the success.

16 MR. TUNNELL: We can get that to you, yes, sir.

17 THE GOVERNOR: Because I think it's -- I've always
18 been impressed that we've been out there. In the budget,
19 which I'm going to abstain on, so I'm not sure I should
20 even be talking about this, there is no proposed increase
21 in personnel to deal with this.

22 MR. TUNNELL: This last year, Governor, we got 20
23 positions funded from the lab. Ten of those will go to
24 the DNA --

25 THE GOVERNOR: So that will be enough to continue to
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1 expand.

2 MR. TUNNELL: We think so.

3 THE GOVERNOR: Okay. Any other questions?

4 MR. TUNNELL: If you want to give us more, that would
5 be fine.

6 THE GOVERNOR: I'm sure it would be. But that's not
7 your -- that's not in your top 11 priorities.

8 MR. TUNNELL: It's always one of our top --

9 THE GOVERNOR: Based on what I see here, it would be
10 less -- the pay issues are the ones that seem to be the
11 most important ones.

12 MR. TUNNELL: Yes, sir.

13 THE GOVERNOR: Any other questions? Is there a
14 motion?

15 CFO GALLAGHER: Motion.

16 COMMISSIONER BRONSON: Second.

17 THE GOVERNOR: A second. There is a motion and a
18 second. I will abstain to present my own budget to the
19 Florida Legislature. The motion passes with my
20 abstention.

21 MR. TUNNELL: Thank you.

22 THE GOVERNOR: Thank you.

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1 THE GOVERNOR: Administration Commission.

2 MS. TINKER: Good morning. Item 1, recommend
3 approval of the minutes of the September 7th meeting.

4 GENERAL CRIST: Motion.

5 CFO GALLAGHER: Second.

6 THE GOVERNOR: There's a motion and a second.

7 Without objection, the item passes.

8 MS. TINKER: Item 2, recommend approval of the draft
9 final order. Governor and members, the draft order is
10 basically adopting the administrative law judge's
11 recommended order. I'll remind you that you are acting as
12 this action will be final agency action pursuant to the
13 Administrative Procedures Act, Chapter 120. In order to
14 change any of the findings of fact from the administrative
15 law judge's order, you have to first determine that the
16 record does not include competent substantial evidence to
17 support those findings of fact.

18 I would respectfully suggest to you that staff has
19 gone through the entire record including the transcript
20 and found that there is, in fact, competent substantial
21 evidence to support the hearing officer's findings of
22 fact. Additionally, you may only change the conclusions
23 of law if you want to substitute what you would determine
24 to be at least as reasonable conclusions or more
25 reasonable based on the underlying statute. Again,
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1 respectfully, I would suggest that we've reviewed those
2 conclusions of law and the underlying statute and
3 administrative rule and believe that the administrative
4 law judge's conclusions of law are reasonable, a
5 reasonable interpretation of the statute.

6 So we would recommend that you adopt the final order
7 which is, in essence, the recommended order. We have two
8 speakers here today. First, Mr. Hildreth Cooper is the
9 Petitioner in the proceeding.

10 MR. COOPER: Good morning. I thank you for the
11 opportunity to come before you today to present what I'm
12 sure must seem to you to be a really minor issue. And I
13 have to say that I'm rather surprised to be here myself.

14 THE GOVERNOR: Well, first of all, welcome.

15 MR. COOPER: Thank you very much. I represent myself
16 and other homeowners in what is known as the Cove
17 neighborhood in Panama City. It is Panama City's oldest
18 residential neighborhood and it is, for the most part,
19 made up of modest affordable housing. This case is really
20 a very simple one. The amendment in question would
21 designate one small parcel as high intensity commercial in
22 an otherwise 100 percent residential neighborhood. The
23 record shows that there is no question that every adjacent
24 property is presently residential. So I'm sure you're
25 wondering why the City would propose one commercial

1 property in a residential neighborhood. You see, for some
2 reason, the City does not have a high intensity
3 residential zoning category. So rather than correct this
4 basic problem, the City has chosen to put commercial
5 designations where they do not belong. And while this may
6 be convenient for one landowner, it has serious
7 consequences for surrounding neighborhoods and it goes
8 against the basic principles of land use planning.

9 I'm a biologist by profession. I'm not an attorney.
10 We could not afford an attorney so I was chosen to try the
11 case myself for the neighborhood. And in spite of our
12 inexperience, we prevailed against pretty high odds. I
13 believe this is because the case is indeed straightforward
14 and the findings of fact came through loud and clear in
15 spite of all the procedural obstacles that were thrown at
16 us. We supplied the preponderance of competent evidence
17 that showed that a commercial land use designation was
18 clearly incompatible with the surrounding neighborhood and
19 this is clearly inconsistent with several policies in the
20 City's comprehensive plan. Even a layperson like myself
21 was able to prove this.

22 The administrative law judge has ruled that the
23 ordinance is not in compliance with state statutes and now
24 we have the recommendation of your staff to uphold the
25 judge's recommendation. We also recently have a five to
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1 zero vote by the Panama City commission to let the
2 intervenor go forward in this case on their own. And
3 although this was later found to be procedurally
4 inadvisable and it's not part of the record upon which you
5 need to make your decision, I believe this five to zero
6 vote shows the City's willingness to acknowledge their
7 mistake and accept the recommended order.

8 So I hope you will agree that this is indeed a simple
9 case of convenient but inappropriate land use planning and
10 you will uphold the judge's recommendation and the
11 recommendation of your staff and the citizens of the Cove
12 neighborhood would greatly appreciate your recognition of
13 our long and difficult struggle to correct this problem.

14 THE GOVERNOR: Thank you. First of all, I commend
15 you for your participation. How was it going in front of
16 an ALJ judge? I've never had to do that.

17 MR. COOPER: It's the worst thing I've ever had to
18 do.

19 THE GOVERNOR: Why? Why was it that bad?

20 MR. COOPER: Oh, I don't know, for example, rules of
21 evidence. About everything -- almost everything --

22 THE GOVERNOR: You think we do?

23 (Laughter.)

24 MR. COOPER: Almost everything we presented was
25 struck down so it really had to be narrowed down to the
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1 findings of fact.

2 THE GOVERNOR: Well, it seems like you did a pretty
3 good job.

4 MR. COOPER: Thank you very much.

5 THE GOVERNOR: Treasurer?

6 CFO GALLAGHER: Let me also congratulate you on
7 taking on a project that I know 24 hours ahead of that you
8 thought some lawyer was going to do it for you.

9 MR. COOPER: Yes, and he didn't show up.

10 CFO GALLAGHER: That's pressure. But maybe if you
11 knew it two or three weeks before that, you wouldn't have
12 shown up.

13 MR. COOPER: Yeah. Now I know what I do.

14 CFO GALLAGHER: This way, you didn't have a choice.
15 But I would like to read into the record, Governor, if I
16 may, an E-mail received by our cabinet aides from Mayor
17 DeGeorge of Panama City. She's not able to attend the
18 meeting today but she says: "As mayor of Panama City, I'd
19 like to express my gratitude to Judge Alexander for
20 recognizing that a commercial land use designation, a
21 zoning change made prior to my election, is certainly
22 incompatible with the coastal historic neighborhood where
23 the subject property is located." And that's the place
24 this book is about called the Cove.

25 "The neighborhood has been long recognized as
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1 historic and it is my belief that it should never have
2 been rezoned to accommodate the general commercial
3 projects. The Tibbetts Boat Yard itself was certainly
4 more compatible since our city has a rich history
5 associated with the fishing industry. Please assist us in
6 preserving our heritage by supporting Judge Alexander's
7 decision. This erroneous land use designation would
8 clearly interfere with the quietness and quaintness that
9 existing residents have enjoyed for generations. And we
10 would, indeed, appreciate maintaining the integrity of
11 this lovely old historic neighborhood that faces
12 St. Andrews Bay. Sincerely, Lauren DeGeorge." And she's
13 mayor of Panama City.

14 And I would move --

15 THE GOVERNOR: We have another speaker.

16 MR. COOPER: And if I may, please understand that the
17 mayor submitted that as her -- on her own and not
18 representing the commission.

19 THE GOVERNOR: Plus, it's not a matter of the record
20 that we can make a decision on. We can note it, but can't
21 use it as the basis for making a decision as members of
22 the Administration Commission.

23 MR. COOPER: Thank you.

24 THE GOVERNOR: Thank you.

25 MS. TINKER: Thank you. And thank you for clarifying
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1 that matter, Governor, that's very important to the
2 record. The next speaker is Gary Hunter representing the
3 City of Panama City.

4 MR. HUNTER: Governor, fellow cabinet members, good
5 morning.

6 THE GOVERNOR: Good morning.

7 MR. HUNTER: Governor, to not be set up by you, I
8 must give recognition to my wife who also is at her first
9 cabinet meeting today and --

10 THE GOVERNOR: Where is she?

11 MR. HUNTER: Meredith, I too love her.

12 THE GOVERNOR: Hey, Meredith. Good strategy.

13 MR. HUNTER: I may not be good on this amendment but
14 I know I'll be good when I get home later.

15 THE GOVERNOR: That's more important.

16 MR. HUNTER: Governor and cabinet members, thank you
17 for your time. I must, as you did, commend Mr. Cooper.
18 He was up against me of course and Hopping, Green and
19 Sams' law firm. And he did learn at the last minute that
20 he didn't have counsel and I think he did a very good job
21 given the circumstances he was put in and I don't question
22 his motives for trying to protect an area he considers
23 important to him.

24 I would like to point out a few things that I think
25 were errors of law respectfully in Judge Alexander's
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1 order. As a person who does land use and environmental
2 law, Judge Alexander routinely deals with these cases and
3 he's a very knowledgeable judge. He missed some things in
4 this order and respectfully your staff has asked you to
5 enter that recommended order but there are some issues of
6 law in that order that are incorrect and it's my
7 obligation on behalf of the City, who I represent, to
8 point those things out. And I think they are important
9 for more than just this case.

10 You-all know that your order is a final order.
11 You-all are sitting as judges today. You're not here to
12 make policy for the City of Panama City. They made that
13 policy when they passed this amendment. As you would
14 expect the judges, Governor, respectfully that you appoint
15 to the bench you would ask them to apply the law and not
16 make policy from the bench. I think others of you have
17 expressed similar settlement from your cabinet positions
18 and the City expects that and I think other local
19 governments who pass and adopt local comprehensive plan
20 amendments should also be able to expect that.

21 In this case, Judge Alexander did two things which I
22 think were fundamentally wrong from a standpoint of the
23 error he made. This case is about, by the way, the City
24 trying to redevelop an area that's blighted. Judge
25 Alexander found that the site at issue is a blighted site.

1 It's been an industrial land use boat yard that has a long
2 history of environmental noncompliance of code enforcement
3 in the city. Everybody, including the neighborhood, was
4 glad to see it gone. The way it was going to be gone was
5 this developer was going to come into the site and put in
6 a residential development. And I think Ms. -- Mr. Cooper
7 summarized earlier or maybe it was Ms. Tinker, I don't
8 recall which mentioned it, but one of the points at issue
9 was whether commercial land use designation would go in
10 this mixed use area.

11 The reason it had to be commercial was because the
12 city had no other category that would permit this
13 residential development. So it isn't a commercial use as
14 proposed on this site to redevelop a blighted area. It's
15 a residential use. And there is a residential condominium
16 right across the street, next door, that's nine stories
17 high that's bigger than the proposed use that we're
18 talking about today. So we're not talking about putting
19 commercial uses within a historic neighborhood. And this
20 parcel, by the way, in the record reflects it isn't part
21 of the historic neighborhood. We're going to put a
22 residential use there.

23 CFO GALLAGHER: Can I ask a question?

24 THE GOVERNOR: Treasurer.

25 MR. HUNTER: Yes, sir.

1 CFO GALLAGHER: Could you -- is there a reason the
2 City goes from residential to commercial without having a
3 commercial/residential in the middle?

4 MR. HUNTER: Yes, sir. In this case there is,
5 Commissioner Gallagher. There is -- the City has a mixed
6 use category and a commercial category. This particular
7 site has, I forget the exact footage, but it's about
8 400 feet along the bayou there. And if you're in a mixed
9 use category, you're subject to setbacks that the mixed
10 use category is subject to and nothing to do with the
11 mixed use category because of their conservation element
12 in their comprehensive plan you have a 30-foot shoreline
13 buffer set back for anything that would go on that site.

14 So because of the setback requirements and the
15 30-foot shoreline buffer, this 3.3 acre parcel became a
16 very small usable piece of land unless it was general
17 commercial where you could have flexibility with the
18 setbacks and you could put something on there that from an
19 investment standpoint was going to make sense to redevelop
20 the site. So that's the answer. The City didn't have a
21 PUD type process that would allow you to come in and
22 modify their standards which most local governments would.

23 CFO GALLAGHER: So, in other words, you couldn't take
24 that designation and grant exceptions to it for that
25 particular development?

1 MR. HUNTER: Yes, sir. I mean, that would have been
2 an option would be to go in and ask for variances both for
3 height and for setbacks. This developer -- and I don't
4 represent the developer, I represent the City --

5 CFO GALLAGHER: It might have been a better way to go
6 than the way they went.

7 MR. HUNTER: I'm sorry?

8 CFO GALLAGHER: It might have been a better way to
9 go.

10 MR. HUNTER: In hindsight, absolutely.

11 CFO GALLAGHER: Maybe in foresight for them down the
12 road.

13 MR. HUNTER: I'm sure they are listening. But, and,
14 again, I'm not here to argue that point. Your point is a
15 valid point, Commissioner Gallagher, and there is no
16 question about that. But I do think for purposes as a
17 lawyer who practices in this area, it's important you-all
18 enter an order that has the right law in it. And I've
19 submitted you an order which I think does have the correct
20 legal standards applied to it. I haven't asked that you
21 reverse Alexander -- Judge Alexander's proposed order,
22 I've asked you to send it back to him and apply the
23 correct standard of law. One of those issues is the
24 presumption of validity given to that local government.
25 Judge Alexander in his order says the test is whether
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1 there was evidence to support or reject the amendment.
2 Statutorily, that isn't the test. Section 163.3187
3 states, the Legislature said in Subsection 3A, there is a
4 presumption that the amendment is a valid amendment. The
5 burden is upon the Petitioner to prove by a preponderance
6 of the evidence that the amendment is invalid.

7 That presumption means that you give credence to what
8 the local government has decided to do. In this case,
9 Judge Alexander, in his order, did not. And I'm not
10 suggesting he couldn't find the same result, he may could
11 on the record. But I think his application of the law was
12 flawed in the sense that he didn't even defer to the fact
13 that there is this presumption statutorily mandated that
14 the amendment is valid and he didn't indicate how the
15 presumption was overcome.

16 Maybe more important than that, he picked one
17 provision out of the comp plan, the compatibility
18 provision, and said, I find that this proposed use, this
19 mixed use -- I mean this general commercial category in
20 this mixed use area isn't compatible. There are competing
21 policies in the comp plan that say the City should use its
22 comprehensive plan and planning process to rid areas of
23 blight and encourage redevelopment and have flexibility
24 where there is blight and Judge Alexander recognized all
25 those provisions but he said they don't trump the

1 compatibility provisions.

2 Well, by deciding the compatibility provisions were
3 the basis for his order of consistency, he decided
4 compatibility trumped the flexibility provision. There's
5 case law, abundant case law, that says that's wrong.
6 These comprehensive plans, and the statutes say this in
7 163, should be read together. If I as a challenger to a
8 comprehensive plan had the simple task of going and
9 picking out a policy or an objective or a goal in a
10 document that's usually about this thick and to challenge
11 an amendment, I promise you, every comprehensive plan
12 amendment, large or small scale, in the state of Florida
13 could be overturned on the basis of internal inconsistency
14 because there is something, policy objective or goal, in
15 this document that an amendment is not going to be
16 strictly in compliance with. You read it collectively as
17 a whole. And he didn't do that. In fact, he did the
18 opposite. He said compatibility trumps the flexibility
19 and he made no effort to harmonize those provisions. And
20 I think you-all, as the body responsible for entering the
21 final order, it's your responsibility to say, The law is
22 this. Your outcome factually may have been right, explain
23 it so that when the next case comes in front of you,
24 whoever it may be, whatever local government it may be,
25 the correct legal standard has been applied. And for that

1 reason respectfully, I would ask that the alternate
2 proposed order which I submitted to your staff, be entered
3 and this matter remanded back to Judge Alexander for him
4 to make findings consistent with that. If you have any
5 questions, I'll be happy to answer it.

6 THE GOVERNOR: Any questions?

7 (No response.) Thank you.

8 Teresa, you want to respond to the several points
9 that the gentleman made?

10 MS. TINKER: I can. Again, we've gone through the
11 record. We believe that there is evidence in the record
12 to support the hearing officer's finding and conclusion.
13 The presumption that the speaker talked about is, in fact,
14 the presumption under the law. But, again, after going
15 through the testimony in the record, the Hearing Officer
16 found that the land use being proposed is incompatible.

17 Now, under the comprehensive plan, there is a policy
18 that provides for trying to eliminate blighted and slum
19 areas. However, there are other uses of this property
20 that could occur short of the commercial development that
21 would allow that blighted area to be eliminated. So I
22 don't think the Hearing Officer picked one policy over
23 another. I think he looked at everything in context,
24 looked at what could be allowed under the general
25 commercial land use and determined that those provisions

1 go well beyond the mixed use and the residential use
2 that's there today. And just to give you an idea of what
3 could be done under general commercial, it does allow a
4 residential. It also allows professional offices and
5 services. It allows low intensity commercial like
6 athletic clubs, convenience stores. It allows drug
7 stores, dry cleaners, institutional utility uses. It
8 allows high intensity commercial like hotels and motels.
9 And this is all part of the record so I'm not giving you
10 something outside the record. So I think the Hearing
11 Officer looked at that and as a whole decided that what
12 was being proposed is, in fact, inconsistent with the
13 surrounding land uses.

14 THE GOVERNOR: Okay. Any questions?

15 Is there a motion?

16 CFO GALLAGHER: Motion.

17 GENERAL CRIST: Second.

18 THE GOVERNOR: There's a motion to affirm and a
19 second. Any discussion?

20 Without objection, the item is affirmed or we're
21 affirming the DOAH order.

22 MS. TINKER: Thank you.

23 THE GOVERNOR: Thank you.

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1 THE GOVERNOR: Board of Trustees.

2 CFO GALLAGHER: Motion on the minutes.

3 COMMISSIONER BRONSON: Second.

4 THE GOVERNOR: There is a motion on Item 1 and a
5 second. Without objection, the item passes.

6 Item 2.

7 MS. CASTILLE: Governor, I'd like to take a moment to
8 present to you an award that the Department got after last
9 year's hurricane. After last year's hurricane, Bob
10 Ballard and myself and a number of other staff members
11 went around the state to look at the destruction that was
12 at our state parks and our different state lands and
13 forest wildlife preserves and we all came back and
14 collectively as land managers said we didn't have the
15 capacity to do what needed to be done to clean up our
16 state parks alone.

17 And in a matter of a couple of days, in really three
18 weeks, our volunteer coordinator, Phil Wornly (phonetic)
19 and Matt Mitchell from our state parks coordinated with
20 the Division of Forestry with Fish and Wildlife
21 Conservation Commission and the national groups as well to
22 create a volunteer initiative to help us clean up our
23 parks. And three weeks later, we had 419,000 hours
24 volunteered nationwide and an event that we held about a
25 year ago this week where we had 1900 volunteers to come
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1 help clean up our parks and forest and wildlife refuges.
2 And we were recognized by Secretary Gail Norton of the
3 Department of Interior last week with one of the only
4 states that was able to do that much volunteer activity in
5 that short a period of time. And, actually, we are the
6 highest level of volunteer activity in the state, as you
7 well know with our million hours that you recognized us
8 with last year. So here's our award here and the Take
9 Pride in America 2005 National Award.

10 THE GOVERNOR: Congratulations.

11 MS. CASTILLE: Thank you for your support.

12 (Applause.)

13 THE GOVERNOR: Item 2.

14 MS. CASTILLE: Item 2. Item 2 is Ms. Becky's Seafood
15 lease renewal. If you recall, we brought Ms. Becky's
16 before you last year and there was a little bit of
17 consternation that we had with some lease compliance
18 issues. And in an unprecedented manner, you-all decided
19 to approve a year lease to see how well they did. And we
20 are here to let you know that they did very well. The
21 lease before you is a consideration of a -- so the
22 consideration before you is the application for a renewal
23 of this lease for five years in the amount of \$9,626
24 annually.

25 CFO GALLAGHER: Motion on two.

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1 COMMISSIONER BRONSON: Second.

2 THE GOVERNOR: There's a motion and a second.

3 Without objection, the item passes.

4 Item 3.

5 MS. CASTILLE: Item 3 is the City of Winter Park
6 conveyance in direction from the Legislature. This is a
7 consideration of a request to declare surplus, a 5-acre
8 parcel state-owned land in the City of Winter Park, Orange
9 County. In 1956 the City of Winter Park conveyed to the
10 State the parcel on which this building currently sits.
11 The McCarty building has been most recently used by the
12 Department of Children and Families. And DMS has
13 determined it to be surplus to its needs. The City plans
14 to use this building to relocate City Hall employees while
15 the City Hall is being remodeled and then we reconsider
16 the uses of the building and the site as a community
17 facility --

18 CFO GALLAGHER: Motion.

19 GENERAL CRIST: Second.

20 THE GOVERNOR: There is a motion and a second. Any
21 discussion? Without objection, the item passes.

22 The best deal the City of Winter Park will ever get
23 from the State. Mark that down.

24 MS. CASTILLE: And I wanted to mention that Mayor Kip
25 Marchman is here.

1 THE GOVERNOR: You guys normally are givers so you're
2 a receiver today. We're grateful.

3 MAYOR MARCHMAN: Thank you very much, we appreciate
4 it.

5 MS. CASTILLE: Item 4 is Palm Beach County
6 conveyance. This is a consideration of a request from
7 Palm Beach County to convey a 2.09-acre parcel,
8 state-owned parcel, to the County for a library and impose
9 a declaration of restrictive covenant for educational
10 purposes on 19.44 acres of Board of Trustees property.

11 CFO GALLAGHER: Motion on 4.

12 GENERAL CRIST: Second.

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

15 MS. CASTILLE: President Brogan thanks you. He
16 called me last week.

17 THE GOVERNOR: Why didn't he come up here like these
18 other guys did?

19 MS. CASTILLE: He felt well represented up here.

20 (Laughter.)

21 Item 5. Item 5 is a conveyance to the South Florida
22 Water Management District and a determination that the
23 land should be determined for a greater public benefit for
24 the Water Management District and for Everglades
25 restoration.

1 COMMISSIONER BRONSON: Motion on 5.

2 GENERAL CRIST: Second.

3 THE GOVERNOR: There's a motion and a second.

4 Without objection, the item passes.

5 MS. CASTILLE: Item 6 is a purchase agreement on

6 Coupon Bight Key Deer. This is consideration of a

7 purchase agreement for \$370,000 for 20 ROGO units.

8 GENERAL CRIST: Motion.

9 CFO GALLAGHER: Second.

10 THE GOVERNOR: There's a motion and a second.

11 Without objection, the item passes.

12 CFO GALLAGHER: Defer Item 7 to 10/22.

13 MS. CASTILLE: I think it's 10/25. Is it 10/22?

14 THE GOVERNOR: To the next cabinet meeting. There's

15 a motion on Item 7, there's a motion to defer to the next

16 cabinet meeting.

17 GENERAL CRIST: Second.

18 THE GOVERNOR: And a second. Without objection, the

19 motion is deferred.

20 Yes, Treasurer.

21 CFO GALLAGHER: Colleen, I see that the school board

22 doesn't seem to be interested in selling Harris School to

23 us. And if they choose not to, that's fine. They can do

24 what they choose to do with it, it's their property. But

25 I would just like to reiterate that I don't believe that

1 we would have given them the gift of purchasing and
2 letting them use that property in the manner in which we
3 did had we not made the amendment that we did. And so to
4 come up and ask us to change that, I think we as a cabinet
5 ought to let them know what we think about that. I'm one
6 person. I'll tell you that I think we saved that purchase
7 by that housing recommendation and I'm personally going to
8 stick by it.

9 THE GOVERNOR: Well, I think, to be more specific, I
10 think if they -- we made an offer, the member of the
11 school board came and took back the message that it was
12 subject to a commitment on affordable housing. They made
13 the assessment, they determined they didn't want to do
14 that. So, therefore, our offer is off the table. I just
15 want to make sure that's the case.

16 MS. CASTILLE: That's correct. That is the status.

17 THE GOVERNOR: If somehow this gets started up again,
18 they got to go through the whole process again.

19 MS. CASTILLE: That's correct.

20 THE GOVERNOR: So it's dead.

21 CFO GALLAGHER: Dead. All right. That's a pretty
22 strong message.

23 THE GOVERNOR: They rejected it. I think it was
24 unanimous, wasn't it?

25 MS. CASTILLE: I think it was a 3-2 vote, wasn't it?
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1 THE GOVERNOR: Unanimous, 3-2.

2 (Laughter.)

3 CFO GALLAGHER: That's always unanimous here,
4 Governor, when we go on the three side.

5 (Laughter.)

6 THE GOVERNOR: Thank you.

7 MS. CASTILLE: We will take your direction on that.
8 Thank you, sir. That concludes our agenda.

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1 THE GOVERNOR: State Board of Administration.

2 CFO GALLAGHER: Motion on the minutes.

3 GENERAL CRIST: Second.

4 THE GOVERNOR: There's a motion and a second on
5 Item 1. Without objection, the motion passes.

6 MR. STIPANOVICH: Good morning, Governor and members.

7 Item No. 2 is request for approval of fiscal
8 sufficiency of an amount not exceeding 150 million State
9 of Florida, Department of Environmental Protection Florida
10 Forever revenue bonds.

11 GENERAL CRIST: Motion on 2.

12 CFO GALLAGHER: Second.

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

15 MR. STIPANOVICH: Item No. 3 is a request for
16 approval of fiscal sufficiency of an amount not exceeding
17 50 million State of Florida, Florida Education System,
18 University of Central Florida --

19 CFO GALLAGHER: Motion on 3.

20 GENERAL CRIST: Second.

21 THE GOVERNOR: There's a motion on Item 3 and a
22 second. Without objection, the item passes.

23 MR. STIPANOVICH: Item No. 4 is a request for
24 approval of fiscal sufficiency of an amount not exceeding
25 45 million State of Florida, Florida Education System,
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1 University of Florida housing revenue bonds.

2 GENERAL CRIST: Motion on 4.

3 CFO GALLAGHER: Second.

4 THE GOVERNOR: There's a motion and a second.

5 Without objection, the item passes.

6 MR. STIPANOVICH: Item No. 5 is a request for
7 approval of fiscal sufficiency of an amount not exceeding
8 24,500,000, State of Florida, Florida Education System,
9 Florida State University parking facility revenue bonds.

10 CFO GALLAGHER: Motion.

11 GENERAL CRIST: Second.

12 THE GOVERNOR: There's a motion and a second.

13 Without objection, the item passes.

14 MR. STIPANOVICH: Members, the final item is
15 appointment request for Roman Martinez to the Investment
16 Advisory Council.

17 GENERAL CRIST: Motion.

18 CFO GALLAGHER: Second.

19 THE GOVERNOR: There's a motion and a second.

20 Without objection, the item passes. Thank you, Coleman.

21 (Thereupon, the proceedings concluded at 10:58 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, KRISTEN L. BENTLEY, Court Reporter, 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 73 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 am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 18th day of October, 2005.

KRISTEN L. BENTLEY, RPR
Court Reporter
Notary Public
850-878-2221

