

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

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Representing:

FINANCIAL SERVICES COMMISSION, FINANCIAL REGULATION  
DIVISION OF BOND FINANCE  
FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION  
ADMINISTRATION COMMISSION  
FLORIDA LAND AND WATER ADJUDICATORY COMMISSION  
BOARD OF TRUSTEES, DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES  
POWER PLANT AND TRANSMISSION LINE SITING BOARD  
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
STATE BOARD OF ADMINISTRATION  
FLORIDA HURRICANE CATASTROPHE FUND FINANCE CORPORATION

The above agencies came to be heard before  
THE FLORIDA CABINET, Honorable Governor Crist presiding,  
in the Cabinet Meeting Room, LL-03, The Capitol,  
Tallahassee, Florida, on Tuesday, July 29, 2008,  
commencing at approximately 9:12 a.m.

Reported by:

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## APPEARANCES:

Representing the Florida Cabinet:

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Governor

CHARLES H. BRONSON  
Commissioner of Agriculture

BILL McCOLLUM  
Attorney General

ALEX SINK  
Chief Financial Officer

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

(The agenda items commenced at 9:30 a.m.)

1  
2  
3 GOVERNOR CRIST: We have an appointment before  
4 us. Commissioner, I understand that you might  
5 consider making a motion, or am I ill-informed?

6 COMMISSIONER BRONSON: Yes. No, I certainly  
7 would like to make the motion for this temporary  
8 appointment to get this under way and to look at  
9 our issues of how we're going to develop our IT  
10 issues.

11 I will say, though, Governor, after making  
12 this motion, that I hope that I'll have a chance to  
13 talk with this group as they start to develop,  
14 because as we have in the past, I still see that  
15 there may be some issues that need to be taken into  
16 consideration, especially with our office, because  
17 we are the only ones doing certain things in the  
18 state when it comes to ag-related, wildfire safety,  
19 and some other stuff, that we need specific IT  
20 issues that only we are going to be using. And  
21 I've been very concerned as to whether in the  
22 process that we have gone through in the past where  
23 there is X money in a big pot, whether the issues  
24 of the Department of Agriculture are really going  
25 to carry the weight from all of the issues when

1           they're very important to us.

2           And therefore, to give up our ability to do  
3           what we know we have to do to be in that long line  
4           of who comes in the door and who gets the money to  
5           get the job done, I'm still concerned about that,  
6           because even though our issues may not affect every  
7           organization, they're going to affect the people of  
8           the state of Florida, and our ability to get those  
9           done in a timely and cost-effective manner means a  
10          lot of to me.

11          So I just want you to know, I'm more than  
12          willing to make this suggestion, to make this  
13          motion to bring on temporary leadership for this  
14          organization, simply because we need to get it  
15          under way and get it working.

16          GOVERNOR CRIST: And this would be, as I  
17          understand it, David Taylor as, the right  
18          terminology, Interim Executive Director of the  
19          Agency for Enterprise Information Technology.  
20          That's a mouthful.

21          COMMISSIONER BRONSON: Right.

22          ATTORNEY GENERAL McCOLLUM: And I'll second  
23          that.

24          GOVERNOR CRIST: Thank you. Is there any  
25          discussion?

1 CFO SINK: Governor, yes.

2 GOVERNOR CRIST: CFO, please.

3 CFO SINK: I just want to clarify, because  
4 it's my understanding that this is an interim  
5 appointment, and then you will come back and make a  
6 permanent suggestion to us.

7 GOVERNOR CRIST: That is my understanding as  
8 well.

9 CFO SINK: Because, obviously, we have been  
10 talking about this AEIT position for over a year,  
11 and we did go through a process and interviewed  
12 another -- our staffs interviewed a number of  
13 candidates.

14 And I truly believe that this is one of the  
15 very most important positions in state government.  
16 It's not something that sounds glamorous or  
17 problematical and doesn't immediately impact people  
18 like the Department of Children and Families does,  
19 but we have a number of issues, technology issues,  
20 I believe, in getting our state to get ready to go  
21 forward in the 21st Century, and to me, we don't  
22 want to be penny wise and pound foolish. We really  
23 need to get a very highly talented, capable, and  
24 experienced person, because you just heard  
25 Commissioner Bronson say that the demands of the

1 job are that every department, mine included, have  
2 their own unique things that they believe are very  
3 critical and very important, and so this person has  
4 got to be somebody who maneuvers all the varied  
5 interests, but yet is able to figure out a way to  
6 carry us forward.

7 So I'm pleased that you're recommending an  
8 interim director, because we haven't had anybody  
9 for the last year. We're getting ready to put  
10 together a player task force that this individual  
11 will be a very integral part of to talk about where  
12 we go with the accounting system going forward.

13 So I'm pleased to support it, but I just --  
14 I'm very anxious for you to get the very best  
15 person we can possibly find to lead our IT efforts,  
16 and to encourage you to understand that in the  
17 private sector, we would be paying this kind of  
18 person 3- or \$400,000, and we don't do that in  
19 state government, but likewise, we really don't  
20 need to go on the cheap here. We have to have a  
21 good person.

22 GOVERNOR CRIST: Very good. It has been moved  
23 and seconded. General.

24 ATTORNEY GENERAL McCOLLUM: Governor, I would  
25 just like to make the comment that our office is in

1 need, just like Commissioner Bronson's is, of  
2 having somebody in place to do this work. The IT  
3 part of this is very important. We have a lot of  
4 security sensitivity at the Attorney General's  
5 Office in some of our IT needs. So I really feel  
6 we need to move on with this particular individual.  
7 But I certainly echo the concerns that we continue  
8 to look, and expeditiously look, for a very highly  
9 qualified person who we'll probably have to pay  
10 considerably more to than we are to the acting or  
11 the interim director. So I support the motion.  
12 That's why I seconded it. But I do have that one  
13 comment.

14 GOVERNOR CRIST: Excellent. Well, it sounds  
15 like to me there's no objection, and so the motion  
16 is approved. Thank you very much.

17 Our next Cabinet meeting -- wait. Mr. Taylor,  
18 are you here? Would you like to say a few words?  
19 Congratulations, I think.

20 CFO SINK: After all that.

21 MR. TAYLOR: Thank you, Governor and Cabinet.  
22 It's an honor to be selected as the Interim  
23 Executive Director of this very important agency.  
24 I would like to acknowledge the comments that were  
25 made. I come from the Department of Health. I've

1 worked in the IT within an agency, so I'm very  
2 sensitive to the unique needs of all of our  
3 agencies. And you are right: They're very, very  
4 important and need to be acknowledged and need to  
5 put to the forefront. I hope to be meeting with  
6 each of you and your staffers to get those unique  
7 requirements and have that all prepared for when we  
8 finally find a permanent person for this position.  
9 So thank you very much.

10 GOVERNOR CRIST: Thank you, sir.

11 Our next Cabinet meeting is Tuesday,  
12 August 12th.

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1           GOVERNOR CRIST: Before we begin our regular  
2           agendas, and with the permission of my colleagues,  
3           I think it would be appropriate, given news  
4           accounts and other information that has come to  
5           light, to have Commissioner Saxon present a report  
6           on licensing in the mortgage industry.

7           Commissioner, I want to make sure that you  
8           understand our concern that the people of this  
9           state expect licensing laws to be strictly  
10          enforced. What steps are being taken by the Office  
11          of Financial Regulation to ensure that this is  
12          done?

13          MR. SAXON: Thank you, Governor. I appreciate  
14          the opportunity to be here today. I'm as disturbed  
15          as you are about what has been written in the media  
16          of late. While I do not agree with the report's  
17          characterization of our office, I do take the  
18          allegations very seriously.

19          The report identifies 12 individuals that were  
20          drawn out of the database of our office of some  
21          280,000 names, and these individuals go back over a  
22          10-year period. I don't believe the report fully  
23          or justly portrays our effectiveness in what we do  
24          in the registration process. I believe there has  
25          been a rush to judgment by the media based on very

1 little about the underlying information that  
2 provided the facts that were presented in that  
3 report.

4 As a example, of the 12 individuals that were  
5 identified, three of them had arrest records going  
6 back 10 years, 17 years, and 18 years, and we also  
7 found another five had situations where there was  
8 no criminal activity prior to becoming registered.  
9 We are, however, reviewing the available  
10 information of our current licenses and looking for  
11 any criminal activity just to make certain that we  
12 are doing the right thing.

13 I want to tell you we take licensing very  
14 seriously. We have always considered licensing to  
15 be our first line of defense. The best way to keep  
16 a problem out of the state is not to allow that  
17 problem to be licensed in the first place, and that  
18 has always been our policy within the office. If  
19 we've made mistakes, they were honest mistakes.

20 Contrary to media reports, we do not have a  
21 systematic process of licensing felons. In the  
22 last 10 years, we've denied over 30 -- 30 percent  
23 of our applications processed in the last 10 years  
24 have not been approved. And of those, nearly 400  
25 of them were people with criminal records. Our

1 office has checks and balances in place which  
2 require each applicant to undergo scrutiny.

3 We do have a plan to ensure the safety of  
4 Florida consumers, as follows: To make sure that  
5 we do not see these problems in the future, as you  
6 may be aware, there was recently a law passed  
7 called the Safe Mortgage Act. This was passed by  
8 Congress, which requires certain individuals who  
9 have a past not to be licensed in the mortgage  
10 industry. We'll be utilizing those guidelines in  
11 the future as set forth in that act.

12 I should also let you know that we have  
13 supported that act, even written letters to  
14 Congress supporting it, inasmuch as it not only  
15 provides better standards, but it creates  
16 uniformity across the country so that everybody has  
17 an equal playing field. More importantly, it will  
18 not only just address those companies who -- in  
19 Florida right now, the way our act works, we can  
20 only address those institutions that are state  
21 chartered or registered with our office. We have  
22 no jurisdiction over federal institutions. This  
23 law will allow for jurisdiction in that area as  
24 well. I am prepared at the next Cabinet meeting on  
25 August 12 to bring forth a rule to codify those

1 policies which we are enforcing at this time.

2 A number of things the act does, one, it  
3 requires the licensing of those loan originators  
4 which I just mentioned. Florida law currently does  
5 not require the licensing of loan originators, and  
6 this was a criticism in the article. We have  
7 always been supportive of licensing loan  
8 originators. With this federal law, that will no  
9 longer be a problem for us and we'll be able to  
10 enforce the provisions as set forth in that new law  
11 that was just passed.

12 The law also will prohibit anybody who has  
13 ever had their license revoked as a mortgage broker  
14 from ever applying again. There will also be a  
15 seven-year moratorium on anybody who has a felony  
16 conviction, and it will be a permanent moratorium  
17 for any felony conviction for crimes involving an  
18 act of fraud, dishonesty, breach of trust, or money  
19 laundering.

20 The second thing we're doing is, we're going  
21 to require a management review of all applications  
22 that contain criminal records, and they all must be  
23 reviewed by the division director for any final  
24 agency action.

25 Third, we're going to be reviewing all

1 available information about current licenses with a  
2 criminal history to determine the circumstances  
3 under which they were licensed. We believe these  
4 enhanced procedures will provide the additional  
5 protections that Floridians rightfully should have.  
6 I'm also asking our inspector general to conduct an  
7 audit of our operations and procedures to make sure  
8 that we are making the right choices. And I would  
9 also invite any members of the Commission to  
10 participate in that process as well. We will be  
11 coming back to the Commission with that report once  
12 that review is completed.

13 I want to emphasize to all of you that, unlike  
14 what has been represented in the media, we do not  
15 have a systematic process of licensing felons.  
16 That is one of the first things we would not want  
17 to do. We take licensing very seriously. As I  
18 said before, we consider this the first line of  
19 defense, and we will do everything with our  
20 existing authority and everything with the new  
21 guidelines which have been established by Congress  
22 to make sure that only the proper people who should  
23 be serving as mortgage brokers in the state will  
24 get a license.

25 In my 33 years of public service, I've often

1           seen the need for change and growth in government  
2           policy. Perhaps now is the time for such change.  
3           I hope that will allow us an opportunity to allow  
4           for that report -- the audit to be done by the  
5           inspector general. I'm certain once that report is  
6           completed, you will see that our office is operated  
7           effectively and efficiently and has always done  
8           what we always believed was in the best interests  
9           of the public of the state of Florida.

10           GOVERNOR CRIST: Any questions? Commissioner?

11           COMMISSIONER BRONSON: Don, having read the  
12           article, of course, it was quite eye-opening if you  
13           read it as it came out. But having gone back and  
14           read the current law, it looked to me like it says  
15           you shall issue a license if certain parameters  
16           have been met, and it didn't look like it gave you  
17           much option. Will this new rule -- are we going to  
18           have to actually have legislation that's going to  
19           fix some of this problem, since it's already  
20           written in the law, you shall under certain  
21           circumstances issue these licenses, or can we do  
22           this strictly by rule?

23           Governor, I was kind of concerned about that,  
24           because, you know, the word "shall" doesn't give  
25           you much leeway. When it says you may, it gives

1           you some leeway. "Shall" to me says you will  
2           without fail issue that license under that  
3           circumstance. So I was concerned when I read that.  
4           I'm thinking that may take an actual legislative  
5           fix to take care of that part.

6           However, I will also mention to the members of  
7           the Cabinet here and the Governor that, you know,  
8           when we're doing civil rights restoration for  
9           people who have served their time and so forth and  
10          finish their sentence and they come before the  
11          Clemency Board, we do put, as you're all aware,  
12          limitations when the Governor makes the suggestion.  
13          Someone who has committed a crime with a firearm,  
14          they don't necessarily get their firearms rights  
15          back. As a matter of fact, they very seldom ever  
16          get their firearms rights back.

17          So it could be that under those circumstances  
18          of getting their civil rights, we may need to take  
19          a look at those particular instances where  
20          financial fraud was the main player in the crime as  
21          to whether under the issuance of the civil rights,  
22          whether they can participate in that line of work  
23          again. I mean, that's something that I think we  
24          ought to take a look at that will be part of the  
25          decree once it has been set by the Board.

1           So, you know, I understand. I saw the  
2           article. It looked really bad. And let me ask  
3           this one last question. Of the -- I know it said  
4           10,000, I think it was. Have you got any  
5           determination yet, and have you asked for those  
6           10,000 names that were listed in that article so  
7           that you can review to see how many of those have  
8           factually committed some type of crime since  
9           they've been registered, or was it all before they  
10          were registered, or have any determination on those  
11          10,000 names or whatever it was that I read in the  
12          article?

13           MR. SAXON: I believe in the article they  
14          mentioned 4,000 who may also have criminal records  
15          that got a license with our office. I'm not sure  
16          those 4,000 were people that were licensed. It may  
17          be that some of those people were also loan  
18          originators, who are not required to be licensed  
19          with our office. But we are going back and trying  
20          to independently do a review of everybody that we  
21          have licensed who has a criminal record to look  
22          behind the determinations that were made as to why  
23          that person got that license to make sure proper  
24          procedures were followed and the proper decision  
25          was made on that application.

1           At the same time, we have reached out to the  
2 Herald to see if by chance they might allow us to  
3 look at their information so we can go back. That  
4 would save us a lot of time. At this point, they  
5 have not been willing to provide us that  
6 information. So that being the case, you know,  
7 we'll have to reconstruct everything they did on  
8 our own, but we are committed to do that.

9           I'm also committed to having the inspector  
10 generals come in. I believe if you do that, you  
11 will find that our office was always acting with  
12 the best interests of the consumers in mind to make  
13 sure that we made the right choices on who got  
14 licensed in the state of Florida as a mortgage  
15 broker.

16           GOVERNOR CRIST: Thanks, Commissioner. CFO?

17           CFO SINK: Thank you, Governor. There are a  
18 couple -- several things that I have to say,  
19 particularly in response to the reporting that has  
20 been done about whether or not the OFR did or --  
21 does or does not have the ability to prevent these  
22 people with questionable backgrounds from engaging  
23 in mortgage brokerage, which is a business that  
24 enables a professional to really learn about the  
25 most intimate details of a family's financial

1 situation. And we know that this whole system has  
2 been rampant with fraud.

3 One of the things that I called for earlier in  
4 the week is the development of an emergency rule to  
5 address now tightening up these licensing  
6 procedures. So last week I asked my lawyers in the  
7 Department of Financial Services to undertake a  
8 review of the statutes under which the OFR operates  
9 and make some recommendation to the OFR, and also  
10 to us as the Financial Services Commission, to give  
11 me their best opinion about what we could do under  
12 rulemaking authority, because the law says that we,  
13 operating as the Financial Services Commission,  
14 only have two things that we can do as it relates  
15 to OFR. One is to hire and fire the director, and  
16 the second one is to approve rules, and that's it.  
17 In fact, my department is legally prohibited from  
18 being involved in any way directly in the operation  
19 of the OFR.

20 So, members, what you have in front of you --  
21 and this is not necessarily for discussion, but we  
22 have a two-page summary that's backed up by a very,  
23 very well done reporting from our legal staff and  
24 very detailed about all the things that we could  
25 have been doing had we had the appropriate rules in

1 place, and we could have been denying more of these  
2 licenses.

3 Back to the issue of the loan originators, no,  
4 there's not a provision for us to license loan  
5 originators, but there are provisions that when  
6 there's wrong -- when we identify wrongdoing on the  
7 part of these loan originators, then we can issue  
8 sanctions against them. So it has nothing to do  
9 with licensing. It has everything to do with our  
10 ability that we have today to be able to sanction  
11 these loan originators.

12 And so my distress about this situation is  
13 that these -- the Commissioner is coming before us  
14 today telling us about some of the things that his  
15 department is going to be doing. And we've known  
16 or he has known about these issues certainly for  
17 many months, because the newspaper has been  
18 requesting thousands of public records, and we  
19 could have been doing a lot more before we got to  
20 this point today. And to me, it's almost too  
21 little too late. And I'm on record as saying that  
22 I've lost confidence in the Commissioner.

23 I understand that our Commissioner has had a  
24 wonderful 30-plus year career, and he's viewed as  
25 being a very, very fine banking and credit union

1 regulator. That's the world that he came from, but  
2 we're living in a world today of people who were  
3 engaged in financial transactions that are way past  
4 that.

5 And the fact that we got a very damning report  
6 from a grand jury who was sitting for a year  
7 studying the issue of money transmitting businesses  
8 that caused our Office of Financial Regulation to  
9 look very, very bad, and then this most recent  
10 reporting about the fraud and perhaps mishandling  
11 of the licensing of mortgage brokers has just  
12 caused me to conclude that I believe, I do believe  
13 we need new leadership.

14 Now, the specific proposal I want to make is  
15 that we make available to the attorneys at the OFR  
16 and to your staffs, because I myself only got to  
17 read this over the weekend, this very fine analysis  
18 done by the lawyers in my department and these  
19 specific recommendations about a number of rules  
20 that we could pass when we come back here on August  
21 the 12th to tighten up these procedures and address  
22 the issues of these -- of emergency rulemaking, in  
23 addition to following his suggestion that we do  
24 have an investigation of the activities of the  
25 office, because I happen to believe and have been

1 told that there are many systemic problems about  
2 the licensing operations, and certainly about the  
3 enforcement operations at the Office of Financial  
4 Regulation.

5 MR. SAXON: If I may respond, Governor.

6 GOVERNOR CRIST: Sure.

7 MR. SAXON: I appreciate the comments made by  
8 the CFO. She is concerned, as I am, about the what  
9 I would call perception right now as to the way we  
10 process licenses.

11 If in fact what has been presented in the  
12 media is accurate, I myself would be concerned and  
13 would be willing to step down. Excuse me. But I  
14 think nobody has been able to present to us the  
15 other individuals that they claim have some kind of  
16 a criminal background that should not have ever  
17 been licensed. That's why I've called for the  
18 audit. I think we should be allowed an opportunity  
19 to look behind those individuals that got licensed  
20 to determine whether or not we made the right  
21 choices.

22 If you simply look at the 12 that were  
23 mentioned in the report, as I mentioned before,  
24 three of them, the offenses go back more than 10  
25 years. And I did have a chance to look at the

1 proposed rules just for a second before we came up  
2 here. Even with those rules, these people might  
3 not fit, because their offenses go beyond 10 years,  
4 which I believe you had as one of your standards  
5 for not getting licensed.

6 I do not believe for a minute, Governor and  
7 Cabinet, that the Office in any way has done  
8 anything to allow for the systemic process of  
9 people with felonies getting licenses. We have  
10 checks and balances. We make the right choices.  
11 We do what we think is appropriate. We look at  
12 each case on a case-by-case basis. And I think if  
13 you allow us an opportunity to go back and look at  
14 those other cases where they've identified people  
15 who maybe have criminal records, you may find that  
16 these criminal offenses were -- they could have  
17 been disorderly conduct. They could have been  
18 things that occurred when they were in college. We  
19 just don't know. And until we have an opportunity  
20 to find what's behind these other situations, I  
21 don't know if we should be rushing to judgment as  
22 to, you know, how you view the Office and their  
23 operations.

24 CFO SINK: Governor, could I just respond?

25 GOVERNOR CRIST: Yes, of course --

1 CFO SINK: I know General McCollum --

2 GOVERNOR CRIST: CFO.

3 CFO SINK: The Commissioner is focused on a  
4 small number of specific cases, and he has the  
5 right, as he should, to respond to those. But this  
6 is a much bigger issue. I have spoken myself to  
7 several of the leaders in the mortgage brokers  
8 professional organization, and they have been  
9 begging, they have been begging for years to have  
10 tighter professional requirements, because they've  
11 known that there are bad people in this industry  
12 who have been preying upon others. And, you know,  
13 you might argue that, yes, it may be, and it  
14 probably is partly a legislative issue. But they  
15 also believe that our Office of Financial  
16 Regulation, who is responsible for the licensing,  
17 has not been supportive of their efforts, as  
18 evidenced by these many recommendations that have  
19 been pointed out to me about rules that we could  
20 have been operating under. It's something bigger  
21 than just the 10 or 12 or 15 or 500 examples that  
22 were cited in some newspaper article.

23 GOVERNOR CRIST: Thank you. General.

24 ATTORNEY GENERAL McCOLLUM: Governor, I'm very  
25 concerned about the mortgage fraud issue, and it's

1           certainly rampant in our state right now. We have  
2           the largest number of mortgage fraud cases of any  
3           state in the Union in the current conditions we're  
4           under. Mr. Almeida, who was the lead person in the  
5           Miami Herald article they cited for criminal  
6           behavior, was prosecuted by the Attorney General's  
7           Special Prosecutor's Office and Statewide  
8           Prosecutor's Office and convicted last October, and  
9           one of his associates is in the process of being  
10          prosecuted currently. I don't know any more than  
11          you do how many of these people who are listed by  
12          the Miami Herald have a previous record of  
13          convictions, but assuming they all do, we need to  
14          get to the bottom of that, and we need to find out.

15                 But I would say to you that we also don't know  
16          how many people who may have licenses who had  
17          previous convictions of some sort committed  
18          mortgage crimes or committed crimes while they held  
19          these broker's licenses compared to people who  
20          didn't commit crimes who may now have committed a  
21          mortgage fraud case. In other words, the  
22          correlation isn't clear. We just have these half  
23          dozen examples that the paper put forward, which  
24          are bad.

25                 So we do need to do something, but I think

1           what we need to do first and foremost before we  
2           condemn Mr. Saxon or your agency is to have a  
3           thorough investigation.

4           And one thing I would encourage, Governor, and  
5           I would hope my colleagues here as a part of this  
6           Commission and the Cabinet, that we pool our  
7           inspector generals, perhaps under the direction of  
8           your office, sir, and have an outside look or a  
9           look by the Commission, if you will, with our  
10          inspector generals, at this process and analyze all  
11          of the matters that Mr. Saxon has put forward to us  
12          and what the Miami Herald has put forward, and then  
13          we'll have a much better basis to make a judgment.

14          Now, one thing I do know, and that is the law,  
15          and I've looked at it. Our office has looked at  
16          that same law that yours has, CFO Sink. And I want  
17          to make something real clear about the current  
18          state of the law with regard to the powers that the  
19          OFR has or doesn't have.

20          First of all, if civil rights have been  
21          restored to a convicted felony, if they've been  
22          restored, with one exception, Mr. Saxon and OFR are  
23          required to issue a license to a mortgage broker,  
24          to somebody who applies if their civil rights have  
25          been restored. That exception has to do with the

1 fact that the civil rights may be denied, may be  
2 denied, if the actual crime that was committed was  
3 a felony or a first degree misdemeanor, normally a  
4 felony, and directly related to the specific  
5 occupation, trade, vocation, profession, or  
6 business for which the license, permit, or  
7 certificate is sought. That's the way the statute  
8 reads. And so there's some question, I suppose, as  
9 to what is directly related to the occupation of a  
10 mortgage broker. Certainly fraud is. If somebody  
11 has previously been convicted of fraud, I don't  
12 think there's any question about it.

13 Mr. Saxon, Don, you cited possibly money  
14 laundering and some breach of trust. Breach of  
15 trust itself is not a crime. I don't know if  
16 embezzlement is or not. Arguably it isn't.  
17 There's a court case, by the way, that even said in  
18 one case of fraud, you had to go issue the license  
19 to a mortgage broker. Bribery, forgery,  
20 counterfeiting, extortion, racketeering, grand  
21 theft, are they directly related to the job of a  
22 mortgage broker? The court might not find that the  
23 way the statute reads. Certainly not related would  
24 be robbery or drug trafficking or assault or child  
25 predators or rape, or any other number of other

1 crimes that were cited in the Miami Herald article.

2 And that's why I suggested yesterday not that  
3 we go back and revisit the issue of trying to do  
4 automatic restoration of civil rights. That has  
5 been debated. I was on the dissenting side of that  
6 some months ago. I know I didn't prevail.

7 But with respect to the licensing part of  
8 this, as Commissioner Bronson pointed out, we could  
9 reconvene, and I suggest we do, long before we have  
10 the next normal meeting of the Clemency Board, we  
11 could reconvene as the Clemency Board and pass a  
12 provision, a new rule under our hat as clemency  
13 that would clearly set forth that somebody who is  
14 being given their civil rights back is not going to  
15 have the right to be a mortgage broker or to be --  
16 you know, to practice in one of these licensed  
17 professions that we think has some basis in trust  
18 and in fiduciary duties and so on -- there are  
19 others besides mortgage brokers -- if that person  
20 has been convicted of crimes, felony crimes, and  
21 it's a period of time, a reasonable period of time,  
22 like seven years. And the seven years I didn't  
23 pull out of thin air. That is what is currently in  
24 legislation before Congress that both Senator  
25 Martinez and Congressman Barney Frank are

1 supporting regarding loan originators.

2 MR. SAXON: That's correct.

3 ATTORNEY GENERAL McCOLLUM: That somebody who  
4 has been convicted and then we give them their  
5 civil rights back, they're released from prison,  
6 they ought to at least have to wait seven years  
7 before they can get an occupational license in an  
8 area of public trust where the finances of an  
9 individual and the privacy rights of an individual  
10 are affected. And mortgage brokers and loan  
11 originators -- and there are others, but those two  
12 certainly fit in that.

13 And I suggest to my colleagues that except for  
14 the Legislature acting, we have no power under  
15 rulemaking as the Commission, the Financial  
16 Services Commission, to do much more than go around  
17 the edges of this, but we do have the power to  
18 condition the restoration of the part of civil  
19 rights that deals with licensing and the right to  
20 have an occupational license for at least letting a  
21 period of time pass. With the rate of recidivism  
22 as high as it is -- about 50 percent return to  
23 prison for convicted felons within five years -- a  
24 seven-year wait would at least allow Mr. Saxon and  
25 others to determine in their licensing capacity

1 more reasonably whether somebody that they might  
2 let have an occupational license would likely go  
3 back to that life of crime. So I really think we  
4 should do that.

5 One thing I want to point out while I have the  
6 microphone is that one point in the Herald about  
7 your going and doing FBI checks kind of bothered me  
8 for a minute, and then I looked at it, about all  
9 that rulemaking process we went through and so  
10 forth. And I would like you to clarify, Don, one  
11 thing for us, because the paper never did, I don't  
12 think. How much does it cost to get an FBI license  
13 check, a background check with NCIC that the  
14 statute that went into effect in 2006 now is  
15 requiring you to do? How much does it cost for  
16 each one of those checks?

17 MR. SAXON: \$24.

18 ATTORNEY GENERAL McCOLLUM: And you told me  
19 there were, what, about 25,000 applicants screened  
20 last year and the year before each that would have  
21 gone through that kind of a check had it been in  
22 place?

23 MR. SAXON: We've been averaging the last five  
24 or six years about 25,000 applications a year.

25 ATTORNEY GENERAL McCOLLUM: And by my

1           calculations, that would be about \$600,000 a year  
2           in cost.

3           MR. SAXON: Yes, sir.

4           ATTORNEY GENERAL McCOLLUM: And that was not  
5           designed, to my knowledge, by the Legislature to  
6           come out of the general pocket of the OFR, and  
7           that's why we went through as a body here, this  
8           Cabinet did, over the last two years some  
9           machinations that took longer than maybe we would  
10          like, but they granted you the rule eventually to  
11          be able to charge the applicant the \$24.

12          MR. SAXON: That's correct.

13          ATTORNEY GENERAL McCOLLUM: And you're now  
14          making those checks.

15          MR. SAXON: Yes.

16          ATTORNEY GENERAL McCOLLUM: All right. I just  
17          wanted to clarify that, because I don't think that  
18          your processing in that regard is unreasonable.

19          So, Governor, the bottom line for me is that I  
20          would urge my colleagues, and you in particular,  
21          but all of us, to have an inspector general group,  
22          I would suggest all of our inspectors general, to  
23          review the matters that were brought up by the  
24          Miami Herald and review what Don Saxon's responses  
25          have been and check out this matter and report back

1 to us hopefully soon.

2 And then secondly, I would urge us to convene  
3 as the Clemency Board. I would be glad to write up  
4 a proposed rule change, if you're open to it, to  
5 make the necessary changes with regard not to them  
6 revisiting the issue of the automatic restoration  
7 of voting rights or civil rights generally, but to  
8 define some conditions, as Commissioner Bronson  
9 suggested, with respect to a waiting period at  
10 least, which I think we can do with regard to those  
11 who are felons, because it's going to get worse  
12 going forward than it has in the past if we don't  
13 do something like that with regard to those who  
14 have been convicted at least of crimes related in  
15 some way to the matters brought forward by the  
16 paper, and mortgage brokers in particular.

17 GOVERNOR CRIST: Thank you. Thank you very  
18 much, General.

19 Just a few comments, and then if you want to  
20 entertain a motion, that's fine, of course.

21 You know, as I look at this thing, you know, I  
22 read the articles in the Miami Herald as well and,  
23 as others, found it disturbing and distressing, and  
24 then you think about your duty as a public servant  
25 and our collective duties as public servants to

1 look out for the health, safety, and welfare of the  
2 people that we serve and to protect them and to  
3 make sure that that obligation, that constitutional  
4 obligation is met.

5 And just a couple of thoughts about the  
6 overall picture. I appreciate the press. I  
7 understand the media has a function and a job and a  
8 duty as well, with journalistic ethics applied.  
9 But I'm a "trust but verify" guy also, and I think  
10 that, you know, we've all had an opportunity since  
11 the story broke to have ourselves and our staffs  
12 give some good review. And I think it's very  
13 important, Don, that you have the opportunity to  
14 speak before us today, and I also appreciated the  
15 letter that you sent each of us on the Cabinet.

16 And I think that one of the points that sort  
17 of jumps out at me is, as you're talking about  
18 restoring felons' rights and giving people a second  
19 chance to lead productive lives, our first duty is  
20 to protect, but I also believe that we have a duty  
21 to give people second chances. And as the General  
22 has said, and the Commissioner and the CFO,  
23 whatever we do, I don't want it to be so broad  
24 sweeping that it takes away an individual's  
25 opportunity to have a second chance to be a

1           productive citizen.

2           And so I would agree with my colleagues that  
3           whatever we do, we have to tighten up, particularly  
4           as it relates to if they've committed crimes in  
5           their past that relate to their integrity. That's  
6           really what's at work here, is trust, and whether  
7           or not we put people in positions of trust related  
8           to mortgages, a huge issue in our country, and  
9           obviously an enormous issue here in Florida. And I  
10          think that -- but I want us to be cautious as well  
11          and exercise a degree of compassion that people who  
12          may have in their past committed crimes that don't  
13          relate directly to stealing or fraud or some kind  
14          of scam, that they maintain an opportunity to  
15          become productive citizens.

16          You know, I did a town hall meeting in Lake  
17          Worth not long ago, and a young lady there, you  
18          know, came before us, the Lieutenant Governor and  
19          myself, and expressed her story about how she had  
20          previously committed a felony and had been trying  
21          and trying and trying to get a license to become a  
22          productive citizen again here in Florida, and it  
23          touched my heart. And I think that, you know, when  
24          it doesn't relate specifically to something of a  
25          pecuniary or financial arena and a position of

1 trust, then we need to give people that second  
2 chance. Otherwise, we might be forcing them back  
3 into a life of crime, and that's not what we want  
4 to do. We believe in rehabilitation. We believe  
5 in second chances. I certainly do.

6 And as the General expressed, you know, last  
7 year, we made a significant change here in Florida  
8 by giving people the opportunity to have their  
9 rights restored and give them a second chance and  
10 an opportunity to become productive citizens again.  
11 Everybody deserves a second chance, unless,  
12 General, as you well point out, the breach of trust  
13 that they have committed in their past with the  
14 commitment of a crime might have related directly  
15 to a license they may be seeking from you.

16 So my confidence is shaken, candidly, and, you  
17 know, we have tough decisions to make, but, you  
18 know, we got elected to make a difference and not  
19 to mark time, and so sometimes we have to do  
20 difficult things. And I too appreciate your  
21 service in the past, and as the CFO indicated, you  
22 had a long history of having served well  
23 previously. But all of us have a duty, you know,  
24 to hear the red flags and the alarm bells, more  
25 appropriately, and understand that, you know, you

1 let others know that something is coming down the  
2 track. And if there are things that we can do  
3 earlier rather than later to preclude some of those  
4 unfortunate circumstances to occur, we have a duty  
5 to do that for the people. They're counting on us.  
6 You know, whether you're elected or appointed, they  
7 count on us, and we can't let them down.

8 I want to thank and express my gratitude to  
9 our chief financial officer. CFO Sink has a  
10 tremendous background as it relates to financial  
11 matters, and the banking industry in particular,  
12 and I am grateful and want to express my gratitude  
13 to you for your leadership in this arena and how  
14 you have brought this to this moment in time today.

15 CFO SINK: Thank you, Governor. Just a couple  
16 more things.

17 I understand, General McCollum. We read your  
18 letter yesterday, and I think we all agree that we  
19 need to have provisions, however we go about it, to  
20 prohibit people who have committed financial  
21 related crimes in the past from engaging in  
22 occupations in which they have too much of an  
23 opportunity to go and repeat the same financial  
24 crime.

25 But, Governor, I do agree with you. You were

1 very eloquent in your expression that the way to  
2 handle these requirements for occupations, I  
3 believe, is through looking at the specific  
4 occupation and tying the requirements to that  
5 occupation as opposed to going through the clemency  
6 process, because time and time again, we've seen  
7 people coming to us to ask for clemency or pardons  
8 just because they want to be able to go to work as  
9 an electrical contractor or as a barber or as  
10 something else. And that's why I asked a couple of  
11 meetings ago to have some of the experts in this  
12 area of clemency versus occupational requirements  
13 come and speak to us, and maybe we would reconsider  
14 having some people come and educate us and do some  
15 of these presentations.

16 ATTORNEY GENERAL McCOLLUM: Would you yield on  
17 that one point?

18 GOVERNOR CRIST: General.

19 ATTORNEY GENERAL McCOLLUM: Because, CFO Sink,  
20 what I was asking for -- maybe my letter wasn't  
21 clear -- was that we condition our giving the civil  
22 rights restoration, licensing rights with respect  
23 to the specific licenses, like mortgage brokers, A,  
24 B, C, not carte blanche with respect to the kinds  
25 of crimes that we want to restrict, because I don't

1 think we have the power to do it anywhere else but  
2 in the clemency proceeding. But we can tailor that  
3 to meet those types of occupations that we only  
4 restrict, because I want to people to go out and  
5 get jobs, just like you do, who get out of prison,  
6 who can go and do things where public trust isn't  
7 affected and not have their licenses denied. I'm  
8 not looking for an across-the-board restraint on  
9 that. But I am looking at the same thing you are  
10 and just telling you what I really believe as a  
11 lawyer and your Attorney General, that the only  
12 place we have the power to accomplish what you want  
13 to have accomplished regarding the Legislature  
14 doing it is through a conditioning rule that the  
15 Clemency Board could issue with regard to specific  
16 occupations.

17 CFO SINK: Philosophically, I gather we're in  
18 a -- I think we're in a similar place. Our  
19 department licenses insurance agents, and there are  
20 very specific requirements about people who have  
21 engaged in financial crimes not being permitted to  
22 serve as insurance agents, because they're dealing  
23 with people's money. And I think that -- I would  
24 be interested in our just engaging a study of where  
25 is the best place, getting all the information from

1 the people who say, well, it's best in clemency, or  
2 it's best in legislation. There are many experts  
3 out there. I'm seeing Mark Slackman in the back,  
4 who has done a lot of work on this issue, who could  
5 inform us better so that we can get to the place  
6 where I think you and I agree there are certain  
7 occupations we don't want people who have a history  
8 and a pattern of performing particularly financial  
9 crimes back in these types of businesses that are  
10 very closely aligned with financial processes.

11 Governor, again, I -- for myself, I've talked  
12 to Commissioner Saxon. My confidence has been very  
13 shaken. We could lay it all off on just one  
14 article in one newspaper, but I think,  
15 unfortunately, to me, there's just a lack of a  
16 sense of urgency in the Office of Financial  
17 Regulation.

18 And what we may do is -- I want to bring the  
19 performance issues up, and it may be more advisable  
20 to go off and -- I would like to maybe make a  
21 motion that we have the Office come back in two  
22 weeks at our next meeting with specific proposals  
23 for emergency rules along the lines of what my  
24 staff has recommended and your staffs would work  
25 on, number one. So let me just make that motion

1           that we direct the Office of Financial Regulation  
2           to come back at the next Cabinet meeting with  
3           proposals for emergency rules to tighten up the  
4           licensing processes.

5                     GOVERNOR CRIST:  Is there a second?

6                     COMMISSIONER BRONSON:  Well, Governor, if I  
7           may --

8                     GOVERNOR CRIST:  Commissioner.

9                     COMMISSIONER BRONSON:  I'm not sure -- and  
10          since I'm not in that frame of work, I don't know  
11          whether that can all be done by the next meeting by  
12          the time every single issue has been addressed.

13                    The other issue I would like to know really in  
14          the end, especially if the inspector general  
15          process is initiated, so that they actually have  
16          more help to get to the bottom of this, how much of  
17          these are verifiable issues that are on that big  
18          list?  I mean, probably to do a rule or have it in  
19          law so that there is no doubt that we cannot issue  
20          a license to people who have committed mortgage  
21          fraud before, for instance, being as part of the  
22          law or if we do it in rule -- we could do it either  
23          way -- is fine, but I want to make sure.  Are we --  
24          you know, are we overreacting in some cases when we  
25          need to be looking at the facts first?  I don't

1 want to go through and spend huge amounts of money  
2 and do all of this stuff unless we know for sure  
3 what we're dealing with. And, I mean, I read the  
4 article. It sounded really bad. But I want to  
5 make sure that those numbers match up with numbers  
6 here.

7 And if I find out -- as a law enforcement  
8 officer of the state, if I find out that somebody  
9 came in with a complaint and it wasn't checked out  
10 and we didn't go after people who were committing  
11 mortgage fraud, that would make me even more scared  
12 that we're not following through with those types  
13 of complaints. I would like to find out all that  
14 information before we make a decision on where  
15 we're going.

16 Now, if this Cabinet feels that some type of  
17 rule needs to be done in the interim -- and I'm not  
18 sure based on the law what we really can do,  
19 because under certain circumstances, it says -- and  
20 I read it. I'm not a lawyer, thank God. I guess  
21 I've got enough on my hands without having to worry  
22 about being a lawyer.

23 CFO SINK: I'm with you.

24 COMMISSIONER BRONSON: But when I read where  
25 it says --

1 CFO SINK: Down at the other end of the hall.

2 COMMISSIONER BRONSON: When I read where it  
3 says under these parameters --

4 GOVERNOR CRIST: Lawyers can do good things  
5 too. Abraham Lincoln was a lawyer.

6 COMMISSIONER BRONSON: I'm not really downing  
7 -- I'm really not downing lawyers too much. I  
8 happen to know that if you ask doctors or lawyers  
9 the same question, you'll get, however many are in  
10 the room, probably a different answer from all of  
11 them.

12 GOVERNOR CRIST: Well, my dad is a doctor, and  
13 I do get a different answer.

14 COMMISSIONER BRONSON: So everybody has their  
15 own conclusion of where we ought to go on certain  
16 issues. But my point is, I read the word "shall."  
17 "Shall" doesn't give you much leeway when the law  
18 says under these parameters, you shall issue a  
19 license. And until we somehow get past that word  
20 "shall" and that issue of license, I'm not sure  
21 we're helping Mr. Saxon at all until we either get  
22 the law changed or we find a way that we can do the  
23 rule that meets the conditions of the law, that  
24 actually helps him in this effort, because we can  
25 talk about this all day long, about how bad it is

1 and whether people should get their license or not,  
2 but there are specific things that are going to  
3 have to be changed for him to go any further or any  
4 different than what he has already been doing under  
5 the law.

6 And the only thing I'm really concerned about  
7 now is, were there complaints put in that were not  
8 investigated that people had defrauded someone.  
9 That would concern me right now, because that could  
10 be going on today as much as it was going on  
11 yesterday if it was not reacted upon. That's my  
12 most immediate concern, is that these -- maybe,  
13 Don, can you -- if you don't mind, Governor.

14 GOVERNOR CRIST: I don't mind. I don't mind.  
15 Of course.

16 COMMISSIONER BRONSON: Can you address that  
17 issue? Have there been any complaints that have  
18 not been acted on that we find out that these  
19 people have defrauded the public or lending  
20 institutions in any way that we're not  
21 investigating or getting to the bottom of?

22 MR. SAXON: My understanding of the 12 that  
23 were identified in the article, we had two that had  
24 customer complaints, and we have been working on  
25 those complaints. And we have other situations

1           where we had actually gone and revoked licenses of  
2           other individuals where we didn't have customer  
3           complaints.

4           To go back to your other issue, we are in the  
5           process right now of developing a rule to come back  
6           before this Cabinet on the 12th to codify our  
7           current policy, which is to go with the law that  
8           was recently passed by Congress, the Safe Mortgage  
9           Act. We believe that will narrow the scope as to  
10          those people who can get licensed. We would also  
11          like to go back and look at CFO Sink's proposal to  
12          see if there may be something to those that might  
13          also be of benefit to us in the way we go about  
14          screening those individuals who are going to get  
15          licenses in the future as mortgage brokers.

16          But we believe right now we can certainly  
17          codify by rule those guidelines which have been  
18          established by Congress. We may have to come back  
19          at a later date to refine it a little bit by  
20          statute, and we'll be prepared to do that, but we  
21          do not want to delay on this. We want to make sure  
22          that we get out front on this to make sure that  
23          only those people who should be entitled to a  
24          license are getting a license, and we believe the  
25          federal guidelines set a very good standard for who

1           those individuals should be. Again, though, at the  
2           same time, we would be more than willing to look at  
3           CFO Sink's proposals to see how those might be able  
4           to complement those standards at the federal level.

5           GOVERNOR CRIST: Thank you, Don.

6           CFO SINK: Governor?

7           GOVERNOR CRIST: Go ahead. Go ahead, and then  
8           the General. Sorry.

9           CFO SINK: I'm going to try really hard on  
10          Commissioner Bronson to get him to second my  
11          motion.

12          GOVERNOR CRIST: Well, he might offer a  
13          friendly amendment.

14          CFO SINK: Well, Commissioner, all I'm asking  
15          for is that -- the rulemaking in this department  
16          has been very weak, and I want -- all I'm asking  
17          for is that they come back here in two weeks with  
18          some proposed rules --

19          ATTORNEY GENERAL McCOLLUM: Well, we --

20          GOVERNOR CRIST: Pardon me, General.

21          CFO SINK: -- for us to -- with some proposed  
22          rules related to this whole licensing issue for us  
23          to consider, and then if we like them, we vote them  
24          up, and if we don't, we vote them down. That's all  
25          this motion is asking for, is for their department

1 to come back with some suggested rulemaking that  
2 would strengthen our ability to monitor and manage  
3 this industry.

4 GOVERNOR CRIST: Thank you. General.

5 ATTORNEY GENERAL McCOLLUM: All I was going to  
6 say is that I think what you want is going to  
7 happen, from what Don Saxon said. And I think my  
8 sense is the same as Commissioner Bronson's appears  
9 to be, and that is that I'm willing to work with  
10 you and with the Governor and with Commissioner  
11 Saxon on proposed rules over the next two weeks,  
12 but I don't think a motion is needed to do this.

13 And I think we're -- I'm a little apprehensive  
14 and a little uncomfortable, simply because I don't  
15 know that the authority we have to do -- how far we  
16 can go, for the same reason I read you earlier. So  
17 I'm just apprehensive about asking or voting for a  
18 motion. But I think we're all going to get some  
19 proposed rules, and we can obviously look at what  
20 you put forward and examine them in the meantime.

21 But I would really like to stress my own  
22 personal concern and hope that we could join  
23 together and ask for a group of our inspector  
24 generals -- that would be the right group, I think,  
25 or whoever else you think is appropriate, to look

1 at the procedures and the practices and the  
2 allegations that were in that article. I think  
3 that's something you could do. Now, I could move  
4 to do that. I don't know that I need to have a  
5 motion for that either.

6 GOVERNOR CRIST: If I might.

7 ATTORNEY GENERAL McCOLLUM: Governor.

8 GOVERNOR CRIST: Thank you. Thank you,  
9 General, CFO, and Commissioner.

10 I think if I can try to boil this down, I  
11 might offer a friendly amendment to your motion,  
12 CFO, and it would be, number one, to go ahead and  
13 do what you have asked for, and that would be to  
14 ask for some proposed rules to be presented, not  
15 determined, but presented at our August 12th  
16 meeting. I think that's appropriate, and I think  
17 that Mr. Saxon has indicated clearly to us that  
18 he's prepared to do that.

19 MR. SAXON: Yes, sir.

20 GOVERNOR CRIST: I also would add, though --  
21 this is the amendment part to it that is I think  
22 embracing what you're saying, General, and that is  
23 that I would like my inspector general, Melinda  
24 Miguel, to work with each of yours outside the  
25 realm of Mr. Saxon's office, to look into what

1 exactly occurred here, to give us an opportunity to  
2 have a good review of the law, which sounds to be  
3 some unsettled nature of exactly what it states.

4 But I think what the General indicated, which  
5 spoke to your concern, Commissioner, about whether  
6 or not -- you know, how the word "shall issue a  
7 license" is applied. The exception that the  
8 Attorney General cited is very important, I think,  
9 and I appreciate your good work and research, that  
10 there is an exception that exists essentially that  
11 says unless it's related to a field of trust. And,  
12 you know, that's where judgment comes in. And  
13 having appropriate judgment, you know, the General  
14 appropriately said, you know, we don't know exactly  
15 what that means, but having good judgment means  
16 that you exercise it when it may not be black and  
17 white and you have to apply good judgment to what  
18 the facts are for an applicant for a license by the  
19 State of Florida.

20 So I think that my friendly amendment that I'm  
21 offering to you, CFO, is that, number one, we look  
22 at the proposed rule tightening and have that  
23 presented to us August 12th; number two, that my  
24 Inspector General Miguel work with each and every  
25 one of yours to review what happened here. And I

1 don't know if they'll be prepared by the 12th, to  
2 be candid, and I don't think we should limit that  
3 review in a time frame today, and have them get  
4 back to us and report on their findings, but not in  
5 an extended time, in a reasonable amount of time.

6 And I think a motion is appropriate, and let  
7 me explain why. I feel like -- it's clear to me  
8 that we need to take action. And as I said  
9 earlier, the people do count on us, and they expect  
10 us to do something. And while I have respect for  
11 Mr. Saxon, we have a duty too. And I think the  
12 duty that we have as members of the Cabinet to go  
13 ahead and pass this motion, a very reasonable  
14 motion, I would assert, is appropriate for us to  
15 act in a responsible way and to honor the trust the  
16 people have placed in us as well.

17 So that would be my amendment, friendly  
18 amendment, I hope, CFO, to your motion, and it begs  
19 for a second.

20 CFO SINK: Well, Governor, I accept your  
21 amendment if we would add in here -- and I think an  
22 investigation, as I have said previously, is in  
23 order, and I think it's a good idea to have our  
24 inspector generals do it, provided they would come  
25 back at the next Cabinet meeting with their plan of

1 work and the progress in terms of what progress  
2 they've been able to make in two weeks, but have a  
3 specifically written -- have Melinda come back with  
4 what their specific proposed plan of work is, and I  
5 accept your amendment.

6 GOVERNOR CRIST: I think that's appropriate.

7 CFO SINK: And my amendment to your amendment  
8 to my own motion.

9 GOVERNOR CRIST: Well, fortunately, we have a  
10 stenographer that gets this all down.

11 COMMISSIONER BRONSON: So --

12 GOVERNOR CRIST: I took Robert's Rules of  
13 Order, but --

14 COMMISSIONER BRONSON: This shows you how  
15 difficult this really is. So am I seconding your  
16 amendment to the Governor's amendment to your  
17 motion?

18 CFO SINK: Second the whole thing.

19 GOVERNOR CRIST: Second the whole thing.

20 COMMISSIONER BRONSON: Okay. Well, I'll  
21 second the whole thing.

22 GOVERNOR CRIST: Thank you. Any other  
23 comment?

24 All in favor, please signify by saying aye.

25 COMMISSIONER BRONSON: Aye.

1 CFO SINK: Aye.

2 ATTORNEY GENERAL McCOLLUM: Aye.

3 GOVERNOR CRIST: Aye. All opposed, like sign.

4 The motion carries unanimously. Thank you  
5 very much. It's been a tough morning. And again,  
6 I want to thank my colleagues for your service to  
7 the people of our state.

8 CFO SINK: Governor, let me --

9 GOVERNOR CRIST: CFO.

10 CFO SINK: While the next person is coming up,  
11 I do want to introduce sitting behind me a student  
12 from our school, Wake Forest University, Ana  
13 Calles, who is doing a project on women in  
14 different fields. And we're just pleased to have  
15 this outstanding student with us here for a couple  
16 of days.

17 GOVERNOR CRIST: Why don't you stand and be  
18 recognized?

19 (Applause.)

20 GOVERNOR CRIST: Thank you, CFO.

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1 GOVERNOR CRIST: At this point, we will go to  
2 Bond Finance. Ben Watkins. Good morning, sir.  
3 How are you?

4 MR. WATKINS: Good morning, Governor and  
5 Cabinet members.

6 GOVERNOR CRIST: Good to see you.

7 MR. WATKINS: Item Number 1 is minutes from  
8 the May 8th meeting -- May 28th meeting. I'm  
9 sorry.

10 GOVERNOR CRIST: Is there a motion on the  
11 minutes?

12 CFO SINK: So moved.

13 ATTORNEY GENERAL McCOLLUM: Second.

14 GOVERNOR CRIST: Moved and seconded. Show the  
15 minutes approved without objection.

16 MR. WATKINS: Item Number 2 is a resolution  
17 authorizing the competitive sale of up to  
18 \$168 million of Florida Forever revenue bonds for  
19 the continued funding of our conservation land  
20 buying program.

21 CFO SINK: Move it.

22 ATTORNEY GENERAL McCOLLUM: Second.

23 GOVERNOR CRIST: Moved and seconded. Show it  
24 approved without objection.

25 MR. WATKINS: Item Number 3 is a resolution

1 authorizing the issuance and competitive sale of up  
2 to \$28.2 million of capital improvement revenue  
3 bonds for Palm Beach and Broward Community  
4 Colleges.

5 ATTORNEY GENERAL McCOLLUM: I move it.

6 CFO SINK: Second.

7 GOVERNOR CRIST: Moved and seconded. Show it  
8 approved without objection.

9 MR. WATKINS: And Item Number 4 is a report of  
10 award on the competitive sale of \$42,445,000 in  
11 capital outlay bonds for school construction. The  
12 bonds were awarded to the low bidder at a true  
13 interest cost of approximately 4.44 percent.

14 CFO SINK: Move it.

15 ATTORNEY GENERAL McCOLLUM: Second.

16 GOVERNOR CRIST: Moved and seconded. Show  
17 Item 4 approved without objection.

18 MR. WATKINS: And lastly, Item 5 is a report  
19 of award on the competitive sale of \$200 million in  
20 PECO bonds sold for school construction and were  
21 awarded to the low bidder at a true interest cost  
22 of approximately 4.65 percent.

23 ATTORNEY GENERAL McCOLLUM: I move it.

24 CFO SINK: Second.

25 GOVERNOR CRIST: Moved and seconded. Show

1           Item 5 approved without objection.

2                   GOVERNOR CRIST: Thank you very much.

3                   MR. WATKINS: That concludes our agenda.

4           Thank you, sir.

5                   GOVERNOR CRIST: Thank you, Ben.

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1 GOVERNOR CRIST: Office of Insurance  
2 Regulation. Commissioner McCarty, good morning.

3 MR. McCARTY: Good morning, Governor and  
4 members of the Commission. Agenda Item Number 1 is  
5 adoption of the minutes of the Financial Services  
6 Commission for February 26th, March 25th,  
7 April 15th, and May 13th.

8 GOVERNOR CRIST: Is there a motion on the  
9 minutes?

10 COMMISSIONER BRONSON: Motion on the minutes.

11 ATTORNEY GENERAL McCOLLUM: Second.

12 GOVERNOR CRIST: Moved and seconded. Show the  
13 minutes approved without objection.

14 MR. McCARTY: Thank you, Governor. Agenda  
15 Item Number 2 is request for approval to adopt  
16 proposed Rule 690-203.070, Prepaid Limited Service  
17 Organizations. This is the adoption of an annual  
18 and quarterly report form, just incorporating by  
19 reference the National Association of Insurance  
20 Commissioners annual statement and quarterly  
21 reports that are used for health insurers.

22 COMMISSIONER BRONSON: Motion on Item 2.

23 ATTORNEY GENERAL McCOLLUM: Second.

24 GOVERNOR CRIST: Moved and seconded. Show  
25 Item 2 approved without objection.

1           MR. McCARTY: Agenda Item Number 3 is request  
2           for approval to adopt proposed Rule 690-157.004,  
3           .104, .114, and .117, an issue relating to  
4           long-term care out-of-state group. The Legislature  
5           in 2006 adopted sweeping changes to Florida's  
6           long-term care act in making Florida the leading  
7           state in the country in terms of protecting  
8           seniors. This rule relates to two aspects of that  
9           law. Number one, it requires companies to issue  
10          policies that are incontestable after a 24-month  
11          period; and number two, it removed the clause which  
12          prohibited long-term care policies from providing  
13          less than 24 months of consecutive services for  
14          nursing home care. This rule simply implements  
15          conformance with the changes in the law.

16          ATTORNEY GENERAL McCOLLUM: I move Item 3.

17          COMMISSIONER BRONSON: Second.

18          GOVERNOR CRIST: Moved and seconded. Show it  
19          approved without objection. Item 4.

20          MR. McCARTY: Item 4 is request for approval  
21          to adopt proposed Rule 690-167.004 in terms of  
22          inspection forms for private passenger auto. The  
23          Legislature enacted changes to the Florida  
24          Insurance Code requiring insurance companies to  
25          have preinspection forms for any vehicle that has

1 not been insured in the previous two years. The  
2 statute authorizes the Financial Services  
3 Commission to adopt that form by rule, and this  
4 adopts that form.

5 GOVERNOR CRIST: Is there a motion on Item 4?

6 COMMISSIONER BRONSON: Motion on Item 4.

7 ATTORNEY GENERAL McCOLLUM: Second.

8 GOVERNOR CRIST: Moved and seconded. Show it  
9 approved without objection.

10 MR. McCARTY: And lastly, Governor, is Agenda  
11 Item Number 5, request for approval for publication  
12 of the proposed repeal of the arbitration rule. As  
13 we know, in the changes in the Legislature last  
14 session, one of the consumer protections was the  
15 repeal of arbitration. This repeals arbitration.

16 GOVERNOR CRIST: Is there a motion on Item 5?

17 ATTORNEY GENERAL McCOLLUM: I move Item 5.

18 COMMISSIONER BRONSON: Second.

19 GOVERNOR CRIST: Moved and seconded. Show  
20 Item 5 approved without objection.

21 CFO SINK: Governor?

22 GOVERNOR CRIST: CFO.

23 CFO SINK: Kevin, would you just review with  
24 us something I'm a little unsure about? We had  
25 multiple rate hearings come up, or -- I know State

1 Farm, Farm Bureau. Would you just review --

2 MR. McCARTY: Sure.

3 CFO SINK: -- for the Commission what's going  
4 to be coming up here over the course of the next  
5 maybe 60 days for your department?

6 MR. McCARTY: Sure. The Florida Insurance  
7 Code requires the Office of Insurance Regulation to  
8 hold a hearing if there's a rate filing that's in  
9 excess of 15 percent based upon a computer model.  
10 Tomorrow we have the Farm Bureau hearing. They  
11 have made a request for a rate increase for their  
12 homeowners book of business. And on August 12th  
13 will be scheduled a public hearing with regard to  
14 the filing by State Farm Insurance Company of  
15 Florida, which will be held here in Tallahassee,  
16 both hearings.

17 CFO SINK: And those are the only two  
18 outstanding?

19 MR. McCARTY: Yes, ma'am.

20 CFO SINK: Are you anticipating additional  
21 requests for rates from other -- have you heard  
22 from other insurers at all, or what are you  
23 hearing? What's your intelligence?

24 MR. McCARTY: I don't believe we have any  
25 other requests in at the time. I'm understanding

1           there are some companies that have expressed an  
2           interest in making a rate filing.  But we're going  
3           to make this entire process transparent.  When they  
4           come in for it, we're going to have a meeting, and  
5           we're going to announce that to the public and  
6           invite the press in, even in the prefiling  
7           conference, so that we can bring as much  
8           transparency to the process.

9           CFO SINK:  Okay.  It was just information for  
10          me.  I wasn't sure.

11          GOVERNOR CRIST:  Excellent.  Thank you,  
12          Commissioner.

13          MR. McCARTY:  Thank you, Governor and members.

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1                   GOVERNOR CRIST: Administration Commission,  
2                   Lisa Saliba. Good morning, Lisa.

3                   MS. SALIBA: Good morning, sir. Good morning,  
4                   members. The first item on the Administration  
5                   Commission agenda is request approval of minutes  
6                   for the March 25th, 2008 meeting.

7                   COMMISSIONER BRONSON: Motion on the March  
8                   25th minutes.

9                   CFO SINK: Second.

10                  GOVERNOR CRIST: Moved and seconded. Show the  
11                  minutes approved without objection.

12                  MS. SALIBA: Item 2, request approval of the  
13                  minutes of the April 29th, 2008 meeting.

14                  COMMISSIONER BRONSON: Motion on the April  
15                  29th minutes.

16                  CFO SINK: Second.

17                  GOVERNOR CRIST: Moved and seconded. Show  
18                  Item 2 approved without objection.

19                  MS. SALIBA: Item 3, we request authorization  
20                  to enter the draft final order finding the City of  
21                  Crestview comprehensive plan amendment not in  
22                  compliance. We don't have any speakers on this  
23                  issue with us today.

24                  CFO SINK: Move approval.

25                  ATTORNEY GENERAL McCOLLUM: Second.

1                   GOVERNOR CRIST: Moved and seconded. Show  
2                   Item 3 approved without objection.

3                   MS. SALIBA: Item Number 4, request approval  
4                   of the 2008 Statewide Emergency Shelter Plan. We  
5                   do have Mr. David Halstead with the Division of  
6                   Emergency Management with some remarks.

7                   GOVERNOR CRIST: Good mornings, David. Nice  
8                   shirt.

9                   MR. HALSTEAD: Thank you, sir. Governor and  
10                  Cabinet, we're pleased to bring this two-year plan  
11                  here before you.

12                  GOVERNOR CRIST: He's wearing the Emergency  
13                  Management shirt. That's the reason for the  
14                  comment.

15                  MR. HALSTEAD: Thank you. Thank you for the  
16                  recognition.

17                  I'm happy to report that about 70 percent of  
18                  the deficit has been eliminated. Particularly with  
19                  our coordination with the Department of Education,  
20                  new schools is responsible for a huge amount of  
21                  this deficit reduction, certainly making our  
22                  population safer when storms strike our coast, and  
23                  certainly the most vulnerable of our population.  
24                  Actually, we can also report to you that 23 of our  
25                  counties actually have a surplus of shelter space

1 for those that want to evacuate during a storm.

2 But again, we are shooting for 2015 to see  
3 either a total elimination or a minute amount of  
4 shelter space still required within the state. But  
5 we're making dramatic strides, and Director Fugate  
6 wanted to report that to you, sir, and to the  
7 Cabinet. Thank you.

8 GOVERNOR CRIST: Thank you, sir.

9 CFO SINK: I have a question, Governor.

10 GOVERNOR CRIST: Yes. One moment.

11 CFO SINK: I'm sorry.

12 GOVERNOR CRIST: CFO.

13 CFO SINK: David, I've got this map here.  
14 You're familiar with this.

15 MR. HALSTEAD: Yes, ma'am.

16 CFO SINK: And fellow Commissioners. What  
17 this shows here is the status of whether we've got  
18 a shelter surplus or a deficit. And I guess the  
19 thing that struck me is the one area that has a  
20 deficit expected for both 2008 and 2013 of more  
21 than 100,000 spaces is the --

22 GOVERNOR CRIST: Where we live.

23 CFO SINK: Governor, our --

24 GOVERNOR CRIST: Our home. What's going on,  
25 David?

1 MR. HALSTEAD: Yes, sir.

2 CFO SINK: Tampa Bay and Southwest Florida,  
3 which, as we know, is quite vulnerable to hurricane  
4 activity. And, Governor, I don't if -- when you  
5 were over in Lloyd's, they were talking to me about  
6 the big hurricane is not the one hitting South  
7 Florida, it's the one that's blowing up Tampa Bay.  
8 And I just want to know, what -- given that we've  
9 got this deficit, I mean, we have to have a plan B.  
10 What is the plan B?

11 MR. HALSTEAD: Well, certainly, again, we're  
12 trying to reduce that, CFO Sink, by new school  
13 construction. But as you know, unfortunately, much  
14 of the Big Bend area is so low-lying that we're  
15 also working on retrofitting other spaces within  
16 the area. I've got Danny Kilcollins here. Danny,  
17 could you come up and maybe add something to that?  
18 Danny is actually the shelter king for the state of  
19 Florida.

20 MR. KILCOLLINS: Thank you, David.

21 You were asking about Southwest Florida and  
22 Tampa Bay specifically?

23 CFO SINK: Yes, the yellow.

24 MR. KILCOLLINS: Those areas are extremely  
25 vulnerable to storm surge. That kind of limits the

1 facilities that we could retrofit where there was  
2 existing growth. Areas where there's new growth  
3 taking place out away from those storm surge areas,  
4 of course, they're building new schools. Those  
5 have those enhanced hurricane protection  
6 requirement areas inside of those schools. So  
7 there's improvements taking place, but growth is  
8 also taking place, so it's going to take some time  
9 to eliminate that issue.

10 There are steps being taken, for instance, in  
11 Pinellas County. We track for our plan 20 square  
12 feet per person when it comes to sheltering.  
13 Pinellas has a temporary plan for emergency use to  
14 go to 10 square feet per person, but we don't track  
15 it that way with this plan. We ultimately want to  
16 get to the point where we have 20 square feet per  
17 person.

18 The other thing is that we can move people to  
19 other parts of the state if we need to. A good  
20 example is Southwest Florida. They get an extreme  
21 storm surge problem down there for most of the  
22 built-up areas. So we may have to actually move  
23 people from those areas to Southeast Florida or the  
24 Orlando area in advance. Of course, those are  
25 steps that the people themselves have to take when

1           they get the appropriate warnings, but those are  
2           just areas that there will be some challenges that  
3           we'll have to face. Eventually we'll have a  
4           statewide shelter surplus that will take place, but  
5           we still will have areas like Tampa Bay and  
6           Southwest Florida that may still as a region have a  
7           deficit, but there will be a space somewhere in  
8           Florida for somebody if they wish to seek safety  
9           somewhere.

10           CFO SINK: And I understand this is very  
11           school focused. Do you look at other possible  
12           facilities like -- some of the churches in our  
13           state are bigger than schools, and they look pretty  
14           well built.

15           MR. KILCOLLINS: We do look at other kinds of  
16           facilities, public facilities, but they tend to be  
17           a minor component, because often they're  
18           administrative buildings and so forth, office  
19           facilities. Schools by far are the largest  
20           component of our shelter capacity, like 97,  
21           98 percent. That includes some universities, some  
22           community colleges. There are some churches and  
23           other facilities, but they're a small number.  
24           Schools tend to be -- especially modern schools are  
25           built to the EHPA criteria, the enhanced hurricane

1 protection requirements, so they're building in  
2 special mass care requirements, special safety  
3 requirements. That's where we get the bulk of our  
4 capacity and will for the years to come.

5 CFO SINK: And I think a bigger challenge has  
6 to be in a place like Pinellas and some areas of  
7 Southwest Florida. With the economy being the way  
8 it is, the school population is actually declining  
9 in those areas, so I'm sure you've seen a  
10 precipitous decline in any new school construction  
11 activity.

12 MR. KILCOLLINS: We've seen some decline, but  
13 we're still seeing gains overall across the state,  
14 even in those areas. We did see -- over the last  
15 year, there's been a -- some schools were taken off  
16 the books that we were kind of tracking to have  
17 space in two years because of the declining  
18 situation of the population, school population, as  
19 well as financing.

20 But overall, we're still making good strides.  
21 We're gaining about 70,000, 80,000 spaces a year  
22 right now is what the trend is, so that's why we  
23 can look out around 2015, maybe even earlier.  
24 There's a slight chance based on other factors,  
25 like reductions in shelter demand, that we could in

1 fact reach that parity maybe even sooner, but right  
2 now we're looking at with the trends around 2015.

3 CFO SINK: Thank you, Governor.

4 GOVERNOR CRIST: Thank you. Thank you,  
5 gentlemen.

6 MS. SALIBA: We do recommend approval of the  
7 plan.

8 CFO SINK: I move it.

9 COMMISSIONER BRONSON: Second.

10 GOVERNOR CRIST: Moved and seconded. Show it  
11 approved without objection.

12 MS. SALIBA: Item Number 5, we request  
13 withdrawal.

14 CFO SINK: Move it.

15 COMMISSIONER BRONSON: Second.

16 GOVERNOR CRIST: Moved and seconded. Show  
17 Item 5 withdrawn without objection.

18 Thank you, Lisa.

19 MS. SALIBA: Thank you.

20 GOVERNOR CRIST: General, did you wish to be  
21 recognized?

22 ATTORNEY GENERAL McCOLLUM: No. No, I don't.

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1                   GOVERNOR CRIST: Florida Land and Water  
2                   Adjudicatory Commission agenda. Lisa, you're still  
3                   on.

4                   MS. SALIBA: Thank you, Governor.

5                   GOVERNOR CRIST: Welcome back.

6                   MS. SALIBA: Thank you. Item 1, we request  
7                   approval of the minutes for the May 13th, 2008  
8                   meeting.

9                   ATTORNEY GENERAL McCOLLUM: I move it.

10                  COMMISSIONER BRONSON: Second.

11                  GOVERNOR CRIST: Moved and seconded. Show the  
12                  minutes approved without objection.

13                  MS. SALIBA: Item Number 2, request  
14                  authorization to file the final rule amending the  
15                  boundary of the Palm Coast Community Development  
16                  District. We don't have any speakers on this  
17                  issue. However, we do have Mr. Bill Peebles  
18                  available for questions if there are any.

19                  COMMISSIONER BRONSON: Motion on Item 2.

20                  CFO SINK: Second.

21                  GOVERNOR CRIST: Moved and seconded. Are  
22                  there any questions? Show it approved without  
23                  objection.

24                  MS. SALIBA: Item Number 3. This we do have  
25                  speakers. What this issue is is an appeal of the

1 denial of notice of proposed change to the  
2 development of regional impact order filed by  
3 Bonita Bay Properties and Southwest Florida  
4 Properties. We have a list of speakers that want  
5 to be heard. We have advised those in support of  
6 the petitioners and those in support of the  
7 respondent to limit their comments to 10 minutes  
8 per group.

9 The list of speakers for the petitioner  
10 include Susan Watts, John Joyce, Eric Draper, Tom  
11 Logan, Jeff Brown. The list of speakers in support  
12 of the respondent include Craig Varn, Mayor Ben  
13 Nelson, Council Member Martha Simons, Council  
14 Member Richard Ferreira, Council Member Janet  
15 Martin, Audrey Vance, Jake Varn, and Robert  
16 Augustine.

17 Before we start with the speakers, I did want  
18 to let the members know that our staff  
19 recommendation is to enter a final -- an amended  
20 draft final order approving the DRI with amendments  
21 and conditions.

22 We'll begin with our speakers in support of  
23 the petitioner. Susan Watts.

24 GOVERNOR CRIST: So just to reiterate what  
25 Lisa said, I think I heard her say 10 minutes total

1 per side. Thank you.

2 MS. WATTS: Thank you. Good morning, Governor  
3 and members of the Cabinet. My name is Susan  
4 Watts, and I'm with the Bonita Bay Group. And in  
5 light of the 10 minutes, we are going to cut some  
6 of our speakers down, and we're sure we can be  
7 within that time frame, if not shorter. I  
8 understand you already have a long meeting.

9 Our corporate headquarters are located in  
10 Bonita Springs, with offices in LaBelle and  
11 St. Augustine. We're a private, family-owned  
12 business with over 1,300 employees who for over 25  
13 years have been creating award-winning communities  
14 in Southwest Florida. We are environmental leaders  
15 who work with neighbors, local governments,  
16 agencies, and environmental groups to implement new  
17 ideas and state-of-the-art approaches to create new  
18 communities in Southwest Florida. We have received  
19 awards from the Council for Sustainable Florida  
20 that was before you this morning. We received the  
21 first Green Community award from the Florida Green  
22 Building Coalition. We have many other great  
23 awards.

24 We have seven active communities with over  
25 8,000 homes, 12 golf courses, three beach

1 facilities, and three marinas which we operate. As  
2 a business, we create successful award-winning  
3 communities, and as in any business, the most  
4 important step is to understand the rules.

5 We come before you today with a state  
6 administrative law judge's recommendation to allow  
7 construction of 15 homesites 330 feet from an  
8 eagle's nest in Bonita Bay in Lee County. The plan  
9 is based on the state-of-the-art science from the  
10 United States Fish and Wildlife Service and the  
11 Florida Fish and Wildlife Commission, the entities  
12 that put together the recovery plan and brought the  
13 eagle back from potential extinction.

14 Bonita Bay Group has continued to try to work  
15 with the local government on a settlement.  
16 Unfortunately, we have not been able to come to  
17 that point. For the record, we initiated mediation  
18 with the City last January prior to the  
19 administrative hearing. We could not come to  
20 agreement. This summer, we have tried a number of  
21 times. Unfortunately, we have not come to  
22 agreement. We think the time for discussion of  
23 settlement is past, and we ask for action today.

24 We will limit our speakers to John Joyce, to  
25 Mr. Tom Logan, and to Mr. Jeff Brown today. I

1 would respectfully request that you approve the  
2 draft order prepared by your staff as it stands,  
3 and I thank you very much for everything you do for  
4 the state of Florida. If you have any questions  
5 for me, I'm available, or we can go to the next  
6 speaker.

7 GOVERNOR CRIST: Thank you very much.

8 MS. WATTS: Thank you very much.

9 MR. JOYCE: I'll cut this in half. I'm a  
10 full-time resident of Bonita Bay, and I have the  
11 highest regard for Bonita Bay Group's environmental  
12 standards. I've been there 10 years.

13 That was half of my pitch. Let me go to the  
14 other half. I'll speak as a former member of the  
15 Bonita Springs City Council.

16 GOVERNOR CRIST: I'm sorry, sir. Could you  
17 please state your name for the record?

18 MR. JOYCE: My name is John Joyce, J-o-y-c-e.

19 I'll speak as a former member of the Bonita  
20 Springs City Council. I spent four years on the  
21 Council before deciding to retire earlier this year  
22 and had the opportunity to listen to this  
23 discussion and debate before our votes were cast.  
24 I, along with Jay Arend, the former mayor, voted in  
25 support of the Bonita Bay eagle management plan for

1 many reasons. Jay was unable to attend today's  
2 meeting, but he submitted a letter to your  
3 committee dated July 16 summarizing his position.  
4 Since our positions parallel one another, I'll  
5 summarize the contents of his letter for the  
6 record.

7 The Bonita Bay plan meets or exceeds every  
8 current standard established by the state and  
9 national agencies responsible for managing the bald  
10 eagle's recovery. Prior to coming before the City  
11 Council, the plan was approved by the U.S. Fish and  
12 Wildlife Service, the Florida Fish and Wildlife  
13 Conservation Commission, the Southwest Florida  
14 Regional Planning Council, and the City of Bonita  
15 Springs Zoning Board. In addition, it is in  
16 compliance with the City of Bonita Springs  
17 development code.

18 Our vote to support was based on the  
19 following: (1) There was no credible evidence that  
20 the proposed development would adversely affect the  
21 nest; (2) scientific experts demonstrated that the  
22 15 proposed single-family homes would not disturb  
23 the flight paths of the eagles; and (3) the  
24 proposed change was not a substantial deviation  
25 from the original development order for the Bonita

1 Bay DRI.

2 In addition, the plan was supported by  
3 residents of Bonita Bay who are well respected  
4 within the city, and in our opinion represent the  
5 feelings of the majority of the residents within  
6 Bonita Bay.

7 On behalf of myself and Jay, I thank you very  
8 much.

9 GOVERNOR CRIST: Thank you.

10 MR. LOGAN: Good morning, ladies and  
11 gentlemen. I'm Tom Logan, a wildlife biologist of  
12 some 42 years. I have been involved in bald eagle  
13 research and management in Florida since 1979 as  
14 the chief of wildlife research and endangered  
15 species coordinator for the Florida Fish and  
16 Wildlife Conservation Commission. I'm now vice  
17 president for Breedlove, Dennis & Associates, where  
18 I specialize in the design of management plans for  
19 bald eagles and other listed wildlife.

20 The plan that we're discussing today for  
21 Bonita Bay is one of those plans, and just like all  
22 the plans with which I've been involved, this plan  
23 was designed with input of avian biologists with  
24 the U.S. Fish and Wildlife Service and subsequently  
25 determined by that agency, as well as the Florida

1 Fish and Wildlife Conservation Commission, to  
2 sufficiently protect nesting bald eagles at Bonita  
3 Bay from the potential for disturbance.

4 The plan was designed and endorsed under the  
5 provisions and guidelines of the Endangered Species  
6 Act while the birds were still listed as a  
7 threatened species, and it was designed such that  
8 it will remain consistent with the new state and  
9 federal guidelines and rules that are intended for  
10 management of the bald eagle as a recovered  
11 species, and most importantly, to ensure that the  
12 species is never threatened with the potential for  
13 extinction.

14 It is a science-based plan. It is one that  
15 incorporates conservation measures that have been  
16 proven effective by the wildlife agencies in  
17 Florida to protect nesting bald eagles from  
18 disturbance. It is one that will provide quality  
19 nesting habitat in perpetuity for nesting bald  
20 eagles at Bonita Bay.

21 Most importantly to me as a wildlife  
22 scientist, though, it is a sound plan in the eyes  
23 of the other wildlife scientists that have played a  
24 role in the design of this plan. Those scientists,  
25 who are peers of mine and who have had experience

1 in both the recovery as well as the management of  
2 bald eagles in Florida contributing to their  
3 recovery.

4 I thank you for your time. I'll be glad to  
5 answer questions at any time. Again, thank you  
6 very much.

7 GOVERNOR CRIST: Thank you.

8 MR. BROWN: Good morning. I'm Jeffrey Brown  
9 from Oertel, Fernandez, Cole & Bryant, attorney for  
10 the petitioners, Bonita Bay Properties and a  
11 related entity.

12 In this case, the Commission has received a  
13 recommended order from the Division of  
14 Administrative Hearings with detailed findings of  
15 fact recommending that the Commission grant Bonita  
16 Bay's application to approve an amendment to its  
17 DRI development order.

18 There are a number of red herrings in this  
19 case, but there has always been one central factual  
20 issue: Would the reduction in the size of the  
21 buffer zone have an adverse impact on the existing  
22 eagle nest. In a series of detailed findings, the  
23 administrative law judge found that the proposed  
24 change would not adversely affect the nest and that  
25 Bonita Bay's management plan includes adequate

1           protections for the nest and eagles using the nest.  
2           We have demonstrated in our filings that each of  
3           the findings made by the administrative law judge  
4           is the supported by competent and substantial  
5           evidence.

6           Consistent with your staff recommendation, we  
7           ask you to adopt the recommended order and approve  
8           Bonita Bay's application, with the conditions  
9           recommended by the United States Fish and Wildlife  
10          Service.

11          We have tried in good faith to resolve our  
12          dispute with the City. We believe our position is  
13          supported by science, by existing statutes, and by  
14          common sense. I've heard a number of reasons why  
15          the Commission should not adopt the recommended  
16          order, but none of those reasons have anything to  
17          do with the findings from the administrative  
18          hearing or any reasonable interpretation of the  
19          statutes addressing DRI approval.

20          In particular, I anticipate you will hear the  
21          argument that this case is an issue of the local  
22          government's authority to regulate environmental  
23          issues and bald eagle issues. I would ask you to  
24          keep one thing in mind: Both sides were entitled  
25          to a fair hearing. We carried our burden of proof

1 and demonstrated that our project is fully in  
2 compliance with the City's land development code  
3 and in every respect consistent with the City's  
4 comprehensive plan. With that in mind, this cannot  
5 be an issue of local control.

6 Thank you for your consideration of this item,  
7 and I would be happy to address any questions you  
8 may have regarding our position.

9 GOVERNOR CRIST: Thank you.

10 MS. SALIBA: For the petitioner, Craig Varn.  
11 Is he available?

12 GOVERNOR CRIST: Lisa, how many speakers do  
13 you have for the petitioner?

14 MS. SALIBA: We can ask Craig if they will  
15 narrow it down, but what has been submitted to us  
16 are eight speakers on behalf of the respondent.

17 One other correction I would like to make.  
18 Mr. Eric Draper was in error listed as supporting  
19 the petitioner. That was our error. Mr. Varn and  
20 his group then will have ten minutes, the same  
21 amount of time as the petitioner.

22 GOVERNOR CRIST: Good morning.

23 MR. CRAIG VARN: Good morning. Thank you for  
24 your time.

25 GOVERNOR CRIST: Sure.

1           MR. CRAIG VARN: My name is Craig Varn. I'm  
2 here on behalf of the City of Bonita Springs.  
3 There are a number of speakers. I'll try to be  
4 brief and quick. If I speak too quickly, please  
5 let me know.

6           As was discussed, we're talking about the  
7 Bonita Bay DRI, which is an approved -- has an  
8 approved golf course, 6,000 residential units,  
9 700,000 feet of commercial, and a number of other  
10 things. What we're talking about today is a  
11 24-acre portion of that development. And  
12 currently, due to existing protection zones on the  
13 property, no residential development may occur on  
14 the property. We talked about the approved plan  
15 before. Well, this is an amendment to that  
16 approved plan.

17           And in order to allow some development, the  
18 city staff submitted an alternative plan which  
19 would have allowed the southern portion of the  
20 property to be developed and not the northern.  
21 Unfortunately, that was never agreed to, so really  
22 what we're talking about today is a total of five  
23 units. The difference was between 10 units and 15  
24 units, so we're really talking here today about  
25 five units.

1           And I want to point out that what I think is  
2           the most problematic about this issue is that the  
3           developer's engineer admitted that both from an  
4           engineering and a permitting perspective, the  
5           placement and the location of the pond on this  
6           property -- and I have a photo that I will show  
7           you -- was not necessary. It could be moved. And  
8           the pond is here, over here. So his explanation  
9           for that was that the need for the large pond was  
10          to provide more fill and because the lots would  
11          look -- the waterfront lots would look nice. More  
12          importantly, he admitted that the development could  
13          be adjusted to move the stormwater pond to the  
14          northern lots, which would preserve the open area  
15          that we wanted in the first place, while still  
16          allowing development of 15 units.

17                 Again, we're talking about five units out of a  
18                 total of 6,000 approved units for this DRI. And  
19                 please remember, the City has never said that those  
20                 five units could not be developed. The City has  
21                 stated that at this time they didn't feel there was  
22                 sufficient evidence to allow that development to  
23                 occur.

24                 Now, we know there's no question that some  
25                 eagles can adapt. What we disagree on is whether

1 eagles adapt to encroachment. And despite what  
2 you're going to hear from the other experts, our  
3 expert just doesn't simply believe the data exists,  
4 and that's why we're asking -- why we suggest that  
5 they only go forward with the 10 and the other once  
6 more data was developed. The U.S. Fish and  
7 Wildlife changing its plans to us doesn't form the  
8 basis for this immediate change. We think -- let  
9 them change their plans, let's see what results,  
10 and then we'll get back to this at some point in  
11 the future, but right now is just not the time.

12 You have a recommended order from the ALJ, and  
13 I don't want to spend a lot of time running through  
14 that, but I do need to preserve an argument. As  
15 you read through the ALJ's recommended order, he  
16 continuously refers to a preponderance of the  
17 evidence standard. We simply disagree with that.  
18 There's no case law cited in the recommended order  
19 to that effect, and we think the appropriate  
20 standard is competent and substantial evidence. In  
21 other words, if the City's decision was supported  
22 by competent and substantial evidence in the  
23 record, we believe the City's decision should be  
24 upheld.

25 As stated by the Second DCA in Manatee County

1 vs. Estech, Chapter 380 does not remove the local  
2 land use decisions from the control of the local  
3 governing bodies. It simply shifts the review from  
4 the Circuit Court to FLWAC. As provided by the  
5 Supreme Court, when you review a final decision of  
6 a local government, an issue for review is whether  
7 the administrative finding and judgment are  
8 supported by competent and substantial evidence.  
9 Therefore, the ALJ's suggestion that the proposed  
10 development should be approved because the more  
11 persuasive evidence establishes the proposed change  
12 is consistent is legally incorrect.

13 In sum, we have a group of elected officials  
14 who reviewed the evidence -- and again, this is the  
15 same evidence, as acknowledged by the ALJ, that was  
16 put on before them. So we had a whole second  
17 hearing, but all we heard was the same thing. The  
18 city officials decided they weren't comfortable  
19 allowing the development of the entire 24 acres.

20 And unfortunately, we have an ALJ who really  
21 doesn't have to think about the citizens that are  
22 involved in this when he makes his decision. And  
23 to me, it just doesn't make sense that he would  
24 want to step in and take over this decision unless  
25 that decision was just not based upon any evidence

1 in the record. And in this case, we do have  
2 evidence to support our decision.

3 The judge said there's a preponderance in  
4 favor of the petitioners. Well, we don't agree  
5 with that standard, but we do think there's  
6 competent and substantial evidence in the report to  
7 support our decision, and we would ask that you  
8 support the City's decision in this matter.

9 Next I have -- Mayor Ben Nelson would like to  
10 say a few words. Thank you.

11 GOVERNOR CRIST: Thank you.

12 MR. NELSON: Good morning, or good afternoon,  
13 whichever it is. I'm not sure at this time.

14 GOVERNOR CRIST: Good morning.

15 MR. NELSON: I'm Ben Nelson. I am the mayor  
16 of Bonita Springs. It's an honor to speak before  
17 the Governor and the Cabinet here today.

18 I think I could be considered the sole  
19 survivor when it comes to the City of Bonita  
20 Springs. I was one of the original Council people.  
21 I served for eight years as a Council person, and I  
22 am the newly elected mayor there. So this is the  
23 award. This is it. So anyway, thank you.

24 GOVERNOR CRIST: You're welcome.

25 MR. NELSON: But we feel very strongly because

1 of this case. You know how awards go.

2 I'm also -- interestingly enough, I'm a third  
3 generation Floridian, as a lot of people are maybe  
4 in this room, maybe not so many. My grandparents,  
5 they came to Southwest Florida in the early 1900s.  
6 I've seen a lot of changes, and I've seen a lot of  
7 erosion when it comes to environmental protections.

8 And this is very sensitive for us at the City  
9 of Bonita Springs, because when we created the  
10 vision, those of us who were involved with the  
11 creation of our comprehensive plan, our vision was  
12 to become one of the premier cities when it comes  
13 to environmental protection. That is part of the  
14 visioning process of the City of Bonita Springs.  
15 We take that very seriously. And the majority of  
16 the Council, a 5-2 vote, did take that into  
17 consideration. We are very protective about that.

18 We have been very proud of you, Governor, and  
19 a lot of the steps that you've taken regarding the  
20 environment, and we wish to emulate that, and we  
21 would ask for your support in that regard. Our  
22 community should be able to have standards that are  
23 unique and that are great for the environment, and  
24 we hope for your support. Thank you very much.

25 GOVERNOR CRIST: Thank you.

1 MS. SIMONS: Good morning, Governor and  
2 Cabinet. It's such a pleasure to be here, and I  
3 want to echo what my mayor has said. I don't think  
4 he mentioned it, but Bonita Bay voted for him two  
5 to one because of this issue. So we're really  
6 proud to have him as our mayor.

7 Now, somebody said that local government in  
8 this case did not have authority. Our City  
9 Council --

10 GOVERNOR CRIST: I'm sorry. Would you state  
11 your name for the record?

12 MS. SIMONS: I'm so sorry. Martha Simons.  
13 I'm a City Council member, and I did vote to  
14 protect the eagles in Bonita Bay. I have lived  
15 there for 20 years.

16 We have two eagle's nests in Bonita Springs.  
17 They have been there for 30 years. This one that  
18 we're talking about is probably the oldest nest in  
19 Florida, very successful, and in a pine habitat  
20 that's got great perch trees, probably one of the  
21 last pine habitats, upland habitats in Bonita  
22 Springs.

23 I want to present to you some pictures that --  
24 I had the pleasure to go out and view this eagle  
25 myself. Unfortunately, the officer for the Florida

1 Fish and Wildlife who offered the biological  
2 opinion never visited the site. I visited the  
3 site, and I'll tell you, that eagle wasn't very  
4 happy about it. So I'm going to -- I guess I just  
5 put them up here.

6 GOVERNOR CRIST: Please.

7 MS. SIMONS: Oh, you see that lady with bad  
8 hair day? Okay. That's me. I don't know if you  
9 can really see. There you go. If you can really  
10 see way up in the corner, up in here is the nest.

11 UNIDENTIFIED SPEAKER: It's a great view from  
12 where you are.

13 MS. SIMONS: Yes, that's why I did it. I'm  
14 about 660 feet from the nest, and there's clear  
15 visibility. The bald eagle management guidelines  
16 say, and this is what I followed, that if there's  
17 clear visibility, that you build away 660 feet in  
18 that buffer. Well, I want to talk to you about  
19 that buffer.

20 By the way, here's some more beautiful photos,  
21 maybe you saw them, of our 30-year-old successful  
22 eagle's nest. We've only had one other fledgling  
23 nest that has tried to -- I'm sorry, guys.

24 GOVERNOR CRIST: I think those are upside  
25 down, if you could spin them around, get the camera

1           towards --

2           MS. SIMONS: Oh, you know what? Yeah. I'm  
3           trying to orient them to you, because I'm used to  
4           that where I work.

5           GOVERNOR CRIST: Sure.

6           MS. SIMONS: And again, that eagle doesn't  
7           like it that I'm up there.

8           The pine trees in Bonita Bay proper outside of  
9           this buffer zone are dying.

10          GOVERNOR CRIST: Can you zero in on that  
11          eagle? Oh, it looks like you have another  
12          photograph.

13          MS. SIMONS: Here, I've got a beautiful --  
14          look at that guy.

15          GOVERNOR CRIST: Wow.

16          MS. SIMONS: He's just gorgeous. And  
17          there's -- you can see this nest here, which is  
18          sideways. But that eagle is fantastic. It's just  
19          inspiring.

20          So let me conclude very quickly. In 1968, we  
21          had the home rule. Okay. You all know about home  
22          rule. That gave us local authority. Local  
23          authority in part says preserve wildlife. We've  
24          got the state comprehensive plan that says that we  
25          should protect local animal habitats. We try to

1           comply with that, as well as protecting virgin pine  
2           trees and longleaf pine. That's what they survive  
3           on out there. We're running out of that kind of  
4           pine. And the Florida Administrative Code, Rule  
5           9J, has a variety of requirements that we -- and  
6           pronouncements that we can determine local  
7           conservation based on local criteria.

8           I heard you, Governor Crist, in the discussion  
9           about mortgages say the people are counting on us.  
10          And the people in Bonita Bay are counting on us,  
11          and the people in Bonita Springs are counting on  
12          us. These eagles are really important to us.

13          Well, we could have an opinion that says, you  
14          know, a thousand eagles in Florida, you know, will  
15          survive. This eagle's nest may not survive because  
16          of encroachment, so I really beg you to be  
17          positive, join with us, continue to fight for the  
18          environment, and we'll be with you. Thank you.

19          GOVERNOR CRIST: Thank you. What, Lisa?

20          MS. SALIBA: It has been 10 minutes. At your  
21          pleasure -- what's your pleasure?

22          GOVERNOR CRIST: If we can sort of wrap it up,  
23          that would be great, because you've traveled a long  
24          way.

25          MR. FERREIRA: My name is Councilman Richard

1           Ferreira from Bonita Springs. My mother would have  
2           said, "Yes, he will speak before the Governor and  
3           the Cabinet." My father would have said, "Where?  
4           Who?"

5           I just want to reiterate what my colleagues  
6           have said. My background is 30 years as a street  
7           cop.

8           GOVERNOR CRIST: Where?

9           MR. FERREIRA: In Rhode Island, Providence.

10          GOVERNOR CRIST: Rhode Island?

11          MR. FERREIRA: And I survived, yes.

12          GOVERNOR CRIST: Welcome to Florida.

13          MR. FERREIRA: And I also spent four years as  
14          a chief investigator for professional licensing for  
15          Massachusetts, so I deal in facts.

16          GOVERNOR CRIST: You may be able to give us a  
17          little advice.

18          MR. FERREIRA: Governor and members of the  
19          Cabinet --

20          GOVERNOR CRIST: Not today, though.

21          MR. FERREIRA: I deal in facts. The decision  
22          that we made, you'll hear the same evidence that  
23          John Joyce -- we're all entitled to our opinions,  
24          but we're not entitled to change the facts, and I  
25          voted as a facts-oriented person for the

1 substantial evidence that was presented by our  
2 experts.

3 Thank you.

4 GOVERNOR CRIST: Thank you.

5 MS. VANCE: Good morning. For the record,  
6 Audrey Vance. I'm the city attorney for the City  
7 of Bonita Springs. It's a pleasure to be with you  
8 today.

9 Two of our people have yielded their time, or  
10 one yielded her time. That's Council Member  
11 Martin. She's standing right here.

12 Of course, we encourage you to vote  
13 differently than what was the recommendation.

14 We also brought a Lee County employee with us.  
15 I want her to stand up, Rebecca Sweigert.  
16 Ms. Sweigert testified as the City's expert in  
17 wildlife ecology, and in addition to training and  
18 experience at its raptor center, she has also been  
19 the staff liaison to the Eagle Technical Advisory  
20 Committee, which is a 1986 ordinance that Lee  
21 County has, well before the City incorporated in  
22 2000, that monitors the eagles and has monitored  
23 this nest way before it ever became a development  
24 of regional impact near the nest.

25 To the nest in question, I think the Council

1 members best explained the environmental concerns,  
2 and you did see and you are seeing some beautiful  
3 photographs here today. This nest is the oldest  
4 one in our area, in Southwest Florida and certainly  
5 in Lee County. The DRI did come to the nest. The  
6 petitioner is asking for an amendment to the DRI.  
7 This is not something where it's a complete DRI.

8 We don't find the guidelines as clearcut as  
9 Mr. Logan may have presented. In this situation,  
10 the guidelines still call for local government  
11 monitoring. The recommended order took out any  
12 kind of local government monitoring. It also calls  
13 for 660 feet from the nest if it's going to be a  
14 group of homes, 330 for single family, if it's a  
15 residence. This is 15 residences that are being  
16 developed.

17 There are only two nests in Bonita Springs.  
18 Bonita Springs is a beautiful community. It's 36  
19 square miles. We hope that we have one nest come  
20 back in the future. But we are concerned about the  
21 nest because it does import a quality of life to  
22 our citizens.

23 As to the legal issues, the City Council's  
24 decision, there were transcripts, both of the  
25 Zoning Board and City Council. The hearing

1           examiner did not give deference to the City  
2           Council's decision whatsoever or how to interpret  
3           -- the City Council was basically told, "You're not  
4           to interpret your own comprehensive plan under the  
5           Growth Management Act."

6           The appeal to you today was de novo, which is  
7           a different standard of review than what would  
8           happen in a court system. If this went to court,  
9           if there was any substantial, competent evidence  
10          supporting the City Council's decision, it would  
11          have to be upheld, the reason why they didn't go to  
12          Circuit Court, but came to you instead. So it  
13          yields a different result than what would have  
14          occurred otherwise.

15          As to the settlement discussion, it really was  
16          something -- we have to go to public hearing and  
17          have discussion. It was not something where -- we  
18          were basically given a one-page piece of paper and  
19          told, "This is non-negotiable." So I don't really  
20          consider that a settlement discussion for the  
21          summer.

22          There are conservation measures. Those  
23          conservation measures are far less than what they  
24          provided during the recommended order to the  
25          hearing officer. I certainly would request that

1           you either remand the case to the hearing officer  
2           for fact-finding, overturn the decision, or at  
3           least add best management practices consistent with  
4           what was provided earlier. Otherwise, we have  
5           year-round construction. It's not only what was  
6           not promised to the City and the hearing officer,  
7           but what was not promised to the residents of  
8           Bonita Springs and certainly of Bonita Bay.

9           We urge you to give deference to the local  
10          elected officials deciding local issues. We ask  
11          you to give deference to a nest that needs  
12          protection when there are so few and none older in  
13          our area, and give a result that will be the same  
14          as a court result, and please deny the appeal that  
15          is before you today.

16          Thank you.

17          GOVERNOR CRIST: Thank you.

18          MR. JAKE VARN: Governor and Cabinet, my name  
19          is Jake Varn, and I'm here on behalf of the City.  
20          I'm a lawyer here with the Fowler White firm. I'm  
21          going to be very brief. I'll be less than 90  
22          seconds.

23          I want to give you five reasons why this  
24          decision is contrary to the guiding principles and  
25          the intent of Chapter 380.

1           First off, the whole concept of Chapter 380  
2           was that local government was supposed to be the  
3           decision maker unless there was a compelling state  
4           or regional reason to override the local  
5           government. This case does not involve any type of  
6           state issue or regional issue. It's strictly a  
7           local issue, and therefore, why the Governor and  
8           Cabinet even elected to take this case I don't  
9           understand.

10           There was no new evidence presented in the  
11           hearing. The evidence that we had at the local  
12           government was the same as before the hearing with  
13           the administrative law judge.

14           You are creating different rights for  
15           different litigants by adopting this recommended  
16           order. If John Q. Public were to appeal this  
17           decision to the Circuit Court, it would have been,  
18           "Is there competent and substantial evidence by the  
19           City to uphold what they did?" In this case, the  
20           administrative law judge wiped the slate clean, did  
21           not give any consideration to that evidence, and  
22           made a decision.

23           In effect, what you're doing is, if you look  
24           at Chapter -- in Section 380.07(6), you are  
25           disregarding the sentence in the statute that says

1           you're supposed to encourage these appeals on the  
2           record. This local government conducted a full and  
3           complete hearing, and then their decision got  
4           gutted, if you will, and you are conferring rights  
5           on developers that they've never had.

6           Wouldn't you like the right -- wouldn't you  
7           like to be able to say if somebody tells you no,  
8           wipe the slate clean and get to start all over?  
9           That that's exactly what you're doing here. And in  
10          essence, what the ALJ is doing is, he is  
11          effectively reweighing the evidence that these  
12          Council people made, and he is is substituting his  
13          judgment for their judgment, and that isn't what  
14          380 was all about.

15          And if you adopt the order, you then are  
16          reweighing the evidence, and you're putting your  
17          judgment there in lieu of the City Council. For  
18          that reason, we would ask that you reject what the  
19          hearing officer has done and, if nothing else,  
20          remand it back asking him to determine if there is  
21          substantial and competent evidence to support what  
22          the City has done.

23                   Thank you very much.

24                   GOVERNOR CRIST: Thank you. Good morning.

25                   MR. AUGUSTINE: Good morning. My name is Bob

1 Augustine. I represent the public in Bonita Bay.  
2 I'm a resident of Bonita Bay, have been there for  
3 eight years, and would like to ask your help and  
4 tell you why that is so important to us.

5 We have 23 acres of prime habitat. We have  
6 gopher tortoises in there. We have an eagle nest  
7 that has been there for 30 years, two young eagles  
8 in that nest at the present time. That nest has  
9 been damaged in the hurricanes, and the eagles have  
10 rebuilt it.

11 Bonita Bay is suggesting they will take 16  
12 acres out of that 23 and build 15 homes in there.  
13 Those homes will be within 330 feet of the nest. I  
14 have a picture here, 330 feet in a 220 -- the tree  
15 in the middle is the nest tree. They're going to  
16 build within an arc of 220 feet, arc degrees of 220  
17 degrees within 330 feet of that nest. The federal  
18 guidelines, the Fish and Wildlife Service federal  
19 guidelines call for 660 feet if there is clear  
20 visibility. I have walked the site in 330 feet,  
21 and that nest is visible to almost every home that  
22 will be built there.

23 We love our eagles. When you drive in Bonita  
24 Bay and you see an eagle, you stop, and the people  
25 behind us stop, and they point and they smile. We

1 have turtles that cross the street, and we stop,  
2 and we pick up the turtle, and we take it over  
3 there. The environment is important to us, and  
4 it's important to almost all of the residents of  
5 Bonita Bay.

6 I work in Precinct -- I'm a poll volunteer in  
7 Precinct 133. That's exclusively Bonita Bay,  
8 Bonita Bay people. In the last election, we had a  
9 70 percent turnout. That was the third highest in  
10 the entire state. The population of Bonita Bay, we  
11 are 80 percent registered Republicans. And that's  
12 a big deal, because we just had a recent election,  
13 and we had an incumbent person running for mayor  
14 who has done a respectable job, and he had voted  
15 with Bonita Bay, and we have a challenger sitting  
16 right here on the front row, and he voted for the  
17 eagles. When they went head to head in the  
18 election, the challenger won in the Bonita Bay  
19 precinct by over two to one, over two to one, and  
20 this was all my good Republican friends, as well as  
21 my Democratic wife and others, who voted for this  
22 man.

23 But we can't do it alone. We really need your  
24 help. We want to preserve that eagle nest. It  
25 means a great deal to us and the community.

1 Thank you for your time.

2 GOVERNOR CRIST: Thank you. Thank very much.  
3 Commissioner.

4 COMMISSIONER BRONSON: Governor, I do  
5 understand the Commission's fervor for trying to  
6 save the eagle's nest. I will tell you, I've been  
7 around eagles all my life, and I have seen areas  
8 where the clear visibility not only meant you could  
9 see the tree, but everything underneath it was  
10 clear all the way to the tree, because we've had  
11 eagles build in cattle pastures where there were  
12 pastures all the way up to the tree, and we've had  
13 them around where our cow pens were and our house  
14 that we work our cattle out of, and the dogs and  
15 everything around it.

16 Eagles, if you're not bothering the tree that  
17 the nest is in, usually are going to use that nest  
18 until the female dies or there is some other  
19 occurrence that happens. As a matter of fact, I  
20 will tell you that one of the biggest eagle nests  
21 I've ever seen is sitting right on Cape Kennedy,  
22 and the shuttle goes up and rattles everything  
23 within 40 miles, and those eagles have used that  
24 nest over and over and over. And if you're not  
25 bothering the eagle directly where you're up around

1 the tree and right on top of the eagle and causing  
2 the eagle some type of problem, they're going the  
3 keep using that nest.

4 And while I do applaud the City Council and  
5 those people in the city that want to save that  
6 nest, I believe that with the amended order, within  
7 110 yards, being protective of that nest, that that  
8 nest is still going to be viable. The eagle will  
9 still raise her young there unless something  
10 happens to her directly somewhere else.

11 And I will remind the Cabinet that Florida is  
12 second only Alaska in the number of bald eagles we  
13 have in the state, so we've done a very good job of  
14 protecting them. And with that, I would like to  
15 move that we approve the amended recommended order  
16 prepared by our staff.

17 GOVERNOR CRIST: Okay. Any other comment?

18 CFO.

19 CFO SINK: Yes, Governor. I'll second the  
20 amendment, Governor, and just make a comment that  
21 with some reluctance, because I understand that up  
22 to this point, there had been some pretty active  
23 negotiations going on in an attempt to reach a  
24 compromise solution between the developers and the  
25 City, which I thought were very attractive

1           compromises, to include provisions for additional  
2           monitoring, and maybe even more importantly, to do  
3           the construction in phases so that there wouldn't  
4           be any construction activity during the really  
5           critical nesting season, and even perhaps maybe  
6           reducing the numbers of the developable lots.

7           But unfortunately, that's not before us now.  
8           What's before us is upholding the judge's order.  
9           So while I'm going to support the judge's order,  
10          because like the Commissioner, we're not talking  
11          about doing away with an eagle's nest here, I would  
12          just appeal to the development group to consider on  
13          their own, even though it's not part of what's  
14          before us today, offering up anyway if this passes  
15          to provide the additional monitoring and to  
16          consider not doing construction during the nesting  
17          period, as was part of the compromise suggestion.

18          GOVERNOR CRIST: Thank you. Is there somebody  
19          here representing the developer? Would you come to  
20          the microphone, please, sir?

21          I think what the CFO was saying in her second  
22          to the Commissioner's motion was whether the  
23          developer would consider -- and I don't want to put  
24          words in your mouth, but this is something that  
25          would matter to me, that the developer would

1 consider not building within 660 feet, the federal  
2 guideline.

3 MR. BROWN: Your Honor, that's not -- with all  
4 due respect, that's not what the federal guidelines  
5 call for. And the facts of this case --

6 GOVERNOR CRIST: What do they call for?

7 MR. BROWN: They call for circumstances -- Tom  
8 Logan can correct me on this, but presumptively,  
9 under certain circumstances, you are free and clear  
10 if you're beyond 660 feet. If you're between 330  
11 and 660 feet and you have a management plan that  
12 essentially provides specific conditions that would  
13 protect the eagles while the construction is taking  
14 place, then you can be authorized on an individual  
15 basis.

16 The record in this case reflects that we  
17 received a biological opinion from the U.S. Fish  
18 and Wildlife Service consistent with the federal  
19 guidelines that is fully protective of the bald  
20 eagle's nest. And with that in mind, I would like  
21 to provide you with an interesting statistic that  
22 was shown in the evidence in this case. Of the 59  
23 active eagle nests in Lee County, approximately  
24 half are located within 660 feet of development,  
25 and 11 are located within 330 feet of development.

1           In this case, we are not going to go up to  
2           that 330 feet. Fourteen of these homes will be set  
3           back 400 feet. One will be up adjacent to that  
4           330-foot buffer.

5           Now, just to clarify the record, federal  
6           guidelines do not require that flat 660 feet, and  
7           that was demonstrated clearly in the recommended  
8           order.

9           And we're trying to be cooperative, and we had  
10          proposed an additional series of protective  
11          measures. And if you would like me to confer with  
12          the client, we could -- I can represent to you that  
13          if you approve this final order, we will continue  
14          in good faith to work with the City to do  
15          everything that we reasonably can to provide  
16          assurance that these eagles will not be harmed.

17          GOVERNOR CRIST: Well, I appreciate that. I  
18          don't know if I'm willing to vote for it today  
19          because of the concerns that have been expressed by  
20          the locally elected officials in this community.  
21          And I, like the CFO, had understood that there may  
22          have been some very good, positive negotiations  
23          going on to appeal to their concerns, and also to  
24          allow for your responsible building of homes for  
25          people while we protect the home for eagle. And so

1 if you're willing to go back to the client and  
2 discuss further items of potential settlement, then  
3 perhaps -- I just throw this out as an idea. You  
4 know, our next meeting is only August 12th. It's  
5 not that far away -- that maybe we might allow for  
6 that opportunity in order to get greater support  
7 from this Cabinet.

8 MR. BROWN: To everything there's a season.  
9 We have tried everything we can to reach a  
10 resolution with the City in this case. We have no  
11 indication that the City Council as a deliberative  
12 body can reach any reasonable solution. And unless  
13 I am contradicted by my client, we would ask -- am  
14 I contradicted? I would ask the Commission to  
15 consider our recommended order, and we believe that  
16 -- you know, you talked about your duty as a public  
17 official before, and I respectfully ask the agency  
18 to consider our application and to enter a final  
19 order in this case.

20 GOVERNOR CRIST: I understand. General.

21 ATTORNEY GENERAL McCOLLUM: I just want to  
22 comment that as sympathetic as most of us are, all  
23 of us are, I'm sure, on the eagle question, the  
24 issue before us is fairly straightforward as a  
25 legal matter, and it is a question that is very

1 simple from the standpoint of law, and that is, the  
2 agency may not reject or modify the findings of  
3 fact of the ALJ unless the agency first determines  
4 from a review of the entire record and states with  
5 particularity in the order that the findings of  
6 fact were not based upon competent and substantial  
7 evidence or that the proceedings on which the  
8 findings were based did not comply with the  
9 essential requirements of the law. And I think a  
10 review by all of our staffs have concluded pretty  
11 unanimously that the findings of fact were based on  
12 competent and substantial evidence. You know,  
13 there are disputes over them, but there is  
14 substantial evidence there.

15 And the question about the law is interesting.  
16 Mr. Varn raised the only thing upon which we have  
17 any validity of rejecting this, and that's the  
18 legal question as to whether or not the de novo  
19 hearing was proper in the first place or whether  
20 there's a presumption for the City's viewpoint in  
21 this. And it's an interesting question of law, but  
22 our research would indicate case law which supports  
23 the position that the ALJ can go forward. But it  
24 may well be that some appellate court will change  
25 that viewpoint.

1           But from the standpoint of looking at the law,  
2           that is, from what we have the power to do up here,  
3           I would have to vote for approving this plan and  
4           letting it go forward, because I don't think we  
5           have a basis to do otherwise on our judgment. We  
6           can't go back and re-examine all of this and make  
7           our own judgment except as to the law or whether  
8           there's no substantial basis of fact for the ALJ's  
9           opinion. And the law is what our folks have  
10          recommended, but that's subject to some appellate  
11          court deciding otherwise, I suppose. So that's  
12          where I stand and why I stand that way, Governor.

13           GOVERNOR CRIST: Thank you, General. Any  
14          other comments? CFO?

15           CFO SINK: Yes, Governor. My staff has  
16          suggested that -- and you lawyers will have to say  
17          whether this is within our power. I made a motion  
18          for the proposal to amend it to require additional  
19          monitoring and to give these monitoring reports to  
20          an independent third party for review in terms of  
21          monitoring. And I'm just throwing that out as a  
22          suggestion to ensure that -- it appears that that's  
23          something that in the process of negotiation that  
24          the developer had agreed to as part of a compromise  
25          solution.

1           Maybe I should direct my question to the  
2           person representing --

3           MR. BROWN: Officer Sink, I've conferred with  
4           my client, and we can represent that we would have  
5           no objection to an additional condition that would  
6           double the frequency of monitoring required in the  
7           recommended order. And in addition, we would be  
8           willing to provide our monitoring reports to a  
9           third party agreed upon with the City for  
10          informational purposes. And I would like to assure  
11          you that the federal regulatory agencies and the  
12          detailed monitoring program that's under the  
13          federal guidelines will assure the viability of the  
14          nest.

15          So with that in mind, we would --

16          COMMISSIONER BRONSON: I would then ask that I  
17          restate the motion that adds the condition of the  
18          monitoring that CFO Sink has added as an amendment  
19          to that motion.

20          GOVERNOR CRIST: So you're withdrawing,  
21          essentially, the original motion.

22          COMMISSIONER BRONSON: The original motion,  
23          and make a motion that we approve the amended order  
24          as amended by our staff and by the CFO here at the  
25          meeting to include that information.

1 GOVERNOR CRIST: Okay. Is there a second to  
2 that?

3 CFO SINK: Second.

4 GOVERNOR CRIST: Moved and seconded. Any  
5 other discussion? All in favor say aye.

6 COMMISSIONER BRONSON: Aye.

7 ATTORNEY GENERAL McCOLLUM: Aye.

8 CFO SINK: Aye.

9 GOVERNOR CRIST: Opposed, like sign. The  
10 motion carries. Thank you very much.

11 MR. BROWN: Thank you, Your Honor.

12 GOVERNOR CRIST: Thank you. Thanks for being  
13 here. Thank you all for your time.

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1 GOVERNOR CRIST: We're going to move it up  
2 here. Good morning.

3 MR. WILHELM: Good morning.

4 GOVERNOR CRIST: Jim, please take us through.

5 MR. WILHELM: Thank you. Item Number 1 is  
6 approval of the minutes from the January --

7 GOVERNOR CRIST: Is there a motion for  
8 approval of the minutes?

9 ATTORNEY GENERAL McCOLLUM: So move.

10 GOVERNOR CRIST: Is there a second?

11 COMMISSIONER BRONSON: Second.

12 GOVERNOR CRIST: Moved and seconded. Show the  
13 minutes approved without objection. Item 2.

14 MR. WILHELM: Item 2, staff is requesting  
15 permission to issue two two-acre leases --

16 GOVERNOR CRIST: I'm sorry. I'm sorry.  
17 Excuse me. Could we have quiet in the room?

18 Thank you. Jim? If you could speak more in  
19 the mike, it would help also.

20 MR. WILHELM: Okay. I'm sorry, sir.

21 GOVERNOR CRIST: That's all right.

22 MR. WILHELM: Staff is requesting permission  
23 to issue two two-acre leases in Manatee County for  
24 the purpose of growing hard clams and oysters. One  
25 lease will go to Mr. Curtis Hemmel, and the second

1           lease will go to Mr. Kyle Brinkley.

2                   GOVERNOR CRIST: Is there a motion on Item 2?

3                   CFO SINK: Move it.

4                   COMMISSIONER BRONSON: Second.

5                   GOVERNOR CRIST: Moved and seconded. Show  
6 Item 2 approved without objection.

7                   MR. WILHELM: Thank you. Item 3.

8                   MR. KARELS: Good morning, Governor and  
9 Cabinet. I'm Jim Karels, director of the Division  
10 of Forestry. This is a request to file a notice of  
11 rulemaking for the proposed Rule 5I-7. I do have  
12 one brief speaker after me in support of the  
13 program.

14                   In 2001, the Florida Legislature passed the  
15 rule, the Family Lands Protection Act, creating a  
16 new agricultural lands protection program designed  
17 to protect important ag lands through the  
18 acquisition of permanent agricultural easements.  
19 That legislation called for DACS, in consultation  
20 with DEP, DCA, the Fish and Wildlife Service, and  
21 the water management districts, to develop that  
22 rule. In 2002, we initiated that process, put it  
23 on hold, and started it again this year as the  
24 Legislature provided funding for the rural and  
25 family lands program through the reauthorization of

1 Florida Forever.

2 DACS, Agriculture, DEP, DCA, the Fish and  
3 Wildlife Commission, the water management  
4 districts, and other interested parties worked  
5 closely together to create this rule that  
6 incorporates the requirements of the original act  
7 from '01 and the requirements contained in the  
8 Florida Forever reauthorization. A notice of rule  
9 development was published, and a workshop was held  
10 in June. The proposed rule has received informal  
11 review from JAPC, and the comments from JAPC, along  
12 with those received at the workshop and those  
13 received at the cabinet aides meeting last week,  
14 have been incorporated into the rule and presented  
15 to you today.

16 The rural and family lands program is  
17 essentially a different program than most of our  
18 land conservation programs in the state, and it's  
19 geared and designed to focus on maintaining  
20 agriculture and preserving the most critical and  
21 important agricultural lands in the state and  
22 essentially working towards helping us keep Florida  
23 -- keep agriculture sustainable in Florida for  
24 future generations.

25 So with that, I will briefly have Andrew

1 McLeod with the Nature Conservancy speak, and after  
2 that, I'm available for any questions.

3 MR. McLEOD: Governor and Cabinet, it's a  
4 pleasure to be here. Andy McLeod with the Florida  
5 Chapter of the Nature Conservancy.

6 We've been very involved in SB 542, the  
7 Florida Forever renewal. We applaud your recent  
8 signing of it, Governor, and we applaud the  
9 leadership of Commissioner Bronson in pushing us to  
10 include within the Florida Forever renewal this  
11 rural and family lands program. It is a way to  
12 further the impact of Florida Forever to better use  
13 the dollars in a small way of Florida Forever, a  
14 market-based approach to further land conservation  
15 efforts with private landowners. We applaud the  
16 Department for undertaking the rulemaking. We've  
17 been involved substantially and will continue to be  
18 as this program is implemented.

19 Thanks very much.

20 GOVERNOR CRIST: Thank you. Is there a motion  
21 on Item 3?

22 COMMISSIONER BRONSON: Motion on Item 3.

23 GOVERNOR CRIST: Is there a second?

24 ATTORNEY GENERAL McCOLLUM: Second.

25 GOVERNOR CRIST: Any discussion?

1 Commissioner.

2 COMMISSIONER BRONSON: Governor and members,  
3 let me tell you the importance that I feel, and I  
4 believe it appears that this is going to be a very  
5 positive thing for the State of Florida. For once,  
6 after five, I think almost five years of trying to  
7 get this done, the legislative approval, the  
8 Governor signed off on the process, that we have an  
9 opportunity that agriculture and those who are  
10 willing to commit to stay, as to what level of  
11 agriculture we can keep in the State of Florida,  
12 which also keeps that open green space that the  
13 State of Florida does not have to pay full land  
14 value for, to protect all of those resources,  
15 including eagle's nests, panther habitat, and a  
16 number of other species protection, both plant and  
17 animal.

18 It also gives us the opportunity to have, much  
19 like we did when we approved the Babcock  
20 acquisition, a chance for the individual caretakers  
21 of that land that we have always recognized as  
22 being good caretakers of natural resources for the  
23 State to be a big player in keeping those natural  
24 resources protected, to put their own money up  
25 front, to work with the State on those issues of

1 importance to wildlife and natural resources, as  
2 well as keeping a viable commercial, job-creating  
3 and economy for the state with agriculture  
4 remaining in the business.

5 And I applaud the Legislature, the Governor,  
6 and everyone who has worked on this diligently, all  
7 the agencies that have come together to work on  
8 this proposed rulemaking and where we go from here,  
9 because this could be, other than the moneys we  
10 have spent directly on land acquisition for the  
11 State, probably one of the most important things  
12 this State has ever done to promote this type of  
13 process. It's something that can be followed  
14 around the country if other states choose to do so.

15 And so for that reason, I made the motion to  
16 go forward with the rulemaking, proposed rulemaking  
17 on this issue.

18 ATTORNEY GENERAL McCOLLUM: I believe we -- do  
19 we have anybody else, any other discussion? If  
20 not, there's --

21 CFO SINK: I'm going to second it.

22 ATTORNEY GENERAL McCOLLUM: All right. Please  
23 second it.

24 CFO SINK: Second.

25 ATTORNEY GENERAL McCOLLUM: Okay.

1           CFO SINK: Like you, Commissioner, as you  
2 know, I'm really, really excited about this  
3 prospect. I think this is a thing that's going to  
4 enable us to keep Florida the way all of us want it  
5 kept.

6           COMMISSIONER BRONSON: Let's hope so.

7           CFO SINK: It's wonderful.

8           ATTORNEY GENERAL McCOLLUM: Well, I concur in  
9 that, and without objection, Item 3 is approved.  
10 And I think we've finished that agenda.

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1           ATTORNEY GENERAL McCOLLUM: Next on the agenda  
2 is Power Plant and Transmission Line Siting, Mike  
3 Sole.

4           MR. SOLE: Good morning, General.

5           ATTORNEY GENERAL McCOLLUM: Good morning.

6           MR. SOLE: Item Number 1 is submittal of the  
7 minutes for the December 5th, 2006, and the  
8 December 19th, 2006 Cabinet agendas.

9           ATTORNEY GENERAL McCOLLUM: Do we have a  
10 motion?

11          COMMISSIONER BRONSON: Motion on Item 1.

12          CFO SINK: Second.

13          ATTORNEY GENERAL McCOLLUM: Without objection,  
14 so approved.

15          MR. SOLE: Item Number 2, the applicant is  
16 Tampa Electric Company, and they're requesting  
17 final order certification of their Willow  
18 Oak-Wheeler-Davis transmission line project. This  
19 is a 230-kilovolt transmission line that's some 30  
20 miles long located within Hillsborough and Polk  
21 Counties. This consideration by the Siting Board  
22 requests final certification of the administrative  
23 law judge's order, their recommended order. On  
24 May 13th of this year, the ALJ provided a  
25 recommended order to the Siting Board that would

1 grant full and final certification to TECO for the  
2 location, construction, and operation of the Willow  
3 Oak-Wheeler-Davis transmission line.

4 COMMISSIONER BRONSON: Motion on Item 2.

5 CFO SINK: Second.

6 ATTORNEY GENERAL McCOLLUM: Any discussion?  
7 No witnesses or anything?

8 MR. SOLE: We have two speakers, General. We  
9 have -- let's see. I'm sorry. I'm getting my  
10 notes. We have Ms. Susan Watson and Ms. Joy  
11 Ingram, of Dover, Florida.

12 ATTORNEY GENERAL McCOLLUM: Okay. Would you  
13 come forward, please.

14 MS. WATSON: Good morning. My name is Susan  
15 Watson. I thank each of you for your passionate  
16 leadership in preserving the natural resources of  
17 Florida.

18 The City of Tampa is referred to as the  
19 Treasure City. Twenty minutes east of Tampa is the  
20 crown jewel. It is a significant forest which  
21 houses the smallest bird, the ruby-throated  
22 hummingbird, and one of the largest birds and most  
23 regal birds, the American bald eagle, as well as  
24 over 53 species of wildlife. This area has  
25 protected wetlands and an old growth forest

1 composed of thousands of hardwood and coniferous  
2 trees. This land also has historic and  
3 archaeological significance. According to  
4 Hillsborough County, this forest is the last  
5 wildlife habitat in Seffner, Florida.

6 The residents of this area have named it the  
7 Eagles' Forest, because we also have a 30-year-old  
8 eagle's nest, one of the oldest in the state, in  
9 the heart of this forest. Tampa Electric has  
10 monitored this eagle's nest since April 2007, and I  
11 have assisted with the monitoring, as well as  
12 researched the federal and state eagle protection  
13 laws and the national management guidelines.

14 According to the guidelines, a reason, for  
15 example, the Cape Canaveral eagle would be able to  
16 live there is because he is used to a similar  
17 environment. If you introduce a new environment to  
18 an eagle, they will have much more difficulty.  
19 That forest has been there -- I mean that nest has  
20 been there for a long time, so they have adjusted.  
21 It takes generations of eagles to adjust to a new  
22 activity. That's one of the guidelines in the  
23 national management guideline rules.

24 Tampa Electric expanded its corridor from  
25 325 feet to 5,100 feet to McIntosh Road, a public

1 road to the east. Because of this crucial  
2 environmental issue in this section of the  
3 corridor, we agree with the expansion. If the  
4 route of line goes down McIntosh Road, which is  
5 one-half mile to the east, it will not only protect  
6 this very old nest, but also save the wetlands and  
7 thousands of trees. What is the value? Priceless.

8 In conclusion, I am here today representing my  
9 community and some of my fellow Seffner people that  
10 have driven all night to be here. And we ask you  
11 to grant TECO's application, but only with  
12 modifications of the route of line that would save  
13 this irreplaceable forest. It is my understanding  
14 that the statutes allow modification under certain  
15 circumstances, especially if there are adverse  
16 effects on the public and the environment, and  
17 also, it must comply with the local comprehensive  
18 plan.

19 Last week we presented evidence. We sent  
20 pictures of our area and the forest for you to  
21 consider. Today we're asking you and we're  
22 trusting you to preserve this priceless jewel that  
23 the Tampa Bay Regional Planning Council calls a  
24 regionally significant natural resource. Please  
25 save the entire Eagle's Forest.

1 Thank you.

2 GOVERNOR CRIST:

3 MR. SOLE: Thank you, Ms. Watson. Our next  
4 speaker is Ms. Joy Ingram. Ms. Ingram.

5 GOVERNOR CRIST: Good morning.

6 MS. INGRAM: Good morning. My name is Joy  
7 Ingram.

8 I'm about to start two of the most important  
9 minutes of my life right now. I'm so honored to be  
10 able to speak to you, but I was really hoping that  
11 I wouldn't have to do that. I was hoping that  
12 somewhere in this whole process that someone would  
13 recognize how crazy the idea of cutting through  
14 this forest is and would stop it.

15 But TECO wouldn't stop it. They own part of  
16 the land. The Department of Environmental  
17 Protection cannot stop it. They are bound to  
18 enforce the letter of the law, nothing more,  
19 nothing less. The administrative judge did not  
20 stop it. And so that leaves you.

21 You know the global importance of stopping  
22 even local deforestation. You know the importance  
23 of restoring the environment, even when the  
24 alternative might seem as sweet as sugar to some,  
25 and I do thank you for that. Most importantly, you

1 know that there is more to the law than the letter  
2 of the law. Without the spirit of the law, we're  
3 just down to bureaucrats, and we have mindless  
4 rules. You are the only ones that have the  
5 authority and the latitude to act rationally in  
6 this case. We do need more power. We all know  
7 that. But we also need to leave this forest alone.

8 I'm begging you today, don't leave the fate of  
9 this forest to TECO or even to the Department of  
10 Environmental Protection. Approve this project,  
11 but only with the stipulation that this forest not  
12 be touched.

13 McIntosh Road is a viable alternative that's  
14 on TECO's expanded corridor. It's a small  
15 deviation for TECO in the total scheme of things,  
16 but it would be a giant win for the Seffner  
17 environment.

18 I leave you with the one thing that I've said  
19 repeatedly since I got involved with this, and I  
20 can only ask you take to it heart. Please don't  
21 just do what is legal. Please, please do what is  
22 right.

23 Thank you very much.

24 MR. SOLE: Thank you, Ms. Ingram.

25 CFO SINK: Governor?

1 GOVERNOR CRIST: CFO.

2 CFO SINK: I just have a couple of process  
3 questions for Mike.

4 MR. SOLE: Yes, ma'am.

5 CFO SINK: What we're doing today is approving  
6 the corridor; is that correct?

7 MR. SOLE: Yes, ma'am.

8 CFO SINK: Which is all this. Okay. When the  
9 power company makes the final decision about  
10 exactly where their lines are going, does it come  
11 back before us, or -- just explain the process to  
12 me.

13 MR. SOLE: The process today is that we do  
14 approve -- the Board of Trustees and the Siting  
15 Board approves the actual corridor. As part of  
16 that process, there are post-certification  
17 requirements that are found in this certification  
18 that the Department of Environmental Protection is  
19 required to oversee and ensure compliance with as  
20 TECO in this case implements the exact right-of-way  
21 footprint.

22 So as they go through and identify within some  
23 of this area a very wide corridor -- and in fact,  
24 in this location, they did widen it to ensure they  
25 could protect the bald eagle nest. As they go

1 forward and specifically site the right-of-way, we  
2 go through and identify protections to fish and  
3 wildlife, minimization requirements still for  
4 wetlands, also, reduced impacts to, even in this  
5 case, homeowners.

6 As you look at this corridor area, one of the  
7 concerns that exists is, if you go to McIntosh  
8 Road, there will be some approximately 15  
9 additional homeowners affected by a transmission  
10 line siting along that specific route.

11 At this stage, there is no specific affirmed  
12 right-of-way location, and it's something that  
13 through the due diligence TECO has to do. They  
14 will finally identify that specific right-of-way.

15 But what we as the Department and the  
16 administrative law judge has recommended to the  
17 Siting Board is that conditions, such as on the map  
18 that you see on the board, that require a 660-foot  
19 buffer between that eagle's nest and the final  
20 transmission line siting, that they be accommodated  
21 by, that they have to meet those conditions so they  
22 avoid adversely affecting the eagle nest.

23 CFO SINK: Okay. So they will have to go  
24 outside this orange circle that we're seeing?

25 MR. SOLE: Yes, ma'am.

1 CFO SINK: And I too am very sensitive about  
2 these woodlands, but it appears me looking at this  
3 drawing that there's quite a bit of pastureland in  
4 this corridor that, from my point of view, I hope  
5 TECO will give consideration to look at building  
6 over the pastureland and being very sensitive to  
7 cutting right through the remaining woodlands and  
8 not going the -- this is my neighborhood, so not  
9 going the McIntosh Road route, which will impact  
10 tremendous numbers of businesses and houses.

11 Okay. Thank you.

12 MR. SOLE: We also have TECO here if there's  
13 any questions for them.

14 CFO SINK: Well, excuse me, Governor.

15 GOVERNOR CRIST: Sure.

16 CFO SINK: I know we're late in the day, but  
17 maybe I could just get a response about my comment  
18 that concerns doing -- what can you do to avoid  
19 minimally impacting these important forestlands.

20 MR. CURTIN: Thank you, CFO. My name is Larry  
21 Curtin with Holland & Knight here in Tallahassee  
22 representing Tampa Electric Company.

23 As Mr. Sole said, there is a process for this.  
24 We've got 30 pages of conditions of certification  
25 that we have to meet that will protect the wildlife

1 and protect the archeological resources, and the  
2 company is committed. We hear Mrs. Watson and  
3 Mrs. Ingram, and we're committed to do what we can  
4 to minimize the impact of this, and so we're going  
5 to work with folks and try to get this in a way  
6 that's as good as we can. We'll submit it to the  
7 Department, and then there will be a process to  
8 make sure that it's compliant and we've done what  
9 we need to do under the conditions.

10 CFO SINK: Okay. Thank you.

11 ATTORNEY GENERAL McCOLLUM: But the bottom  
12 line is that it doesn't come back to us again;  
13 right, Mike?

14 MR. SOLE: It will not.

15 MR. CURTIN: It does not.

16 ATTORNEY GENERAL McCOLLUM: All right. Thank  
17 you.

18 CFO SINK: Where are we? Do we need to move  
19 it?

20 GOVERNOR CRIST: It has been moved and  
21 seconded. Is there any other discussion or any  
22 other speakers, Secretary?

23 MR. SOLE: I'm sorry.

24 GOVERNOR CRIST: Are there any other speakers?

25 MR. SOLE: There are no other speakers.

1                   GOVERNOR CRIST: Okay. It has been moved and  
2                   seconded. All in favor say aye.

3                   CFO SINK: Aye.

4                   ATTORNEY GENERAL McCOLLUM: Aye.

5                   COMMISSIONER BRONSON: Aye.

6                   GOVERNOR CRIST: All opposed, like sign.

7                   The motion carries unanimously. Thank you.

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1           MR. SOLE: I think we're on the Board of  
2 Trustees agenda.

3           GOVERNOR CRIST: Yes, sir, you're right,  
4 Secretary.

5           MR. SOLE: Item Number 1 is the minutes of the  
6 April 15th and April 29th, 2008 Cabinet meetings.

7           GOVERNOR CRIST: Is there a motion to approve  
8 the minutes?

9           COMMISSIONER BRONSON: Motion on the minutes  
10 to be approved.

11          GOVERNOR CRIST: Is there a second?

12          ATTORNEY GENERAL McCOLLUM: Second.

13          GOVERNOR CRIST: Moved and seconded. Show the  
14 minutes approved without objection.

15          MR. SOLE: Item Number 2, the applicant is  
16 Palmer Ranch, and this is a consideration for a  
17 five-year sovereignty submerged land lease for a  
18 19-slip private docking facility located in Coon  
19 Key Pass in Collier County. This is in the Rookery  
20 Bay-Cape Romano Aquatic Preserve, and there will be  
21 a public interest provision for this project  
22 totaling some \$153,200 for additional mapping,  
23 resource mapping in the aquatic preserve.

24          GOVERNOR CRIST: Is there a motion on Item 2?

25          COMMISSIONER BRONSON: Motion on Item 2, to

1 approve, subject to special approval conditions --  
2 special lease conditions and payment of \$4,005.29.

3 GOVERNOR CRIST: Is there a second?

4 ATTORNEY GENERAL McCOLLUM: Second.

5 GOVERNOR CRIST: Moved and seconded. Show it  
6 approved without objection.

7 MR. SOLE: Thank you. Item Number 3, the  
8 applicant is Leeward, a limited liability company.  
9 This item was withdrawn from the January 31st, 2008  
10 agenda. This requests consideration of a five-year  
11 sovereignty submerged land lease for a 128,  
12 open-to-the-public commercial docking facility.

13 The project is located in Lee County, and it  
14 combines two existing leases in the area, one of --  
15 previously Hansen Marine, which had 102 wet slips,  
16 and Manatee World, which had 21 wet slips and  
17 approximately 60 dry slips. They do request an  
18 increase in the term from five years to ten years.  
19 And because this issue is located in a significant  
20 manatee area, the applicant has agreed to create  
21 and lease a manatee -- or excuse me, a no-entry  
22 zone to help provide protection to manatees.

23 Today we have three -- excuse me, four  
24 speakers. Our first speaker is Mr. Pat Rose, the  
25 executive director of Save the Manatee Club.

1 GOVERNOR CRIST: Good morning, Pat.

2 CFO SINK: Excuse me, Governor.

3 GOVERNOR CRIST: Yes, CFO.

4 CFO SINK: Could I just register a "no" vote  
5 on the previous item, please?

6 GOVERNOR CRIST: Sure you can. Show it.

7 MR. SOLE: I missed the question.

8 CFO SINK: I'm sorry. I --

9 GOVERNOR CRIST: It wasn't a question. She  
10 just registered a "no" vote on the previous item.

11 CFO SINK: I just registered a "no" vote on  
12 Item 2. I'm sorry. I didn't realize that was the  
13 one I was going to vote against.

14 GOVERNOR CRIST: Pat, you're recognized.

15 MR. ROSE: Good morning, Governor and members  
16 of the Board. I appreciate this opportunity to  
17 address you.

18 GOVERNOR CRIST: Actually, good afternoon.

19 MR. ROSE: Oh, good afternoon. I didn't  
20 realize that it happened already.

21 GOVERNOR CRIST: Just now.

22 MR. ROSE: Originally I was planning on a  
23 PowerPoint to help speed things along. I guess I  
24 didn't get it in in time, so I'm going to be trying  
25 to use the overhead camera and present them that

1 way.

2 I will say before going into that formal part  
3 of it -- again, my name is Pat Rose. I'm the  
4 executive director of Save the Manatee Club. I  
5 also want to let you know my history goes back more  
6 than 30 years with manatees professionally. I was  
7 the first federal coordinator for manatee  
8 activities for the United States Fish and Wildlife  
9 Service, the first coordinator for the Department  
10 of Natural Resources for manatees and the marine  
11 mammal coordinator. I worked with the Department  
12 of Natural Resources, Department of Environmental  
13 Protection for many years in both overseeing  
14 research and management functions for manatees and  
15 marine mammals, and I also headed the Office of  
16 Protected Species for the Department of  
17 Environmental Protection until 1990, when I left to  
18 go to work -- 1996, excuse me, until I went to work  
19 for Save the Manatee Club. So this is going to  
20 become important, because there's different  
21 opinions on what's happening here.

22 There's no difference of opinion on how many  
23 manatees are using this area. There are literally  
24 hundreds of them. I'll get started into that. But  
25 what those repercussions may be, I think there are

1 going to be very serious questions about whether  
2 this project should go forward as proposed, which  
3 we think it should not, and then just what possibly  
4 could be done to make it better. We've been trying  
5 to work with the applicant and work with the  
6 Department for several months actually trying to  
7 see what could be done. We don't think enough has  
8 been proposed to you, and I'll certainly show you  
9 why I believe that to be the case.

10 MR. SOLE: Here. I'll work these for you so  
11 you can use the mike.

12 MR. ROSE: All right. Basically, I'm not  
13 going to read these word for word. You can look at  
14 them. But what I want to point out is, if you were  
15 going to go in Florida and pick the worst region  
16 for manatees in terms of watercraft mortality in  
17 particular, you would choose Southwest Florida. If  
18 you wanted the worst county for watercraft  
19 mortality in Florida, you would choose Lee County.  
20 If you wanted the most dangerous river in Florida  
21 for manatees, you would chose the Caloosahatchee  
22 River. If you wanted the most important west coast  
23 warm-water refuge for manatees, you would choose  
24 the Orange River, where this project is located.  
25 So this is the worst of the worst of the worst in

1 terms of what has already been happening.

2 The population in Southwest Florida, which  
3 represents more than 40 percent of the manatees in  
4 Florida, has been declining for several years and  
5 is expected to continue to decline. These are just  
6 some of the statistics on the amount of mortality  
7 from watercraft. I'm focusing on that, because  
8 that's where the impacts are here.

9 This next slide just talks about what the  
10 United States Geological Survey has had to say  
11 about Southwest Florida. It's very, very concerned  
12 in regard to the current state of decline and  
13 whether or not it's going to be possible to recover  
14 that population.

15 The next slide is just looking at -- we've got  
16 more than -- 490 manatees were seen at this  
17 warm-water refuge from the Florida Power & Light  
18 power plant that discharges into the Orange River.  
19 That warm water flows down the river and partially  
20 through this basin and then out to the  
21 Caloosahatchee River.

22 The next one is basically showing we've had  
23 hundreds of manatees, and the area that's  
24 highlighted there is the basin proposal for this  
25 project. On cold days in the winter when the sun

1 is shining, manatees have historically for more  
2 than 30 years used this by the hundreds on many  
3 days to stay warm in the wintertime. This dark  
4 water of the Orange River heats up rapidly during  
5 the daytime from solar heating, and manatees have  
6 used that very dramatically.

7 I'm going to skip past and get right to sort  
8 of to the money shot, if you will. In fact, in  
9 that slide that's there now, that's a close-up of  
10 some of the hundreds of manatees that use -- right  
11 in the proposed basin for dredging and putting this  
12 project in there.

13 I referenced page, I think, 30 of the -- 36 of  
14 the biological opinion that the United States Fish  
15 and Wildlife Service did, where they said this area  
16 didn't have any shallow water areas for resting and  
17 calving. They couldn't have been more wrong. This  
18 is exactly the kind of habitat that you want to  
19 protect and preserve for manatees, because they  
20 have sought it out. They're there because it's  
21 very, very important to them. Those manatees will  
22 be displaced by it if this project is approved.  
23 That's not just my opinion. That's also the  
24 opinion of Dr. Reynolds, who has -- I started  
25 research actually in this location in 1977 and flew

1           it multiple times during each winter under contract  
2           for surveys for Florida Power & Light Company. The  
3           photos you've seen of the manatees are my photos,  
4           so I know the conditions and circumstances.

5           Dr. Reynolds took over those flights in the  
6           early '80s and has continued them, to this day  
7           continues to do them. I conferred with him at  
8           length about this project. He wrote a letter to  
9           the colonel of the Corps of Engineers expressing  
10          his concerns over the project. We've excerpted one  
11          of those comments out of the letter there.

12          Hopefully you have the letter from Dr. Reynolds  
13          expressing his grave concerns about locating this  
14          marina project here and things that would need to  
15          be done to offset or mitigate for having such a  
16          project placed here in this basin. Those  
17          mitigation measures have not been accomplished  
18          under the proposed agenda item.

19          Additionally, the Marine Mammal Commission, a  
20          United States commission that oversees the Marine  
21          Mammal Protection Act and the laws of the United  
22          States in regard to marine mammals, they wrote a  
23          letter to the Fish and Wildlife Service on this  
24          project saying that the service basically did not  
25          consider properly the impacts of this development,

1 proposed development on the manatees and that there  
2 are substantial risks not only to manatees being  
3 hit and killed by the boats there, but also  
4 disrupting these hundreds of manatees from this  
5 preferred resting area and putting them out in  
6 other parts of the river systems and putting them  
7 not only at risk of being struck by boats, but also  
8 from cold stress.

9 I'm going to do this pretty quickly. That  
10 slide we've done by just what I've said.

11 This one I would like to -- hopefully it will  
12 show. This is just two pictures. I don't know how  
13 I can point, but the left picture, a boat is  
14 approaching several manatees. In the next photo,  
15 it's actually on top of one of those manatees and  
16 about to go over three more manatees. This is a  
17 relatively small, about a 17-foot boat. There's  
18 adequate clearance below this boat in order to go  
19 over the top of those manatees, for them to get  
20 down, which you can see from the changes in  
21 position, what they're trying to do is get down  
22 under it.

23 The 128 slips proposed for this marina basin,  
24 where they're going to dredge right where all these  
25 manatees are, are going to be up to five foot deep

1 in a river that the navigation channel is  
2 maintained at six. The analogy I would give you is  
3 that you've got a huge bus coming at you with less  
4 than a foot of clearance below that bus, and you've  
5 got to miss the bus, and really what you want to do  
6 is either get out of the way if you can, but if you  
7 can't, go down, which is what a manatee will do,  
8 and there's not room for it when you do that.

9 So you're changing the historical use of this  
10 area, not only disrupting and displacing the  
11 manatees, but now putting them at risk from these  
12 much larger boats, many more of them in this river  
13 system.

14 This is -- I usually resist even showing these  
15 kind of photos in most of the things we do because  
16 it's very unpleasant, but this is a manatee from  
17 the Orange River that was killed by a large boat,  
18 was not capable of swimming. This is not like --  
19 many times what can happen, a manatee can be hit  
20 elsewhere in the wintertime and come into the  
21 warm-water refuge and die there from lingering  
22 injuries. This was an acute case that was not --  
23 this animal was not capable of swimming and was hit  
24 and killed in the Orange River.

25 I just want to mention the applicant

1 themselves. The State of Florida --

2 GOVERNOR CRIST: I'm sorry. Can I ask one  
3 question about the last photo?

4 MR. ROSE: Sure.

5 GOVERNOR CRIST: Do you know when it was  
6 taken?

7 MR. ROSE: I'm sorry?

8 GOVERNOR CRIST: Do you know when it was  
9 taken?

10 MR. ROSE: That was a 1990 mortality. The  
11 date should be on the actual piece there. It's  
12 April 25th, 1990.

13 GOVERNOR CRIST: And I'm just curious. At the  
14 time that photo was taken and that incident  
15 occurred, do we today have the same speed limit for  
16 boats in the state of Florida?

17 MR. ROSE: My understanding, in this system,  
18 it's the same speed limit, yes. And in fact, what  
19 you run into is not just that speed is an issue  
20 here. It's that clearance issue I'm talking about.  
21 You could have a boat, a large boat going  
22 relatively slow, but if the manatee can't get down  
23 under it, it could still be hit, because there's  
24 not clearance. You're putting 128 slips -- or  
25 boats in those slips that are going to go in and

1 out of the place where this manatee was killed,  
2 where hundreds of manatees have to go back and  
3 forth through those same waters. And so the depth  
4 and the mass of those larger boats are going to  
5 become an issue, just like speed is an issue.

6 GOVERNOR CRIST: Thank you.

7 MR. ROSE: Just a quick sort of idea of a  
8 couple of the boats that might be in -- I can't  
9 tell you what they are. One is an 80-foot cabin --  
10 this one, the next slide, hopefully, you can see --  
11 maybe pull it down a little bit so you can see the  
12 dark lines in the basin. All of that is where  
13 they're going to be dredging within those dark  
14 lines. There we go. That's basically the layout  
15 of what the proposed development is going to be,  
16 and that's also the most important habitat for the  
17 manatees there.

18 The use of this area, you're going to hear  
19 them argue they had a couple hundred slips or more.  
20 There are different ways of counting slips. The  
21 Corps of Engineers, which this in fact -- you can  
22 come back now. This applicant actually originally  
23 submitted this project to the Corps of Engineers  
24 under the nationwide permit, basically saying it  
25 was not an expansion and that they wanted to get a

1 nationwide, which basically exempts them from all  
2 the different permitting activities.

3 And this is an excerpt from a redacted  
4 document we got from the Corps of Engineers saying  
5 that they clearly -- now the applicant understands  
6 that this is not going to be exempt under  
7 nationwide, that it is an expansion, and that  
8 they're going to have to go through that full  
9 process to do that, and, of course, rightfully so,  
10 because just because you had a theoretical number  
11 of other slips in the past of some size of boats  
12 and you're going to change and dredge such a large,  
13 complex area that manatees depend on so heavily,  
14 there are going to be potentially serious  
15 consequences, which we have talked about, and now  
16 the Commission is saying, Dr. Reynolds is saying,  
17 and, of course, myself saying this, having intimate  
18 knowledge of this area as well.

19 In summary, you literally have hundreds of  
20 manatees that rest in this particular basin that's  
21 going to be dredged. They're going to be displaced  
22 by the hundreds. We're going to have them being  
23 subject to increased strikes. We're going to have  
24 them subject to increased cold stress. The deaths  
25 are highest in this area basically of anywhere else

1 in Florida, and there aren't mitigation measures in  
2 place to deal with that.

3 And maybe that's where I'll end it. We have  
4 the last slide here. I have developed -- actually,  
5 in talking with the aides and with the Department,  
6 we developed a long list of things that could make  
7 this project better, because right now it's really  
8 bad. But we have not set out to just say, "Nothing  
9 here." We would love to do that. We would love it  
10 if this area could be purchased under the  
11 acquisition programs because it was so important.  
12 Dealing with where it is, we developed a number of  
13 things and have been working with the applicant and  
14 working with the Department.

15 The red areas on this -- you might zoom in --  
16 are proposed no-entry zones that, if they were put  
17 in place, they could provide some other places when  
18 these hundreds of manatees are displaced from this  
19 basin, that they could go and rest relatively  
20 undisturbed, and it would begin to help that  
21 situation.

22 Another thing that would be very important is  
23 that you would have law enforcement present to  
24 ensure that the existing idle speed zones would be  
25 enforced. That would at least help you greatly

1 with any speed violations, because even if you get  
2 85 percent compliance in vessels in a project like  
3 this, with this many manatees at risk, that  
4 15 percent noncompliance could be extremely serious  
5 and kill many manatees.

6 And than finally, the issue we don't really  
7 have an answer to is the draft issue, because if  
8 you're going to go five feet down with the  
9 potential draft and there's not going to be  
10 clearance in a number of places in the system, I  
11 don't know how you would deal with that unless you  
12 limit the draft of the vessels. I believe the  
13 applicant is going to tell you their project  
14 depends on having these very large vessels to make  
15 it economically successful.

16 But we'll continue to try to work with them,  
17 but we believe that you should say no to this  
18 project today and that it's not an appropriate  
19 place, and you shouldn't be displacing these  
20 manatees for this particular expansion of this  
21 development.

22 I thank you for your time.

23 GOVERNOR CRIST: Thank you very much.

24 MR. SOLE: Governor, our next speaker will be  
25 -- I think Eric Draper had to leave, so our next

1 speaker will be Kip Frohlich, who is with the Fish  
2 and Wildlife Conservation Commission.

3 MR. ROSE: If I could just say Eric asked if  
4 he had leave that I would let you know that he has  
5 serious concerns about this project as well.

6 GOVERNOR CRIST: Thank you.

7 MR. FROHLICH: Good afternoon, Governor Crist  
8 and members of the Cabinet. My name is Kip  
9 Frohlich. I'm the section leader for imperiled  
10 species management. We're responsible for the  
11 management and conservation of manatees, sea  
12 turtles, panthers, and bears in the Florida Fish  
13 and Wildlife Conservation Commission.

14 The proposed Leeward Yacht Club was first  
15 submitted to the Commission for review and comment  
16 in December of 2005, so we have been working on  
17 this project a long time. We evaluated the plan  
18 carefully. We made a number of site visits over  
19 the ensuing year to evaluate the proposal and the  
20 site. Our comment letter was provided to DEP in  
21 July of 2006, and in our comment letter at that  
22 time, we incorporated or recommended they  
23 incorporate a number of conditions into the permit  
24 as a part of the permit for this project. And with  
25 those requirements, we concluded that the proposal

1 would not be harmful to manatees and it would be  
2 consistent with Florida Statutes.

3 Now, the most important factor that we  
4 evaluated in reaching that conclusion was that we  
5 concluded that this project as proposed does not  
6 represent an increase in activity or an increase in  
7 boat traffic to this area.

8 Now, usually if I were appearing in front of  
9 you, it would be based on my staff's work, and it  
10 is partly that, but I had the pleasure that I lived  
11 in Fort Myers for seven years. I was the head  
12 manatee researcher in this very spot from 1983 to  
13 1990, and I spent countless hours on the Orange  
14 River as a part of that job, and in fact, in this  
15 very basin. And the reason for that is, just like  
16 the pictures you saw, a lot of manatees were in  
17 that basin. I used to climb up on top of a  
18 stepladder and photograph the manatees for their  
19 characteristics and scars that we put in our  
20 catalog as a part of my research, and I was there  
21 on a daily basis.

22 Well, in addition to photographing all these  
23 manatees during the '80s when I was there, I had  
24 firsthand experience in seeing this was a very busy  
25 marine environment. There was a dry storage

1 facility of over 100 boats on racks. They came in  
2 and went out with a forklift. They did repairs on  
3 boats there. People would actually bring their  
4 boats up, not just the ones that kept them there.  
5 They would visit that. There was wet storage of  
6 large live-aboards and other large vessels as part  
7 of the project then called the Hansen Marine Ways.  
8 There was a boat ramp. I put my boat in, and the  
9 fishermen and the other folks that put their boats  
10 in. We would all use the boat ramp together.  
11 There was a manatee cruise that came at least twice  
12 a day in a very large vessel bringing tourists up  
13 there.

14 So in addition to sitting on the ladder taking  
15 pictures, this was is a busy area throughout the  
16 '80s and up to 1990 when I left. And so that's my  
17 recollection of the activity level.

18 But in fairness, my staff did not depend just  
19 on that. They looked at the best available  
20 science. They looked at the seagrass study that  
21 concluded there was 141 slips and 15 trailer  
22 parking spots about a decade later in 1997. They  
23 looked at numerous aerial photos from the '60s,  
24 '70s, '80s, and '90s that show these marine  
25 facilities in these various forms as they evolved

1 through the decades, always a very busy area, lots  
2 of boats and lots of manatees in this area. And so  
3 there's no way that we could conclude at all that a  
4 change to 128 slips at all represents an increase  
5 in traffic or an increase in activity over this  
6 area that has been very busy for many decades.

7 Nevertheless, we did review it very carefully,  
8 and we added a number of recommendations that DEP  
9 accepted, things like an easement that restricts it  
10 to 128 slips. There will be no future boat ramps  
11 or any future upland activities. It restricts it  
12 to 128.

13 Also, an agreement to maintain access. This  
14 is an important place that we at times rescue  
15 manatees, and we have an agreement with the  
16 proposed owner that FWC will be allowed to access  
17 this area with vessels and/or rescue facilities to  
18 get the manatees in and out, if needed, when we do  
19 that.

20 And that brings us to the point, the manatees  
21 that have died in the Orange River. We have 14  
22 historically that had watercraft wounds such as the  
23 one that Mr. Rose showed you. Of those 14 deaths,  
24 12 of them were chronic and two were not. Chronic  
25 means the manatee is hurt, and it swims sometimes

1           for miles, sometimes for days before it expires.  
2           This is the place that manatees go where it's got  
3           warm water, and therefore, often when they're sick,  
4           they die there. It's unfortunate. We sometimes  
5           pull them out in that area. Very rarely are they  
6           hit in that area, because the entire Orange River  
7           is an idle speed zone.

8                        We were comfortable with this project, but  
9           then Mr. Ballard asked me to work with Mr. Rose,  
10          and so I met with Pat, and we went down to the  
11          site, and we've been working with him. We've been  
12          working with the owner, Mr. Riley, and trying to  
13          bring it closer together with an agreement. And so  
14          a number of other things were added too in the  
15          intervening months that we in the Commission feel  
16          very positive about, and one of those is this  
17          no-entry leased area that is shown on the picture.

18                       The previous no-entry zone -- there wasn't a  
19          no-entry, but there's all those pilings in the  
20          pictures. That's where I would float around and  
21          take picture of manatees, because large vessels  
22          wouldn't maneuver amongst those pilings, so it was  
23          a place for manatees to hang out. Those pilings  
24          are gone. Those were old creosote pilings, and  
25          it's probably a good thing for the environment that

1 the hundreds of very old pilings have been removed.  
2 But the point is, boats did get in amongst those  
3 pilings.

4 This new proposal, which we're supportive of,  
5 would actually be a no-entry zone during the  
6 winter. And it would also keep out kayaks and  
7 canoes, which no -- in the previous areas, that was  
8 never part of it, and sometimes manatees are  
9 harassed and moved around. So we're very  
10 supportive. We think that will make it even a  
11 better project.

12 So the Commission has looked at this very  
13 carefully for the last several years. The project  
14 has had some additional benefits added for the  
15 manatees, and that's thanks to Mr. Rose and his  
16 group for helping to get it even to be a stronger  
17 project. But for that, we are supporting DEP's  
18 position that this agenda item should be approved.

19 I would be happy to answer any questions about  
20 manatees.

21 GOVERNOR CRIST: Thank you very much.

22 MR. FROHLICH: Thank you, Governor.

23 CFO SINK: Governor, I do have a question.

24 GOVERNOR CRIST: CFO.

25 CFO SINK: I know you're proposing this

1 no-entry zone as we see in the map here. What  
2 about the proposal of doing the -- something here  
3 says that in one day, as many as 490 manatees were  
4 seen in this corridor going up all the way to the  
5 -- all the way up to the power plant. So what do  
6 you think of the proposal, or is it within your  
7 ability to establish these other no-entry zones  
8 further up the channel, as the previous speaker  
9 recommended?

10 MR. FROHLICH: The Orange River for its  
11 entirety, from the mouth of the Orange River up  
12 past the effluent of the power plant, is all idle  
13 speed year round. And we have not come -- as a  
14 Commission have not come back to Lee County with a  
15 recommendation for additional no-entry zones  
16 because, frankly, we believe the system is working  
17 pretty well in the Orange River, idle speed for all  
18 vessels year round, and we're not proposing  
19 no-entry zones throughout the Orange River. In  
20 fact, there are many other places in Florida that  
21 are higher up in the need than an idle speed river.

22 It also has fairly good compliance, and the  
23 reason for that, it's a small river. There's a lot  
24 of folks there that love manatees. They're there  
25 to see manatees. It's not a place to go if you

1 want to speed a little bit, because you're going to  
2 get a lot of peer pressure not to do that. So our  
3 Commission is not recommending a series of no-entry  
4 zones that would actually impact many other  
5 property owners, but we are supportive of this as  
6 part of the leased basin.

7 And it's actually -- we thought it was  
8 somewhat creative when an applicant is leasing a  
9 basin and reserves part of that lease for  
10 conservation. Certainly part of it is for the  
11 docks, and part of it is for the traffic. So we're  
12 supportive of the one that's in front of you.

13 CFO SINK: And you're not bothered by the -- I  
14 just can't imagine 80-foot boats being up in this  
15 area.

16 MR. FROHLICH: Well, there has always been  
17 some large vessels in this area. This has been a  
18 marine area that -- they used to build large boats,  
19 very large boats. Hansen Marine Works had covered  
20 areas. So there has been a variety of vessels in  
21 this area.

22 MR. SOLE: Can I add to that issue, CFO? One  
23 of the concerns that you're raising -- and if you  
24 can zoom out a little bit on that slide. As you  
25 see the entryway into the Orange River, which is

1 roughly in here, here's the project site. Boat  
2 traffic largely goes this way as you go up the  
3 Orange River, because this is really more of a  
4 bayou type system.

5 CFO SINK: Right.

6 MR. SOLE: It's not connected. This bridge  
7 is a limiting factor for the large vessels. It is  
8 a low bridge. So as you go further up the Orange  
9 River, the larger vessels are going to be  
10 significantly decreased because of that bridge  
11 being a limiting barrier.

12 CFO SINK: Okay. Thank you, Mike.

13 GOVERNOR CRIST: General.

14 ATTORNEY GENERAL McCOLLUM: I just want to ask  
15 a question about the depth of the boats of the size  
16 that the CFO is mentioning. I guess there has been  
17 historically boats that large in there, but I think  
18 the point being made previously was that the  
19 manatee don't have the room to get under those  
20 boats. Why do we want to let that many big boats  
21 in there? Or historically have there been 128 big  
22 boats, boats that would have that kind of depth in  
23 there? Is the whole basis of this argument that we  
24 should approve this on the fact that when we had  
25 boats before, we didn't injure them, that are the

1 same size and the same numbers?

2 MR. FROHLICH: We have to base our  
3 recommendations on the best available science, and  
4 we take a lot of pride in that in the Commission.  
5 And there is always a lot of, quite frankly, debate  
6 about small boats, big boats. And I'm here to tell  
7 you that all types of boats can kill manatees. But  
8 we do not have a lot of science that really looks  
9 at a marina basin that's all go-fast boats or all  
10 large boats, because there's offsetting issues.

11 For example, studies will show you that large  
12 boats actually leave the dock less frequently.  
13 They're not used a lot, these very large boats, so  
14 that's, I guess, in the plus. They are deeper.  
15 There's the draft issue that was mentioned by  
16 Mr. Rose, and that's in the minus.

17 Another part of this is compliance studies.  
18 Compliance studies consistently show that small  
19 boats are more likely to violate zones.

20 So in the Commission, we look at the boat  
21 traffic and how it fits the area. We know that  
22 this particular area has had a history of all types  
23 of boats, many more than is being proposed. We  
24 know there's boats up and down the Orange River.  
25 Single-family homes have boats. There's no data to

1 suggest that 128 boats of the type that are being  
2 proposed is at all more dangerous than the much  
3 busier historical use of this area.

4 The other point to point out is that that  
5 basin area is actually -- where the manatees  
6 aggregate is quite deep. It's 11, 12 feet. It's  
7 not a very shallow area. The applicant I believe  
8 is going to mark the entire channel from the  
9 Caloosahatchee River up, which will channelize that  
10 basis.

11 We have to look at it on a science basis,  
12 Mr. Attorney General, you know, what can we say  
13 from science. There's nobody on my staff that  
14 could conclude whatsoever that this use is more  
15 dangerous. In fact, with all the conversation  
16 measures, we feel like it's going to be an  
17 enhancement.

18 And one that's very important to us, quite  
19 frankly, is the agreement by the applicant that if  
20 there's more than one violation, that person will  
21 be asked to leave the facility. That has never  
22 happened before in this area. And I can tell you  
23 as someone who has spent some time there, there  
24 were a few folks that violated that zone. I was  
25 there at odd hours, being a researcher, and you see

1 people violate.

2 Now we have a situation, at least with this  
3 basin, that the applicant is saying that if you  
4 have repeated violations, more than one, they won't  
5 be there any longer. That's another thing that  
6 weighs us to conclude that on balance, it's  
7 actually an improvement.

8 ATTORNEY GENERAL McCOLLUM: Thank you.

9 MR. SOLE: Governor, I have one more speaker  
10 on this item. It's the applicant's agent, Mr. Pat  
11 Riley.

12 MR. RILEY: Good morning. For the record, my  
13 name is Pat Riley. I'm not the basketball coach,  
14 but some days I would like to be.

15 This is the permitting of two existing  
16 marinas. One of the marinas has been there since  
17 1886. It was mentioned in the 1949 Coastal Pilot  
18 for this area that boats of 80 feet and five foot  
19 of draft could access this area. It's been a very  
20 popular boat ramp for many years and a boat hauling  
21 structure that hauled steamboats up to 135 feet  
22 long and 30 feet wide. So it's a long history of  
23 large vessels into this site. The other marina was  
24 built in 1963, four years after the power plant was  
25 put on the Orange River.

1           There's a lot of misinformation that has been  
2 here. These marinas have existing leases to 2012.  
3 And like I said, 123 wet slips, 60 dry slips, and  
4 two boat ramps is what we're operating now. So  
5 what we're asking for is 128 slips, less than that.

6           There has always been -- we admit there's been  
7 manatees in there. In fact, for many years, there  
8 was a manatee tour that came out of this site that  
9 showed with our records about 300,000 people were  
10 able to view to the manatees from this boat up and  
11 down the river.

12           We have been in the permitting process for  
13 three years with the DEP and the Corps, a year and  
14 a half with the Florida Wildlife Conservation, and  
15 two years with the U.S. Fish and Wildlife Service.  
16 On four different occasions, the U.S. Fish and  
17 Wildlife Service has examined this project and  
18 approved it. I believe they're the experts in this  
19 field. I believe they're your experts in this  
20 field, and I have relied on them to help me design  
21 this project so it can environmentally soundly  
22 reconstruct something that needs to be rebuilt and  
23 also protect the manatee. I think it's an  
24 important signal to everyone, all industries in  
25 this state in the permitting process that you can

1 rebuild your facilities and do it environmentally  
2 soundly, and that's what we've attempted to do.

3 An important other aspect is the Lee County  
4 Manatee Protection Plan that in 2004 was passed  
5 after 15 years of negotiation in Lee County. That  
6 went through three governors, the Lee County  
7 Commission, the U.S. Fish and Wildlife Service, and  
8 the Florida Wildlife Conservation Commission, and  
9 it took us 15 years to get agreement of all those  
10 players, also the boating groups and the marine  
11 industry. In that document, these two marinas are  
12 noted to have 156 slips. That's why when we  
13 designed it, we designed it at 128. We're not  
14 being greedy. We didn't try to get everything. We  
15 were trying to accommodate all the parameters I  
16 needed to do to design this marina.

17 Now a personal note. I've been a professional  
18 engineer for 35 years. I've done many permitting  
19 -- planned and managed marinas in Southwest  
20 Florida. And as you will talk to your cabinet  
21 aides, they all know I'm very proud of this  
22 project. I feel good about this project of all the  
23 ones I've done. We've met with the club. We've  
24 met with a lot of other different interested people  
25 and tried to design this to do the best job. We

1 have changed the project a little bit in different  
2 areas to make it more -- a balanced project.

3 It provides a historic site. We preserved the  
4 old 1886 boatyard. We will provide a boardwalk for  
5 the public to access to that boardwalk as part of  
6 this project. And it really is a, if you will,  
7 kind of a story of the settlement of Florida, and I  
8 wish, as I did with the cabinet aides, I could get  
9 into that story, but it's a good one. We've spent  
10 a lot of time with the community in designing this  
11 project. And it is the gateway to east Fort Myers  
12 at this exit. It has the public access, water  
13 access. And Lee County will -- needs to benefit by  
14 property investment at this time. This is infill  
15 and reconstruction.

16 A University of Michigan study showed that we  
17 would spend -- we would introduce to the community  
18 \$1.4 million annually if this marina gets built,  
19 plus a \$10 million construction fee that it's going  
20 to cost to build this marina. We are going to go  
21 from where we're giving the State of Florida and  
22 the Board of Trustees \$8,500 for the existing  
23 leases to \$26,000 a year for the existing leases,  
24 for the new lease.

25 And I want to comment about the local economy.

1 In east Fort Myers, east Lee County, one in five  
2 houses is being foreclosed on. We haven't reached  
3 the bottom of this trough that the economy is in  
4 right now. And particularly in Southwest Florida,  
5 I'm not sure how far that trough is away. So I  
6 really implore you that this project will add to  
7 the community. It's balanced. It is, I believe,  
8 one of the best projects I've ever worked on in  
9 terms of public benefit and environmentally sound.

10 And I thank you for your consideration.

11 GOVERNOR CRIST: Thank you, sir.

12 COMMISSIONER BRONSON: Governor, I would like  
13 to move for approval, subject to the special  
14 conditions, and ask DEP to continue to work with  
15 those who are involved in this facility on the  
16 manatee issue.

17 GOVERNOR CRIST: Is there a second?

18 ATTORNEY GENERAL McCOLLUM: Second.

19 GOVERNOR CRIST: Any discussion?

20 CFO SINK: Yes, Governor.

21 GOVERNOR CRIST: CFO.

22 CFO SINK: I just want to add that I think  
23 the -- I had my staff draw out for me the  
24 encroachment. This project really basically takes  
25 over almost the entire bay in terms of the

1           encroachment into the habitat there. And it would  
2           certainly be my preference if the approval was for  
3           a reduced number of slips for sure, because I think  
4           the encroachment is pretty significant. Are you  
5           showing it, Mike?

6           MR. SOLE: Yes, ma'am.

7           COMMISSIONER BRONSON: If I could --

8           GOVERNOR CRIST: Commissioner.

9           COMMISSIONER BRONSON: To your point, CFO, you  
10          know -- and I understand where you're coming from,  
11          but let me stipulate that my knowledge of what I've  
12          looked at here, these manatees do have the  
13          availability, even with those slips, to move in and  
14          around the Orange River, go up the river, come back  
15          down the river. And the fact that there was going  
16          to be a set-aside on that side of the slips anyway,  
17          which they're going to try to enforce a no-entry --  
18          and I still haven't figured out how all that --  
19          that's the reason why I asked the Secretary of DEP  
20          to work with them on that and figure out how that's  
21          going to work. But there would be an enforcement  
22          at some point by somebody, either Fish and  
23          Wildlife, DEP, or somebody, that there would be no  
24          entry to that area. And the availability of the  
25          manatees to go up and down the river is not going

1 to be changed.

2 So I just feel like -- I felt comfortable that  
3 there is going to be protection. There is a  
4 no-wake, an idle speed zone.

5 And I, you know, knowing Mr. Rose as I do --  
6 I've known him for years and worked with him in the  
7 Senate. If there had been a lot of recent deaths  
8 of manatees, I'm sure we would have seen those  
9 pictures show up pretty frequently. And the one I  
10 saw was 18 years old, so I would assume that the  
11 nature of the people using that area, the  
12 homeowners and all have finally gotten the message  
13 that they're going to have to follow that no-wake  
14 and the idle speed zones up and down that river to  
15 protect these manatees.

16 And I will tell you this. My concern on a  
17 number of these issues has been -- we have done  
18 such a good job of bringing certain species back --

19 GOVERNOR CRIST: We're bumping into them a  
20 lot.

21 COMMISSIONER BRONSON: We are now killing  
22 bears on the highway that a few years ago nobody  
23 would have ever thought they would ever see a bear  
24 in their lifetime. Panthers are coming back.

25 CFO SINK: Eagles.

1           COMMISSIONER BRONSON: Eagles are coming back  
2 to the number two state in the United States, to  
3 Florida. We're doing a real good job of bringing  
4 this wildlife back. And I've got to tell you, with  
5 cars on the highway and boats in the water and  
6 other stuff, we're going to have to stay on it,  
7 because you're going to have accidents, just like  
8 the more people we put in cars on the highway,  
9 we're going to have more and more accidents.

10           So I want us to be mindful that there are  
11 sometimes things happen we don't like for them to  
12 happen, but they're going to happen anyway. And  
13 for those who violate, we're going to have to take  
14 care of that problem, and we're going to have to  
15 protect manatees and other things as best as  
16 possible. But I think this plan does that in a way  
17 that still gives full movement to the manatee, and  
18 that's the reason why I want to go ahead and make a  
19 motion on this project under those conditions.

20           GOVERNOR CRIST: Very good. Any other  
21 comments?

22           I think we have a motion and a second. All in  
23 favor say aye.

24           COMMISSIONER BRONSON: Aye.

25           ATTORNEY GENERAL McCOLLUM: Aye.

1 CFO SINK: Aye.

2 GOVERNOR CRIST: Opposed, like sign.

3 The motion carries. Thank you.

4 MR. SOLE: Item Number 4. This is  
5 consideration of an option agreement to acquire  
6 104.8 acres within the Division of Forestry's  
7 Blackwater River State Forest that's located in  
8 Santa Rosa County. The purchase price is \$475,000,  
9 which is 100 percent of the approved value, and  
10 it's an inholding to the Blackwater River State  
11 Forest and will be managed by the Division of  
12 Forestry.

13 ATTORNEY GENERAL McCOLLUM: I move Item 4.

14 COMMISSIONER BRONSON: Second.

15 GOVERNOR CRIST: Moved and seconded. Show it  
16 approved without objection.

17 MR. SOLE: Item Number 5 is consideration of  
18 an option agreement to acquire 2.6 acres within  
19 DEP's Division of Recreation and Parks' Fort George  
20 Island Cultural State Park in Duval County. The  
21 purchase price is \$283,000, which is 94 percent of  
22 the approved value. This is within the state park  
23 area and is going to be acquired using the Florida  
24 Forever inholdings dollars.

25 GOVERNOR CRIST: Is there a motion on Item 5?

1 COMMISSIONER BRONSON: Motion on Item 5.

2 GOVERNOR CRIST: Is there a second?

3 ATTORNEY GENERAL McCOLLUM: Second.

4 GOVERNOR CRIST: Moved and seconded. Show it  
5 approved without objection.

6 MR. SOLE: Item Number 6 is consideration of  
7 an option agreement to acquire 59.187 acres within  
8 the Flagler County Blueway Florida Forever project  
9 located in Flagler County. The Board of Trustees  
10 purchase price is 395,000, which is 50 percent of  
11 the total purchase price, which equates to  
12 \$790,000, which is 76 percent of the approved  
13 value. We've got a great partner on this project.  
14 Flagler County has agreed to pay the remaining 50  
15 percent. And we have Chairman Jim O'Connell just  
16 in support, chairman of the Board of County  
17 Commissioners of Flagler County.

18 GOVERNOR CRIST: Thank you, Mr. Chairman.

19 COMMISSIONER BRONSON: Motion on Item 6.

20 CFO SINK: Second.

21 GOVERNOR CRIST: Moved and seconded. Show it  
22 approved without objection. Thanks for being here,  
23 Mr. Chairman.

24 MR. SOLE: Item Number 7 is consideration of  
25 approval of the management plan and 2008 business

1 and operational plan for Babcock Ranch.

2 Governor and Cabinet members, as you're aware,  
3 the State in July of 2006 acquired Babcock Ranch,  
4 some 73,000 acres, \$310 million from the State of  
5 Florida, \$40 million from Lee County. On  
6 April 15th, we presented to the Board of Trustees  
7 an update on Babcock Ranch Preserve. Since then,  
8 there has been a tremendous effort of all parties  
9 to work together to develop a management plan that  
10 not only supports sustainability of the ranch, but  
11 also protects the resources.

12 Highlights of that updated plan include  
13 implementation of the new revisions to the Florida  
14 Forever program, inclusion of a forest management  
15 plan, inclusion of a business/operational plan,  
16 amendments to the silviculture guidelines, and a  
17 provision to allow tenant farming for the remainder  
18 of Babcock Ranch, LLC's tenure at the ranch, and  
19 additional provisions for stump harvesting and  
20 burns.

21 We have several folks here that are in support  
22 of that, and if there's any questions, I'm sure  
23 we'll be glad to entertain them, Governor.

24 GOVERNOR CRIST: Thank you.

25 ATTORNEY GENERAL McCOLLUM: I just had one or

1 two questions. All of us probably went down and  
2 visited the ranch at one time or another, and I  
3 certainly did.

4 I gather that the lease for the tomato growing  
5 down there has been part of this management plan,  
6 and we're going to be able to continue up to 3- or  
7 4,000 acres of that land that can be harvested as  
8 commercial agriculture in crops like tomatoes, and  
9 we can continue to gain income from that. That's  
10 my understanding of that provision.

11 MR. SOLE: General, that is correct, on the  
12 Charlotte County portion, the state-owned portions  
13 of the property, yes, sir.

14 ATTORNEY GENERAL McCOLLUM: I thought that was  
15 very important to the income level of it. And we  
16 worked out the cockaded woodpecker issue?

17 MR. SOLE: Fortunately, as a result of the  
18 Fish and Wildlife Conservation and the Division of  
19 Forestry working together, they came up with a good  
20 red-cockaded woodpecker management plan that has  
21 been implemented in the forest management plan.

22 ATTORNEY GENERAL McCOLLUM: And that means  
23 they'll still be able to harvest some timber?

24 MR. SOLE: Yes, sir.

25 ATTORNEY GENERAL McCOLLUM: All right.

1           MR. SOLE: I will caveat that I know that  
2 Babcock Ranch, LLC is supportive of this management  
3 plan. They acknowledge that as a result of the  
4 reduced silviculture, they're going to have to  
5 watch the revenue stream, and the best they can do  
6 is just see how it goes from here to see how that  
7 affects their revenue stream.

8           ATTORNEY GENERAL McCOLLUM: And if this  
9 management plan needs adjustment, it will come back  
10 to us again?

11          MR. SOLE: Yes, General.

12          ATTORNEY GENERAL McCOLLUM: Thank you.

13          COMMISSIONER BRONSON: Governor and --

14          CFO SINK: Governor -- go ahead.

15          COMMISSIONER BRONSON: -- Cabinet members, if  
16 nothing else, this may actually give the Cabinet a  
17 chance to see what farming is all about and how --

18          CFO SINK: It's hard to make money.

19          COMMISSIONER BRONSON: And how precarious, no  
20 matter what type of agriculture you're in in the  
21 state of Florida, as to why I've been very much  
22 concerned as to how much open green space we keep  
23 in Florida, with agriculture being a part of it.  
24 That's why I was glad to see our earlier issue  
25 pass, because we are tenuous today on farming in

1 Florida, for the simple reason that Florida land is  
2 worth so much money to so many people who want to  
3 live here that the value of agricultural land,  
4 while it has risen, the cost of agriculture  
5 production has over-exceeded any amount of receipts  
6 coming back, to the point that we're having a tough  
7 time in agriculture today in Florida adjusting to  
8 those issues.

9 And so if nothing else, this whole program is  
10 going to educate not only our staff people as to  
11 what happens in agriculture statewide, much less on  
12 state-owned lands, but the same issues that private  
13 landowners are going through in paying for the full  
14 maintenance of their property. And maybe if  
15 nothing else, this will help us understand that  
16 things sometimes aren't as rosy or aren't as  
17 positive as we would like them to be, simply  
18 because there are other factors there that we  
19 cannot control.

20 We could not control the tomato industry  
21 getting crushed by the statement that tomatoes was  
22 causing an outbreak of disease, which eventually it  
23 turned out it wasn't the cause. And we lost  
24 \$125 million in production of those tomato growers,  
25 who could lose the chance to come back next year.

1           I mean, those are the kinds of issues that are  
2           making it very hard for agriculture to stay in  
3           business, no matter whether it's Florida or  
4           wherever it is. But I think if this will get to be  
5           a positive issue of this Board, and hopefully the  
6           Legislature, since they've been a part of it, to  
7           understand what agriculture is really about and how  
8           tough it is in Florida with all the rules,  
9           regulations, and everybody having a different  
10          opinion on the way you ought to spend your money  
11          and do your business. And I think with that in  
12          mind, this will be a good learning curve for a lot  
13          of people.

14           ATTORNEY GENERAL McCOLLUM: Will the gentlemen  
15          yield?

16           COMMISSIONER BRONSON: Yes, sir.

17           ATTORNEY GENERAL McCOLLUM: I think the other  
18          positive point out of all this is that --

19           GOVERNOR CRIST: We're not in Washington,  
20          General. You don't have to do that.

21           ATTORNEY GENERAL McCOLLUM: That's all right.  
22          I like --

23           GOVERNOR CRIST: But it's very courteous.

24           ATTORNEY GENERAL McCOLLUM: It's very  
25          courteous.

1 GOVERNOR CRIST: Yes, it is.

2 ATTORNEY GENERAL McCOLLUM: I just want to do  
3 it on your time, that's all, you know, the way I  
4 look at things.

5 I was just wanting to say that the other  
6 positive thing that we have going here is the fact  
7 that if this is working, and it is working, it will  
8 be, I think, a great model. We need to think about  
9 the potential future where there are other ranch  
10 lands in our state that we're going to need to  
11 acquire, or at least a substantial portion of them.  
12 And as you pointed out, and, Mike, you pointed out,  
13 we don't have the money, and the State doesn't have  
14 the resources to simply go buy the land, and yet we  
15 want to see thousands of acres in the future that  
16 aren't developed in our state. And if this works,  
17 and apparently it is, and we get good management on  
18 it, it will be a great model.

19 CFO SINK: Well, Governor, hopefully we'll  
20 encourage more conservation easements, because I'm  
21 not sure we want to be in the farming business, the  
22 State.

23 But maybe I should ask you this also,  
24 Commissioner. It seems -- I mean, this is a real  
25 watershed event, because this is two years after

1 the \$350 million acquisition, and this really is  
2 the initial -- the start of the management plan,  
3 and a lot of changes have been made, and  
4 improvements, and we all have visited.

5 And for my part, because we're so new at this,  
6 I would very much like to see a management review  
7 two years from now as opposed to -- I believe  
8 there's a -- currently it's not until five years,  
9 and to me, that's just too long, being so new in  
10 this process. We ought to have it come back in two  
11 years and see what the revenues have been and see  
12 how these additional farming activities have  
13 occurred and what's going on with the environmental  
14 tourism part of it. And when we get to the motion,  
15 I would like to make an amendment that we be on a  
16 two-year review cycle, and then after two years, if  
17 we decide we want to go longer out from there, then  
18 that would be all right.

19 GOVERNOR CRIST: I think we have a motion.

20 ATTORNEY GENERAL McCOLLUM: No. I'll make the  
21 motion.

22 GOVERNOR CRIST: Thank you, General.

23 ATTORNEY GENERAL McCOLLUM: And you may amend  
24 if you would like then.

25 CFO SINK: Okay.

1           GOVERNOR CRIST: Move to approve, and your  
2 friendly amendment has been accepted.

3           CFO SINK: Is there someone who wanted to  
4 speak to that, or is that --

5           MR. SOLE: I'm sorry, CFO. The only reason  
6 why I was questioning it that I know the changes to  
7 the Florida Forever program also included an actual  
8 every-two-year review of the lands. But I think  
9 what you're asking is slightly different, so I  
10 understand.

11          CFO SINK: Right.

12          ATTORNEY GENERAL McCOLLUM: Well, I'll make  
13 the motion, and it's your second.

14          COMMISSIONER BRONSON: And I will second it.

15          GOVERNOR CRIST: There we go. So it has been  
16 moved, and it has been amended and seconded as  
17 such. Any other discussion?

18          MR. SOLE: The only thing, Governor, I do want  
19 to address is, it's worth noting that this project  
20 and this management plan was approved by Lee  
21 County, it was approved by Babcock Ranch, Inc., and  
22 it was approved by the Acquisition and Restoration  
23 Council as a result of a lot of hard work of all of  
24 the above. And so I just want to thank everybody  
25 involved in getting this management plan into the

1 condition that it is today, because I think it is a  
2 very worthwhile plan. Thank you, Governor.

3 GOVERNOR CRIST: Show it approved without  
4 objection. Thank you.

5 MR. SOLE: That concludes my agenda items.

6 GOVERNOR CRIST: Thank you, Secretary. Keep  
7 up the good work.

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1 GOVERNOR CRIST: General Milligan, SBA.

2 GENERAL MILLIGAN: I need to comment.

3 Commissioner Bronson --

4 GOVERNOR CRIST: General. Could we have quiet  
5 in the room?

6 GENERAL MILLIGAN: A quick comment. My farm  
7 home is now a NAPA parts store, so I know exactly  
8 what you're talking about.

9 Are you ready, sir?

10 GOVERNOR CRIST: Yes, sir, we're ready.

11 GENERAL MILLIGAN: Item 1 is request approval  
12 of the minutes for May 28th, June 10th, and  
13 July 2nd of 2008.

14 GOVERNOR CRIST: Is there a motion on the  
15 minutes?

16 CFO SINK: Moved.

17 ATTORNEY GENERAL McCOLLUM: Second.

18 GOVERNOR CRIST: Show the minutes approved  
19 without objection.

20 GENERAL MILLIGAN: Item 2, request approval of  
21 a fiscal sufficiency of an amount not exceeding  
22 168 million State of Florida Department of  
23 Environmental Protection Florida Forever Bonds.

24 GOVERNOR CRIST: Is there a motion?

25 CFO SINK: Move it.

1 ATTORNEY GENERAL McCOLLUM: Second.

2 GOVERNOR CRIST: Moved and seconded. Show  
3 Item 2 approved without objection.

4 GENERAL MILLIGAN: Item 3, request approval of  
5 a fiscal sufficiency of an amount not exceeding  
6 28,200,000 State of Florida Department of Education  
7 Community College Capital Improvement Revenue  
8 Bonds.

9 ATTORNEY GENERAL McCOLLUM: I move it.

10 CFO SINK: Second.

11 GOVERNOR CRIST: Moved and seconded. Show  
12 Item 3 approved without objection.

13 GENERAL MILLIGAN: Item 4, request approval of  
14 a fiscal determination of an amount not exceeding  
15 9,500,000 Florida Housing Finance Corporation  
16 Multifamily Mortgage Revenue Bonds.

17 CFO SINK: I move it.

18 ATTORNEY GENERAL McCOLLUM: Second.

19 GOVERNOR CRIST: Moved and seconded. Show  
20 Item 4 approved without objection.

21 GENERAL MILLIGAN: Item 5, request approval of  
22 a fiscal determination of an amount not exceeding  
23 5,800,000 Florida Housing Finance Corporation  
24 Multifamily Mortgage Revenue Bonds. This is for  
25 Timber Trace Apartments.

1 ATTORNEY GENERAL McCOLLUM: Move Item 5.

2 GOVERNOR CRIST: Is there a second?

3 CFO SINK: Second.

4 GOVERNOR CRIST: Moved and seconded. Show  
5 Item 5 approved without objection.

6 GENERAL MILLIGAN: Item 7, request approval of  
7 the SBA quarterly report required by the Protecting  
8 Florida's Investment Act. And I might add that we  
9 are down now to 788,000 out of 1.2 billion and  
10 anticipate -- we will have it all settled by the  
11 18th of September.

12 ATTORNEY GENERAL McCOLLUM: I would move Item  
13 6. I believe you said 7, General, but I believe  
14 that's Item 6.

15 GENERAL MILLIGAN: It is Item 6, yes, sir.

16 ATTORNEY GENERAL McCOLLUM: I move it.

17 GOVERNOR CRIST: Is there a second?

18 CFO SINK: Second.

19 GOVERNOR CRIST: Moved and seconded. Show  
20 Item 6 approved without objection.

21 GENERAL MILLIGAN: Item 7, request approval of  
22 the Lawton Chiles Endowment for Children and Elders  
23 Investment Policy Statement. The Investment  
24 Advisory Council reviewed and unanimously approved  
25 the revised Investment Policy Statement of the

1 Lawton Chiles Endowment Fund at a public meeting on  
2 April 17, 2008.

3 CFO SINK: Move it.

4 ATTORNEY GENERAL McCOLLUM: Second.

5 GOVERNOR CRIST: Moved and seconded. Show  
6 Item 7 approved without objection.

7 GENERAL MILLIGAN: Item 8, request approval of  
8 the updated Investment Policy Guidelines for the  
9 two Local Government Investment Pool trusts, the  
10 Local Government Surplus Funds Trust Fund, formerly  
11 known as Fund A, and Fund B, Surplus Funds Trust  
12 Fund, consisting of restructured and defaulted  
13 securities separated from the pool in December of  
14 2007.

15 ATTORNEY GENERAL McCOLLUM: I move Item 8.

16 CFO SINK: Second.

17 GOVERNOR CRIST: Moved and seconded. Show  
18 Item 8 approved without objection.

19 GENERAL MILLIGAN: Item 9, request authority  
20 to file notice for rule hearing to be held on  
21 December 2nd for six rules for the Florida  
22 Retirement System's Investment Plan. They are  
23 titled Beneficiary Designations, Excessive Trading,  
24 New Hires, Second Election, Forfeiture, and  
25 Reemployment After Retirement, and they will be

1 brought back for later adoption by the Trustees.

2 GOVERNOR CRIST: Is there a motion on Item 9?

3 CFO SINK: Move it.

4 GOVERNOR CRIST: Moved.

5 ATTORNEY GENERAL McCOLLUM: Second.

6 GOVERNOR CRIST: Moved and seconded. Show  
7 Item 9 approved without objection.

8 GENERAL MILLIGAN: Item 10, request  
9 authorization for the Florida Hurricane Catastrophe  
10 Fund to file Rule 10-8.010, F.A.C., for adoption.  
11 The changes to this rule were necessitated by the  
12 2008 legislation extending the 10 million optional  
13 Florida Hurricane Catastrophe Fund coverage for the  
14 additional contract year.

15 ATTORNEY GENERAL McCOLLUM: Move Item 10.

16 CFO SINK: Second.

17 GOVERNOR CRIST: Moved and seconded. Show it  
18 approved without objection.

19 GENERAL MILLIGAN: Item 11, request approval  
20 of a Put Option Agreement between the State Board  
21 of Administration, the Florida Hurricane  
22 Catastrophe Fund Corporation, and Berkshire  
23 Hathaway, Inc.

24 On July 2nd, 2008, the Board authorized the  
25 Florida Hurricane Catastrophe Fund and the

1 Corporation to develop specific proposals to secure  
2 funding for the FHCF that would permit the FHCF to  
3 secure at least 4 billion in bonds through a put  
4 option.

5 Mark Mustian is here to address any questions  
6 you may have. He is bond counsel.

7 CFO SINK: Governor, I do have a question.

8 GOVERNOR CRIST: CFO.

9 CFO SINK: General, I understand there have  
10 been significant negotiations going on right up  
11 until maybe five o'clock last night, but one of the  
12 things that I heard that disturbed me was that  
13 there was a -- and I may not have this right, but  
14 there was some loophole in there, that we're paying  
15 about \$240 million for the right to borrow this  
16 \$4 billion at some point in the future. But as the  
17 documents had been written, Berkshire Hathaway had  
18 the right to come back at the point we made a  
19 request for our \$4 billion and just say, "Well, we  
20 don't feel like giving it to you anymore. Here's  
21 your money back." That's no deal to me.

22 I think I've been told that that has been  
23 tightened up. Do you want to -- can you elaborate  
24 on that?

25 GENERAL MILLIGAN: I'll turn to Mark if my

1 answer isn't satisfactory, but there were a large  
2 -- a significant number of issues that one might  
3 call were outs that would allow Berkshire Hathaway  
4 to pursue. I think -- I'm confident that they've  
5 all been closed.

6 There is one issue that requires me to attest  
7 to the fact that there is no meaningful knowledge  
8 on my part or no knowledge on my part of any  
9 possible statute or law or federal law, whatever,  
10 that is being violated, and I may have to make some  
11 comment when I ultimately sign it, but it is not  
12 something that will stop the put option.

13 CFO SINK: And are you satisfied that the  
14 negotiations have been done to the extent possible  
15 to protect the State?

16 GENERAL MILLIGAN: With that one exception  
17 that I just mentioned, I am satisfied.

18 GOVERNOR CRIST: General --

19 GENERAL MILLIGAN: Do you want to add  
20 anything?

21 GOVERNOR CRIST: No, no. General, excuse me.  
22 I can't let that go.

23 GENERAL MILLIGAN: Yes.

24 GOVERNOR CRIST: Why don't you tell us now?  
25 What's your concern? I mean, we're about to vote.

1           GENERAL MILLIGAN: Well, I know you are, and I  
2 -- let me find exactly the wording here.

3           GOVERNOR CRIST: In an abundance of  
4 transparency, I would like to hear what you have to  
5 say.

6           GENERAL MILLIGAN: I didn't mark it in my book  
7 here, but let me see if I can find it, if you'll be  
8 patient for a second.

9           GOVERNOR CRIST: Take your time, General.

10          GENERAL MILLIGAN: Have you got a copy of it?  
11          It says, "To the best knowledge of the State  
12 Board of Administration, the State Board of  
13 Administration is currently not in material breach  
14 or material default under any applicable  
15 constitutional provision, law, or administrative  
16 regulation of the State or of the United States, or  
17 any applicable judgment or decree or any relevant  
18 loan agreement, indenture, bond, note, or  
19 resolution agreement or other relevant instrument  
20 to which the State Board of Administration is a  
21 party or to which the State Board of Administration  
22 or any other of the pledged collateral is otherwise  
23 subject, and no event has occurred and is  
24 continuing which, with the passage of time or the  
25 giving of notice, or both, would constitute a

1 default or event of default under any such  
2 instrument, which breach or default covered by this  
3 paragraph would materially adversely affect the  
4 ability of the State Board of Administration to  
5 perform its obligations under the Amended Pledge  
6 Agreement, the bonds, or the Put Option Agreement."

7 And I am reluctant to sign that -- I am one of  
8 those that will be a party and sign this put option  
9 -- without making a statement in reference to that  
10 particular paragraph. The statement is -- really,  
11 I've talked it over with my lawyers. It's not a  
12 big deal, but it does protect the State.

13 GOVERNOR CRIST: I'm not sure what all that  
14 meant.

15 GENERAL MILLIGAN: Well, that's one of my  
16 problems perhaps, Governor. I'm not sure I  
17 understood all of what it meant too.

18 GOVERNOR CRIST: Well, I have an idea. You  
19 know, your concern is always a concern to me. I  
20 mean, I have tremendous respect for your judgment.

21 GENERAL MILLIGAN: I can take care of my  
22 concern with a very simple statement, which I don't  
23 happen to have with me right now.

24 GOVERNOR CRIST: I understand that, but I  
25 don't want to vote until your concern is relieved.

1                   GENERAL MILLIGAN: I can with the --

2                   GOVERNOR CRIST: And I don't want to put you  
3 under a time constraint either. Don't  
4 misunderstand me. You know, we can defer this till  
5 the 12th of August.

6                   GENERAL MILLIGAN: With your vote, you  
7 authorize me to make changes that may be necessary.  
8 Let me find exactly that statement.

9                   "The executive director or his designee is  
10 hereby authorized to execute and deliver the Put  
11 Option Agreement substantially in the form attached  
12 hereto as Exhibit A, with such changes,  
13 completions, insertions, and omissions as he may  
14 approve." So I have the ability to make what I  
15 would call an appropriate minor reference to that  
16 particular paragraph.

17                   GOVERNOR CRIST: Okay. That's helpful.

18                   GENERAL MILLIGAN: So you're giving me  
19 approval when you approve this put option to do  
20 just that.

21                   GOVERNOR CRIST: So your concern can be  
22 addressed by you, in essence.

23                   GENERAL MILLIGAN: Yes, sir.

24                   GOVERNOR CRIST: Okay. I appreciate it,  
25 General.

1 ATTORNEY GENERAL McCOLLUM: I have a question.

2 GOVERNOR CRIST: Yes. Excuse me.

3 ATTORNEY GENERAL McCOLLUM: What is the total  
4 amount, General, we are going to pay for this put  
5 option now?

6 GENERAL MILLIGAN: 224 million.

7 ATTORNEY GENERAL McCOLLUM: I've been  
8 troubled, Governor, by this for the whole time  
9 we've been discussing it. It has been a long,  
10 laborious process of negotiating with the parties.  
11 I think that many of the conditions that have been  
12 discussed by staff over long periods of time have  
13 been met, resolved, loopholes closed, gosh knows  
14 whatever. But no matter what you say, this comes  
15 down to a 3 to 4 percent chance that we're going to  
16 ever need the money that is involved in this option  
17 for the State of Florida, and it is a \$224 million  
18 opportunity for Berkshire Hathaway to make money on  
19 us in an environment which is not very pleasant to  
20 be out trying to make financial arrangements right  
21 now.

22 As I said several weeks ago, I believe that we  
23 could get the Federal Government support if the  
24 occasion arose for needing to cover liquidity to  
25 put more blue tarps out there at very low interest

1 rates, lower than we would be getting from  
2 Berkshire Hathaway under the option when it is  
3 exercised.

4 And despite all the hard work that has been  
5 done and my initial vote to authorize proceeding to  
6 develop this and see where it went, if we take a  
7 vote today, I'm going to vote no. I just don't  
8 think it's a good deal for the State. I don't  
9 think the risk is worth it. I don't think 3 to  
10 4 percent chance of this being needed, and with the  
11 Federal Government being a backstop I'm confident  
12 will be there, I can't justify in my own mind  
13 spending \$224 million for this option.

14 CFO SINK: Governor.

15 GOVERNOR CRIST: Yes, CFO. Thank you,  
16 General.

17 CFO SINK: I have been sharing many of the  
18 General's concerns about -- this General's concerns  
19 about this deal. But something has happened in the  
20 last couple of weeks that has swayed me to,  
21 reluctantly, albeit, vote for it, which is, you'll  
22 recall that we had to approve going out to bond --  
23 was it 625 or \$650 million, General?

24 GENERAL MILLIGAN: 625.

25 CFO SINK: \$625 million, which was related to

1 the loss, as you'll remember, from the '05 storms  
2 that we're still subject to, and there may be more  
3 coming.

4 GENERAL MILLIGAN: Yes.

5 CFO SINK: And we had an enormous amount of  
6 difficulty in placing that \$625 million in bonds at  
7 a pretty pricy rate. And I guess that just gave me  
8 a great deal of pause coming into this hurricane  
9 season and thinking that, as bad as it is to have  
10 our backs up against the wall -- and I'll go back  
11 to say that I think after we get past this  
12 hurricane season, we need to really be doing some  
13 serious talking about where we are as a state.

14 I'm prepared to vote for the proposal that's  
15 before us, Governor.

16 GOVERNOR CRIST: Any other comment? Do you  
17 want to put that in the form of a motion?

18 CFO SINK: Yes. I moved -- what item is it?

19 GENERAL MILLIGAN: Item 11.

20 GOVERNOR CRIST: Eleven.

21 CFO SINK: Let me move Item 11, subject to the  
22 final approval of our SBA director, General  
23 Milligan, because I do understand there are a  
24 couple. In addition to the one you mentioned, I  
25 believe there is one other issue which I see on

1 page 6 that has not been resolved yet. So that's  
2 my motion.

3 GOVERNOR CRIST: Okay. I will second it.  
4 General, did you have any other comment?

5 ATTORNEY GENERAL McCOLLUM: No comment.

6 GOVERNOR CRIST: Okay. You know, I don't like  
7 us being in the position that we're in either. I  
8 would rather have that 224 million go to public  
9 school teachers, frankly. But, you know, the kind  
10 of things that keep me awake at night as Governor  
11 are, you know, what might come to our state and the  
12 risks that may occur, and that's why I've seconded  
13 the CFO's motion, and that's why I will vote for  
14 it. But, General, I sympathize with your comments  
15 too. I can't disagree, but, you know, we just try  
16 to do the best we can.

17 So all in favor say aye.

18 CFO SINK: Aye.

19 GOVERNOR CRIST: Aye. All opposed say no.

20 ATTORNEY GENERAL McCOLLUM: No.

21 GOVERNOR CRIST: The motion carries.

22 GENERAL MILLIGAN: Item 12, request approval  
23 of the appointment of Dr. Randy Dumm as Chair of  
24 Florida Commission on Hurricane Loss Projection  
25 Methodology for the 2008-2009 year.

1 ATTORNEY GENERAL McCOLLUM: I move Item 12.

2 CFO SINK: Second.

3 GOVERNOR CRIST: Moved and seconded. Show it  
4 approved without objection.

5 GENERAL MILLIGAN: Item 13, request approval  
6 of Ash Williams as Executive Director of the State  
7 Board of Administration with the negotiated  
8 benefits and compensation package.

9 ATTORNEY GENERAL McCOLLUM: I move Item 13.

10 CFO SINK: Second.

11 GOVERNOR CRIST: Moved and seconded. Show it  
12 approved without objection.

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1           GENERAL MILLIGAN: We have a corporation  
2 meeting now required, I believe.

3           GOVERNOR CRIST: Yes. I will now convene a  
4 meeting of the Florida Hurricane Catastrophe Fund  
5 Finance Corporation Board. This Board is composed  
6 of the members of the State Board of Administration  
7 and also Ben Watkins and Jack Nicholson. We are  
8 all present in Tallahassee.

9           And, Jack, are you ready to proceed? Good  
10 morning. Good afternoon. Excuse me.

11          DR. NICHOLSON: Good afternoon.

12          GOVERNOR CRIST: Yes, sir.

13          DR. NICHOLSON: We have two items. Item 1  
14 requests the approval of the minutes of the  
15 June 10th, 2008, and July 2nd, 2008 meetings.

16          ATTORNEY GENERAL McCOLLUM: I move Item 1.

17          CFO SINK: Second.

18          GOVERNOR CRIST: Moved and seconded. Show it  
19 approved without objection.

20          DR. NICHOLSON: Item 2, request acceptance and  
21 acknowledgment of the Put Option Agreement between  
22 the State Board of Administration and Berkshire  
23 Hathaway, which would require the issuance of bonds  
24 by the Florida Hurricane Catastrophe Fund Finance  
25 Corporation upon giving of notice by the SBA to

1           Berkshire Hathaway, Inc. And there's an attached  
2 resolution.

3           CFO SINK: I move it.

4           GOVERNOR CRIST: I'll second it. All in favor  
5 say aye.

6           CFO SINK: Aye.

7           GOVERNOR CRIST: Aye. All opposed say no.

8           ATTORNEY GENERAL McCOLLUM: No.

9           GOVERNOR CRIST: The motion carries. Thank  
10 you, Jack.

11           And after a great meeting, thank you to my  
12 colleagues and your patience.

13           (Proceedings concluded at 1:02 p.m.)

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