

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

Representing:

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:

CHARLIE CRIST
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.)

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

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

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

23

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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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CERTIFICATE OF REPORTER

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STATE OF FLORIDA:

COUNTY OF LEON:

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

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

DATED THIS 12th day of August, 2008.

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