

STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND CABINET

CABINET MEMBERS:

GOVERNOR RON DESANTIS
ATTORNEY GENERAL ASHLEY MOODY
CHIEF FINANCIAL OFFICER JIMMY PATRONIS
COMMISSIONER OF AGRICULTURE WILTON SIMPSON

DATE: May 23, 2023
TIME: 9:00 a.m. - 10:03 a.m.
LOCATION: Cabinet Meeting Room
The Capitol
Tallahassee, Florida
TRANSCRIBED BY: Lisa Babcock
Stenographic Court Reporter
Notary Public
State of Florida at large

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PROCEEDINGS

GOVERNOR DESANTIS: Good morning and welcome to the May 23rd meeting of the Governor and Cabinet.

I'd like to welcome Erik Dellenback, our liaison for Faith and Community, to lead us in our invocation.

MR. DELLENBACK: Thank you, Governor. Honor to be with you and the Cabinet today.

If you would all join me in prayer.

(Invocation.)

GOVERNOR DESANTIS: Okay. Next, please welcome Angelica and Olivia Harris, daughters of our DCF Secretary Shevaun Harris, to lead us in the Pledge of Allegiance.

(Pledge of Allegiance.)

GOVERNOR DESANTIS: Thank you, both.

All right. Moving on to our agenda, we have FDLE Chief of Staff Shane Desguin.

Please present your first item.

CHIEF DESGUIN: Good morning, Governor DeSantis, Attorney General Moody, CFO Patronis, Commissioner Simpson. The department has three agenda items.

First is the minutes from the January 17, 2023 Cabinet meeting.

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

1 ATTORNEY GENERAL MOODY: Second.

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

4 CHIEF DESGUIN: Next is a report on contracts
5 over \$100,000 for second and third quarter of FY
6 '22/'23.

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

9 CFO PATRONIS: Second.

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

12 CHIEF DESGUIN: And the final item is notice of
13 proposed rules. The department is also requesting for
14 approval to file for final adoption if no substantive
15 changes to the rule is required.

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

18 CFO PATRONIS: Second.

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

21 Thank you very much.

22 CHIEF DESGUIN: That concludes our agenda, sir.

23 GOVERNOR DESANTIS: Okay. Now we have Highway
24 Safety. Dave Kerner, please present your first item.

25 DIRECTOR KERNER: Good morning, Governor, Members

1 of the Cabinet. Today we have two agenda items for
2 Cabinet consideration.

3 The department's first agenda item is approval of
4 January 17 meeting minutes.

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

7 ATTORNEY GENERAL MOODY: Second.

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

10 DIRECTOR KERNER: Thank you. Item number 2, the
11 next item seeks approval to publish a notice of
12 proposed rule to amend rule 15C-21.001, Application of
13 Certificate of Title, as well as we seek approval to
14 file for final adoption if no substantive changes are
15 required.

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

18 CFO PATRONIS: Second.

19 GOVERNOR DESANTIS: All right. Hearing no
20 objection, the motion carries. Thank you.

21 DIRECTOR KERNER: Thank you, Governor. Thank
22 you, Cabinet.

23 GOVERNOR DESANTIS: Department of Revenue.
24 Director Zingale, please present your first item.

25 DIRECTOR ZINGALE: Thank you, Governor.

1 GOVERNOR DESANTIS: Good morning.

2 DIRECTOR ZINGALE: Welcome. Two-items agenda,
3 very short agenda. Request approval of minutes.

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

6 CFO PATRONIS: Second.

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

9 DIRECTOR ZINGALE: Second item does require us to
10 read the statement. The department respectfully
11 requests approval of the authority to public notice of
12 proposed rules in the Florida Administrative Register
13 for rules relating to general tax, property tax
14 oversight, and the child support program; and further
15 request approval to file and certify with the
16 secretary of state for final adoption under Chapter
17 120 Florida Statutes if the substance of the proposed
18 rules remain unchanged upon reaching the date of
19 application for final adoption. Request approval.

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

22 CFO PATRONIS: Second.

23 GOVERNOR DESANTIS: Hearing no objection, the
24 motion carries. Thank you very much.

25 DIRECTOR ZINGALE: Appreciate it. Thank you.

1 GOVERNOR DESANTIS: State Board of
2 Administration. Lamar Taylor.

3 INTERIM EXECUTIVE DIRECTOR TAYLOR: Good morning,
4 Governor --

5 GOVERNOR DESANTIS: Good morning.

6 INTERIM EXECUTIVE DIRECTOR TAYLOR: I'm going to
7 disrupt the flow here. We've got quite a number of
8 items on the agenda. If I -- before I start into the
9 agenda, if I might provide a little bit of a
10 performance update, legislative update --

11 GOVERNOR DESANTIS: Sure.

12 INTERIM EXECUTIVE DIRECTOR TAYLOR: -- to the
13 trustees.

14 So in terms of performance, performance fiscal
15 year-to-date through yesterday's close for the Florida
16 Retirement System defined benefit pension plan, which
17 is our largest mandate, the fund is up 5.23 percent,
18 which is 236 basis points behind target. That's
19 solely a function of a lag in private market asset
20 valuations. We're starting to see an increase in
21 public market asset valuations, and we would expect
22 these private market valuations to follow suit in due
23 course, and that out -- under-performance correct
24 itself over time.

25 In addition, provide a little bit of a

1 legislative update in terms of what happened this past
2 session. So, Governor, as you're aware, House Bill 3
3 is now law. That legislation incorporated the
4 trustees' August resolution into statute, requires the
5 State Board of Administration consider only pecuniary
6 factors when making investment decisions. And by
7 incorporating that standard into the statute, it
8 ensures that that standard is applied by subsequent
9 trustees as well.

10 In addition, it specifically states that to the
11 extent there's ever a conflict between Florida law on
12 the one hand and the Department of Labor federal
13 interpretations around ERISA rules relating to
14 fiduciary standards, that the Florida law will
15 prevail. So it provides an important degree of
16 clarity and certitude, from our perspective, with
17 respect to interpretation. So that's a good thing.

18 In addition to House Bill 3, the legislature
19 adopted Senate Bill 110, which provided a number of
20 cleanup provisions for the State Board of
21 Administration, but it included four substantive
22 provisions as well: First and foremost, it increased
23 our cap on alternative investments from 20 percent to
24 30 percent. That's a very important development for
25 the State Board, something that was heavily supported

1 by Investment Advisory Council.

2 As you know, over the past year, we've been
3 capped, and that's based -- unable to allocate, and
4 that's based for the past year. This legislation
5 gives us the authority to continue to do that. And
6 what's important about that is alternative investments
7 are providing a very important source of
8 diversification for the fund. And that's -- was
9 readily apparent in 2022 when you saw a significant
10 increase in correlation in terms of public market
11 assets, fixed income, and global equity. And
12 alternative investments provide a pretty material
13 counterweight to those valuation declines in those
14 asset spaces.

15 So in addition, we continue to see a secular
16 shift in the investment opportunity set away from
17 public market investments toward private market
18 investments, particularly private credit. We saw this
19 in 2008 after the financial crisis, and the Dodd-Frank
20 rules imposed some pretty significant collateral
21 requirements on large banks. And those banks pulled
22 away from funding in the middle-market space, and to
23 some degree, even the large syndicated market, and
24 that created an opportunity for private investment,
25 private credit funds, and direct lending strategies,

1 as well as regional banks to fill in that lending
2 void.

3 Now we're starting to see stress in the regional
4 bank market as well, which we think will provide even
5 more opportunities in the private credit and direct
6 lending space for the SBA to invest in. We are
7 investors in that space, and having the additional
8 authority to invest, there will create additional
9 sources of diversification for our beneficiaries. So
10 that was an important development.

11 In addition, Senate Bill 110 provided the ability
12 for the State Board to more cost-effectively finance
13 direct real estate purchases by using a pooled
14 financing structure, very similar to the pooled
15 structure the State uses to finance State purchases or
16 State buildings in the Florida facilities pool. So
17 instead of financing direct real estate purchases on a
18 building-by-building basis, we'll be able to create a
19 collateralized structure and access a much more
20 cost-effective source of capital.

21 It's actually a very timely provision, because,
22 as I've said, we continue to see a significant
23 pull-back in the lending market, particularly in
24 commercial real estate. So having the SBA have the
25 ability to access a much more cost-effective source of

1 capital, again, will provide some additional benefit
2 for our beneficiaries.

3 Third, Senate Bill 110 provided the SBA with the
4 ability to invest directly on behalf of the investment
5 plan. When that -- when the investment plan was
6 created in 2000, all the investment management had to
7 be done by third-party asset managers. The State
8 Board of Administration staff regularly undertakes
9 internal investment on behalf of the pension plan at
10 significant cost savings for our beneficiaries. Now
11 with this legislation, we'll have the ability to do
12 the very same thing on behalf of investment plan
13 beneficiaries, and so we're very looking -- we're
14 excited to be able to do that.

15 And finally, Senate Bill 110 strengthens the
16 anti-boycott divest and sanction provisions related to
17 companies that boycott Israel. When that legislation
18 was enacted, it required -- or the only remedy was for
19 the State Board of Administration to no longer
20 allocate into or increase our holdings in companies
21 that boycotted Israel. Senate Bill 110 requires us
22 now to divest from those companies that boycott
23 Israel, which is the same standard that's applied for
24 companies that violate the Iran and Sudan sanctions.
25 We're required to divest from those. So it provides a

1 degree of compatibility across the statutes that we
2 manage.

3 So, again, this was very important legislation
4 for the State Board of Administration. I certainly
5 want to thank the trustees and their respective staffs
6 for their support getting us through this session.
7 Also would like to thank our bill sponsors, Senator
8 Hooper and Representative Stevenson, for their support
9 as well. That's my update. Happy to answer any
10 questions. Otherwise, I can just move to the first
11 item.

12 GOVERNOR DESANTIS: All right. Shoot. Go ahead.

13 INTERIM EXECUTIVE DIRECTOR TAYLOR: All right.
14 So item 1 is the approval of the January 17, 2023
15 meeting minutes.

16 GOVERNOR DESANTIS: Okay. Move to approve the
17 item. Is there a second?

18 CFO PATRONIS: Second.

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

21 INTERIM EXECUTIVE DIRECTOR TAYLOR: Item 2 is a
22 resolution of the State Board of Administration
23 approving the fiscal sufficiency in amount not
24 exceeding \$50 million the State of Florida Board of
25 Governors, University of Florida Research Revenue

1 Bonds, series to be determined. Recommend approval.

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

4 ATTORNEY GENERAL MOODY: Second.

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

7 Items 3 through 5.

8 INTERIM EXECUTIVE DIRECTOR TAYLOR: Items 3, 4,
9 and 5 are reports. Items 3 and 4 are reports relating
10 to Florida PRIME. They are draft letters to the Joint
11 Legislative Auditing Committee confirming the trustees
12 have reviewed and approved the monthly -- Florida
13 PRIME quarterly reports and have addressed any actions
14 taken or addressed any impacts. There were no actions
15 or impacts for these two quarters.

16 Item 5 is a report relating to Protecting
17 Florida's Investment Act. We are removing four
18 companies from the scrutinized companies list in
19 Sudan. We're removing one company from the
20 scrutinized companies list in Iran. Would request
21 approved.

22 GOVERNOR DESANTIS: I move to approve the items.
23 Is there a second?

24 CFO PATRONIS: Second.

25 GOVERNOR DESANTIS: Hearing no objection, the

1 motion carries.

2 INTERIM EXECUTIVE DIRECTOR TAYLOR: Item 6 is a
3 request for approval to file notice of amendments to
4 rules in Chapter 19-11, specifically 19-11.001 and
5 002, and 19-11.006 through 012. These rules relate to
6 the investment plan and -- we would request to file
7 these rules for adoption if no member of the public
8 requests a rule hearing. These proposed amendments
9 mainly serve to update and clarify certain provisions
10 in the rules and to adopt the most recent versions of
11 forms relating to the investment plan. Would request
12 approval.

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

15 CFO PATRONIS: Second.

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

18 INTERIM EXECUTIVE DIRECTOR TAYLOR: Item 7 and
19 8 -- item 7 and 8 relate to the Florida Hurricane
20 Catastrophe Fund reimbursement premium formula. Item
21 7 is the premium formula itself, and it complies with
22 statutory requirement to be developed in consultation
23 with a independent consultant and to be actuarially
24 indicated. The statute requires that it be
25 unanimously approved by the trustees. Would request

1 approval.

2 GOVERNOR DESANTIS: Okay. I move to approve the
3 items. Second and third?

4 CFO PATRONIS: Second.

5 ATTORNEY GENERAL MOODY: Second.

6 GOVERNOR DESANTIS: Yes?

7 CFO PATRONIS: Yes.

8 GOVERNOR DESANTIS: Okay. All right. Hearing no
9 objection, the motion carries.

10 INTERIM EXECUTIVE DIRECTOR TAYLOR: Item 8 is the
11 approval of and authority to file notice of proposed
12 rule, which will incorporate this premium formula into
13 the rules and to timely file this rule for adoption if
14 no member of the public timely requests a rule
15 hearing, or if a hearing is requested and no notice of
16 change is needed, would request the approval of item 8
17 as well.

18 GOVERNOR DESANTIS: Okay. Move to approve.
19 Second?

20 CFO PATRONIS: Second.

21 GOVERNOR DESANTIS: Third?

22 ATTORNEY GENERAL MOODY: Second.

23 GOVERNOR DESANTIS: Okay. No objection. The
24 motion carries.

25 INTERIM EXECUTIVE DIRECTOR TAYLOR: Thank you,

1 Governor.

2 Item 9 is a request of approval for the budgets
3 for the State Board of Administration, the FRS
4 Investment Plan, the Florida Hurricane Catastrophe
5 Fund Division of Bond Finance, and the Florida Prepaid
6 College Board. Each of these budgets are included in
7 the materials, the backup to this item. There are
8 targeted increases to address necessary improvements
9 in IT, IT infrastructure, risk management, human
10 capital. These increases are modest. They've been
11 reviewed by the staffs of respective offices.

12 I would note that in the aggregate, these budgets
13 represent literally pennies on the dollar in terms of
14 assets under management. When you take the SBA's
15 budgets, by comparison, in the aggregate, it
16 represents less than five cents out of every \$100
17 managed by the State Board of Administration. I'm
18 happy to answer any questions with respect to budgets;
19 otherwise, would request approval.

20 GOVERNOR DESANTIS: Any questions?

21 Okay. I move to approve the item. Is there a
22 second?

23 CFO PATRONIS: Second.

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

1 All right. Moving on your next item, I believe
2 both General Moody and I have pending appointments at
3 the committee, so please present the item.

4 INTERIM EXECUTIVE DIRECTOR TAYLOR: Yes, sir. So
5 item 10 is a list of appointments. Three appointments
6 recommended by the attorney general: Vinny Olmstead
7 to be reappointed to the Investment Advisory Council;
8 Sam McCall to be appointed to the SBA's Audit
9 Committee; and Trish Conners to be appointed to the
10 Florida Hurricane Catastrophe Fund Advisory Council.
11 The fourth member, Freddie Figgers, recommended by the
12 Governor to be appointed to the Investment Advisory
13 Council. Would request approval of these
14 appointments.

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

17 ATTORNEY GENERAL MOODY: Second.

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

20 INTERIM EXECUTIVE DIRECTOR TAYLOR: Thank you,
21 Governor.

22 Last item, item 11, is the standing quarterly
23 reports. Pursuant to Chapter 215, these standard
24 reports include reports from SBA staff, and general
25 counsel, inspector general, audit committee, IAC.

1 They also include performance reports for the SBA's
2 major mandates. There are no issues included in those
3 reports, and performance has been good for all time
4 periods. Would request the trustees accept these
5 reports.

6 GOVERNOR DESANTIS: Okay. Move to approve the
7 reports. Is there a second?

8 CFO PATRONIS: Second.

9 GOVERNOR DESANTIS: Okay. Hearing no objections,
10 that is approved. Thank you very much.

11 And we now have Ben Watkins with Bond Finance.

12 DIRECTOR WATKINS: Morning, Governor and Cabinet
13 Members.

14 Item number 1 is approval of the minutes.

15 GOVERNOR DESANTIS: Okay. Move to approve. Is
16 there a second?

17 CFO PATRONIS: Second.

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

20 DIRECTOR WATKINS: Item number 2 is our reports
21 of award. There are six refundings or refinancings
22 and one new money issue. The refundings resulted in
23 savings of about \$80 million, and \$60 million on a
24 present value basis; and one new money issue for a new
25 dormitory at Florida Poly. So those are -- items

1 are -- you have the details of that information
2 available to you.

3 With respect to approvals, item 3 is a resolution
4 authorizing \$50 million in bonds for a research
5 facility at University of Florida.

6 GOVERNOR DESANTIS: Move to approve the item. Is
7 there a second?

8 CFO PATRONIS: Second.

9 ATTORNEY GENERAL MOODY: Second.

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

12 DIRECTOR WATKINS: Item 4 is my particular
13 favorite, Governor. It authorizes the prepayment of
14 debt that's currently outstanding. So the background
15 on that is you've requested additional monies be
16 included in the Appropriations Act to actually prepay
17 debt. We've reduced the amount of debt that we have
18 outstanding over the last 12 years by 40 percent, so
19 from 28 billion to 17 billion. And this takes it to
20 an entirely different level. That was as a
21 consequence of restraining our new money issuance and
22 paying every year what was due. This actually takes
23 money -- affirmatively appropriates money to prepay
24 debt. So we're asking for authorization for that
25 purpose.

1 GOVERNOR DESANTIS: And if this is -- I think
2 it's our intention that this becomes a consistent part
3 of the budget every year. So what would be the, kind
4 of, trajectory? Because I think we're the second
5 lowest per-capita debt in the country. Do you know
6 who's number one lowest and what -- can we get there?

7 DIRECTOR WATKINS: You know, Governor, there are
8 more -- there are more antelope than people in the
9 state that has the lowest debt per capita, so the
10 comparison is very, very difficult from that
11 perspective.

12 GOVERNOR DESANTIS: I take it of the top 10
13 states, we're probably the best in terms of the debt
14 burden?

15 DIRECTOR WATKINS: No doubt.

16 You know, when I think about it, Governor, and
17 stepping back from it, it's been remarkable, the
18 prioritization of responsible fiscal policy in the
19 state. And this takes it to an entirely different
20 level. So we were talking about at last cabinet
21 meeting our debt per capita is \$750 per capita; at the
22 federal level, \$95,000 per person. That's 123 times
23 the amount of debt outstanding at the federal level
24 than the second largest state in the country.

25 So -- and when I step back and I think about that

1 and what that means and reflect on, sort of, where we
2 are today, the debt is simply a consequence, the
3 product of, if you will, not being able to manage
4 yourself responsibly. So -- and I think about it at
5 the federal level, we're \$1-and-a-half trillion in
6 deficit spending in the current year; last year, \$1.4
7 trillion in deficit spending.

8 what does that mean? That means 20 to 25 cents
9 of every dollar is borrowed. Right? So -- and this
10 is an acute and chronic spending problem in D.C. The
11 debt is simply symptomatic of the more fundamental
12 problem, which is the inability to be able to manage
13 responsibly. And so we leave a mountain of debt for
14 those who come after because of the inability to
15 manage responsibly. So it's a real tribute to your
16 leadership and the principles and the philosophy
17 underlying the approach to the State.

18 And Commissioner Simpson has also been in
19 leadership in the legislature that enables this to
20 happen, but without that principle leadership for a
21 responsible fiscal approach -- we're in a
22 fundamentally different place than the federal
23 government, let me just say that, with record levels
24 of reserves and balancing the budget every single
25 year. That's the way to do it right. And they could

1 take a -- they could take a page from our playbook,
2 and it would be healthy for the country and our
3 future.

4 GOVERNOR DESANTIS: Okay. So this item 4, I move
5 to approve the item. Is there a second?

6 ATTORNEY GENERAL MOODY: Second.

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

9 Okay. Thank you.

10 DIRECTOR WATKINS: Thank you.

11 GOVERNOR DESANTIS: Financial Services
12 Commission. Good morning.

13 COMMISSIONER WEIGEL: Good morning, Governor
14 DeSantis, General Moody, Chief Patronis, Commissioner
15 Simpson.

16 The OFR has two items on the agenda today. The
17 first item, the OFR respectfully requests approval of
18 the minutes of the January 17, 2023 Cabinet meeting.

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

21 ATTORNEY GENERAL MOODY: Second.

22 GOVERNOR DESANTIS: All right. Hearing no
23 objection, the motion carries.

24 The next two items relate to the legislation we
25 signed earlier this month to rein in ESG activism

1 within the financial sector, and today we're going to
2 vote on rules to prohibit the use of so-called social
3 credit scores by financial institutions, loan
4 providers, and money transmitters in banking and
5 lending practices by requiring those entities to
6 attest to their compliance with the consumer
7 protections that we are enacting. So can you please
8 present those items?

9 COMMISSIONER WEIGEL: Yes, Governor. Item 2, the
10 OFR respectfully requests approval to publish a notice
11 of proposed rule to create one new financial
12 institutions rule and amend 10 consumer finance rules
13 and approval for final adoption of the same if no
14 member of the public timely requests a rule hearing,
15 or if a rule hearing is requested and no notice of
16 change is needed as a result thereof.

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

19 ATTORNEY GENERAL MOODY: Second.

20 GOVERNOR DESANTIS: All right. No objection.
21 The motion carries.

22 COMMISSIONER WEIGEL: Thank you. That concludes
23 our agenda.

24 GOVERNOR DESANTIS: Okay. That was both 2 and 3
25 we approved?

1 COMMISSIONER WEIGEL: Yes.

2 GOVERNOR DESANTIS: Okay. Great. All right.

3 Thanks so much.

4 COMMISSIONER WEIGEL: Thank you.

5 GOVERNOR DESANTIS: All right. OIR.

6 COMMISSIONER YAWORSKY: Good morning, Governor,
7 Cabinet.

8 The Office has two agenda items for approval, the
9 first being the -- approval of the minutes from the
10 March 13 Financial Services Commission meeting.

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

13 CFO PATRONIS: Second.

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

16 COMMISSIONER YAWORSKY: Second, the Office
17 requests approval to publish, and if no changes, for
18 final adoption of Rule 69N-121.003 which relates to
19 the organizational structure of the office.

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

22 CFO PATRONIS: Second.

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

25 COMMISSIONER YAWORSKY: Thank you.

1 GOVERNOR DESANTIS: Thank you.

2 Board of Trustees. Shawn Hamilton.

3 SECRETARY HAMILTON: Good morning, Governor --

4 GOVERNOR DESANTIS: Good morning.

5 SECRETARY HAMILTON: The department requests
6 approval of the minutes from the March 13, 2023 Board
7 of Trustees meeting.

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

10 CFO PATRONIS: Second.

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

13 SECRETARY HAMILTON: Item 1 is consideration of
14 an application by EB JV Opportunity Fund, LLC for a
15 modification of an existing (unintelligible) submerged
16 land lease. The lease will be associated with a
17 commercial docking facility that will be open to the
18 public. The applicant, with guidance from the
19 department, has provided responses to public comments
20 received during the noticing period of the project.
21 I'll also note a similar sized project was approved by
22 the trustees in 2009.

23 And item 2 is consideration of a request from
24 Charlotte Sarasota Holdings, LLP for a modification of
25 a restrictive covenant within Board of Trustees deed

1 number 31305, which was conveyed to the applicant in
2 2003 through a Board of Trustees-approved settlement
3 agreement. The department recommends approval of both
4 items 1 and 2.

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

7 CFO PATRONIS: Second.

8 ATTORNEY GENERAL MOODY: Second.

9 GOVERNOR DESANTIS: Third? Both?

10 Okay. Hearing no objection, the motion carries.

11 SECRETARY HAMILTON: Thank you. Items 3 through
12 5 represent several conservation easement acquisitions
13 that will help protect natural lands and provide
14 linkage with other public lands through Florida's wide
15 ranging wildlife corridor.

16 Item 3 is a request to place a conservation
17 easement over 3,176 acres within the Bluefield to Cow
18 Creek Florida Forever Project from Rusmar,
19 Incorporated for \$11,433,600. Item 4 is a request to
20 place two conservation easements over nearly 7,000
21 acres within the Avalon Florida Forever Project from
22 Avalon Plantation, LLC for slightly over \$8.1
23 million. This item also includes a request to modify
24 the department's current authority to increase the
25 amount contracts and agreements are approved to 5

1 million, as well as the ability to waive the
2 requirement for two appraisals if the anticipated
3 property value is less than 5 million. And item 5 is
4 a request to place a conservation easement over 10,422
5 acres within the Fisheating Creek Ecosystem Florida
6 Forever Project from Lykes Brothers for 20.75 million.
7 The department recommends approval for items 3 through
8 5.

9 GOVERNOR DESANTIS: Okay. I move to approve the
10 items as presented. Is there a second?

11 ATTORNEY GENERAL MOODY: Second.

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

14 SECRETARY HAMILTON: Item 6 is consideration of
15 adoption agreement to acquire 497 acres within the
16 Longleaf Pine Ecosystem Florida Forever Project from
17 Swan Smiley Preserve, LLC for \$5,135,000. The parcel
18 will be managed by the Florida Forest Service as an
19 addition to Indian Lake State Forest. The department
20 recommends approval.

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

23 ATTORNEY GENERAL MOODY: Second.

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

1 SECRETARY HAMILTON: Thank you. Items 7 through
2 11 will be presented by Portia Sapp with the
3 Department of Agriculture and Consumer Service,
4 Division of Aquaculture. Thank you.

5 MS. SAPP: Good morning, Trustees.

6 GOVERNOR DESANTIS: Good morning.

7 MS. SAPP: Item 7 for your consideration is a
8 request to approve the publication of a notice of
9 proposed rule through final adoption for Rule
10 18-21.022 if no member of the public timely requests a
11 rule hearing and no notice of change is needed. The
12 proposed rule change would remove the requirement for
13 a change to the annual lease rental fee each year.

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

16 ATTORNEY GENERAL MOODY: Second.

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

19 Please present items 8 to 11.

20 MS. SAPP: Items 8 through 11 have all been
21 reviewed by the Florida Fish and Wildlife Conservation
22 Commission and the DEP coastal office, and no
23 objections have been received. Item 8 for your
24 consideration is a request to expand the Gulf Jackson
25 aquaculture use zone by adding ten two-acre parcels.

1 The Board of Trustees has authorized FDACS to modify
2 existing bottom leases within this AUZ, so for
3 consistency, we're requesting the same authority to
4 modify these additional ten leases to water column.

5 Item 9 for your consideration is a new two-acre
6 lease requested by Jeffrey Wren to expand an existing
7 oyster aquaculture business in Franklin County. Item
8 10 for your consideration is a request by the
9 Southwest Florida Shellfish Association, Incorporated
10 for a new five-acre management agreement in Charlotte
11 Harbor in Charlotte County. This management agreement
12 would be used for clam restoration aquaculture. And
13 finally, item 11 for your consideration is a request
14 by Aquaticus Plants to use two existing five-acre
15 aquaculture lease parcels in Brevard County for
16 seagrass aquaculture.

17 Additionally, the department is requesting
18 approval to authorize seagrass aquaculture on any
19 existing aquaculture parcels if FDACS determines the
20 rule -- the request meets all rule and statutory
21 requirements. And seagrass culture is currently not
22 authorized within our programmatic general permit, so
23 the applicant is seeking an individual permit from the
24 Army Corps.

25 GOVERNOR DESANTIS: All right. I move to approve

1 the items as presented. Is there a second and third?

2 ATTORNEY GENERAL MOODY: Second.

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

5 Next item.

6 MS. SAPP: Thank you. Items 12 through 21 will
7 be presented by Christie Utt with the Florida
8 Department of Agriculture and Consumer Services.

9 MS. UTT: Governor, Members, the Rural and Family
10 Lands Protection Program has ten items to present for
11 your consideration.

12 Item 12 respectfully requests approval to publish
13 for final adoption proposed changes to Rule 5I-7
14 titled Rural and Family Public -- excuse me,
15 Protection Program. These rules have been promulgated
16 pursuant to Chapter 120 of the Florida Statutes. Any
17 questions?

18 GOVERNOR DESANTIS: Move to approve the item. Is
19 there a second?

20 CFO PATRONIS: Second.

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

23 MS. UTT: Thank you. Items 13 through 21 are
24 agricultural conservation easements for projects that
25 meet the objectives of the program to prevent the

1 conversion of agricultural land so that working farms
2 can continue to produce food and fiber and to protect
3 water. All of the projects are within the wildlife
4 corridor, and they're all working cattle operations
5 with the exception of one, which is a timber
6 operation.

7 with your approval, I would like to identify the
8 project, the county that it is located, and then at
9 the conclusion, collectively ask for your approval for
10 agenda items 13 through 21.

11 GOVERNOR DESANTIS: Okay. Move to approve the
12 items. Is there a second?

13 CFO PATRONIS: Second.

14 GOVERNOR DESANTIS: All right. Hearing no
15 objection, the motion carries. Thank you.

16 MS. UTT: And, Your Honor -- Your Honor.
17 Governor, I'd like to let you know that the Ryles
18 (phonetic) family, that would be agenda item 21, is
19 here with us today in the audience.

20 GOVERNOR DESANTIS: Hey. How are you?

21 UNIDENTIFIED SPEAKER: Doing well. Thank you.

22 GOVERNOR DESANTIS: welcome. Thanks for coming.
23 Yeah.

24 All right. Mark Buckles. Administration
25 Commission.

1 MR. BUCKLES: Okay. Good morning. We have four
2 items today on the Administration Commission agenda.

3 Item 1 is a request for approval of the minutes
4 of the meeting held on March 13, 2023.

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

7 ATTORNEY GENERAL MOODY: Second.

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

10 Before moving into our cases, I think we have a
11 report from DEO. Do we have Interim Secretary? Okay.
12 Come on up.

13 INTERIM SECRETARY IVEY: Good morning, Governor.

14 GOVERNOR DESANTIS: Hi.

15 INTERIM SECRETARY IVEY: Good morning. Good to
16 see you and members of the Administration Commission.

17 DEO has a long-standing relationship with the
18 Florida Keys. We are happy to report on the progress
19 being made by Monroe County, the Village of
20 Islamorada, and the City of Marathon on their tasks
21 and work program, including canal restoration, water
22 quality, workforce affordable housing, waste water
23 connections, and hurricane evacuation strategies.

24 I'm also happy to share that 100 percent of local
25 governments completed their tasks in 2022. I'd also

1 like to thank you, Governor, for your leadership on
2 water quality and the Canal Restoration Work Program,
3 which you initiated in April of 2021. The report
4 marks two years since the canal restoration efforts
5 took place.

6 Today I ask you consider accepting the 2022
7 Florida Keys Area of Critical State Concern Annual
8 Report, continue the Florida Keys Area of Critical
9 State Concern designation, and accept the department's
10 recommendation that progress toward accomplishing the
11 strategies of the work program have been achieved.
12 Thank you.

13 GOVERNOR DESANTIS: Okay. I move to accept the
14 report as presented. Is there a second?

15 ATTORNEY GENERAL MOODY: Second.

16 GOVERNOR DESANTIS: All right. Hearing no
17 objection, the motion carries. Thank you.

18 And, Mark, please continue with our first case.

19 MR. BUCKLES: Okay. Today the commission has
20 before it a proceeding subsequent to an amended final
21 order issued on April 5, 2023 in the matter of *Lourdes*
22 *Ramirez versus Department of Economic Opportunity*.
23 There are five intervenors also, and they are
24 represented by counsel today.

25 The amended final order found a Sarasota County

1 land development regulation to be inconsistent with
2 the county's comprehensive plan. This item is
3 consideration of potential sanctions to be imposed
4 against Sarasota County pursuant to Florida Statutes
5 section 163.3213(6). The commission is not required
6 to impose sanctions, but any sanctions imposed would
7 apply only if the county elected to make the amendment
8 effective notwithstanding the administrative law
9 judge's determination of noncompliance.

10 Petitioner has filed a motion to strike proposed
11 orders and argues this proceeding is limited to the
12 sole issue of sanctions. The county's filed response
13 argues the scope is broader than that and requires
14 full reconsideration of the ALJ's order.

15 The parties will now have, each, three minutes to
16 present their arguments. The county will go first and
17 is represented by David Pearce; the intervenors will
18 go second and are represented by Scott McClaren; and
19 the petitioner will go third and is represented by
20 Richard Grosso. There will also be time for Q and A
21 from the panel after that.

22 MR. PEARCE: Good morning, Governor and Members
23 of the Commission. My name is David Pearce. I'm an
24 assistant county attorney here on behalf of Sarasota
25 County, Florida.

1 As requested at the cabinet aides meeting last
2 week, the county is not going to argue the merits of
3 the administrative law judge's decision in this
4 matter, but instead, the county will focus on the
5 question as to whether the commission should specify
6 sanctions in its order today.

7 Because the county has taken under -- has
8 undertaken a good faith effort to comply with its
9 comprehensive plan and Chapter 163 of the Florida
10 Statutes, and the ordinance is in compliance with
11 Chapter 163, sanctions are not necessary in this
12 matter today. It has taken a year and a half of
13 process to get to this point today. The county first
14 adopted its ordinance in October of 2021. Afterwards,
15 the petitioner in this matter invoked the statutory
16 process to challenge the ordinance.

17 The county undertook a review of its ordinance to
18 determine compliance with Chapter 163 and its own
19 comprehensive plan and found it was in compliance.
20 Thereafter, petitioner filed a petition with the
21 Department of Economic Opportunity. The department
22 conducted an evidentiary hearing in this matter and
23 ended up finding that the ordinance was consistent
24 with Chapter 163 of the Florida Statutes and the
25 Sarasota County Comprehensive Plan.

1 Thereafter, at the conclusion of that evidentiary
2 hearing and ruling by the department, petitioner filed
3 a petition for administrative hearing with the
4 Division of Administrative Hearings. There was a
5 two-day hearing conducted in Sarasota County, Florida
6 in front of the administrative law judge. The
7 administrative law judge found several components of
8 the ordinance to be inconsistent with the
9 comprehensive plan and to be consistent with the
10 comprehensive plan. So there's some provisions that
11 were deemed to be consistent; some deemed to be
12 inconsistent.

13 The county has appealed that administrative law
14 judge's amended final order to the First District
15 Court of Appeal. There are good reasons for that
16 appeal that need not be discussed by the commission
17 today. The sole issue before the commission is to the
18 extent of sanctions described in Section
19 163.3184(8)(a) and (b) shall be applicable.

20 When the statutory provisions are read together,
21 it is clear the first task of the commission is to
22 find whether the county ordinance is in compliance
23 with Chapter 163 of the Florida Statutes. If the
24 commission finds the ordinance is not in compliance,
25 then it shall specify remedial actions. Commission

1 may specify sanctions which the county would be
2 subject to if it elects to make the ordinance
3 effective notwithstanding a determination of
4 noncompliance.

5 The Office of County Attorney has already advised
6 the Board of County Commissioners that it will seek
7 direction from the board on whether to pursue the
8 appeal pending this commission's decision today. I'll
9 be happy to answer any of your questions. Thank you.

10 GOVERNOR DESANTIS: Anybody?

11 ATTORNEY GENERAL MOODY: So you stated that the
12 county has already appealed the ALJ order?

13 MR. PEARCE: Yes.

14 ATTORNEY GENERAL MOODY: That's already been
15 done. A notice of appeal has been filed. This is
16 kind of a parallel --

17 MR. PEARCE: It is. It is a requirement of the
18 Florida Statutes, of Chapter 163, that this matter be
19 heard in front of this commission.

20 GOVERNOR DESANTIS: Anybody else?

21 ATTORNEY GENERAL MOODY: So one of the
22 recommendations that you are making was that -- hold
23 on doing any sanctions, but instead, either stay what
24 we're doing or considering now or ordering the county
25 to appeal, which it's already done, because you

1 believe that process would affect necessarily what
2 we're doing?

3 MR. PEARCE: I think what may happen as a result
4 of whatever the commission decides to do today, is
5 that there probably may be an additional appeal that
6 may be consolidated with the pending appeals that have
7 been filed by the Sarasota County and the intervenors
8 in this matter.

9 GOVERNOR DESANTIS: Okay. All right. Thank you.
10 Next.

11 MR. MCLAREN: Good morning, Governor and Cabinet.
12 Scott McLaren and Shane Costello here on behalf of the
13 intervenor hotel developers.

14 We agree with Sarasota County. Would like to
15 point out that this commission is the enforcement
16 authority for the administrative law judge's ruling,
17 and that's very important. The plain language of the
18 statute provides that this commission's role is to
19 determine, quote, the extent to which any sanctions
20 described in subsections (8)(a) referencing remedial
21 action or (8)(b) referencing other sanctions shall be
22 applicable.

23 That means this commission can decide to impose
24 both remedial action and sanctions, to impose neither,
25 or to impose one or the other. As the legislature has

1 instructed, this commission is the sole enforcement
2 authority to determine how, if at all, the
3 administrative law judge's ruling will be enforced.
4 The commission acts as a check and balance on the
5 ALJ's power.

6 Now, the position of petitioner in this case
7 seeks to improperly restrict the power of this
8 commission and transfer it to the administrative law
9 judge in violation of the statute. Indeed, petitioner
10 suggests this tribunal must impose remedial action on
11 the county to enforce the ALJ's decision. But again,
12 plain language of the statute: The commission shall
13 determine, quote, the extent to which any, end quote,
14 remedial actions in subsection (8)(a) shall apply.
15 Petitioner's interpretation simply pretends that
16 subsection (8)(a) regarding remedial action is not
17 referenced anywhere in Section 163.3213. That
18 interpretation cannot be reconciled with the plain
19 language.

20 while exercising this enforcement power,
21 obviously, the commission cannot overrule or overturn
22 the ALJ. That's the job of the appeal that Mr. Pearce
23 spoke about. This commission certainly has the
24 authority to explain its reasoning for its enforcement
25 decision, including any disagreement with the

1 administrative law judge.

2 There's been a lot of -- lot made of this 1996
3 *Johnson* case that was cited in some of the papers.
4 And that was a decision of Governor Chiles. This was
5 advanced by the petitioner. That was a decision of
6 Governor Chiles and his cabinet where the commission
7 simply determined that remedial actions were
8 appropriate in that case. Nothing in that case
9 suggested remedial action must be imposed in all of
10 these cases. This commission is free to decide
11 whether to impose remedial actions and/or sanctions
12 under the clear language of the statute.

13 And more importantly, in *Johnson*, the Department
14 of Community Affairs was doing the work of DEO back
15 then, and that department in that case ruled that the
16 ordinance in question was inconsistent with the
17 comprehensive plan. So in *Johnson*, this commission
18 followed the initial ruling of the department
19 regarding consistency. In our case, the DEO held an
20 evidentiary hearing. The DEO determined that the
21 ordinance was consistent with the Sarasota
22 Comprehensive Plan. So it's an entirely different
23 situation.

24 We are also asking for this commission to follow
25 the department's initial ruling and finding of

1 consistency with the comprehensive plan. We
2 respectfully submit this commission should discharge
3 its statutory duty by, number one, determining no
4 remedial actions are necessary because, as ruled by
5 DEO and the county, the ordinance at issue is
6 consistent with the comprehensive plan; and secondly,
7 for the same reason, we're asking the commission to
8 decline the imposition of any sanctions. I'll be glad
9 to answer any questions that anyone may have.

10 GOVERNOR DESANTIS: Anybody?

11 Okay. Thank you. Next.

12 MR. GROSSO: Good morning. I'm Richard Grosso.
13 With me is my client, Lourdes Ramirez.

14 The Department of Economic Opportunity never held
15 an evidentiary hearing. It holds an informal hearing.
16 And under the statute, we challenge that, and it goes
17 to an actual evidentiary hearing. And the result of
18 that was a finding that this land development code
19 change, which is a major increase in how much hotel
20 development on barrier islands you can have, violated
21 the comprehensive plan.

22 It is not our contention that this body must
23 apply sanctions and remedial actions. It's our
24 contention that you should. Otherwise, the statute
25 has no consequence. You can violate your

1 comprehensive plan, a plan that says very limited
2 hotel development on barrier islands. You can bust
3 that wide open with a land development change and get
4 away with not having to repeal that amendment to your
5 code or face any sanctions. The law would be
6 meaningless.

7 Our position is that the commission should enter
8 an order -- and by the way, our proposed order and
9 that of the Department of Economic Opportunity are
10 consistent. They're the only ones that are consistent
11 with the statute. Levy sanctions but withhold them
12 until the county demonstrates it has repealed this
13 ordinance. That's the order that we ask the
14 commission to order.

15 These cases are different. What intervenors'
16 counsel said is wrong. These cases are different than
17 comp plan amendment cases. You don't determine the
18 compliance of a code change with the statute. The
19 sole issue is whether that code change is consistent
20 with the comprehensive plan. Their argument on that
21 issue is now on an appellate court. Your sole
22 authority is to determine, what should they change
23 about the ordinance? We say repeal it. And if not,
24 if they don't do that, then the full levy of sanctions
25 that the statute authorizes.

1 The precedent is one that DEO asks you to follow.
2 We ask you to follow it. That's what happened in that
3 one prior case that's come before this board on that
4 type of issue. That's what we would ask you to do.
5 And I'd like Ms. Ramirez to be able to speak for a few
6 minutes. Thank you.

7 MS. RAMIREZ: Good morning. Thank you for giving
8 me the opportunity to speak today. And I apologize;
9 I'm a little nervous standing up here.

10 It's not easy for citizens like me to challenge
11 the local government, but I believe strongly that the
12 state laws are in place to protect human life,
13 especially after the close call we on Siesta Key
14 experienced with Hurricane Charley, Irma, and most
15 recently, Ian.

16 I decided to challenge Sarasota's new ordinance
17 because I am concerned about the vulnerability of my
18 family, friends, neighbors, and visitors. For these
19 reasons, I ask you to require the county to repeal
20 this ordinance that violates our comprehensive plan,
21 as determined by the ALJ; in doing so, make the county
22 follow state laws that exist to protect our lives and
23 our property. Thank you.

24 MR. GROSSO: And just to close, this board can't
25 approve of DEO's initial idea, its initial concept,

1 because that was overturned by the law judge. She
2 found DEO was wrong. And DEO is now asking you to
3 enter an order that's consistent with the statute and
4 asks for remedial changes, which we think has clearly
5 got to be a repeal of this really bad ordinance. It's
6 dramatic departure from what the comprehensive plan
7 requires.

8 GOVERNOR DESANTIS: Okay. Thank you. Any
9 questions?

10 ATTORNEY GENERAL MOODY: With regard -- one
11 question. Not so fast. So regardless of what action
12 --

13 MR. GROSSO: I'm sorry. Are you speaking to me
14 or Ms. Ramirez?

15 ATTORNEY GENERAL MOODY: I am, yeah --

16 MR. GROSSO: Oh, okay.

17 ATTORNEY GENERAL MOODY: -- speaking to you.
18 Sorry I did not make that clear.

19 I'm certainly not going to make you come up here
20 and answer questions. That would be terrible.

21 So regardless of what Ad Com does today, we've
22 got this pending appeal. So to the extent what we did
23 today was anything other than order them to appeal,
24 that would necessarily be affected by that proceeding,
25 correct?

1 MR. GROSSO: I think the answer to that is going
2 to be yes, right. And so the argument that the law
3 judge got it wrong is now squarely in front of the
4 court. We think that it will be upheld, obviously.
5 But your -- the answer to your question is yes. And
6 if the Cabinet determines -- the Administration
7 Commission determined to not take action pending the
8 outcome of the appeal, I guess that's probably also
9 consistent with the statute. But it should really, in
10 our opinion, order the county to repeal the ordinance,
11 but you could say that requirement is on hold or
12 stayed, essentially, until the outcome of the
13 appellate process. That might be an appropriate
14 approach as well, General Moody.

15 GOVERNOR DESANTIS: Okay. Anybody else? Any
16 general discussion? Any on this issue?

17 Okay. I move the commission take the case under
18 advisement to be decided at a later date, given the
19 fact that this case is on appeal and you could have a
20 substantive change; maybe not but I think we might as
21 well let that run its course. And then we can revisit
22 the issue of sanctions at that time, if need be.

23 ATTORNEY GENERAL MOODY: I second that, Governor.

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

1 Please present the final case.

2 MR. BUCKLES: Okay. Item 4. Today the
3 commission has before it the recommended order in the
4 case of *Donna Sutter Melzer v. Martin County and*
5 *Becker B-14 Grove, Limited*.

6 This is a challenge to the county's comprehensive
7 plan amendment adopted by Ordinance 1185. The
8 ordinance created a new future land use designation
9 referred to as rural lifestyle. The category permits
10 residential density of one unit per 20 acres with
11 potential for up to one unit per 5 acres.

12 Today the commission will consider the
13 administrative law judge's recommended order, the
14 parties' arguments, and public comment of up to one
15 minute, and discuss and potentially vote on final
16 action. The commission is not being asked to pass
17 judgment on the merits of the amendment but only to
18 determine whether the ALJ made the correct legal
19 recommendation.

20 Donna Sutter Melzer is self-represented. Elysse
21 Elder is here for the county. And Christopher
22 Benvenuto is here for the intervenor. Petitioner
23 filed an administrative challenge in October of 2022
24 alleging that the amendment was internally
25 inconsistent with the comprehensive plan, and that is

1 the issue that is set forth in the exceptions.

2 Regarding the standard of review, a legal
3 conclusion of an ALJ is subject to the fairly
4 debatable standard. An amendment shall be determined
5 to be in compliance with the requirements of Chapter
6 163. The local government's determination is fairly
7 debatable. Here, the ALJ determined the petitioner
8 was an adversely affected person, that the community
9 store was a commercial use and is, therefore,
10 internally inconsistent with the policy, 4.7A.2.

11 She also found that the rural lifestyle category
12 is a mixed-use development. And she said the public
13 and private recreation component does not constitute a
14 commercial use under the amendment. The ALJ concluded
15 the plan is not in compliance under Florida law. The
16 parties have filed their exceptions and responses, and
17 proposed final orders have been submitted.

18 Each party will now have an opportunity to speak.
19 They will have three minutes a piece. There will be
20 two minutes of rebuttal. There will be time for Q and
21 A. And we'll take public comment of up to one minute
22 for a total of three minutes. The county will speak
23 first followed by the intervenor and the petitioner.
24 Speakers should limit their comments to the evidence
25 in the record.

1 MS. ELDER: Good morning, Governor DeSantis,
2 Members of the Administration Commission. My name is
3 Elysse Elder. I'm the deputy county attorney in
4 Martin County.

5 We are here today on the petitioner's challenge
6 to Ordinance 1185, which created the rural lifestyle
7 text amendment. This amendment created a future land
8 use designation that provides for self-supporting,
9 self-controlled rural communities with an emphasis on
10 the preservation of agricultural land and open space.

11 Plaintiff alleged a multitude of issues in the
12 administrative challenge, and the judge found in favor
13 of the county on almost every single issue. In fact,
14 the judge found that the petitioner failed to meet her
15 burden 13 times. It was just on one small issue, the
16 ability to have a community store, that the judge
17 found was not in compliance.

18 This is a community store that was restricted to
19 just guests, residents, and employees of the PUD and
20 that was restricted in size; a community store that
21 two of the county's experts testified was not a
22 traditional commercial use but merely an accessory to
23 the commercial -- to the rural community.

24 In making this determination, the judge did not
25 rely on the evidence presented at the hearing. She

1 did not rely on the Martin County Comprehensive Plan,
2 but instead, after the hearing, she went to Black's
3 Law Dictionary to determine a definition for
4 "commercial use" and then made her own rule in Martin
5 County that anything that furthers a profit-making
6 ability is precluded outside the primary urban service
7 district in Martin County.

8 This ruling not only violated and was legal error
9 but is actually inconsistent with our comp plan. And
10 we demonstrated in our exceptions this by citing to
11 several policies and provisions that establish that.
12 For example, the rural service node land use
13 designation is actually a commercial land use
14 designation that is only allowed outside the primary
15 urban service district.

16 We also cited to policies that allow for
17 small-scale service establishments and incidental
18 commercial uses in residential PUDs that specifically
19 prohibit commercial uses. All of these things were
20 cited in our exceptions. They all further a
21 profit-making ability, and under the judge's ruling,
22 would be precluded; yet, they all exist in Martin
23 County and are permitted under our comprehensive plan.
24 We also highlight in our exceptions several cases that
25 identify this distinction between a traditional

1 commercial use and incidental commercial uses.

2 The judge in this case failed to give deference
3 to Martin County. She failed to look at the evidence
4 presented at the hearing and found a small portion of
5 this text amendment not in compliance, and we ask that
6 this commission identify this judge's mistake and find
7 that the text amendment is in compliance with the
8 Martin County Comprehensive Plan. Thank you. And I'm
9 happy to answer any questions.

10 GOVERNOR DESANTIS: Anybody?

11 ATTORNEY GENERAL MOODY: Wouldn't the
12 profit-making distinguishing issue -- I mean
13 profit-making would also apply to agricultural land,
14 right?

15 MS. ELDER: Exactly. It would --

16 ATTORNEY GENERAL MOODY: So both of those would
17 fall within the rural lifestyle future land use, and
18 they're both profit-making, right?

19 MS. ELDER: Correct. And that's why we think
20 that -- that definition is incorrect. It would apply
21 to so many things that happen outside the primary
22 urban service district in Martin County.

23 ATTORNEY GENERAL MOODY: So if we're looking less
24 at profit-making and more at -- more at
25 self-containment or self-supporting, which is, I

1 believe, what the ALJ based her findings on for the
2 others, the golf courses and the golf cottages, what
3 would then how the community store was defined or laid
4 out or limited would show that it is self-supporting
5 or self-contained?

6 MS. ELDER: So the whole point of the community
7 store was to keep the rural lifestyle community
8 self-contained, and it's actually part of the public
9 benefit section of the text amendment. And what it
10 does is it prevents residents from having -- making
11 long trips to stores. It prevents residents from
12 putting trips on the roads, you know. It keeps them
13 contained, so it's actually a benefit and reduces
14 traffic and provides a benefit to the residential or
15 the PUD, the rural community.

16 GOVERNOR DESANTIS: Anybody else?

17 Okay. Next.

18 MS. ELDER: Thank you.

19 GOVERNOR DESANTIS: Thank you.

20 MR. BENVENUTO: Good morning, Governor DeSantis,
21 Members of the Commission. Chris Benvenuto from
22 Gunster Yoakley on behalf of the intervenor. Joining
23 me today on behalf of my client is Tom Hurley and Rick
24 Mercuri (phonetic.)

25 We echo the county's comments and just want to

1 add a few points. First, the ALJ's interpretation of
2 the community store component was significantly flawed
3 and relied upon a definition that not even the
4 petitioner had used or suggested during the hearing.
5 The judge used a Black's Law definition of
6 "commercial" to mean anything furthering a
7 profit-making activity; and then concluded that
8 anything profit-making is prohibited outside the urban
9 service district, including the limited-use community
10 store.

11 That is not a reasonable interpretation, because
12 the county's comp plan already allows multiple
13 profit-making activities, as the county pointed out.
14 And we cited to some of those provisions simply to
15 show that the ALJ's interpretation is directly
16 contrary to the comp plan as a whole and, therefore,
17 should be rejected. In citing these provisions, we
18 want to be perfectly clear that we are not asking the
19 commission to find that the community store meets
20 these other provisions. We're just -- and our
21 proposed final order does not request that. We're
22 just citing these provisions to show that the judge's
23 interpretation is not reasonable.

24 I want to address the petitioner's assertion that
25 our objections somehow asserted -- inserted new facts

1 or new evidence that should justify a remand. That is
2 completely inaccurate and a misconception of the law.
3 We have not raised any new facts or any new evidence.

4 If the ALJ makes an unsupported legal
5 interpretation based on her own definition, we're
6 entitled to point out why that interpretation is not
7 reasonable. That's by citing case law like we did or
8 by citing the comp plan, which itself is a body of
9 law. I should add the entire comp plan was admitted
10 into evidence at the hearing. The interpretation of
11 the comp plan is a question of law, not fact, so a
12 remand here is entirely unwarranted.

13 I also want to address an exception we filed
14 relative to petitioner's prospective standing for
15 appeal. The ALJ improperly included a finding of
16 fact, paragraph 2, that petitioner would be adversely
17 affected by potential traffic impacts from the text
18 amendment. This finding was not supported by any
19 competent substantial evidence, because it was based
20 solely on petitioner's speculative lay opinion
21 testimony as to what she thinks may happen in the
22 future.

23 She did not present any testimony from a traffic
24 engineer or anyone qualified to speak to those issues.
25 She just gave her personal opinion. And under Florida

1 law, the case we cited in our papers, a lay witness's
2 speculation about potential traffic concerns is not
3 competent substantial evidence, so we request that
4 that finding be stricken.

5 My final point is the fairly debatable standard
6 that applies here is highly deferential to local
7 government's interpretation of its own plan. Here,
8 the county's interpretation of the community store was
9 more reasonable, or at the very least, just as
10 reasonable as the ALJ's, and so we've requested that
11 our exceptions be granted and deference be afforded to
12 the county.

13 In closing, we respectfully request that the
14 commission find the text amendment be in compliance
15 and adopt the proposed final order submitted by the
16 county and the intervenor. Thank you.

17 GOVERNOR DESANTIS: Okay. Any questions?

18 CFO PATRONIS: No, sir.

19 GOVERNOR DESANTIS: All right. Next.

20 Good morning.

21 MS. MELZER: Good morning, Governor DeSantis,
22 Commission Members. My name is Donna Melzer. And
23 first, I would like to make my presentation, and then
24 I'll address some of the other issues on rebuttal.

25 Martin County, through the Martin County

1 Comprehensive Plan, has planned well over the last 40
2 years, supporting planned, orderly urban growth while
3 protecting rural areas and agriculture. Residents
4 support these comprehensive plan protections. These
5 protections have proven beneficial for Martin County's
6 critical ongoing issues, including the Everglades
7 Restoration IRL South Plan projects and Loxa-Lucie
8 Waterways, acquisition needs, flooding issues, and
9 timely planning for critical infrastructure.

10 Every expert testified an important comprehensive
11 plan pillar is a separation between urban areas and
12 non-urban areas. The plan states that commercial uses
13 are urban uses, and thus, are mandated to be only
14 inside the urban areas. The rural lifestyle amendment
15 does not comply. It is inconsistent with plan
16 policies. The amendment allows stores and other
17 commercial uses outside the urban areas. Stores are
18 commercial uses, not residential, not industrial.

19 The recommended order is correct, the factual
20 finding and legal conclusions that the amendment
21 creates an internal inconsistency and not in
22 compliance. This is not a scrivener's error issue.
23 The county commission adopted plain amendment language
24 to allow commercial uses outside the urban areas.
25 This is contrary to and inconsistent with plan policy

1 4.7A.2 Safeguards that disallow commercial uses
2 outside of the urban areas. The amendment is not in
3 compliance.

4 Note that this is not a challenge of the
5 intervenor's 1500-acre project itself. The amendment
6 impacts tens of thousands of acres of rural and
7 agricultural lands. The inconsistency is clear. The
8 comprehensive plan policies say no commercial uses
9 outside the urban areas. The amendments say yes,
10 commercial uses outside. It's a plan pillar at issue.

11 The amendment is a big deal for Martin County, a
12 big deal for the Everglades Restoration Indian River
13 Lagoon plan and for the Loxa-Lucie projects and for
14 beach issues. Large swaths of land would be on the
15 market soon if this amendment were to be allowed. Who
16 would buy and what would be the results? Please adopt
17 the recommended order finding them not in compliance.

18 And I don't know what the time is, but I could
19 start addressing some of the issues --

20 GOVERNOR DESANTIS: Yeah. It's your time.

21 MS. MELZER: -- first three minutes?

22 GOVERNOR DESANTIS: Yeah. Go ahead.

23 MS. MELZER: Okay. The issue of whether it could
24 be considered an accessory use or not, the comp plan
25 specifically has accessory uses, and this does not

1 meet the requirements that be -- that accessory to
2 residential would have to be owned by the residential.
3 Other accessory uses are all owned by the primary use.
4 The county had the option of doing that; they didn't
5 do that.

6 The rural service node is a very special
7 exception. It was seven and a half miles from any
8 other commercial uses so there was an exception made.
9 There was no exception made here. It was just they
10 put it in. They did not go through the process of
11 figuring out exactly what limited things they want.

12 Also, the issue of incidental, the incidental is
13 not just, oh, it's similar to, we might need it, we
14 might need it to support. Incidental policies have
15 very specific uses. It's only related to residential
16 land use designations that are on the FLUM. This is
17 not a residential land use designation on the FLUM.

18 In fact, the intervenor's expert said that the
19 principal use could be something like golf courses or
20 residential. So it's not even necessarily related to
21 residential. It could be a lot in the project. The
22 county's expert said that it was either accessory or
23 that it was because it was gated community. There's
24 no requirement that it be gated, so there's no
25 restrictions on who would actually use the

1 commercial -- the community store, because traffic can
2 come and go to the golf courses, to not being gated,
3 to having the golf cottages, over 300 golf cottages
4 per each 1000-acre project.

5 And finally in 4.7A.5, there's a provision that
6 says that -- that is amended by this amendment also
7 that says all uses that are permitted in the
8 agriculture -- I mean in the rural lifestyle can now
9 be allowed in development outside the urban service
10 districts, and there's not restrictions. If
11 commercial is allowed in the rural lifestyle, then
12 commercial can be allowed without the restriction of
13 it being a community store outside the urban service
14 district, which is very crucial. It's a pillar of the
15 comprehensive plan.

16 And incidental was not brought up. The policies
17 were not vetted. You needed factual findings by the
18 ALJ, and that's why I stated that we needed to have
19 the -- a remand if you were going to decide on the
20 incidental.

21 GOVERNOR DESANTIS: Any questions?

22 CFO PATRONIS: No.

23 GOVERNOR DESANTIS: Okay. Thank you.

24 Any discussion? Okay.

25 Go ahead.

1 MR. BUCKLES: Allow for rebuttal for a couple
2 minutes, the county and intervenor?

3 GOVERNOR DESANTIS: Is there a rebuttal? Okay.

4 MS. ELDER: Again, Elysse Elder for the county.
5 I just want to address a couple issues that Ms. Melzer
6 brought up.

7 Again, this is not a traditional commercial use.
8 It's an accessory use to a rural community, a
9 self-contained rural community. As far as the
10 accessory use and the ownership interest that
11 Ms. Melzer discussed, she's really confusing different
12 policies in the comprehensive plan. I think what
13 she's referring to are accessory dwelling units, which
14 is a completely different animal than an accessory
15 use. We're dealing with accessory uses. Accessory
16 dwelling units have to be tied to a primary structure,
17 it can be half the size, it has to maintain ownership.
18 But an accessory use is something that's completely
19 different. That's all I have.

20 GOVERNOR DESANTIS: Okay. Any other rebuttal?
21 We're good? Okay.

22 All right. So our options are overturn the ALJ
23 decision, uphold the ALJ decision, or take it under
24 advisement. I move for option one, overturn the ALJ
25 decision and find the plan amendment to be in

1 compliance and direct the commission staff to draft
2 and circulate a final order for approval. Is there a
3 second?

4 CFO PATRONIS: Second.

5 GOVERNOR DESANTIS: Is there an objection?

6 Okay. Hearing none, no objection, the motion
7 carries.

8 That concludes today's meetings. Thanks,
9 everybody.

10 (The meeting concluded at 10:03 a.m.)
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1 CERTIFICATE OF REPORTER
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6 I, LISA BABCOCK, do hereby certify that I was
7 authorized to and did stenographically report the
8 foregoing proceedings, and that the transcript, pages 1
9 through 60, is a true and correct record of my
10 stenographic notes.

11
12 Dated this 6th day of June 2023 at
13 Tallahassee, Leon County, Florida.

14
15
16 
17 -----

18 LISA BABCOCK
19 Stenographic Court Reporter
20 Notary Public, State of Florida
21 My Commission No. GG 359365
22 Expires: September 23, 2023
23
24
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ability (10:11)(10:25) (11:4)(11:11)(27:1) (48:16)(49:6)(49:21)	advisement (45:18) (59:24)	(50:13)(53:13)(57:12) (58:6)	appropriate (40:8) (45:13)
able (10:18)(11:14) (21:3)(21:12)(43:5)	Advisory (9:1)(17:7) (17:10)(17:12)	alternative (8:23)(9:6) (9:12)	appropriates (19:23)
accept (18:4)(33:9) (33:13)	Affairs (40:14)	amend (5:12)(23:12)	Appropriations (19:16)
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accomplishing (33:10)	affordable (32:22)	amount (12:23)(19:17) (20:23)(26:25)	approved (13:12)(13:21) (14:25)(18:10)(23:25) (25:21)(26:25)
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acquire (27:15)	after (9:19)(21:14) (34:21)(43:13)(49:2)	and/or (40:11)	April (33:3)(33:21)
acquisition (55:8)	Afterwards (35:14)	Angelica (3:11)	Aquaculture (28:4) (28:25)(29:7)(29:12) (29:15)(29:16)(29:18) (29:19)
acquisitions (26:12)	again (11:1)(12:3) (39:11)(59:4)(59:7)	animal (59:14)	Aquaticus (29:14)
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across (12:1)	agenda (3:16)(3:21) (4:22)(5:1)(5:3)(6:2) (6:3)(7:8)(7:9)(22:16) (23:23)(24:8)(31:10) (31:18)(32:2)	answer (12:9)(16:18) (37:9)(41:9)(44:20)(45:1) (45:5)(50:9)	Area (33:7)(33:8)
Act (13:17)(19:16)	aggregate (16:12)(16:15)	antelope (20:8)	areas (55:3)(55:11) (55:12)(55:14)(55:17) (55:24)(56:2)(56:9)
action (38:21)(38:24) (39:10)(39:16)(40:9) (44:11)(45:7)(46:16)	agree (38:14)	anti-boycott (11:16)	argue (35:2)
actions (13:13)(13:14) (36:25)(39:14)(40:7) (40:11)(41:4)(41:23)	agreement (26:3)(27:15) (29:10)(29:11)	anticipated (27:2)	argues (34:11)(34:13)
activism (22:25)	agreements (26:25)	any (12:9)(13:13) (13:14)(16:18)(16:20) (29:18)(30:16)(34:6) (37:9)(37:23)(38:19) (39:13)(39:25)(41:8) (41:9)(42:5)(44:8)(45:15) (45:16)(50:9)(53:3) (53:18)(53:23)(54:17) (57:7)(58:21)(58:24) (59:20)	argument (42:20)(45:2)
activities (52:13)	agricultural (30:24) (31:1)(48:10)(50:13)(56:7)	anybody (37:10)(37:20) (41:10)(45:15)(50:10) (51:16)	arguments (34:16)(46:14)
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acts (39:4)	ahead (12:12)(56:22) (58:25)	anything (44:23)(49:5) (52:6)(52:8)	around (8:13)
actual (41:17)	aides (35:1)	anywhere (39:17)	ASHLEY (1:8)
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