

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

ADELE SIMONS, and CORNER LAKES ESTATES
HOMEOWNERS ASSOCIATION, INC.,
Appellants,

v.

CASE NO. 5D18-1418
Lt. Case No. ACC-17-002
DOAH Case No. 16-4556GM

ORANGE COUNTY, FLORIDA,
et al.
Appellees.

_____ /

APPENDIX

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¹ Transcript as cited in Appellant’s Reply Brief page 5 and Joint Answer Brief p. 17 fn 5 (“The Agenda and Transcript of the Administration Commission's March 7 meeting is available at <http://www.myflorida.com/myflorida/cabinet/mart.html>”)

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CERTIFICATE OF COMPLIANCE

I certify that Appellants' Initial Brief complies with the font requirements of Fla. R. App. P. 9.210(a) (2).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this October 25, 2018 by e-mail to the service list set forth below:

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STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND CABINET

_____ /

CABINET MEMBERS: GOVERNOR RICK SCOTT
ATTORNEY GENERAL PAM BONDI
CHIEF FINANCIAL OFFICER JIMMY PATRONIS
COMMISSIONER OF AGRICULTURE ADAM PUTNAM

DATE: WEDNESDAY, MARCH 7, 2018

LOCATION: CABINET MEETING ROOM
LOWER LEVEL, THE CAPITOL
TALLAHASSEE, FLORIDA

REPORTED BY: LISA SNYDER
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P R O C E E D I N G S

1
2 GOVERNOR SCOTT: Good morning. Welcome to the
3 March 7, 2018 Cabinet meeting.

4 We'd like to welcome Emmeline Cone to lead this
5 morning's invocation.

6 Please remain standing after the invocation for
7 the Pledge of Allegiance led by Florida Agriculture and
8 Mechanical University Army ROTC. Following the pledge,
9 we have the singing of the National Anthem led by the
10 band students from Griffin Middle School.

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APPOINTMENTS**PAROLE QUALIFICATIONS COMMITTEE**

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2
3 GOVERNOR SCOTT: Next we will have the
4 appointments of the Parole Qualifications Committee.
5 The committee is a five member board. Traditionally,
6 we each nominate one person to serve on the committee,
7 and I nominate an additional person to serve as the
8 chair.

9 I nominate Eustis Police Chief Gary Calhoun to
10 serve on the committee. And, nominate State Attorney
11 Jack Campbell to serve as chair.

12 Attorney General, who would you like to nominate?

13 ATTORNEY GENERAL BONDI: Mark A. Ober, former
14 state attorney, Hillsborough County.

15 GOVERNOR SCOTT: That's a good choice.

16 CFO, who would you like to nominate?

17 CFO PATRONIS: Tommy Ford, Sheriff, Bay County.

18 GOVERNOR SCOTT: Yeah. That's a good nomination.

19 Commissioner, who would you like to nominate?

20 COMMISSIONER PUTNAM: Sheriff Michael Adkinson,
21 Walton County.

22 GOVERNOR SCOTT: Great nomination.

23 Is there a motion to appoint the nominees?

24 CFO PATRONIS: So moved.

25 GOVERNOR SCOTT: Is there a second?

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ATTORNEY GENERAL BONDI: Second.

GOVERNOR SCOTT: Any comments or objections?

(NO RESPONSE)

GOVERNOR SCOTT: Hearing none, the motion carries.

* * * *

DEPARTMENT OF VETERANS AFFAIRS

1
2 GOVERNOR SCOTT: Next, I'd like to recognize Glenn
3 Sutphin, with the Department of Veterans Affairs.

4 EXECUTIVE DIRECTOR SUTPHIN: Governor, Attorney
5 Bondi, CFO Patronis, Commissioner Putnam.

6 The Department of Veterans Affairs has two items
7 for you this morning.

8 Agenda one is the minutes from January 18th, 2018,
9 Cabinet meeting. We respectfully request approval,
10 sir.

11 GOVERNOR SCOTT: Is there a motion on the item?

12 ATTORNEY GENERAL BONDI: So moved.

13 GOVERNOR SCOTT: Is there a second?

14 CFO PATRONIS: Second.

15 GOVERNOR SCOTT: Comments or objections?

16 (NO RESPONSE)

17 GOVERNOR SCOTT: Hearing none, the motion carries.

18 EXECUTIVE DIRECTOR SUTPHIN: The second one, sir,
19 is the agency's 2nd Quarter Performance Measures for FY
20 2017-18.

21 I want to let you know that we have now achieved
22 all fives, thanks to your support and trust. We were
23 there, so next quarter we will go back to three's and
24 try to figure another way to get to five-- another
25 level of five's.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

1
2 GOVERNOR SCOTT: Next I'd like to recognize Noah
3 Valenstein with the Department of Environmental
4 Protection.

5 SECRETARY VALENSTEIN: Thank you, Governor.

6 Good morning Governor Scott, Attorney General
7 Bondi, CFO Patronis, Commissioner Putnam.

8 There are two items on the Board of Trustees'
9 agenda today.

10 Again, for the record, I'm Noah Valenstein,
11 Secretary for the Department of Environmental
12 Protection.

13 Item one is consideration of the Department's
14 fiscal year 2017-2018 second quarter performance
15 accountability measures. The Department's overall
16 score was a 4.55 for the second quarter, and the
17 Department recommends acceptance.

18 GOVERNOR SCOTT: Is there a motion to accept?

19 CFO PATRONIS: So moved.

20 GOVERNOR SCOTT: Is there a second?

21 COMMISSIONER PUTNAM: Second.

22 GOVERNOR SCOTT: Comments or objections?

23 (NO RESPONSE)

24 GOVERNOR SCOTT: Hearing none, the motion carries.

25 SECRETARY VALENSTEIN: Item number two will be

1 presented by Mr. Karels.

2 GOVERNOR SCOTT: Good morning, Jim.

3 MR. KARELS: Good morning.

4 Good morning, Governor. Good morning CFO and
5 Commissioner Putnam.

6 Item number two is the Sampala Lake Ranch
7 conservation easement. Request consideration for, one,
8 an option agreement to acquire a 772 acre perpetual
9 conservation easement over lands lying within the
10 Sampala Lake Ranch project of the Rural and Family
11 Lands Program, from R.N. Kobelgard and Charlene
12 Kobelgard, and two designation of the Florida Forest
13 Service as a monitoring agency.

14 The conservation easement is located in Madison
15 County. The consideration price is \$660,060. This
16 acquisition was negotiated by FDACS, under its Rural
17 and Family Lands program, and if approved, it will be
18 the 41st conservation easement protecting 42,276 acres.

19 This property is owned by the Kobelgard family,
20 and is a working cow/calf ranch operation, with timber
21 and farming, and has been in the agricultural
22 production for 80 years.

23 The property is significant as a historical site
24 as well; the site of the San Pedro y San Pablo Mission
25 on Lake Sampala, one of the five missions established

1 by the Spanish in the 1600's. San Luis was one of the
2 other ones-- one of those five as well. It was
3 established in Eustega (phonetic) Providence between
4 1609 and 1655.

5 The foundation and some of the artifacts are still
6 located at that site.

7 San Pedro was the largest and most important of
8 those five missions.

9 The Kobelgard property sits on the south side of
10 Sampala Lake. It's a 115-acre spring-fed lake, that is
11 part of the head waters of the Econfina River.

12 Staff recommends approval of the item.

13 GOVERNOR SCOTT: Is there a motion on the item?

14 COMMISSIONER PUTNAM: So moved.

15 GOVERNOR SCOTT: Is there a-- was there any other
16 speakers?

17 MR. KARELS: No speakers.

18 GOVERNOR SCOTT: Okay. Is there a second?

19 CFO PATRONIS: Second.

20 GOVERNOR SCOTT: Okay. Any comments or
21 objections?

22 (NO RESPONSE)

23 GOVERNOR SCOTT: Hearing none, the motion carries.

24 MR. KARELS: Thank you.

25 GOVERNOR SCOTT: Thank you, Jim.

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SECRETARY VALENSTEIN: Thank you, Governor.

That concludes the Board of Trustees agenda for
today.

GOVERNOR SCOTT: Thanks, Noah.

* * * *

OFFICE OF INSURANCE REGULATION

1
2 GOVERNOR SCOTT: Next I'd like to recognize David
3 Altmaier, with the Office of Insurance Regulation.

4 COMMISSIONER ALTMAIER: Good morning, Governor.
5 Good morning Attorney General, CFO, Commissioner. It's
6 good to be here this morning.

7 We have a few agenda items. The first one is the
8 adoption of the minutes from our December the 13th, FSE
9 meeting. We respectfully submit those to you for your
10 approval.

11 GOVERNOR SCOTT: Is there a motion on the item?

12 ATTORNEY GENERAL BONDI: So moved.

13 GOVERNOR SCOTT: Is there a second?

14 CFO PATRONIS: Second.

15 GOVERNOR SCOTT: Comments or objections?

16 (NO RESPONSE)

17 GOVERNOR SCOTT: Hearing none, the motion carries.

18 COMMISSIONER ALTMAIER: Thank you very much.

19 Governor, with your permission, we could likely
20 combine agenda items two and three and do those at the
21 same time.

22 Agenda items two and three are request for
23 approval for publication of several rules. We are--
24 agenda item number two, we are planning amendments to
25 those rules to conform with recent statutory changes.

1 And, in agenda item number three we are proposing to
2 repeal that rule as a result of certain statutory
3 changes. So, we would submit those to you for
4 permission-- approval to publish.

5 GOVERNOR SCOTT: Is there a motion on items two
6 and three?

7 ATTORNEY GENERAL BONDI: So moved.

8 GOVERNOR SCOTT: Is there a second?

9 CFO PATRONIS: Second.

10 GOVERNOR SCOTT: Comments or objections?

11 (NO RESPONSE)

12 GOVERNOR SCOTT: Hearing none, the motions carry.

13 COMMISSIONER ALTMAIER: Thank you, very much.

14 And, similar to those two agenda items, we can
15 likely combine agenda items four and five, if there are
16 no objections.

17 These are request for approval of final adoption
18 for certain rules that were amended as a result of
19 statutory changes. We respectfully submit those to you
20 for your approval.

21 GOVERNOR SCOTT: Is there a motion on items four
22 and five?

23 ATTORNEY GENERAL BONDI: So moved.

24 GOVERNOR SCOTT: Is there a second?

25 CFO PATRONIS: Second.

1 GOVERNOR SCOTT: Comments or objections?

2 (NO RESPONSE)

3 GOVERNOR SCOTT: Hearing none, the motions carry.

4 COMMISSIONER ALTMAIER: Thank you.

5 And, our last agenda item is the submission of our
6 second quarter performance measure reports. We have
7 included those in your materials. I'd be happy to take
8 any questions that you might have on that. But,
9 otherwise we would submit that to you for your
10 approval.

11 GOVERNOR SCOTT: Any questions?

12 ATTORNEY GENERAL BONDI: No.

13 GOVERNOR SCOTT: Okay. Is there a motion to
14 accept the report?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 CFO PATRONIS: Second.

18 GOVERNOR SCOTT: Comments or objections?

19 (NO RESPONSE)

20 GOVERNOR SCOTT: Hearing none, the motion carries.

21 COMMISSIONER ALTMAIER: Thank you all. Have a
22 great day.

23 GOVERNOR SCOTT: Thanks, David. You did a good
24 job on that.

25 COMMISSIONER ALTMAIER: Thank you.

* * * *

DEPARTMENT OF REVENUE

GOVERNOR SCOTT: Next I'd like to recognize Leon Biegalski, with the Department of Revenue.

EXECUTIVE DIRECTOR BIEGALSKI: Good morning Governor Scott, Attorney General Bondi, CFO Patronis.

Just real quick, I get a little smile seeing the surveyors and mappers, since at one time I was the executive director of the board. Always a little bit of pride there.

The Department has got five items on the agenda today.

The first one, the Department respectfully requests approval of the minutes of the October 17th and December 13th, 2017, Cabinet meeting.

GOVERNOR SCOTT: Is there a motion on the item?

ATTORNEY GENERAL BONDI: So moved.

GOVERNOR SCOTT: Is there a second?

CFO PATRONIS: Second.

GOVERNOR SCOTT: Comments or objections?

(NO RESPONSE)

GOVERNOR SCOTT: Hearing none, the motion carries.

EXECUTIVE DIRECTOR BIEGALSKI: With your permission, we can also combine items two and three.

The Department respectfully requests approval to

1 finalize and certify with the Secretary of State for
2 final adoption under Chapter 120 of the Florida
3 Statutes rules related to general tax administration
4 and property tax oversight.

5 GOVERNOR SCOTT: Is there a motion on items two
6 and three?

7 CFO PATRONIS: So moved.

8 GOVERNOR SCOTT: Is there a second?

9 ATTORNEY GENERAL BONDI: Second.

10 GOVERNOR SCOTT: Comments or objections?

11 (NO RESPONSE)

12 GOVERNOR SCOTT: Hearing none, the motion carries.

13 EXECUTIVE DIRECTOR BIEGALSKI: Our fourth item,
14 the Department respectfully requests approval and
15 authority to publish notices of the proposed rule in
16 the Florida Administrative Register for rules related
17 to general tax administration.

18 GOVERNOR SCOTT: Is there a motion on the item?

19 ATTORNEY GENERAL BONDI: So moved.

20 GOVERNOR SCOTT: Is there a second?

21 CFO PATRONIS: Second.

22 EXECUTIVE DIRECTOR BIEGALSKI: And, then our final
23 item, the Department respectfully submits the agency's
24 2nd Quarter Performance report for fiscal year
25 2017-2018. The Department continues to meet or exceed

1 all measures, with an overall weighted score of 3.15.

2 GOVERNOR SCOTT: Is there a motion to accept?

3 CFO PATRONIS: So moved.

4 GOVERNOR SCOTT: Is there a second?

5 ATTORNEY GENERAL BONDI: Second.

6 GOVERNOR SCOTT: Motion carries. Thank you.

7 EXECUTIVE DIRECTOR BIEGALSKI: Thank you.

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT

1
2 GOVERNOR SCOTT: Next I'd like to recognize Rick
3 Swearingen, with the Florida Department of Law
4 Enforcement.

5 COMMISSIONER SWEARINGEN: Good morning.

6 The Department has three agenda items for you this
7 morning. First, the minutes from the January 18, 2018
8 Cabinet meeting, which I respectfully submit for your
9 approval.

10 GOVERNOR SCOTT: Is there a motion on the item?

11 ATTORNEY GENERAL BONDI: So moved.

12 GOVERNOR SCOTT: Is there second.

13 CFO PATRONIS: Second.

14 GOVERNOR SCOTT: Comments or objections?

15 (NO RESPONSE)

16 GOVERNOR SCOTT: Hearing none, the motion carries.

17 WHEREUPON, the Governor left the meeting room.

18 COMMISSIONER SWEARINGEN: Second item is fiscal
19 year 17-18 2nd Quarter Performance Report and contracts
20 over \$100,000. I'm happy to report that five of the
21 Department's six measures exceeded expectations this
22 quarter. I'd be happy to answer any questions you
23 have.

24 ATTORNEY GENERAL BONDI: Any questions?

25 Questions?

1 Is there a motion to accept?

2 COMMISSIONER PUTNAM: So moved.

3 ATTORNEY GENERAL BONDI: Is there a second?

4 CFO PATRONIS: Second.

5 ATTORNEY GENERAL BONDI: Motion carries.

6 COMMISSIONER SWEARINGEN: Thank you.

7 Our last item is notice of proposed rules. While
8 the package looks extensive, a majority of these
9 changes are clean-up, technical, the result of
10 statutory changes. I can highlight the substantive
11 changes, if you wish.

12 ATTORNEY GENERAL BONDI: I think we need the
13 Governor to vote on this one though.

14 WHEREUPON, after a brief break, the Governor
15 re-entered the meeting room.

16 ATTORNEY GENERAL BONDI: Governor, we just need
17 your vote on the final report.

18 GOVERNOR SCOTT: For?

19 ATTORNEY GENERAL BONDI: Majority.

20 GOVERNOR SCOTT: For it.

21 COMMISSIONER SWEARINGEN: These are the notice of
22 proposed rule changes.

23 ATTORNEY GENERAL BONDI: Governor votes for it.

24 Is there a second?

25 CFO PATRONIS: Second.

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ATTORNEY GENERAL BONDI: So moved.

COMMISSIONER SWEARINGEN: And, that's all I have
for you.

GOVERNOR SCOTT: Thanks, Rick.

* * * *

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

1
2 GOVERNOR SCOTT: Next I'd like to recognize Mark
3 Kruse, with the Florida Land and Water Adjudicatory
4 Commission. I love that word.

5 MARK KRUSE: Good morning.

6 We have four items today. Item one is a request
7 for approval of the minutes from the August 16, 2017
8 meeting.

9 COMMISSIONER PUTNAM: So moved.

10 GOVERNOR SCOTT: Is there a second?

11 ATTORNEY GENERAL BONDI: Second.

12 GOVERNOR SCOTT: Comments or objections?

13 (NO RESPONSE)

14 GOVERNOR SCOTT: Hearing none, the motion carries.

15 MARK KRUSE: Item two is a request for
16 authorization to publish the notices of rule making to
17 merge the Mediterra North Community Development
18 District, with the Mediterra South Community
19 Development District. If no request for public hearing
20 is received as a result of the notices, request
21 authorization to file for final adoption.

22 GOVERNOR SCOTT: Is there a motion on the item?

23 COMMISSIONER PUTNAM: So moved.

24 GOVERNOR SCOTT: Is there a second?

25 ATTORNEY GENERAL BONDI: Second.

1 GOVERNOR SCOTT: Comments or objections?

2 (NO RESPONSE)

3 GOVERNOR SCOTT: Hearing none, the motion carries.

4 MARK KRUSE: Item three is a request for
5 authorization to publish notices of rule making to
6 establish the Big Island Community Development
7 District. If no request for a public hearing is
8 received as a result of the notices, request
9 authorization to file for final adoption.

10 GOVERNOR SCOTT: Is there a motion on the item?

11 ATTORNEY GENERAL BONDI: So moved.

12 GOVERNOR SCOTT: Is there a second.

13 CFO PATRONIS: Second.

14 GOVERNOR SCOTT: Comments or objections?

15 (NO RESPONSE)

16 GOVERNOR SCOTT: Hearing none, the motion carries.

17 MARK KRUSE: Governor, that concludes the FLAWAC
18 agenda.

19 Oh, I'm sorry. Wait.

20 GOVERNOR SCOTT: I think we have--

21 MARK KRUSE: I apologize. I'm trying to speed
22 things along too fast.

23 Item four is a request for authorization to
24 publish the notices of rule making to amend the
25 boundary of the Tolomato Community Development

1 District. If no request for a public hearing is
2 received as a result of the notices, request
3 authorization to file for final adoption.

4 GOVERNOR SCOTT: Is there a motion on the item?

5 CFO PATRONIS: So moved.

6 GOVERNOR SCOTT: Is there a second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Comments or objections?

9 (NO RESPONSE)

10 GOVERNOR SCOTT: Hearing none, the motion carries.

11 Now, we are moving to--

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ADMINISTRATION COMMISSION

1
2 MARK KRUSE: We have three items on the
3 Administration Commission agenda.

4 Item one is Division of Administrative Hearings
5 2017-18 first and second quarter objective performance
6 measures, and Chief Judge Robert Cohen will speak to
7 this item.

8 GOVERNOR SCOTT: Hi, Judge.

9 JUDGE COHEN: Good morning. How are you?

10 ATTORNEY GENERAL BONDI: Morning.

11 JUDGE COHEN: Governor Scott, General Bondi, CFO
12 Patronis, Commissioner Putnam.

13 I'll make this quick because there is a lot agenda
14 still.

15 We met, or exceeded, seven of the eight
16 performance measures in the first and second quarter of
17 the 2017-2018 year.

18 The one where we fell short, in each quarter, was
19 the one of concluding professional licensure cases
20 within 120 days. We've investigated that. It's always
21 because the parties need more time, and it's about due
22 process and getting the time we need to complete the
23 cases. But, we still will work to pull those numbers
24 up again to where they were throughout the last year.

25 And, happy to answer any questions, and ask for

1 acceptance of the reports.

2 GOVERNOR SCOTT: All right. Were there any
3 questions, first off? (No questions)

4 Is there a motion to accept?

5 CFO PATRONIS: So moved.

6 GOVERNOR SCOTT: Is there a second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Comments or objections?

9 (NO RESPONSE)

10 GOVERNOR SCOTT: Hearing none, the motion carries.
11 Thank you, Judge.

12 MARK KRUSE: Item two is a request for approval of
13 the 2018 Statewide Emergency Shelter Plan, submitted by
14 the Division of Emergency Management.

15 Wes Long with the Division will address this item.

16 GOVERNOR SCOTT: Good morning, Wes.

17 WES LONG: Morning.

18 During Hurricane Irma, approximately 200,000
19 evacuees sought public shelter in more than 675
20 locations.

21 Hurricane shelterings led at the local level with
22 public schools primarily serving as shelters, and local
23 volunteers, such as the American Red Cross, providing
24 majority of the staffing needs.

25 The Division's role is to survey and retrofit, and

1 we supported this effort through the state-wide
2 Emergency Shelter Plan.

3 The SESP, which is prepared and published every
4 two years, is statutorily required to identify the
5 general location and square footage of existing public
6 shelter space by regional planning council regions, as
7 well as needed public shelter space for both general
8 population and those with special needs.

9 The resulting data reflects what is required over
10 a five year period to eliminate any existing deficit in
11 hurricane shelter space.

12 The SESP must also identify the types of public
13 facilities that should be constructed, according to the
14 public shelter design criteria known as the enhanced
15 hurricane protection area.

16 Following the plan's approval, all new public
17 school facilities proposed to be located in our PC
18 regions, with a deficit, must adhere to EHPA standards
19 during design and construction. Exemptions to this
20 rule include locations in level A, B or C of hurricane
21 evacuation zones, and facilities of a limited size.

22 Over the last 18 years, Florida has created more
23 than one million additional shelter spaces through the
24 construction of new schools and facilities,
25 retrofitting of existing structures, and application of

1 hurricane shelter service.

2 Forty-five percent of new spaces were created for
3 newly constructed facilities, with an additional 45
4 comprised of retrofitted buildings. The remaining
5 10 percent comes from as-is facilities, or buildings
6 identified as shelters in their current and unchanged
7 condition.

8 In your notes, you will find a county by county
9 and region by region breakdown for general population
10 and special needs.

11 Seven regional planning council regions have
12 demonstrated sufficient general population space; these
13 include West Florida, Apalachee, North Central Florida,
14 Northeast Florida, East Central Florida, Treasure
15 Coast, and South Florida.

16 Forty-three counties can individually demonstrate
17 sufficient general population space.

18 Regarding special needs shelters, only the South
19 Florida region can demonstrate sufficient space.

20 The Division continues to work with local
21 emergency managers and partners to address the existing
22 deficit.

23 The Central Florida, Tampa Bay, and Southwest
24 Florida regions maintain both general population and
25 special need shelter deficits.

1 Southwest Florida is likely to remain in a deficit
2 due to the storm surge vulnerability and limited
3 availability of suitable facilities.

4 The Tampa Bay region previously received
5 designation as an area with sufficient shelter space;
6 however, in 2016 the National Hurricane Center
7 performed a sea, lake and overland search from
8 hurricane study, and it updated the modeling which
9 altered the suitability of Tampa Bay shelter space by
10 over 30,000 spaces. Manatee County alone lost roughly
11 15,000 spaces. However, identification of this change
12 has allowed DEM to begin working with our partners to
13 fill that gap.

14 Currently, and projected into the future, we have
15 sufficient capacity and shelter space to meet demand on
16 a statewide basis, but not on a regional basis.

17 Sufficient statewide capacity was first achieved
18 in 2012, and has been maintained ever since.

19 In general, we should aim to evacuate our citizens
20 tens of miles, not hundreds of miles. This decreases
21 evacuation times, reduces potential strain on
22 infrastructure, and allows for a more focused approach
23 to response and recovery operations, thus investing in
24 localized capacity is ideal.

25 With that said, there are challenges in doing so.

1 First, the National Weather Service and National
2 Hurricane Center continue to improve storm surge
3 modeling. New models indicate the coastal counties
4 have larger storm surge inundation zones, which
5 increases the number of vulnerable populations subject
6 to evacuation orders.

7 Second, per statute, school districts are not
8 required to design and build new facilities to EHPA, if
9 there are PC regions no longer demonstrate a general
10 population shelter space deficit.

11 Third, and in my opinion the most unfortunate, is
12 that communities sometimes voluntarily limit the
13 capacity of shelter space to match their anticipated
14 available staffing resources. A difference between
15 engineered capacity and functional capacity.

16 In an effort to overcome this particular obstacle,
17 the Division will seek to work with communities to
18 maximize available engineered space by connecting
19 communities with volunteer organizations and health
20 department staffing resources.

21 There is a need to continue to identify new
22 construction that is shelter ready as-is, and for local
23 communities to provide construction documents for the
24 Division to survey.

25 We also ask that our local partners continue to

1 identify appropriate shelter retrofit projects with an
2 emphasis on newer construction.

3 The Division receives \$3 Million annually from the
4 CAT fund, which can only be used to harden existing
5 structures.

6 Additional shelter capacity may be available on
7 already existing EHPA campuses, such as previously
8 undesignated classroom buildings, either as-is or as
9 retrofit candidates. On the other hand, over time
10 current working shelter buildings may lose their
11 shelter designations due to changes in storm hazard
12 maps, age, remodeling, or re-purposing to roles that
13 are incompatible with mass care shelter operations.

14 Thus, even though the aggravate statewide deficit
15 space will be eliminated through the 2018 plan, a
16 maintenance level of shelter space production will be
17 necessary to avoid falling back into a deficit.

18 Lastly, statutes require that the report be
19 computed on a RPC regional basis. The use of the RPC
20 regional base deficit analysis does leave gaps. Often
21 times, while a region may not show a deficit, thus not
22 requiring a new construction to build to shelter
23 standards, individual counties can be left behind.

24 This obviously creates an issue when your goal is
25 to limit the miles an evacuee must travel to reach a

1 safe location.

2 I want to close with just a few comments. I began
3 by highlighting that the Division's role is to survey
4 and to retrofit; however, over the past several years
5 we have taken a very proactive approach to assisting
6 our communities and resolving some of their more local
7 issues.

8 The availability of traditional shelter volunteers
9 has continued to decrease while our population has
10 continued to increase. This shift became evident
11 during the 2016 and 2017 hurricane seasons, as shelter
12 staffing became a significant concern.

13 In order to best assist local communities with
14 staffing shelters over the last two hurricane seasons,
15 the Division, at the Governor's direction, has
16 supported conversations with local emergency managers,
17 and the American Red Cross, to set better expectations
18 allowing our communities to adequately plan.

19 We've worked with the National Guard to augment
20 local shelter staffing, and we've worked with Volunteer
21 Florida to provide volunteer state employees to augment
22 their staffing.

23 Finally, last year DEM set a goal of creating an
24 additional 13,000 public hurricane shelter spaces in
25 2018. To-date, DEM has already accomplished 60 percent

1 of that goal, well ahead of schedule. So, while there
2 is plenty to do, we look forward to supporting our
3 communities as they bridge these gaps.

4 And, with that, sir, I offer this plan for
5 approval by you and the Cabinet.

6 GOVERNOR SCOTT: First, I want to say that you and
7 your team did a great job before and after Irma. A lot
8 of people have very much appreciated what y'all
9 accomplished.

10 On top of that, I was just in Puerto Rico this
11 week, and talking to the governor, and he is very
12 appreciative of what you've done for all the
13 individuals that have come from Puerto Rico to Florida
14 after Maria. So, thank you for what you've done.

15 WES LONG: We really do have the best team in the
16 country, sir.

17 GOVERNOR SCOTT: You do.

18 All right. First off, are there any questions?
19 Commissioner?

20 COMMISSIONER PUTNAM: Thank you, Governor.

21 What do you attribute the loss of staffing to, and
22 is there something that needs to be changed? Is it
23 liability? Is it volunteerism? What is it that's
24 causing us to have more shelter space, on paper, than
25 what we can actually staff in an emergency?

1 WES LONG: Volunteerism is certainly down. The
2 American Red Cross comes to the table, and has finally,
3 I think, admitted that over the past year.

4 If you look at a lot of these communities, they
5 had one op agreements with every individual county that
6 had been in place for decades. And, some counties were
7 told that the American Red Cross can come in and staff
8 20 shelters, and after we realigned expectations they
9 agreed that they could only staff three. And, so that
10 creates a significant delta for local communities to
11 now create, you know-- identify trained personnel to
12 staff these facilities.

13 So, I think that we stepped in, during the past
14 couple of hurricane seasons, to fill that gap with
15 National Guard, but it will be contingent upon local
16 communities really beginning to identify individuals
17 that can staff these shelters, and we're prepared to
18 provide the training to do that.

19 GOVERNOR SCOTT: Wes, isn't what happened, we-- I
20 called up, what, 8,000 members of the National Guard,
21 and people were very appreciative when they walked in
22 and they saw the National Guard. So, reality is they
23 were very happy.

24 WES LONG: Oh, yes, sir.

25 GOVERNOR SCOTT: And, then what happened after

1 that is we did get more local volunteers after-- part
2 of it is when they saw what happened at their house,
3 because they were worried about themselves to a certain
4 extent, then they showed up and volunteered. Is that
5 accurate?

6 WES LONG: It is accurate. And, we are also
7 investing a lot in the CERT program. CERT with a C.
8 It's local volunteers who traditionally have kind of
9 been left on the sidelines. These are individuals
10 that, due to a previous reservist program we had, were
11 kind of being left at home, but were very eager to get
12 involved in their communities. They are more highly
13 trained than your typical volunteer. They are actually
14 trained to be like first responder personnel in local
15 communities, and they were very excited to get the nod
16 and get involved in the shelters.

17 COMMISSIONER PUTNAM: You also said that when a
18 county reaches the magic number of shelters, that their
19 school district is no longer required to construct new
20 buildings to shelter standards. Is that correct?

21 WES LONG: When it's shown on a regional basis
22 that their region no longer has a deficit; yes, sir.

23 COMMISSIONER PUTNAM: And, what's the difference
24 in cost between building it to school standards versus
25 building it to hurricane shelter standards?

1 WES LONG: I can follow-up with all of you on a
2 breakdown of the estimated. I think it would depend on
3 the size of the school and the location. But, I can
4 get you a breakdown.

5 COMMISSIONER PUTNAM: One of the other things that
6 I thought was interesting in reading the report,
7 obviously we see that we've lost shelters, you-- you
8 kind of gets your attention, and then you realize it's
9 not that we actually lost shelter space, it's that the
10 maps changed which disqualified shelters that we
11 thought we had, because now they were considered to be
12 in a flood prone area or a search area. But, the other
13 piece of it is that it's-- your shelter model is
14 required to be based on an assumption. Is it
15 25 percent of the population seeking that shelter?

16 WES LONG: Yes, sir. And, I think, as you saw
17 from the recent hurricane season, obviously we had the
18 largest evacuation in history.

19 At the Division, you know, we strained the state--
20 in general, strained that system about as far as you
21 could possibly take it. But, our goal at the Division,
22 regardless of what challenges we face, is to find a way
23 to overcome that. And, I think that through all the
24 daily calls that we held with communities, all of those
25 needs went met one way or another.

1 GOVERNOR SCOTT: A lot of partners showed up.
2 When we were-- we were concerned about food and water
3 Publix, Walmart, Chaney Brothers, that night reopened
4 their warehouses for us. A lot of good people showed
5 up to help us.

6 COMMISSIONER PUTNAM: But, isn't it-- you're
7 having to-- you are basing your model on 25 percent of
8 the population who is evacuating using-- needing the
9 shelter, but only eight actually did; right? Only
10 eight percent.

11 WES LONG: Roughly. Yes, sir.

12 COMMISSIONER PUTNAM: So, that's-- I mean, we want
13 shelter to be the last resort.

14 WES LONG: Correct.

15 COMMISSIONER PUTNAM: I mean, friends and family,
16 others-- you know, fleeing-- but, from our recent
17 history, right, eight percent appears to be the
18 percentage of evacuees who utilized provided shelters;
19 correct?

20 WES LONG: Yes, sir. And, actually a big part of
21 that, I think, does go back to-- I think it really
22 started with the Pulse incident, and it's developed
23 from there. I think we found that the most important
24 piece of our EOC, that was underutilized in the past,
25 was ESF 18, which is business and industry. I think

1 that a lot of the modeling we did, as it related to
2 food distribution in the past-- I think if you looked
3 at Hurricane Matthew, for example, plans would have
4 told us that we would have had to open 180 distribution
5 points along the East Coast. Instead, we opened one.
6 And, frankly, that was more of a political decision by
7 a local community asking for it than it was true need.

8 And, so when it comes down to it, I think that
9 what you will find is that the business and industry
10 side of this-- the Publixes all having generators. You
11 know, the restaurant and lodging, and Expedia, stepping
12 in and helping us find locations for individuals to
13 evacuate to, to hotels that were available, was a key
14 piece of this evacuation.

15 COMMISSIONER PUTNAM: Thank you.

16 WES LONG: Yes, sir.

17 GOVERNOR SCOTT: Attorney General?

18 ATTORNEY GENERAL BONDI: Thank you, Wes.

19 WES LONG: Yes, ma'am.

20 GOVERNOR SCOTT: CFO?

21 CFO PATRONIS: I just-- I've shared this with you
22 personally, but I want to say this again publically,
23 with Wes in the room.

24 When I got a call from a state senator from
25 Dothan, Alabama, when the storm hit. And, when Harri

1 Anne Smith called Jimmy Patronis screaming at me about
2 shelters being closed in Houston County, filling up
3 with Floridians, and she didn't know what to do. And,
4 I'm thinking, why are you calling me? How can I make
5 shelters in Alabama open, when I'm in Florida? She had
6 no other place to call. She was-- she couldn't get
7 coordination with her Governor's office.

8 So, who did I pick up the phone and call? I
9 called Wes. Twenty minutes later, Harri Anne calls me,
10 says, I don't know what you did but the shelters are
11 open.

12 You want to tell us the rest of the story?

13 WES LONG: Well, I mean, that was-- that was--
14 that is the story.

15 You know, in reality we were able to help a lot of
16 Floridians that were evacuating to another state,
17 because they were, you know, crossing state lines and
18 they needed a place to go, and they were starting to
19 pile up--

20 GOVERNOR SCOTT: But, you developed relationships
21 and you called individuals and explained what the issue
22 was, and you solved it.

23 WES LONG: Yes, sir. That's our job every day.

24 GOVERNOR SCOTT: That's what you did the whole
25 time.

1 CFO PATRONIS: She called me hysterical. And,
2 twenty minutes later, she called me ecstatic.

3 Thank you for what you did for our people.

4 ATTORNEY GENERAL BONDI: Can I add one thing?

5 Wes, I think we all had you on speed dial during--
6 and, you always took the call, and you always fixed
7 anything, the smallest thing to the biggest thing.
8 Thank you.

9 WES LONG: Yes, ma'am.

10 COMMISSIONER PUTNAM: And, you were extremely
11 helpful in particular on that Home Depot issue.

12 Thank you.

13 GOVERNOR SCOTT: Is there a motion on the item?

14 ATTORNEY GENERAL BONDI: So moved.

15 GOVERNOR SCOTT: Is there a second?

16 CFO PATRONIS: Second.

17 GOVERNOR SCOTT: Comments or objections?

18 (NO RESPONSE)

19 GOVERNOR SCOTT: Hearing none, the motion carries.

20 WES LONG: Thank you, sir.

21 GOVERNOR SCOTT: Thanks, Wes. Good job.

22 MARK KRUSE: Item three is consideration of a
23 recommended order of the proceeding of Seerina Farrell,
24 et al, Petitioners, versus Orange County, Respondent,
25 and Banksville of Florida, et al, Intervenors.

1 Staff attorney John MacIver will walk you through
2 the case.

3 GOVERNOR SCOTT: Morning, John.

4 ATTORNEY MACIVER: Good morning, Governor,
5 Administration, Commissioners.

6 As Mark said, the agenda item is consideration of
7 the recommended order in the case of Seerina Farrell,
8 and others, versus Orange County, and others.

9 The agenda item is a challenge to two Orange
10 County Comprehensive Plan Amendments adopted by
11 Ordinance 16-17.

12 The Plan Amendments in question amend the Future
13 Land Use Element establishing a new future land use
14 category called Lake Pickett in the county's 2010 to
15 2030 Comprehensive Plan. And, it amends the County's
16 Future Land Use map to classify 1237 acres within the
17 new category.

18 The Future Land Use map amendment will rezone the
19 property from rural, at a density level of one dwelling
20 unit to 10 acres, to Lake Pickett category.

21 On August 11th, of 2017, after notice and hearing,
22 the Administrative Law Judge entered a recommended
23 order determining that the Plan Amendments, passed by
24 Ordinance 16-17, were out of compliance with Chapter
25 163 of the Florida Statutes.

1 The purpose of the agenda item today is for the
2 Commission to consider the recommended order, the party
3 exceptions and arguments, and relevant law, and to vote
4 on final action.

5 In preparing for this agenda item, I have met
6 individually with each cabinet office, as counsel for
7 the Commission. I have advised each office of the
8 contents of the recommended order, the general contents
9 of any exceptions, laws governing the administrative
10 process, and the necessary result-- I'm sorry-- the
11 various options for ruling on the recommended order and
12 the party exceptions, and the necessary resulting
13 outcome of those rulings.

14 While I have counseled each office regarding my
15 opinion of the correct legal course of action, I have
16 not, however, advanced any particular outcome, nor have
17 I discussed the contents of those conversations with
18 any of the other respective offices.

19 Before introducing the parties in this case, I'd
20 like to give just a brief overview of how the
21 proceedings will go today.

22 After introducing the parties in the case, I will
23 give a brief background of the case, and a brief
24 overview of the Petitioners' challenges.

25 I will review the findings of facts that the ALJ

1 made. Those will be kind of high level findings of
2 fact. There were quite a few of them. I will review
3 the conclusions of law. At that point, we will invite
4 the parties of the case to come in and present their
5 exceptions.

6 After the parties present their exceptions, we
7 will invite public comment. We have quite a few people
8 who would like to speak on this issue today.

9 After public comment, we will close down the
10 testimony, and at that point I will present the
11 exceptions, and my legal analysis and recommendation
12 for a vote by the Commission.

13 After we vote on the exceptions and the resulting
14 conclusions, I will review during a vote on final
15 action and we will take that vote to see whether or not
16 we accept or reject the recommended order.

17 The parties in this case: Petitioners Seerina
18 Farrell, Ariel Horner, Adel Simons, Marjorie Holt, and
19 Dr. Kelly Semrad, collectively known as the Individual
20 Petitioners, own property and reside in the county.

21 Additionally, Petitioner Corner Lakes owns
22 property adjacent to the property subject to the Plan
23 Amendments, and operates a business in the county.

24 They are represented by Attorney Ralph Brooks, who
25 could not be here today.

1 Petitioner Ronald Brooke also owns property and
2 resides in the county. He is represented by Attorney
3 Jane West, who will be speaking for Petitioners today.

4 The Respondent in this case is Orange County.
5 Orange County is represented by Senior Assistant County
6 Attorney Elaine Asad, who is here today to represent
7 the County.

8 Intervener Banksville is one of the co-applicants
9 for the Plan Amendments and owns real property directly
10 affected by the Plan Amendments. Banksville is
11 represented by David Theriaque and Brent Spain. Brent
12 Spain is here to speak for the Interveners today.

13 Intervener CHCG is one of the co-applicants for
14 the Plan Amendments, and is the agent of one of the
15 owners of property directly affected by the Plan
16 Amendments. CHCG is represented by Attorney Scott
17 Glass.

18 The Rybolt Interveners are owners of property
19 directly affected by the Plan Amendments. They are
20 represented by Attorney Thomas Ward.

21 Commissioners, if you will turn to tab one,
22 background and Petitioners' challenges. First, I will
23 provide a brief background to this case, and then a
24 short overview of the Petitioners' challenges.

25 On July 12, of 2016, Orange County adopted

1 Ordinance 2016-17. The Plan Amendments amend the
2 Future Land Use Element establishing a new future land
3 use category, Lake Pickett, in the County's 2010 to
4 2030 Comprehensive Plan. And, it amends the County's
5 Future Land Use map to classify 1237 acres within the
6 category.

7 Future Land Use map amendment to the Lake Pickett
8 category would be the change to the Future Land Use
9 map.

10 The LP designation codified in the Future Land Use
11 Element Objective 6.8, will manage the transition of
12 development from the surrounding rural neighborhood
13 densities and preservation areas to more dense
14 development. The goal is to manage transition between
15 densities making new zones compatible with surrounding
16 zones.

17 The Future Land Use Element limits the application
18 of the LP category to the area designated as Lake
19 Pickett study area. The Lake Pickett study area is
20 completely outside the county's urban service area,
21 thus within the county's rural service area.

22 Next I will provide a short summary of the
23 Petitioners' challenges.

24 On August 11, 2016, Petitioners filed a petition
25 with DOAH challenging the Plan Amendments, and they

1 assert: One, internal inconsistency with the County's
2 Comprehensive Plan.

3 Two, that the amendments were not based on
4 relevant and appropriate data.

5 And, three, that the amendments did not provide
6 meaningful and predictable guidelines for more detailed
7 land development regulations.

8 Additionally, Petitioner Ronald Brooke also
9 challenged the amendments as not effectively
10 discouraging urban sprawl.

11 Any of the above would render the Plan Amendments
12 out of compliance with Chapter 163, part two, of
13 Florida Statutes.

14 If you will turn to tab two we will go over the
15 ALJ's findings of fact.

16 Before turning to those specific findings of fact,
17 let me review the standard of review for this
18 Commission in adopting or rejecting findings of fact.

19 The standard of review for findings of fact in a
20 recommended order is set forth in Section 120.57, of
21 the Florida Statutes, which provides the Commission may
22 not reject or modify the Administrative Law Judge's
23 findings of fact unless the Commission first
24 determines, from a review of the entire record, and
25 states with particularity in the order, that the

1 findings of fact were not based on competent
2 substantial evidence, or that the proceedings in which
3 the finds were based did not comply with the essential
4 requirements of the law.

5 Therefore, the findings of fact can only be
6 modified or rejected if they are not based upon
7 competent substantial evidence, or the proceedings did
8 not comply with the essential requirements of law.

9 Competent substantial evidence means such evidence
10 as will establish a substantial basis of fact from
11 which the fact at issue can be reasonably inferred.

12 The recommended order itself is attached at tab
13 seven, and what follows is a summary of the ALJ's key
14 findings of fact.

15 The ALJ made 276 findings of fact in separately
16 numbered paragraphs that begin on page seven and end on
17 page 84 of the recommended order.

18 The findings of fact are outlined as follows: part
19 one, parties and standing.

20 Part two, the property.

21 Part three, the Plan Amendments including Part A,
22 the text amendment, and Part B, the map amendment.

23 Part four, discusses the urban service area, rural
24 service area concept, and is subdivided into exceptions
25 to the rule service area density limits, and

1 requirements for expansion of the urban service area.

2 Part five covers the challenges to the Plan
3 Amendments, including the internal inconsistency, the
4 urban sprawl challenge, the data analysis challenge,
5 and the meaningful and predictable standards.

6 Key findings are: The County employs an urban
7 service area concept.

8 The County has an over-arching goal to direct
9 urban developments to the urban serve area.

10 Future Land Use Element objective 1.1 states, the
11 County shall use urban densities and intensities to
12 direct development to the urban service area.

13 Policy 1.1.1 states that urban uses shall be
14 concentrated to the urban service area, except as
15 specified by particular designations.

16 Policy 1.1.2 requires that urban development will
17 only occur in the urban service area. The portion
18 outside the urban service area is the rural service
19 area.

20 The Future Land Element recognizes specific
21 established exceptions to the density requirements of
22 the rural service area. Rural settlements, growth
23 centers, specific area plans, and the Innovation Way
24 overlay constitute those exceptions.

25 Petitioners allege that the Plan Amendments are

1 inconsistent provisions of the Comprehensive Plan
2 because they allow urban development within the rural
3 service area.

4 Respondent/Intervenors argue that the Lake Pickett
5 category does not constitute urban development.

6 The experts in this case who testified all agree
7 that the Comprehensive Plan does not define urban
8 development, and that the County has discretion to
9 determine the characteristics of urban development
10 within its jurisdiction.

11 The experts further agree that the quote,
12 urban-ness of development is not solely a factor of
13 density, but also depends on factors such as the uses
14 themselves, as well as buffering, height limitations,
15 and the relationship between uses.

16 The ALJ finds that the experts are correct that
17 the Comprehensive Plan contains no glossary definition
18 of urban development, which would determine the
19 specific threshold at which residential densities would
20 become urban.

21 The ALJ finds that density alone does not
22 determine whether the development authorized by the
23 Plan Amendments is urban or rural.

24 The ALJ found the Plan Amendments authorized
25 development of predominantly urban uses within the

1 rural service area.

2 And, the Respondent/Interveners maintain that
3 development authorized by the Plan is not urban because
4 the Plan Amendments prohibit development, which would
5 have an overall urban density or intensity.

6 Based upon the ALJ's reading of the existing
7 Comprehensive Plan, the development authorized by the
8 Plan Amendments is urban rather than rural.

9 The ALJ found Petitioners challenged the Plan
10 Amendments as inconsistent with FLU Objective 6.2,
11 which regulates rural settlements.

12 The ALJ found that the Plan Amendment did not
13 implicate this policy.

14 The ALJ found the Plan Amendments interfere with
15 FLU Goal 2, which requires the promotion of urban
16 strategies such as in-fill, and it did this by
17 directing urban development outside the urban service
18 area.

19 The ALJ found Petitioner Brooke additionally
20 challenges the Plan Amendments as contrary to Florida
21 Statute 163.3177, which states, any amendments to the
22 Future Land Use Element shall discourage the
23 proliferation of urban sprawl.

24 ALJ finds Petitioner proved that the Plan
25 Amendments meet two indicators of urban sprawl, then

1 further found that the Lake Pickett guiding principals
2 meet four of the criterion that determine that the plan
3 discourages urban sprawl. Petitioners therefore did
4 not prove that the Plan Amendments failed to discourage
5 urban sprawl.

6 The ALJ's findings of fact found that Petitioners
7 did not prove their data and analysis argument. And,
8 further found that Petitioners did not prove their
9 meaningful and predictable standards argument.

10 Commissioners, if you will turn to tab three, I
11 will give a brief overview of the Administrative Law
12 Judge's conclusions of law, beginning first with the
13 standard of review for you.

14 The standard of review for the ALJ's conclusions
15 of law is set forth in Section 120.57 Florida Statutes
16 and provides: the Commission, in its final order, may
17 reject or modify the conclusions of law over which it
18 has substantive jurisdiction. When rejecting or
19 modifying such conclusion of law the Commission must
20 state with particularity its reasons for rejecting or
21 modifying such conclusion of law, and must make a
22 finding that its substituted conclusion of law is as,
23 or more, reasonable than that which was rejected or
24 modified. Rejection or modification of conclusions of
25 law may not form the basis for rejection or

1 modification of findings of fact.

2 Therefore, the conclusions of law can be modified
3 and rejected only if the Commission states with
4 particularity its reason for modifying and rejecting,
5 and the Commission makes a finding that its substituted
6 conclusions of law are better than that of the ALJ.

7 The recommended order, again, is attached in its
8 entirety at tab seven, and what follows is a summary of
9 the key findings-- I'm sorry-- key conclusions made by
10 the ALJ.

11 First, the ALJ concluded that DOAH has
12 jurisdiction.

13 The ALJ concluded that the Plan Amendments are
14 internally inconsistent with Future Land Use Goal 1,
15 and subsequent objectives, Future Land Use Goal 2,
16 Future Land Use Goal 6, and objectives and policies
17 under that goal.

18 The County has established a clear-- this is a
19 quote from the ALJ, "The County has established a clear
20 policy of directing urban development to the urban
21 service area and allowing only low density future
22 residential development in the rural service area. The
23 Plan Amendments direct urban developments to the rural
24 service area contrary to the County's established
25 desired development pattern. While the County has

1 established exceptions to the policy of limiting future
2 development to the rural service area, the Plan
3 Amendments do not meet any of the established
4 exceptions".

5 That is the end of the Administrative Law Judge's
6 quote on that conclusion of law.

7 Section 163.3177 requires Plan Amendments to be
8 based on, quote, relevant and appropriate data and
9 analysis, end quote, by local government, and includes
10 surveys, studies, community goals, visions and other
11 data available at the time of adoption.

12 The Petitioners did not prove beyond fair debate
13 that the Plan Amendments do not react appropriately to
14 data to the extent required during the Comprehensive
15 Plan amendment process.

16 Finally, the ALJ concluded that the Petitioners
17 did not prove their meaningful and predictable
18 standards argument.

19 The ultimate conclusion in the recommended order
20 is that Petitioner has proven, beyond fair debate, that
21 the Plan Amendments are not in compliance with the
22 Comprehensive Plan.

23 If we will turn to tab four, I will invite the
24 parties to present the exceptions that they filed to
25 this recommended order, beginning with

1 Respondent/Interveners.

2 Respondent Orange County, again, is represented by
3 Ms. Elaine Asad, who will speak for two minutes. And,
4 then Mr. Brent Spain will represent the Interveners for
5 eight minutes.

6 After the Respondent/Interveners, Petitioners will
7 have 10 minutes. They are represented by Ms. Jane West
8 to present their exceptions.

9 GOVERNOR SCOTT: Good morning.

10 ATTORNEY ASAD: Good morning, Governor and Cabinet
11 members.

12 My name is Elaine Asad, Senior Assistant County
13 Attorney, for Orange County. I, along with Deputy
14 County Attorney Joel Prinsell, represent Orange County,
15 the Respondents in the matter before you today.

16 Several people are here today who may speak in
17 support of Petitioners, and one of those individuals is
18 Orange County Commissioner Emily Bonilla.

19 To alleviate any confusion, and with all due
20 respect to Commissioner Bonilla, I need to make it
21 clear to you that she speaks on behalf of herself, not
22 for the County, or for the Board of County
23 Commissioners.

24 The Board of County Commissioners approved for
25 adoption two inter-related Plan Amendments, both

1 privately initiated by the property owners.

2 The Plan Amendments were supported by the County
3 staff and the local planning agency, and were adopted
4 by the Board of County Commissioners after a very
5 thorough and detailed planning process that went over a
6 multi-year period, involving staff meetings, numerous
7 community meetings, and multiple public hearings before
8 the Board of County Commissioners and the local
9 planning agency.

10 Last week we had the opportunity to speak before
11 the Cabinet Aides to set out the County's position,
12 which is essentially that the Board of County
13 Commissioners properly exercised its legislative
14 authority in determining that the development
15 authorized by the Plan Amendments consisted-- or
16 constituted rural, not urban development.

17 It is the County's position that the ALJ's
18 recommended order gave no deference to, and basically
19 ignored the Board of County Commissioners' reasonable
20 conclusions and legislative authority and decision.

21 The exceptions jointly filed by the County and the
22 Interveners set forth in detail the errors in the ALJ's
23 recommended order.

24 Therefore, we respectfully request you enter an
25 order, or authorize the entry of an order adopting the

1 exceptions as set forth by the Respondent and
2 Intervenor, and find that the Plan Amendments are, in
3 fact, in compliance with the requirements, or as that
4 term is defined in Chapter 163 of the Florida Statutes.

5 Thank you.

6 GOVERNOR SCOTT: Thank you.

7 ATTORNEY MACIVER: Mr. Spain?

8 GOVERNOR SCOTT: Good morning.

9 ATTORNEY SPAIN: Good morning Governor, fellow
10 Cabinet members.

11 Brent Spain, on behalf of the Intervener
12 Banksville of Florida, Inc. I appreciate the
13 opportunity to speak before you this morning.

14 Just briefly there are a couple of points I wanted
15 to mention as preliminary matters.

16 First, as Attorney MacIver had indicated, this
17 Commission is not obligated to provide any deference to
18 a conclusion of law by an Administrative Law Judge, and
19 can modify a conclusion of law.

20 Moreover, if an ALJ labels something as a finding
21 of fact, but, in fact, it really is a conclusion of
22 law, this Commission is not bound by how the ALJ
23 labeled that matter.

24 And, in this case, there are several instances in
25 our exceptions we've pointed out where things labeled

1 as findings of fact were in reality a conclusion of
2 law.

3 The second preliminary point to be reiterated is
4 the broad discretion provided to a local government to
5 construe its own Comprehensive Plan. And, this
6 Commission itself has recognized that local
7 government's interpretation of this Comprehensive Plan
8 is entitled to great deference, and should be upheld
9 unless clearly erroneous.

10 Here, we would submit the County's interpretation
11 of its Comp Plan, and its conclusion that the
12 development in question is rural, is not clearly
13 erroneous, and at a minimum is fairly debatable.

14 The matter before you this morning are the
15 parties' exceptions. We have filed 38 exceptions
16 jointly with the County and Interveners. I'm certainly
17 not going to walk through all 38 exceptions.

18 As indicated at the Aide's meeting last week, our
19 exceptions essentially fall into three categories, and
20 I think my partner referred to it as three buckets.

21 The first category essentially are legal errors,
22 or factual errors that the ALJ just got it wrong. She
23 either cited the wrong acreage, she cited that
24 something was adjacent to the property when it isn't,
25 or, she cited a non-existent plan provision.

1 Those exceptions are straightforward. We would
2 just refer you all to the record citations that we have
3 provided for a ruling on this.

4 The second category exceptions involve issues
5 where the ALJ addressed issues that the Petitioners
6 didn't raise in their petition, the pre-hearing
7 stipulation, or at the administrative hearing.

8 And, as this Commission is aware, an ALJ is not
9 supposed to address issues that the parties-- the
10 Petitioners in this case-- did not raise. And, again,
11 we've clearly identified those issues in our
12 exceptions.

13 The third category of exceptions involve really
14 the crux of the case, and that is what Mr. MacIver
15 referred to as the urban versus rural issue.

16 When you turn to the recommended order, and I
17 believe Attorney MacIver indicated it's at tab seven,
18 and he actually referenced some of the language that I
19 was going to quote. When you look on page 29 and 30,
20 of the recommended order, the ALJ correctly states that
21 the County's Comprehensive Plan doesn't define urban
22 development.

23 The ALJ also correctly stated that the County has
24 the discretion to determine the characteristics of
25 urban development within its jurisdiction.

1 She also went on to state that the experts agree
2 that that urban-ness development is not solely a factor
3 of density; it depends on other factors-- buffers,
4 height requirements, the inter-relation of the uses.

5 In the recommended order, the ALJ then went on to
6 say she didn't find any of the experts' testimony on
7 the urban versus rural issue persuasive, and this is
8 the key. She then proceeded to do an independent
9 review of the County's entire Comprehensive Plan,
10 including provisions that no party cited in their
11 filings, and that no party had addressed during the
12 administrative hearing.

13 And, in doing so, we would submit that the ALJ
14 took several different uses and provisions in the
15 County's Comprehensive Plan out of context. For
16 instance, the ALJ went to the County policies for an
17 area known as Innovation Way.

18 Innovation Way uses a transect concept. This Plan
19 Amendment uses a transect concept. And, the ALJ
20 essentially made the leap that while since we use
21 transects, and Innovation use transects, we are urban.

22 Innovation Way, however, is substantially
23 different. It allows up to 100 dwelling units per
24 acre. It's designated as urban. It allows for
25 multi-family apartments. And, it requires a minimum

1 living space of only seven percent, which is urban
2 development. That's not what we have before you in the
3 Plan Amendment.

4 The ALJ also went on to look at the County's
5 policies for Horizons West, which is a large scale
6 sector plan consisting of more than 20,000 acres.

7 Among other things, Horizon West has a maximum
8 density of 24 dwelling units per acre, it imposes a
9 minimum density of five dwelling units per acre. It
10 doesn't have a two-story height limitation. It allows
11 multi-family apartments. Has an open space requirement
12 of only seven percent. Again, clearly urban
13 development.

14 What Orange County correctly did here, and had the
15 legislative discretion to do, was say that the
16 development our client has proposed, when you look at
17 more than just density-- when you look at the buffers,
18 when you look at the open space, the inner-relatedness
19 of uses, that that use constitutes rural development
20 for purposes of the County's Comprehensive Plan, and
21 they had the right to designate it as such.

22 Moreover, as mentioned in our exceptions, when you
23 look at the recommended order, there is absolutely no
24 mention of certain amendments that the County
25 Commission approved. In fact, it's like the ALJ

1 skipped over the Plan Amendment itself.

2 And, in particular, under Section 4 of the
3 Ordinance of the Plan Amendment, the County Commission
4 adopted amendments to FLU1.1.4h, FLU6.1.1, and
5 FLU8.1.1. And, that's in Exhibit 1 of our Appendix.

6 And, as shown, the County amended FLU1.1.4h to
7 specifically add Lake Pickett in the category that was
8 called rural and rural settlement related.

9 And, the language actually specifically provides,
10 quote, these Future Land Use designations can be
11 applied only to areas outside the County's rural
12 service area. Uses such as agricultural and
13 agricultural-related activities predominate.

14 The ALJ doesn't mention that amendment at all in
15 the recommended order. And, we would submit that
16 that's a reflection of the County Commission's
17 legislative determination that this development is
18 rural.

19 The ALJ also skipped over the fact that the County
20 added Lake Pickett to the rural service area in FLU
21 Policy 6.1.1.

22 Again, the County Commission is making a
23 legislative determination that this type of development
24 is rural.

25 And, lastly, the ALJ over-looked the amendment

1 that the County Commission made to FLU8.1.1, which
2 involves a chart of zoning and Future Land Uses. If
3 you walk through that chart, it refers to urban
4 residential. It refers to urban. It refers to urban
5 mix use. And, then at the very end there's rural, and
6 the County added under the rural designation Lake
7 Pickett.

8 So, we would submit it's clear that the County,
9 using its legislative discretion, deemed this type of
10 development to be rural in nature.

11 And, as noted at the Aide's meeting, the
12 development that's before you, and is proposed, it
13 would be Central Florida's first agrihood. It would
14 create a farm and garden community where residents
15 participate in preserving the rural and the
16 agricultural heritage of the surrounding communities,
17 while implementing best management practices for
18 sustainable field to table living.

19 The agricultural base community features would
20 include a professionally managed farm, a grove, an
21 orchard, community gardens, farm plots, edible
22 landscaping and walking trails, an equestrian and
23 stable facility, a farmers market, a field to table
24 restaurant, and related community-based assets, such as
25 a school offering an agricultural based curriculum and

1 internships.

2 Again, we would respectfully submit that Orange
3 County had the legislative authority to say that this
4 type of development is rural. In fact, as it was
5 mentioned at the Aides meeting, the overall density of
6 the development is 2.49 dwelling units per acre, which
7 all the experts in the case, during the evidentiary
8 hearing at DOAH, testified would be a rural density.

9 In addition to ignoring the other language in the
10 Comprehensive Plan Amendment I referenced, the ALJ
11 essentially has substituted her own opinion and
12 subjective belief for the community-based decision, and
13 legislative determination, that the County Commission
14 was authorized to make, and which this Commission is
15 entitled to give great deference.

16 We respectfully submit when you review our
17 exceptions, when you review the law, and you review how
18 the ALJ analyzed the issue, you will determine that her
19 statements were conclusions of law.

20 Indeed, the ALJ on the urban versus rural issue
21 did not cite to the testimony, or some sort of
22 independent evidence, which is-- she based it on her
23 own reading of the Comprehensive Plan, which is a
24 conclusion of law. And, then she compounded that error
25 by overlooking the amendments I discussed that the

1 County itself made.

2 In sum, we respectfully request that the
3 Commission grant our exceptions, treat the urban versus
4 rural issue as a conclusion of law, not accept the
5 ALJ's conclusions on such issues, and, in so doing,
6 enter a final order finding the subject Plan Amendments
7 to be in compliance, as defined in Chapter 163.

8 We'd also ask that the Commission deny the
9 Petitioners' exceptions for the reasons stated in our
10 written responses thereto.

11 Thank you for your time and attention.

12 GOVERNOR SCOTT: Thank you.

13 ATTORNEY MACIVER: Ms. West?

14 GOVERNOR SCOTT: Good morning.

15 ATTORNEY WEST: Good morning Governor Scott,
16 Attorney General Bondi, CFO Patronis, and Commissioner
17 Putnam. Thank you so much for your time listening to
18 some rather dry material, but I really do appreciate
19 you taking the time here.

20 I'd like to note that the whole concept of an
21 agrihood quite frankly sounds really exciting. I mean,
22 who doesn't love local farm to table aspects. But,
23 that is pure marketing, and it's really important to
24 make that clear.

25 None of what you just heard about it being an

1 agri-hood is actually codified within the proposed
2 Comprehensive Plan Amendment. So, let's just stick to
3 what's actually in the Comprehensive Plan Amendment and
4 what the ALJ found.

5 The Orange County Comprehensive Plan is the truest
6 and most accurate expression of Orange County's desired
7 development pattern.

8 It is the County's constitution, for all intents
9 and purposes, of land use growth and policy. It is the
10 document that constituents you see here in the audience
11 depend on, and that the ALJ resorts to for the best
12 evidence, and that the commissioners rely on in
13 interpreting how their county is supposed to grow.

14 Unfortunately, this particular Comprehensive Plan
15 neglected to define two pretty critical terms, in terms
16 of what we're looking at here today. They failed to
17 define rural, and what is urban.

18 But, the Comprehensive Plan-- despite the fact
19 that it doesn't define these terms, the ALJ's reliance
20 on the Comprehensive Plan, as a whole, in order to make
21 the finding of fact that the Plan Amendments are urban
22 development, was not only acceptable, but paramount to
23 reaching her findings of fact in light of the
24 conflicting expert opinions. The Plan is record
25 factual evidence. Let's not forget that. It was

1 submitted as part of the record.

2 The Comprehensive Plan defines the desired
3 characteristics of both the urban service area and the
4 rural settlement area, by virtue of the allowable
5 densities in those areas.

6 The Administrative Law Judge examined over the
7 course of three days, listening to a ton of experts,
8 taking a lot of testimony, that the desired
9 characteristics of other transect plans, like
10 Innovation Way, and Horizon West in Orlando, to
11 correctly base her finding of fact, combined with the
12 credible and well-reasoned testimony of our experts to
13 determine the desired development plan of the County.

14 The characterization that somehow she solely based
15 her findings on the Comprehensive Plan disregards the
16 reliance of our expert testimony that the
17 Administrative Law Judge actually did find quite
18 persuasive in reaching her finding of fact that the
19 Plan Amendments allow for urban development in
20 violation of this Comprehensive Plan.

21 And, so, what I'd like to do right now is turn to
22 Page 30, of the recommended order, paragraph 77. And,
23 I didn't have my glasses last time, and it definitely
24 caused some problems, so I remembered them this time.

25 She states, in paragraph 77, findings of fact, the

1 experts-- and this is a little critical on us, too, so
2 it's, you know, a little uncomfortable telling you
3 this, but here we go.

4 "The Experts on all sides ignored the plethora of
5 evidence within the Comprehensive Plan itself that
6 reflects the County's determination of what constitutes
7 urban development. The testimony of Petitioners'
8 experts", that's us, "combined with the Comprehensive
9 Plan itself, was the most reliable and persuasive
10 evidence on that issue".

11 So, what's really important here is the word
12 combined. She did not, unlike the characterization you
13 heard just now, she did not base her findings of fact
14 exclusively on the Comprehensive Plan. It is the
15 testimony of our-- Petitioners' experts, combined with
16 the Comprehensive Plan itself is how she got these, um,
17 findings of fact.

18 Now, I know that, uh, Mr. Spain did not want to go
19 through all 37, 38 exceptions, but I am, um, because
20 that's what critical here. So if you will allow me a
21 little bit of leeway, I tried to streamline this
22 process.

23 Exception Number 1, the Administrative Law Judge
24 determination in paragraph 77, 82, 94, 99 and 102 of
25 the recommended order, regarding what constitutes urban

1 and rural, is not based on any evidence or testimony.
2 You just heard that it was. And, so we need to give
3 weight and creditability to the testimony of our
4 experts that testified at this hearing, because that
5 was a finding of fact.

6 In paragraph 77, I just read it, and you also have
7 the end-note in seven, page 89, "a description of urban
8 strategies and Future Land Use Goal 2 actually supports
9 the conclusion that the development pattern planned for
10 in Pickett Lake south is, indeed, urban".

11 The contention that the Administrative Law Judge
12 relied on plan provisions that were not within the
13 petitions or the proposed recommended orders, while
14 true is a red herring, and it doesn't alter the status
15 of the whole plan as being record evidence. The
16 Administrative Law Judge is allowed to depend on
17 basically our constitution to formulate the recommended
18 order.

19 Exception 2 is completely out of context. The
20 Interveners ignore the context of her point here. She
21 mentioned, you kind of have to back-up-- the exception
22 is to paragraph 85. You have to back-up two paragraphs
23 to paragraph 83, where she states, "In an apparent
24 attempt to overcome the fact that the Lake Pickett
25 South Amendment densities are similar to surrounding

1 development, and, thus, may be found to be urban
2 densities, Respondent and Intervenors argue that
3 density must be calculated based on the net allowable
4 acreage of the community, rather than the acreage of
5 the individual zones".

6 Well, she goes on to say, that "Assuming"--
7 "Assuming arguendo that the Respondent and Intervenors'
8 contention is true, the Plan Amendments cluster the
9 average density of 2.49 dwelling units per acre within
10 the T2, T3, and T4 zones at densities as high as six
11 dwelling units per acre. Under that scenario, the Plan
12 Amendments are internally inconsistent with Future Land
13 Use Element Policy 6.1.3, which does not allow
14 clustering of developments within the rural settlement
15 area".

16 That entire exception is based on an extra
17 contextual framing of the Administrative Law Judge's
18 reasoning. She put it right out there, assuming
19 arguendo, and under that scenario. That's not
20 dispositive.

21 Exception 3; the Intervenor's reading of the
22 policy would render all the listed exceptions to the
23 rule as mere surplus, because they argue that the ALJ
24 erroneously conclude that Future Land Use Policy 1.1.1
25 absolutely prohibits the location of any urban uses

1 within the RSA, except those specifically referenced as
2 exceptions within the Future Land Use Element.

3 And, they went on to say that that finding is not
4 a finding of fact, but a conclusion of law. If we were
5 to read it that way, might as well just throw all the
6 exceptions out the window. I mean, why bother having
7 them.

8 The phrase, but not limited to, is not present
9 prior to the exceptions to policy 1.1.1. But, the
10 Intervenors argue that the same affect be given to the
11 policy. It's--

12 I'm going to go on to Exception 4. There are so
13 many.

14 Can I get a count on my time? Is anyone keeping
15 time? (Inaudible) Okay, thanks.

16 I will tell you what we do agree with. Exception
17 five-- and there is actually a lot that we can come to
18 an agreement on here.

19 Exception 5; we acknowledge that the
20 Administrative Law Judge had an error, but it's not
21 dispositive to the conclusion that the Plan Amendments
22 are not in compliance.

23 Same with Exception No. 6.

24 Same with Exception No. 7.

25 Same with Exception No. 8.

1 Exception No. 9 has to do with the Administrative
2 Law Judge misquoting a Future Land Use in Goal 6. That
3 misquote does not alter the meaning of Goal 6 for the
4 purpose of the analysis of the consistency with the
5 goal. So, it's a minor error.

6 That same thing with Exception No. 10.

7 Same thing with Exception No. 11.

8 Exception 12; the Comprehensive Plan is record
9 evidence, once again.

10 Exception 13; they note that the ALJ made an error
11 in the calculation of acreage. We acknowledge that,
12 but it's not dispositive to whether or not the Plan
13 Amendments are in compliance.

14 Exception 14; determining the consistency and
15 character of the development permitted in the Plan
16 Amendments. Again, we are allowed to depend on the
17 entire Comprehensive Plan. And, the Administrative Law
18 Judge rightly did that in her findings of fact.

19 Same with Exception 15.

20 Same with Exception 17.

21 And, moving on-- I'm just trying to go through all
22 of the exceptions, so you have some guidance in terms
23 of where our position is on this.

24 There is agreement on a lot of this, but it's not
25 dispositive.

1 A lot of the exceptions have to do with the
2 assumption that the Lake Pickett study area Plan
3 Amendments had already been adopted, and therefore
4 there was this argument of internal consistency. Well,
5 that's not how it works. It hasn't actually taken
6 effect yet, so we can't use that, um, Plan Amendment as
7 the basis for a determination of consistency.

8 So, the Respondent and Intervenors' suggestion
9 that the Administrative Law Judge's analysis should
10 have assumed that the Plan Amendments were already in
11 effect, rather than analyzing the consistency of the
12 Plan Amendments as adopted, is really problematic here.
13 That's not the way this works.

14 Exception 20, again, a very small error, and we
15 acknowledge that error. And, it's not dispositive of
16 the conclusion.

17 Thank you.

18 Many of the others are the same. We have noted
19 all of this in writing, in our responses to the
20 exceptions filed by the Intervenor and Respondent.

21 In conclusion, I would just like to note that
22 based on the ALJ's findings of fact and the conclusions
23 of law, the Administration Commission here today should
24 adopt the Administrative Law Judge's recommended order.

25 Thank you so much for your time. And, I am

1 available for any questions that you may have.

2 GOVERNOR SCOTT: Thank you.

3 ATTORNEY MACIVER: Thank you, Ms. West.

4 Before moving on to public comment, I would like
5 to point out for those in the audience, and perhaps
6 those following along at home, that while it may seem
7 that the testimony as given might be sort of compacted,
8 and the folks might not get to every point they want to
9 make, these are highlights of the points they have made
10 in their written pleadings, or their written
11 submissions, so their points have been made. Those
12 were just highlights. Nobody was cut-off to not be
13 able to make a point.

14 Also, before accepting further comment, I would
15 like to remind both the Commission, and all interested
16 parties, that during a Comprehensive Plan challenge the
17 members of the Commission do not sit as a policy making
18 body. They are sitting in a quasi judicial capacity,
19 and only have the authority to consider the narrow
20 questions before them.

21 Like judges, they are required to take the law as
22 it is written, and apply it to the facts in the case
23 before them.

24 In this case, that means that the Commission is
25 not passing judgment on whether this is a good or a bad

1 proposal. They are not applying their own policy
2 judgments, and like judges, they are not permitted to
3 consider the weight of public opinion.

4 They are only allowed to determine whether the ALJ
5 made the correct legal recommendation in this case, and
6 as noted earlier, they are expressly restricted to
7 considering the facts that are in the record
8 established at the DOAH hearing.

9 With that said, we have a considerable number of
10 people who would like to come up and make public
11 comment.

12 For those appearing to make public comments today,
13 we are asking you to limit your comments to two minutes
14 a piece. And, because of time, if I do come up and
15 join you at the podium it is with both regrets and
16 apologies. That's my way of communicating to you that
17 we have run out of time.

18 Additionally, because the record in this case is
19 essentially closed, we will not be accepting any
20 exhibits, or hand-outs for the Commission. I can't
21 submit them into the record, so it wouldn't be
22 appropriate for you to put them before the Commission.

23 With that said-- for the sake of attempting to be
24 as fair as possible, I will go back and forth between
25 those opposing the recommended order and those

1 supporting the recommended order.

2 Beginning with opposing the recommended order,
3 Mr. Alan Ashlock. Mr. Ashlock, are you here?

4 (NO RESPONSE)

5 ATTORNEY MACIVER: In support of the recommended
6 order, Mr. Ronald Brooke.

7 RONALD BROOKE: Might as well say hi while I am
8 walking up. As a disabled vet, I don't move real fast
9 anymore.

10 GOVERNOR SCOTT: Were you navy?

11 RONALD BROOKE: Army. Navy and Air Force, you
12 typically don't see them at the VA having trouble
13 walking. It's the guys down there where the rubber met
14 the road. (Laughter)

15 GOVERNOR SCOTT: My dad told me I would get three
16 meals a day if I joined the Army.

17 RONALD BROOKE: That's right. You only had to
18 worry about what color the ice cream is going to be.
19 We had to worry about whether we had water to drink.
20 (Laughter)

21 ATTORNEY GENERAL BONDI: Thank you for your
22 service.

23 GOVERNOR SCOTT: Thanks for your service.

24 RONALD BROOKE: All right. Hi folks. Governor,
25 members of the Cabinet. My name is Ronald Brooke. I

1 think my two minutes start now, not when we were
2 talking earlier.

3 The, uh-- in here you mentioned that this is an
4 agrihood. That's a joke. What you have here before
5 you is a wolf being-- somebody is trying to present it
6 to you like a lamb. It ain't a lamb. It ain't rural.

7 You see the clothes I have on, that's basically
8 Sunday-go-to-meetin' clothes for rural. You see what
9 they're wearing, what y'all are wearing, that's urban.

10 On this there is a 49-acre plot dead center in the
11 bottom of the T4. That's owned by Larry Frankel. And,
12 he is allowed one house per 10 acres. He has-- he uses
13 it agriculturally. He raises cattle there. Has for
14 the last 13 years.

15 Around him is authorized T4, which is six houses
16 per acre, average. There is no maximum. And, that
17 means for 10 acres you have 60 houses. So, your
18 comparison of compatibility, that Orange County doesn't
19 quite understand, that's a factor of 60 times-- six
20 zero times-- what he has.

21 So, that is, if you think that 60 times the
22 development capacity is the same as one to 10, then you
23 could try to do the cover your eyes, cover your ears,
24 cover your mouth, and like the three little monkeys
25 believe that this is actually rural.

1 I asked, personally, staff at Orange County, why
2 don't you just extend the RSA, or the USA. They said
3 they cannot extend the USA because there's this little
4 thing called a river there, and that river makes a
5 natural boundary, which also is the USA boundary, and
6 they can't jump it. I said, well go around it, like we
7 did an imaginary line. They said we can't do that too.
8 We are not authorized. So, they have tried since
9 2000-- early 2000's--

10 I will finish this sentence.

11 -- since early 2000's to change this to urban
12 development, and they have been denied on five other
13 cases. And, so now, they're trying to magic make it
14 something it ain't. The judge saw the facts. I hope
15 y'all understand.

16 GOVERNOR SCOTT: Thank you.

17 RONALD BROOKE: Thank you.

18 GOVERNOR SCOTT: And, thanks for your service.

19 RONALD BROOKE: I enjoyed being a soldier.

20 GOVERNOR SCOTT: My dad loved it.

21 ATTORNEY MACIVER: Before calling our next
22 speaker, in addition to the reminder that only facts
23 that are in the record are what the Commission is
24 allowed to consider, I will let you know that if you
25 feel your point has been made, you are at any point

1 welcome to waive in support or in opposition to the
2 recommended order. For the sake of the number of
3 speakers we have, that might be helpful, but, of
4 course, we all know that you traveled to be here today,
5 so we'll afford you the time that we have committed to.

6 Next up, opposing the recommended order, Mr. Tony
7 Nicholson, and on-deck supporting the order would be
8 Ms. Marjorie Holt.

9 Mr. Nicholson, are you here? Mr. Nicholson?

10 (NO RESPONSE)

11 ATTORNEY MACIVER: Ms. Holt?

12 Thank you.

13 MS. HOLT: Thank you.

14 GOVERNOR SCOTT: Morning.

15 MS. HOLT: Yes. Good morning, Governor and
16 Cabinet members.

17 I'm Marj Holt, 8502 Elvron (phonetic) Avenue,
18 Orlando, Florida. And, I will try and just be brief
19 here.

20 Should you decide to approve the judge's
21 recommended order, I'd like to thank you, and, um, we
22 believe that it's a good decision to adopt and uphold
23 it.

24 The ALJ held that citizen Petitioners of Orange
25 County proved beyond fair debate that the Plan

1 Amendments are internally inconsistent with the Future
2 Land Use Elements within the goals, objectives and
3 policies of the urban framework, urban strategies, and
4 protection of rural land and resources, and other
5 assets.

6 So, and with that, I'll keep it short. Please
7 adopt. Thank you.

8 GOVERNOR SCOTT: Thank you.

9 ATTORNEY MACIVER: In opposition to the
10 recommended order, Mr. Shawn Snaith. Mr. Snaith, are
11 you here? And, on deck would be Ms. Seerina Farrell.

12 GOVERNOR SCOTT: Afternoon.

13 MR. SNAITH: Good afternoon, Governor and Cabinet.
14 Thank you.

15 I'm not sure what the order is. I got a little
16 lost in the legalese, but, about two years ago I was
17 asked to present at the Orange County Commission an
18 outlook for regional county population growth, job
19 growth, which has been exceptionally strong in this
20 economic recovery in Florida, and it's caused a bit of
21 crisis in terms of housing.

22 We've-- I'm starting to understand why we fall
23 behind the curve in terms of home construction. But,
24 we've had lulls in housing starts across the street--
25 the state, in 2013 and 2015, 2016. All the while

1 population and job growth continued at twice the pace
2 what we were seeing nationally, and so we have a really
3 depleted inventory in many areas around the state,
4 including Central Florida, where inventories are about
5 2.8 month's worth, which is well below a balanced
6 market. And, consequently prices have been rising at
7 an incredible pace, 15 percent year over year in the
8 Orlando market area.

9 And, so, I think, you know, the housing is
10 desperately needed, particularly in that part of the
11 Orlando area, with the growth that's happening at the
12 University of Central Florida, and other companies up
13 and down that eastern-- western-- eastern part of the
14 metro area, so...

15 We are forecasting this growth is likely to
16 continue for at least two to three more years, at this
17 current pace, and the situation is just going to get
18 more difficult when it comes to the housing market.

19 Thank you.

20 GOVERNOR SCOTT: Thanks.

21 ATTORNEY MACIVER: Again, I apologize. I am the
22 duty broken record today, but while public comments may
23 be made on the issue, the Commission will be bound to
24 not consider comments that are made outside of the
25 record.

1 Ms. Farrell, and on deck Ms. Debbie Parrish.

2 Ms. Farrell.

3 GOVERNOR SCOTT: Good afternoon.

4 MS. FARRELL: Good afternoon, Governor, Cabinet
5 members. It's a pleasure to meet you today.

6 My name is Seerina Farrell and I live in Orange
7 County.

8 Just wanted to give you a quick note, the
9 gentleman that just spoke, Shawn Snaith, is a paid
10 consultant by the developer.

11 Also, Attorney Snaith said that the County added
12 Lake Pickett. I don't believe that to be true. That
13 was a private initiative, and Lake Pickett was added by
14 the applicants.

15 Last week the developer and his representatives
16 told your Aides that you should allow the County to
17 control its own land use; however, here is a little bit
18 of information that I would like to share with you.

19 I begin the new information with a question. Why
20 does a representative from Gainesville propose an
21 amendment to impose a three mile urban circumference
22 around the state university, which by the way would
23 effect all that we have fought for and won?

24 I make no accusations; however, insofar as
25 University of Florida, Gainesville, already has urban

1 geography in a three mile circumference around the
2 university, why would Representative Matt Caldwell
3 propose an amendment to State Bill 883, at 8:45 a.m. on
4 Monday morning?

5 Perhaps it was because of a three mile
6 circumference around UCF changes Lake Pickett from
7 rural to urban, thus allowing the development that we
8 are here fighting against. No accusations. Just a
9 substantially curious development.

10 The judge found that we were correct in our
11 challenge. It seems that there are many other entities
12 who agree with us, as do thousands of community members
13 in two different counties.

14 I respectfully request that you uphold the judge's
15 recommended order.

16 Thank you for your time this morning.

17 GOVERNOR SCOTT: Thanks for being here.

18 ATTORNEY MACIVER: Ms. Parrish?

19 MS. PARRISH: Yes.

20 ATTORNEY MACIVER: On deck, Ms. Adele Simons.

21 MS. PARRISH: Good morning, Governor and Cabinet
22 members.

23 My name is Debbie Parrish. I live at 4563
24 Chuluota Road, in Orlando, in the county portion of
25 Orange County.

1 I am the 16-year president of the Lake Pickett
2 Community Organization. Chair-- four year chair for
3 the Lake Pickett Advisory Board, Orange County. A
4 27-year full-time realtor. And, most importantly, a
5 34-year resident that lives on about four acres on Lake
6 Pickett, and about one mile from The Grow.

7 I am here on behalf of my community, who is in
8 support of The Grow.

9 Representatives of the community met multiple
10 times with the developer, and each time Mr. Saathoff
11 listened to our concerns, and adapted the plan
12 accordingly and made changes where possible.

13 Of critical importance to our community were that
14 there would be no apartments in this area, and a true
15 transition to larger one acre lots on the north and
16 west sides of The Grow.

17 We do live in what I call a semi-rural community,
18 and our desire was true transition zoning all the way
19 to the Seminole County line, and its rural boundary.

20 In an unprecedented move, the developer of The
21 Grow did enter into a covenant, with deed restrictions,
22 with-- that run concurrent with the land for 50 years,
23 and is recorded in the public record. And, this was
24 signed in effect with the developer, with Lake Pickett
25 community organization, and two other HOAs.

1 For many, many years I stood and opposed many
2 developments. In recent couple of years, I have come
3 to realize that some development, and most importantly
4 unique and creative ones, are needed.

5 We do have a housing shortage, and inventory, and
6 it's a fact, is at its lowest since the year 2005,
7 primarily basing back to the housing crisis back in
8 2008, nine and ten.

9 The Grow will meet the housing needs and showcase
10 a special and unique community that other developers
11 can model.

12 So, thank you for your time. I appreciate it.

13 GOVERNOR SCOTT: Thank you.

14 ATTORNEY MACIVER: Ms. Simons. And, on deck Ms.
15 Debbie Shaffer.

16 GOVERNOR SCOTT: Afternoon.

17 MS. SIMONS: Good morning. Good afternoon,
18 Governor, Attorney General, Mr. Patronis, and Mr.
19 Putnam.

20 I am not going to speak very long. All I am going
21 to ask you to do is to please uphold the decision of
22 the Administrative Law Judge. We fought long and hard,
23 and she found the fact the way that she did, and we
24 would like you to follow her order. Thank you.

25 GOVERNOR SCOTT: Thank you.

1 ATTORNEY MACIVER: Next up opposing the
2 recommended order is Ms. Debbie Shaffer, and on deck
3 Dr. Kelly Semrad.

4 GOVERNOR SCOTT: Afternoon.

5 MS. SHAFFER: Good afternoon. Thank you for your
6 time, and thank you for all you do for our state.

7 I am not going to labor too long here. What Ms.
8 Parrish said is basically the same that I was going to
9 say.

10 I have been involved in growth management, rural
11 preservation, water conservation as a volunteer for
12 over 40-- or, 20 years in Florida. I also have been a
13 past elected official. I work on many Comprehensive
14 Plan, land development codes, ballot amendments, and I
15 have traveled the state to help folks with issues.

16 This project was very, very different to me. We
17 had a developer who was willing to sit down, listen to
18 our concerns, and do a true, unique project. So, for
19 those reasons I support The Grow, and its true
20 transition zoning to rural areas.

21 Thank you for your time.

22 GOVERNOR SCOTT: Thank you.

23 ATTORNEY MACIVER: Supporting the recommended
24 order Dr. Kelly Semrad, and on deck Mr. Chad Waters.

25 GOVERNOR SCOTT: Afternoon.

1 MS. K. SEMRAD: Good afternoon. Thank you.

2 My name is Kelly Semrad. I am one of the
3 Petitioners. I reside at 3111 Amalfi (phonetic) Drive,
4 Orlando, Florida, and reside within the immediate
5 impact of the Lake Pickett study area.

6 I would like to say that in 1980 Orange County,
7 through their land development code, specified the area
8 east of Econ River as being rural.

9 When my husband and I purchased a home in the
10 rural area, we referenced not only-- not only the
11 development code, but we also referenced our Orange
12 County Comprehensive Land Use Plan.

13 I happen to be a professor at UCF, and do research
14 for a living. We were well-researched. He works in
15 development and construction industry. Therefore, we
16 wanted to know what we were buying.

17 We purchased our home. We moved in. Shortly
18 thereafter we received notification that the land was
19 up for consideration of a land redesignation.

20 The judge made a recommended order that the
21 development that was proposed in the Lake Pickett area
22 was urban. And, while the Respondent's attorney, or
23 the Intervenors' attorney says that density is not the
24 only or sole factor of what determines urban, it is one
25 factor of what determines urban.

1 Six homes on average per acre is not rural. The
2 land development plan states that the rural development
3 is one home per 10 acres. The proposed development
4 within the Lake Pickett Plan Amendment would allow for
5 14 times the density of what it is currently zoned for
6 in terms of rural.

7 The judge got it right. We know that she got it
8 right. We hired biologists, engineers, attorneys,
9 planners, researchers from the University of Central
10 Florida. They did their work. They confirmed what the
11 judge found.

12 I ask you, if the judge got it wrong, why did the
13 developer need to hire Brian Ballard's lobbying firm to
14 influence the decision-- the decision of how you may
15 look at it, or legislators may look at it? Why did a
16 Bill appear on the floor, for the State Bill 883, to
17 zone that land urban if the judge got it wrong? She
18 got it right.

19 Please adopt the judge's recommended order.

20 Thank you so much for your time today.

21 GOVERNOR SCOTT: Thank you.

22 MS. K. SEMRAD: And, thank you for your efforts in
23 terms of what you are doing with those gentleman here.
24 That was wonderful. Thank you.

25 ATTORNEY MACIVER: Opposing the recommended order

1 is Mr. Chad Waters, and on deck supporting the order
2 would be John Fauth.

3 MR. WATERS: Good afternoon, Governor and Cabinet
4 members.

5 My name is Chad Waters. I want to thank you for
6 the opportunity to address you guys today.

7 I am here as a member of the Cypress Lakes
8 Community Association Board of Directors, which
9 represents a community of over 3,500 residents, making
10 it the largest homeowner's association near the
11 proposed Lake Pickett properties.

12 We understand that development is coming to east
13 Orange County, and we desire a well-planned,
14 responsible compromise for these areas, which we
15 believe has happened here.

16 The home count has been reduced by over a thousand
17 units. Multi-family units have been removed. Millions
18 of dollars are committed to the better east and west
19 traffic flow for the area, and quality commercial
20 offerings are included.

21 Most importantly, Orange County has agreed that
22 when Chuluota Road is expanded to four lanes to
23 maintain the natural buffer that exists between the
24 highway and our community, protecting our children, and
25 schools in the area.

1 Beyond this, many residents of Cypress Lakes have
2 recognized that it would be highly hypocritical to
3 oppose these developments while we live in a nearby
4 rural settlement.

5 For these reasons, the Cypress Lake Board of
6 Directors support the approval of the Lake Pickett
7 properties.

8 Thank you.

9 GOVERNOR SCOTT: Thank you.

10 ATTORNEY MACIVER: Supporting the recommended
11 order Mr. John Fauth, and on deck Mr. Bob Carrigan.

12 GOVERNOR SCOTT: Afternoon.

13 MR. FAUTH: Good afternoon, Governor, Board of
14 Directors.

15 My name is John Fauth. I am a biologist and a
16 scientist. I live in one of the rural developments
17 called Witchfield, that's out in east Orange County,
18 and I would ask you to support the Administrative Law
19 Judge's recommendation.

20 You've heard a lot of the attorneys today, and
21 arguments about density, but I decided to build a
22 graphic. And, as a proud father of a six and a half
23 year old, I get to play with Legos. So, what I want to
24 show you is what was in the Orange County code, in
25 terms of density, which is very important.

1 (Indicating)

2 The little green dots here, the Legos, show these
3 are the rural densities that were in the Comp Plan.

4 The one in ten is this little tiniest Lego. It's
5 the thinnest and smallest one. It's covering one
6 dimple.

7 The reds are the urban densities that are in that
8 code.

9 And, as you can see in the existing code, there is
10 a clear demarcation between there. There is a perfect
11 correlation between the density, the low densities that
12 are rural, the highest densities, up to 50 units per
13 acre, that are urban.

14 What this amendment did, and what the judge
15 correctly understood from the testimony, and from the
16 Comp Plan itself, it destroyed that correlation.

17 The black is the Lake Pickett. T1 is their
18 conservation-- this would be like an open thing. No
19 homes at all. T2 is equivalent, yes, to a rural
20 density. Their T3 clearly is an urban density. So is
21 their T4.

22 Now, to show you how egregious that is, I did an
23 analysis. It's the same sort of analysis that medical
24 doctors do to try to predict outcomes for things like
25 how much of a hormone you have in your body.

1 The T2 density, so this one right here, the
2 probability that that is rural, is one. That's a rural
3 density. Everybody here would agree with that.

4 The probability, however, that their T3 is a rural
5 density is less than your odds of winning the
6 Powerball.

7 The probability that this other highest density,
8 which can go up to 12 units per-- 12 dwelling units per
9 acre, that one is equal to the odds of winning the
10 Powerball five times in a row.

11 So, not only did the Administrative Law Judge get
12 it right, it was the only conclusion she could make.

13 There is no way in the world that that density,
14 those two highest densities, the T3 transects and T4,
15 could be rural densities. And, therefore, since they
16 are in the rural service area, they don't belong there
17 as internally inconsistent.

18 Thank you.

19 ATTORNEY MACIVER: Opposing the recommended order
20 we have Mr. Bob Carrigan, and on deck Ms. Donna
21 Degregory.

22 MR. CARRIGAN: Good afternoon, Governor Scott,
23 members of staff and Cabinet.

24 My name is Bob Carrigan, 18716 East Colonial
25 Drive, Orlando, Florida.

1 I have been-- I've been associated with east
2 Orange County and this property, The Grow, since 1944.

3 My family owned the 840 acre (Inaudible) ranch,
4 which is now part of The Grow. I can remember crossing
5 the old Econ back in the '40's by a two-lane wooden
6 bridge. And, now, years later, we have a six lane
7 concrete bridge State Road 50.

8 The Grow is part of a master plan, which Orange
9 County set forth back in 2012, 2013. They didn't want
10 piecemeal development. They wanted planned development
11 on the east side of the Econ, which evolved into The
12 Grow and the Sustany on the north side of Lake Pickett
13 Road. Why? Well, homes are needed.

14 On the west side of the Econ River there are four
15 entities; UCF, the second largest university in the
16 United States, with over 63,000 students, and growing.
17 The Martin Company, Siemens, and Essential Florida
18 Research; all defense related.

19 There are over 40,000 employees within this
20 quadrant. This economic growth-- needs homes for their
21 employees, hence the development of The Grow.

22 A couple other points. They talked about the
23 Frankel property. Mr. Frankel owned 49, I believe,
24 acres on Highway 50. he had it up for sale for
25 \$5 Million. It became part of The Grow. He couldn't

1 commit to his financial entity in it, and then dropped
2 out.

3 I beg-- I beg you to-- to-- to vote and approve
4 this grow project.

5 Thank you.

6 GOVERNOR SCOTT: Thank you.

7 ATTORNEY MACIVER: Again, I want to continue to
8 reiterate for the folks, that while we appreciate
9 hearing from everybody, the Commissioners will only be
10 allowed to consider what is in the record.

11 With that, if your points have been made, or if
12 you feel your points have been adequately made, you can
13 at any point waive in support or in opposition.

14 With that said, next up is Ms. Donna Degregory,
15 supporting the recommended order. And, on deck in
16 Robert Zlatkiss.

17 MS. DEGREGORY: Good afternoon. My name is Donna
18 Degreogry. I'm not used to public speaking.

19 I live in Orange County. My home is within a mile
20 of these planned communities. And, I have lived there
21 for 23 years.

22 In our community, in our attempt to preserve our
23 rural lifestyle, we have come to together. We have
24 pooled our resources. We have gotten signatures. We
25 have gone before the Board. And, we have affected the

1 outcome of a local election. And, we have ultimately
2 brought our case before an Administrative Law Judge.
3 And, after three days of testimony, and considering
4 evidence, she is the best qualified person to make a
5 finding of law-- of fact.

6 I want to appeal to you that this is one more
7 decision on your agenda. For me, what you do today,
8 could affect the rest of my life. And, please uphold
9 the order.

10 And, I would like to say for all those UCF
11 professors that don't have any place to live, 7500
12 homes are breaking ground in Innovation Way, which you
13 used UCF's employment centers as a reason for building
14 that huge community in the urban service area.

15 Thank you.

16 GOVERNOR SCOTT: Thank you.

17 ATTORNEY MACIVER: In opposition to the
18 recommended order we have Mr. Robert Zlatkiss. And, on
19 deck Ms. Julie Wraithmell, representing Audubon.

20 Mr. Zlatkiss?

21 (NO RESPONSE)

22 ATTORNEY MACIVER: Ms. Wraithmell? Julie
23 Wraithmell?

24 (NO RESPONSE)

25 ATTORNEY MACIVER: Opposing the recommended order,

1 and forgive me, I don't remember the protocol on
2 whether or not you retain the title. I'm going to err
3 on side of caution; Mayor Crotty, are you here?

4 (NO RESPONSE)

5 ATTORNEY MACIVER: Supporting the recommended
6 record we have Mr. Thomas Hawkins from 1000 Friends of
7 Florida.

8 MR. HAWKINS: Thank you very much for taking the
9 time to have public comment this morning. I greatly
10 appreciate it, and I know the other folks do here.

11 I served on a Gainesville City Commission for
12 quite some time. I know it takes a lot patience to sit
13 in the position that you are in.

14 I'm here to ask you to adopt the recommended
15 order.

16 I'm currently policy and planning director for
17 1000 Friends of Florida, which is an organization based
18 here in Tallahassee, that's had some involvement in
19 this process, and attended hearings in Orange County,
20 before the Orange County Commission, and then provided
21 some expert testimony to the Petitioners in the matter,
22 throughout the petition process.

23 As Mr. MacIver, and several of the attorneys,
24 emphasized, you have an ability to interpret the law
25 differently than the Administrative Law Judge did, but

1 you have very little ability to determine the facts
2 different than the Administrative Law Judge. And,
3 that's a good thing. The Administrative Law Judge had
4 to sit through three days of hearings that you,
5 thankfully, will be able to forego. But, that does
6 mean that the facts in the record are facts that go
7 forward with you, that you rely on in your ultimate
8 decision.

9 In this case, the fact that the property-- the
10 proposed development is urban has been based, as so
11 many of the other speakers have mentioned, on not just
12 density of the proposed development, but also its
13 character; how the residential relates to commercial,
14 lot size, height of buildings, set-back of proposed
15 buildings. And, those are facts that don't change, no
16 matter what the law is.

17 They are things that we can observe. They are
18 things that planning professionals can identify as
19 making something urban or rural. In this case, they
20 make the proposed development urban, which is
21 consistent with the Administrative Law Judge's finding.

22 And, so the correlating conclusion of law is
23 whether the Orange County Comprehensive Plan allows
24 that urban development. And, because the
25 Administrative Law Judge determined on that count that

1 it doesn't, I would urge you to adopt the recommended
2 order of the Administrative Law Judge.

3 And, again, thank you for your time and attention.

4 GOVERNOR SCOTT: Thank you.

5 ATTORNEY MACIVER: Opposing the recommended order
6 Mr. Kenneth Straight. Mr. Straight?

7 (NO RESPONSE)

8 ATTORNEY MACIVER: Supporting the recommended
9 order I have Ms. Lisa Semrad.

10 Mr. Straight?

11 MR. STRAIGHT: Yes, sir.

12 ATTORNEY MACIVER: Okay.

13 Ms. Semrad, you are on deck.

14 MR. STRAIGHT: I guess I will say hi to you all on
15 the way by, too.

16 GOVERNOR SCOTT: How you doing?

17 MR. STRAIGHT: I'm doing just fine. How you all
18 doing?

19 GOVERNOR SCOTT: Thanks for being here.

20 MR. STRAIGHT: Governor Scott, I thank you very
21 much for hearing us.

22 This is a real important project what's going in
23 out there.

24 I heard a lot of facts that don't agree with my
25 facts.

1 What I have here, uh, you got 1200 and some odd
2 acres previously approved for four units per acre. The
3 contractor did listen. He is now down to two and a
4 half units per acre, which gives about 60 percent green
5 space. That's a lot. And, it conforms to it.

6 I'm a former building contractor for the State of
7 Florida, and I've been involved in a lot of projects.
8 I'm not involved in this one, but I see the importance
9 of it.

10 UCF is growing at a rapid rate. We need housing.
11 We need good quality housing.

12 We got professors coming in. My kids graduated
13 from UCF. They're all engineers. My grandkids are
14 planning on going to UCF. We need places for these
15 people to stay. We need places for them to live. If
16 we want the best quality education, we have to give
17 them a place to live-- quality places to live.

18 Um, from what I understand from all of this-- I'm
19 not a lawyer-- my wife is, but I'm not-- it all kind of
20 boils down to one word, rural or urban. Right now,
21 it's classified as rural. It shouldn't be. It should
22 be urban.

23 If any of you have been out there and looked at
24 these properties out there, you'll see what I'm talking
25 about. It is urban, and it should be classified as

1 urban.

2 Thank you very much. Appreciate it.

3 GOVERNOR SCOTT: Thank you.

4 ATTORNEY MACIVER: Supporting the recommended
5 order Ms. Lisa Semrad, and on deck Mr. Jerry Hardesty.

6 GOVERNOR SCOTT: Good afternoon.

7 MS. LISA SEMRAD: Hello. Thank you for your time.

8 Um, I'm just a simple person. I listened to the
9 legal verbiage that went on, and it was difficult for
10 me to follow, um, but I did do my best. And, the
11 gentleman that preceded me did say that it comes down
12 to urban versus rural, um, as though rural was not
13 important. But, we don't have an infinite land
14 resource. Land is finite. Um, and, I recognize that
15 people need homes, that people may want homes, but to
16 present that as though that was all that was
17 important-- when you drive down the street and you toot
18 your horn, or you get out of your car to remove-- to
19 move the cranes out of the way so that you don't kill
20 them. When you stop to pick-up turtles off the road--
21 when you save gopher turtles to take them to the
22 Econlockhatchee Reserve area, just off Lake Pickett,
23 this is time that is well spent. These are resources
24 that we will not have again.

25 If you only have to talk a little bit about what

1 this kind of development could mean, take a drive down
2 Colonial and see what it's like to-- to take what
3 should be a 10 minute drive, and have it take you 35,
4 40 minutes, because of the amount of traffic that is
5 there.

6 Then add more than 40,000 more cars to Colonial.
7 And, I'm not just pulling that out of my head. These
8 are from the studies, from the experts that-- that were
9 objectively studying. These are not the commissioner's
10 traffic, um, traffic guy who did his study. This is--
11 these are independent people, experts, who have done
12 these studies.

13 This development is so immense that it destroys a
14 way of life.

15 These are tumultuous times, tumultuous political
16 times, based on the fact that the people don't just
17 want to be heard, they want to be listened to. They
18 own these homes. They own this land. They should
19 dictate what happens to their homes, what happens to
20 their land, what happens to their way of life. Not a
21 developer who speculated that he could make billions
22 off of this development, which is exactly what is
23 happening here. When you speculate, you risk.
24 Sometimes you lose. He should lose. Please honor the
25 judge's document.

1 Thank you very much.

2 GOVERNOR SCOTT: Thank you.

3 ATTORNEY MACIVER: Opposing the recommended order
4 we have Mr. Jerry Hardesty, and on deck Ms. Gladys
5 Delgadillo.

6 GOVERNOR SCOTT: Afternoon.

7 MR. HARDESTY: Good afternoon, Governor.

8 I'm 71 years old. I've lived here most of my
9 life. I raised about, uh, 10 kids, and been married
10 twice, and, uh, most of my kids have gone to college at
11 UCF. I've watched this state grow from dirt roads, to
12 paved roads, to highways.

13 This grow is to plan out an area to be built
14 properly to preserve the balance of the rest of the
15 nature around it. They are not looking to build things
16 that will-- scrapers in the skies. This is a company--
17 you know, there are 40,000 people and jobs around that
18 area. There is 68,000 at UCF. The town is growing.

19 We are getting more people that need help from
20 Puerto Rico. They're coming here. We are going to
21 have to be able to handle the homes. There is not
22 enough homes here for these people.

23 What are we going to do with it? Are we going to
24 turn our backs on them? I don't think so. Florida
25 never has, nor have any of us here.

1 I thank you.

2 GOVERNOR SCOTT: Thank you.

3 ATTORNEY MACIVER: Supporting the recommended
4 order we have Ms. Gladys Delgadillo, followed by Mr.
5 Mark Neuberger.

6 GOVERNOR SCOTT: Afternoon.

7 MS. DELGADILLO: Good afternoon Governor Scott,
8 and Cabinet members.

9 My name is Gladys Delgadillo. I'm here to ask you
10 to please approve the Administrative Law Judge's
11 recommended order.

12 The ALJ made a finding of fact that The Grow
13 qualifies as urban development. Accordingly, Orange
14 County broke its own growth rules in approving the
15 development outside this urban service boundary.

16 Counties approve urban service boundaries
17 partially because rural lands have value. The area in
18 question protects Central Florida's water supply by
19 providing critical aquifer recharge. These lands also
20 serve as an important corridor for wildlife, including
21 the Florida black bear.

22 Florida's incredible growth rate is already
23 straining the state's natural resources. We find
24 ourselves turning to alternative water supply because
25 we are running out of water, and drafting recovery

1 plans because we are running out of wildlife habitat.

2 Employing smart growth strategies like urban
3 redevelopment can lessen the impact of Florida's
4 spiking population. We owe it to future generations to
5 plan growth in the state responsibly. We don't have a
6 chance unless we are committed at a minimum to
7 following the modest growth rules that we set for
8 ourselves.

9 Please give Florida a chance. Approve the ALJ's
10 recommended order.

11 Thank you.

12 GOVERNOR SCOTT: Thank you.

13 ATTORNEY MACIVER: Opposing the recommended order
14 I have Mr. Mark Neuberger.

15 (NO RESPONSE)

16 ATTORNEY MACIVER: Supporting the recommended
17 order Ms. Janet Brewer. Ms. Brewer? On deck I have
18 Mr. Charles Gregg.

19 MS. BREWER: Good afternoon, Cabinet members and
20 staff.

21 My name is Janet Brewer. I live in Christmas
22 Florida, which is right up the road from the Lake
23 Pickett area.

24 I am here today representing several of my
25 neighbors, property owners, that live in this area,

1 that are asking you to please uphold the recommended
2 order from the Administrative Law Judge.

3 We are not against growth in our area. We are
4 against growth being implemented and done correctly
5 [sic]. We are against growth that is not right for our
6 area for many reasons.

7 As the Governor said earlier today that we love
8 Florida, and, yes, we do love Florida. We do love our
9 rural area, and we want it to stay this way.

10 We do want to vote for the politicians that are
11 best for us, that listen to us. As we did this past
12 year, we did vote out a commissioner, our past
13 commissioner, that did not listen to us, and would not
14 listen to us. And, we do want people that are
15 representing us, and listening to us.

16 Um, again, we are not against growth. We're
17 against growth being done properly [sic].

18 I'm speaking from my heart, for myself, and for
19 many of the property owners in our area.

20 We, unfortunately, don't have the dollars as the
21 other-- the developers do. We just have our heartfelt
22 feelings. And, as a group we are fighting desperately
23 for what we need and for what is right. And, we ask
24 you to please help us and do what's right.

25 Thank you.

1 GOVERNOR SCOTT: Thank you.

2 ATTORNEY MACIVER: Opposing the recommended order
3 Mr. Charles Gregg. Mr. Gregg, are you here?

4 (NO RESPONSE)

5 ATTORNEY MACIVER: Supporting the recommended
6 order is Mr. Bill Lutz. Mr. Lutz? On deck I have
7 Dusti Bowersett.

8 MR. LUTZ: Good afternoon.

9 My name is Bill Lutz. I've lived 39 years in a
10 neighborhood that's directly across the street from the
11 proposed development. We are all on two, five and 10
12 acre tracts.

13 I'm also one of the board members at
14 SaveOrangeCounty.org, which is a grassroots
15 organization, represents a large number of voters in
16 Orange and Seminole County primarily that are very
17 concerned with the Econ River.

18 The Econ River is the historic bright line in
19 Orange County that separates urban and rural
20 lifestyles. Our organization has collected more than
21 11,000 petitions from citizens opposed to the Lake
22 Pickett development in the environmentally sensitive
23 Econ River basin.

24 If you can, as part of your review process, I wish
25 you would review the petitions. They were submitted to

1 the Cabinet Aides last week. These petitions represent
2 the will of the people when it comes to this
3 development.

4 We, who live in this area, have made
5 investment-backed decisions on our economic and
6 lifestyle choice to purchase land on the rural side of
7 the river. This is why the Comprehensive Plan is so
8 important to us. It protects our decisions. This is
9 why we are here today.

10 DOAH Judge Van Wyk, after almost three days of
11 fair testimony from all sides, found the Comprehensive
12 Plan Amendments, that would permit this development,
13 were not in compliance with the Orange County
14 Comprehensive Plan.

15 Today we ask your support of Judge Van Wyk's
16 recommended order, and the will of over 11,000 people
17 who oppose this development.

18 Thank you.

19 GOVERNOR SCOTT: Thank you.

20 ATTORNEY MACIVER: Opposing the recommended order
21 I have Dusti Bowersett, and on deck Mr. Tom Narut.

22 MR. BOWERSETT: Good afternoon. My name is Dusti
23 Bowersett. I'm an Orange County resident. Also a UCF
24 graduate with a major in real estate.

25 Most of what I was going to say has already been

1 said, but one thing hasn't. I support the autonomy of
2 Orange County to dictate its own growth plan. I oppose
3 the ALJ recommended order.

4 Thank you.

5 ATTORNEY MACIVER: Supporting the recommended
6 order is Mr. Tom Narut, and on deck I have Ms. Laurie
7 Comacho.

8 MR. NARUT: Thank you.

9 Before I start, to answer your question earlier,
10 Governor Scott, yes; I'm a resident, and I wanted to
11 tell you I deal with a high tech company, in Lehigh
12 Acres, Florida, that I thank you for recruiting and
13 bringing in from Indianapolis. So, really appreciate
14 the work you do from an economic perspective for sure.

15 Tom Narut. I'm a resident, and a voting
16 constituent in Orange County. I am an active board
17 member on SaveOrangeCounty.org, which the one gentleman
18 had mentioned. We've got quite a substantial
19 following.

20 I have here a quick letter that the League of
21 Women's Voters asked that I read. If I need to divert
22 from that, but again this is basically them endorsing
23 the ALJ judge's findings, if you will, their key things
24 just saying, hey-- their letter states, "The League of
25 Women Voters concern with the Lake Pickett began in

1 2015. We are a non-partisan organization" -- which I
2 know you are familiar with-- "we study governmental
3 issues, and other socioeconomic, social welfare, and
4 political issues, and take positions and actions after
5 careful deliberation".

6 They fully support the ALJ judges. it was signed
7 by the president of the-- Pamela Goodman, President of
8 the League of Women Voters of Florida; Lisa Bainbridge
9 and Carol Davis, co-presidents of Women Voters of
10 Orange County.

11 I wanted to address real quick, I was there that
12 night. The vote-- it was actually a four to three.
13 It's not legal stuff, just so you are aware of what
14 went down that night. 2 a.m. A hundred plus residents
15 opposing what was going on. And, it was highly
16 controversial, obviously, up until 2 a.m. A lot of
17 this stuff.

18 And, what happened also was the subsequent voting
19 for the north project, the park commissioner actually
20 stated openly, hey, we are going to vote this down. Do
21 you guys want to continue with the vote, or do you want
22 to withdraw. So, the Sustany, that the gentleman
23 mentioned, is the northern development that's not being
24 discussed here, withdrew, because our BCC stated, we
25 will vote you down if you go forward.

1 On the other side, the-- real quickly, The Grow,
2 mind you, they reference Innovation Way as
3 justification. Innovation Way is in the USA. The Grow
4 is not.

5 Mind you, they talk about it's the first agrihood.
6 It is. There have been others in other states. Many
7 have failed.

8 They talk about the equestrian. Three horses. A
9 stable with three horses. No pasture. They intend to
10 use the county park across the street.

11 They left out the fact that they have 173,000
12 square feet of commercial space.

13 Appreciate you supporting the judge.

14 GOVERNOR SCOTT: Thank you.

15 ATTORNEY MACIVER: Again, I apologize for the
16 nature of being a broken record, but I have to remind
17 everybody, the Administration Commission here sits
18 today as quasi judicial body. They are not actually
19 weighing whether this is a good proposal, or a bad
20 proposal, but only whether the ALJ was correct in her
21 findings.

22 With that said, Ms. Comacho opposing the
23 recommended order, and on deck is Ms. Maria Martinez.

24 GOVERNOR SCOTT: Afternoon.

25 MS. COMACHO: Good afternoon. My name is Laurie

1 Comacho, and I am here today with my mom and my sister.

2 I am Donald and Elouise Rybolt's granddaughter,
3 and my family has owned property known as the Rybolt
4 Ranch, or Lake Pickett North, for over a hundred years.

5 My mother, my sister, and I all grew up on this
6 property; feeding cattle, learning the proper way to
7 put up and repair a barbed wire fence. We all even
8 learned to drive on this property.

9 The area around the ranch has changed dramatically
10 however. We are now surrounded by development, and are
11 1.3 miles from UCF, which is one of the largest
12 universities in the country.

13 This property is no longer suitable for ranching.

14 My mother is an only child. My sister's husband
15 is in the Army, and has been for 18 years. My husband,
16 who recently retired from the Army after 24 years,
17 travels extensively for work, and we both have young
18 children.

19 As happens with many ag families, the time has now
20 come for us to move on.

21 I respectfully request that the Cabinet reject the
22 Administrative Law Judge's recommended order.

23 GOVERNOR SCOTT: Thank you.

24 ATTORNEY MACIVER: Opposing the recommended order
25 we have Ms. Maria Martinez, and on deck I have Ms.

1 Irina Pashinina.

2 MS. MARTINEZ: Good afternoon, Governor Scott and
3 Administration Commission members.

4 I actually support the administrative order.

5 I believe that the Administrative Law Judge's
6 finding of not in compliance in the recommended order
7 is correct.

8 At stake is the policy of promoting and directing
9 dense or urban growth within Orange County's urban
10 service area, or USA, while limiting development of the
11 Orange County rural service area, or RSA, to low
12 densities appropriate for a rural area.

13 As noted by the Administrative Law Judge, the
14 county employees the USA concept as an effective fiscal
15 and land use technique for managing growth.

16 The USA identifies areas where the county has
17 primary responsibility for providing infrastructure and
18 services to support urban development.

19 In this case, a narrow majority of the 2016 County
20 Commission voted to support this project in stark
21 departure from its adopted Comprehensive Plan policy,
22 including a vote by a commissioner who previously
23 served as a land use attorney for the Rybolts, when
24 this project, or very similar or substantially similar
25 project was proposed two years earlier and was

1 defeated. How is that not a conflict of interest? How
2 is it not a conflict of interest for the attorney who
3 represented the same-- or one of these applicants
4 previously, to now sit and be able to vote on it?

5 In addition, the other commissioners told us that
6 they voted in favor because the district commission--
7 the commission they'd always vote in favor-- several of
8 them do-- to support the district commissioner, who was
9 the previous attorney for the Rybolts, in a similar
10 project that was defeated.

11 I guess the good news in this is that, um, since
12 that time, Orange County voters have responded by
13 changing the composition of the commission, voting that
14 commissioner out, such that something like this would
15 not pass again.

16 Another good news is that we are very organized.
17 The community is angry. There's over 11,000 signing
18 these petitions. We are organized. We are monitoring
19 things like this hearing, and we are now swaying
20 elections.

21 The Administrative Law Judge ultimately agreed
22 with Petitioners challenging this vote, finding that
23 the Petitioners proved beyond fair debate that the Plan
24 Amendments are internally inconsistent with Orange
25 County Comprehensive Plan FLU Goal 1, Objective 1.1.

1 Policy 1.1.1. Objective 1.2. Policies 1.2 and 1.2.2.
2 Goal 2. Goal 6. Objective 6.1, and Policy 6.1.1,
3 6.1.2 and 6.1.3.

4 It is important to note that the standard of proof
5 required of these Petitioners, under Florida law,
6 provides a very high level deference to the County's
7 original decision. Even though exceptions are allowed,
8 the Plan Amendments do not meet any of the established
9 exceptions according to the judge's recommended order.

10 The Petitioners who brought this challenge have
11 succeeded in demonstrating to an independent
12 Administrative Law Judge, and have proven beyond fair
13 debate, that this land use decision by the County was
14 incorrect.

15 I urge you to adopt the findings of the
16 Administrative Law Judge in this case, and to vote to
17 adopt the recommended order.

18 Thank you.

19 GOVERNOR SCOTT: Thank you.

20 ATTORNEY MACIVER: Commissioners, we have five
21 remaining speakers, just to let us know where we are.

22 Supporting the recommended order I have Ms. Irina
23 Pashinina, and on deck Ms. Leslie Harmeson.

24 MS. PASHININA: Good afternoon. I am a graduate
25 student of Urban and Regional Planning, University of

1 Central Florida.

2 And, I would like to remind you the reason we have
3 you serving as public officials. All of you were
4 elected by people of Florida to serve for people.
5 Right?

6 All of you were elected. All of you are paid by
7 public money, and supposed to listen to our needs at
8 once, as a community. And, we request to uphold and
9 adopt what Administrative Law Judge Suzanne Van Wyk has
10 recommended, and confirm that County Commissioners have
11 made a mistake in the Comprehensive Plan Amendment that
12 was proudly initiated by the property owner.

13 If a new Bill 883 passes, it would change all of
14 our rural land, within few miles of a public
15 university, to urban. Please veto it.

16 Florida doesn't need any more (Inaudible)
17 development. It has been proven to be inefficient.
18 Lots of negative impacts on human lives creating a
19 hidden depth of unfunded infrastructure and services.

20 It is time to start retrofitting existing sprawl
21 using smart grow policies, making sustainable
22 communities, and building mass transit public system
23 that lacks in Florida. Is it that easy to change the
24 zoning code of ordinances or pass a new bill? The
25 developer promises to give money to campaigns, putting

1 residents in danger, building outside of urban service
2 boundary area, and hiring a million dollar
3 well-connected lobbyist to pass a US amendment to a
4 Bill just before this meeting?

5 You are a true representation of people in Florida
6 who have elected you, and who trust in you.

7 Commissioner Ted Edwards failed to listen to us,
8 and we defeated him.

9 Voters are watching all over Florida. This is
10 very important to us. Please help us. Thank you.

11 ATTORNEY MACIVER: Commissioners, again I have to
12 remind you that you are limited to reviewing the things
13 that are in the record during this proceeding today.

14 And, additionally, while you are, of course, all
15 elected executive high level officials, you are not
16 sitting in that capacity today. You are sitting as a
17 quasi judicial body, who is reviewing the facts and the
18 law before you.

19 Opposing the recommended order we have Ms. Leslie
20 Harmeson, and on deck Ms. Elizabeth Hester.

21 MS. HARMESON: Good afternoon. My name is Leslie
22 Harmeson, and I am Donald and Elouise Rybolt's other
23 granddaughter.

24 First, I would like to correct a statement that
25 was made by another speaker, which is that-- I believe

1 she was referring to Commissioner Ted Edwards, our
2 former district commissioner. He never worked for my
3 family. But, just to be clear, none of the county
4 commissioners have ever worked for our family, so there
5 was no conflict.

6 Many people here may not realize that the journey
7 to develop my family's property was actually started by
8 my grandmother, after my grandfather's--

9 ATTORNEY GENERAL BONDI: Ma'am, excuse me one
10 minute.

11 Hey, ladies, gentlemen, everyone respected you
12 when you spoke. Please respect them when they speak,
13 whether or not you agree with them. Thank you.

14 MS. HARMESON: The journey to develop the property
15 was actually started by my grandmother after my
16 grandfather's death. We have spent years working with
17 the county and holding community meetings with the area
18 residents.

19 In 2008, we even partnered with the St. Johns
20 River Water Management District to ensure that
21 710 acres along the Econlockhatchee River was preserved
22 as a park and would be open to the public to enjoy.

23 As a family, we have always tried to be good
24 stewards to the land, and have gone above and beyond
25 what many others would have done because this property

1 is our legacy.

2 I respectfully respect that the Cabinet reject the
3 Administrative Law Judge's recommended order and uphold
4 the text amendment as approved by Orange County.

5 Thank you.

6 GOVERNOR SCOTT: Thank you.

7 ATTORNEY MACIVER: Supporting the recommended
8 order we have Ms. Elizabeth Hester, and then on deck we
9 have Mr. Dwight Saathoff.

10 GOVERNOR SCOTT: Afternoon.

11 MS. HESTER: Hi. My name is Elizabeth Hester. My
12 family and I live on 10 acres on Lake Pickett Road.
13 Our property is about catty-corner to this property.

14 When we first decided to incorporate
15 SaveOrangeCounty, sitting on our porch about four years
16 ago, we were just a group of neighbors trying to get
17 together to protect our area and our rural agricultural
18 lifestyle.

19 Since then we have become friends more than
20 neighbors. We have dealt with deaths, celebrated
21 births, birthdays, and baptisms.

22 In all of this the fight continued to force its
23 way into the rhythm of our lives, sometimes to the
24 point of even overtaking the rhythm with its own. We
25 have re-arranged school times, we hired babysitters, we

1 have postponed birthday parties for our kids, we
2 delayed vacations, we took our kids in and out of
3 commissioners' offices and the mayor's office when we
4 couldn't afford those babysitters anymore. And, we not
5 only brought our passion, we brought our baby
6 strollers, our snacks, our juice boxes, our Kindles, to
7 meeting after meeting after meeting.

8 We did these things not because we believe that
9 development in itself is wrong, or that we believe that
10 this area should not have more people moving to it.
11 That's at all not our goal. But, we do believe this
12 area should be developed responsibly and consistently
13 with the Orange County Growth Management Plan. That is
14 considered-- we look at that as being a good steward of
15 the property that we have around us.

16 We have been ignored. We have been belittled. We
17 have been lied to on occasion by county officials,
18 aides, and county workers.

19 We have been told that an extra five thousand
20 homes in our three to four mile radius will not affect
21 us adversely, that it will not flood our property.
22 And, they have ignored our biologists, our engineers,
23 and even the Army Corps of Engineers that has said this
24 area should not be developed as proposed in the Lake
25 Pickett Plan Amendment.

1 Our community came together. We fundraised. We
2 made petitions. We made red shirts, that I am dying to
3 retire. We hired attorneys. We took time off of work.
4 We are not paid to be here, or to take off all of the
5 time that we have taken. And, the people won.

6 The judge made a legal recommendation in our
7 favor. We only needed to prove one inconsistency, but
8 we proved 11 issues with goals, objectives and
9 policies.

10 So, today, while we still want to preserve our
11 rural life in the Econ River Valley, and fight for our
12 neighbors, we also come to see if our government will
13 abide by the voice of the people, and adopt the judge's
14 recommended order that the Lake Pickett text amendment
15 is internally inconsistent with its own Comp Plan.

16 I request that you adopt the ALJ recommended
17 order, please. And, also to let you know, my cows, and
18 pigs, and chicken would all disagree with everyone who
19 has come up and said the area is no longer rural.

20 Thank you.

21 ATTORNEY MACIVER: Opposing the recommended order
22 Mr. Dwight Saathoff. And our last speaker supporting
23 the recommended order will be Commissioner Bonilla.

24 MR. SAATHOFF: Good afternoon. My name is Dwight
25 Saathoff, and my company is the developer of The Grow.

1 I'd like to start by thanking you for your service
2 to the state. Your leadership has made Florida a
3 better place to live and raise a family. And, those
4 are similar goals to what I have in mind in developing
5 The Grow.

6 One of Orlando's main jobs drivers is the high
7 tech corridor in east Orange County, where UCF and
8 hundreds of high tech defense companies are located.
9 What east Orange is missing is new housing to support
10 the new jobs, and to help these companies, and the
11 university, compete for the best and brightest minds.

12 Our property is located a few miles from this jobs
13 corridor. It is east of the river where tens of
14 thousands of people already live, shop, and go to
15 school.

16 Many opponents of The Grow, including several that
17 spoke here today, live in adjacent or nearby projects,
18 some of which are built at much higher density than The
19 Grow.

20 So, let me tell you about The Grow. My company
21 develops creative projects. Our idea for The Grow
22 started with a concern about how our food is grown.

23 We also knew that interest in vegetable gardening
24 was increasing with both seniors and millennials, so I
25 thought it would be cool to develop a community where

1 the focus was on agriculture. I didn't think Orlando
2 needed another golf course community, or cookie-cutter
3 subdivision.

4 The center piece of The Grow will be a nine acre
5 working farm with a community event barn, farm and
6 table restaurant, and weekly farmers' market.

7 Residents can participate in the farm co-op and
8 meet their neighbors each week to receive a share of
9 the harvested produce.

10 School children will learn their subjects in the
11 community school using an ag-based curriculum.

12 Community garden plots will be available for
13 residents. They can exercise using gardening tips from
14 the farm-- I'm sorry.

15 They can receive gardening tips from the farm
16 manager.

17 They can exercise using 12 miles of edible
18 landscaped trails, while enjoying open spaces
19 accounting for 59 percent of the project acreage.

20 I can tell you from our website that interest in
21 our project is overwhelming. People are very
22 passionate about agricultural, and want to live there.

23 We have been through four years of county and
24 state review, and we have consistently been approved
25 every step of the way.

1 There is nothing remarkable about the
2 environmental condition of this property. It is
3 outside of the river protection buffer set by both the
4 water management district and Orange County.

5 We will, of course, also have to abide by the
6 environmental rules created specifically for the Big
7 Econ Water Shed, just like the thousands of other
8 developed acres surrounding us have had to.

9 Thank you very much.

10 ATTORNEY MACIVER: Our last speaker, who is
11 supporting the recommended order, is Orange County
12 Commissioner Bonilla.

13 COMMISSIONER BONILLA: Good morning, Governor and
14 Cabinet. My name is Emily Bonilla, Orange County
15 Commissioner, District 5, the district that this is
16 proposed in.

17 I am here on behalf of myself, and I am not
18 representing Orange County at the moment.

19 I was one of the original Petitioners on this, and
20 I had to drop-out after I won against an incumbent, who
21 was the former commissioner who was pushing for
22 approval for this development.

23 I wanted to let you know that it was not a
24 unanimous vote. It was four to three. And, there was
25 two sections actually, and after I was elected the

1 northern section got turned down because one of the
2 commissioners changed her vote and said that she could
3 no longer ignore the voice of the people.

4 I was elected with 57 percent of the vote. And, I
5 knocked on doors. Even one of the HOAs that came up
6 here, I knocked on those doors in that community. One
7 of the resident's dogs actually chased my son down the
8 street. And, they all were against this development.
9 And, the results of the election also shows that I was
10 elected based on this platform.

11 And, so this is actually really emotional for me
12 to be here, because I've been at this for five years.
13 I-- I know you were talking about people moving here to
14 Florida. Well, I moved down to Florida in '98, and I
15 moved to east Orange County. It was because I wanted a
16 rural lifestyle. And, I bought six acres in this area,
17 and one month-- that was our dream. And, I called it
18 our farm, really.

19 And, one month after buying it we got the letter
20 in the mail saying that this development was going to
21 come in; it was about 4,000 homes and 4,000 acres.
22 And, I said, no way, this isn't what I moved here for,
23 and it seems like the city keeps following me.

24 So, I went to the community meeting, and it was
25 packed. And every meeting after that has been packed

1 with people. That's how important this is to them.

2 And, I met some neighbors and I said, look, we can
3 either organize, and we should call it Save East
4 Orlando, and the movement was started. And, after I
5 had to drop-out, because I won as commissioner, you can
6 see that the people are still continuing to fight full
7 force, and the movement still continues.

8 So, I please ask that you uphold the recommended
9 order. And, also-- I mean, the judge got it right.
10 And, it only proves, too, that she got it right, that
11 they are trying to push in the House an amendment to
12 the Bill to turn it urban when it's actually rural.
13 That wouldn't be happening if the judge had it wrong.

14 Thank you.

15 ATTORNEY MACIVER: Governor, Administration,
16 Commissioners, at this point in the proceedings, the
17 parties, and interested parties in this case, have all
18 given their argument, and I would suggest that at this
19 point argumentation should be closed.

20 Rather than at any point reopening the arguments,
21 if there are any legal questions at this point they
22 should be best directed to staff.

23 With that said, we will turn to the Commission's
24 votes on individual exceptions.

25 Before voting on the exceptions, I will provide

1 the standard of review for party exceptions, which is
2 also found at 128.57 of Florida Statutes, and it
3 provides: the Final Order shall include an explicit
4 ruling on each exception, but an agency need not rule
5 on an exception that does not clearly identify the
6 disputed portion of the recommended order, by page
7 number or paragraph, that does not identify the legal
8 basis for the exception, or that does not include
9 appropriate and specific citation to the record.

10 Further, the label assigned to a statement in the
11 recommended order is not dispositive as to whether it
12 is a finding of fact, or a conclusion of law.

13 Therefore, conclusions of law that are labeled as
14 findings of fact, and vice-versa, will be appropriately
15 considered by the Commission, based upon the statement
16 itself, and not the label assigned.

17 Finally, Florida law provides a Plan Amendment
18 shall be determined to be in compliance if the local
19 government's determination of compliance is fairly
20 debatable.

21 The fairly debate standard of review is a highly
22 deferential standard, requiring approval of a planning
23 action if reasonable persons could differ to its
24 propriety.

25 Moving forward, what I have done-- we will vote on

1 mostly individual exceptions, some of them are put in
2 blocks. For each of the exceptions before you, I
3 will--

4 GOVERNOR SCOTT: Can we go back to the standard
5 again? Just tell us again the standard.

6 ATTORNEY MACIVER: Yes, Governor.

7 The standard for the Plan Amendments, if the local
8 government's determination-- if they are of compliance,
9 they are fairly debatable.

10 A fairly debatable standard of review is a highly
11 deferential standard requiring approval of a planning
12 action, if reasonable persons could differ as to its
13 propriety.

14 So, if there is a reasonable disagreement, or if
15 there is a side of the debate that is not clearly,
16 clearly outside the realm of reality, then you have to
17 side with the County Commission.

18 GOVERNOR SCOTT: So, it doesn't-- it doesn't
19 matter the merits. We have to-- if it's debatable, we
20 have to go with the County Commission?

21 ATTORNEY MACIVER: Correct, Governor.

22 If there is-- if there-- if the parties have both
23 put up two sides-- one way that I could put this is,
24 let's say that we are putting sky-scrappers in a rural
25 area. That would be so clearly on its face not in

1 compliance, that you would-- there would be no
2 reasonable debate about that.

3 On the other hand, if we were putting one farm
4 house in the middle of 20 acres, that would be clear.

5 For things that are in the middle, if there is
6 debate about whether or not that is, or is not, in
7 compliance, you are bound, by case law, to side with
8 the determination of the County Commission.

9 ATTORNEY GENERAL BONDI: You want me to try to
10 simplify that? Okay.

11 And, again, every time we have one of these, I
12 don't believe these should be coming before us, for
13 that reason. These are things that just should not--
14 these local disputes should not come before the Florida
15 Cabinet.

16 We have to keep in mind though that this is a
17 legal question, and there are specific standards of
18 review.

19 We have heard very compassionate, emotional
20 arguments on both sides of the issue. On both sides.
21 But, we also have to note that this is a de novo
22 review, meaning, unlike some other things, we do not
23 follow, or have deference to, the ALJ, the
24 Administrative Law Judge's findings in this case,
25 because it's a de novo review.

1 Therefore, what was just explained to you was that
2 because it's fairly debatable it requires deference to
3 be given to the County Commission, who heard all of
4 this. Who voted. We've heard it wasn't unanimous. We
5 have a member here whose against it. But, they did
6 vote a certain way. And, that's what the law requires.

7 GOVERNOR SCOTT: Why do we hear these cases?

8 ATTORNEY GENERAL BONDI: Good question, Governor.
9 I think we need to change the law on that. We say this
10 every time we get these-- look at one.

11 COMMISSIONER PUTNAM: Does that mean we are not
12 allowed to ask a couple of questions?

13 So before I ask questions, because you keep giving
14 us all of these warnings, what am I allowed to ask?

15 ATTORNEY MACIVER: On such a broad level,
16 Commissioner, I wouldn't be able to say what is in and
17 out of bounds. I will say this, if you have a question
18 and you need an answer to it, I will do my best to give
19 you the answer. And, if it is outside the record, or
20 outside the bounds of what the Commission should be
21 considering, I will let you know that. So, that I
22 can-- like asking a jury not to consider something they
23 have heard, I would do the same thing with the
24 Commission.

25 ATTORNEY GENERAL BONDI: And, Commissioner Putnam,

1 that's the problem with these; it's so limited what we
2 can legally consider. I also have Ed Tellechea here,
3 who is my expert in land use for many, many years in my
4 office.

5 COMMISSIONER PUTNAM: I'll give it a shot.

6 So, the fundamental debate here seems to be over
7 the definition of urban versus rural, which appears to
8 be lacking from-- the actual definition appears to be
9 lacking in the Comprehensive Plan. But, when I look at
10 this aerial map in our materials, this rural
11 settlement, known as Corner Lake, doesn't look very
12 rural to me, and I know a thing or two about rural.
13 What is its density as a rural settlement?

14 ATTORNEY MACIVER: That specific fact, I
15 apologize, Commissioner, it does escape me. It is in
16 the recommended order, which is found at tab seven, in
17 its entirety.

18 I will, however, say that as an answer to the
19 legal question of whether this is rural or urban, as a
20 service area, the Comprehensive Plan is actually clear
21 that anything that is outside the designated service
22 area is the rural service area. So, it may not-- the
23 area itself may not appear to be a rural area, but it
24 is designated as the rural service area.

25 The further question that would happen is whether

1 the development, or the proposed development itself
2 would be urban or rural, and we would get to that in
3 Exception Number 1 by the Respondents, and the amount
4 of deference that should have been shown to the County
5 in that determination.

6 COMMISSIONER PUTNAM: So the proposed development,
7 I assume that it, because of the-- I guess I'm not
8 allowed to refer to the Legos, but there were
9 references made in the record to T1, T2, T3. Those
10 were varying densities; is that correct?

11 ATTORNEY MACIVER: That's correct. Those are the
12 varying transect zones within the planned development
13 going from least dense to most dense.

14 COMMISSIONER PUTNAM: So, the idea is that this
15 master plan development will have areas where there are
16 few, or no homes, and areas where the homes are more
17 densely located; is that correct?

18 ATTORNEY MACIVER: That is correct, Commissioner.

19 COMMISSIONER PUTNAM: And, is it correct that
20 60 percent of the total acreage will be in conservation
21 area? Is that-- was that an accurate statement?

22 ATTORNEY MACIVER: I would have to go back and
23 check the record, but I do not believe that is an
24 accurate statement, Commissioner.

25 COMMISSIONER PUTNAM: Okay.

1 GOVERNOR SCOTT: Well, it's 60 percent is not
2 going to be developed.

3 COMMISSIONER PUTNAM: Is that what it was?

4 CFO PATRONIS: That's what I heard. 59.

5 ATTORNEY GENERAL BONDI: 59 percent won't be
6 developed. That's what the-- excuse me, I think that's
7 what the develop-- I heard 59 percent.

8 ATTORNEY MACIVER: There are buffer areas, and
9 there are areas that are less developed. I'm sorry,
10 but the exact number did actually escape me during the
11 presentation.

12 COMMISSIONER PUTNAM: So, um, did I understand the
13 Orange County, Petitioner-- Orange County Commission,
14 attorney petitioner is-- what is the summary argument
15 for the rejection of the ALJ's decision?

16 ATTORNEY MACIVER: I will, of course, get into
17 further detail when we go through the exceptions,
18 Commissioner. So, when I give you a preliminary answer
19 now, I just want to qualify this is a very high level
20 preliminary level.

21 The basic argument on the side of the County is,
22 this is a fairly debatable standard. As part of that
23 fairly debatable standard is the threshold question of
24 whether the development itself is going to constitute
25 urban or rural use; that that is a question that is

1 actually a question of law rather than fact, and is
2 infused with very high level policy considerations.

3 Because of those policy considerations, the
4 adjudicative body is supposed to defer to the what
5 would be legislative findings of the County Commission,
6 to a fairly debatable standard.

7 The ALJ failed to give that deference, and because
8 of that failure to give deference, should be reversed
9 on that finding of law, or that conclusion of law.

10 If that conclusion of law is reversed, then the
11 Plan would, in fact, be in compliance with Chapter 163.

12 COMMISSIONER PUTNAM: I'm going to try and digest
13 all that. Thank you.

14 ATTORNEY MACIVER: I'm sorry. My translation from
15 legal to political is sometimes not as deft as the
16 Attorney General's.

17 So, as we move through the specific exceptions,
18 for each block of exceptions what I will first do is
19 give a short description of the exception.

20 I will then give my legal analysis, and my legal
21 recommendation, as well as my interpretation of what
22 the effect of that exception will be on the final
23 outcome of the compliance or noncompliance.

24 Firstly, we start with the Respondent's
25 exceptions.

1 Respondent/Intervenors' exceptions, in a block of
2 exceptions 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21,
3 22, 23, 24, 31, 32, and 33. This will be the largest
4 collective block.

5 As a description, in each of the above exceptions
6 the Respondent and Intervenors challenge and allege a
7 misquote or a misstatement made by the ALJ as a finding
8 of fact.

9 My analysis is that in each of these instances,
10 Respondent and Intervenors have taken exception to the
11 implications that might be drawn from some of these
12 findings; however, while in many cases the findings
13 could have been more clearly stated, in each case the
14 findings of fact were supported by competent
15 substantial evidence, and were at least facially
16 accurate.

17 By way of example, there are several selected
18 quotes from the Comprehensive Plan that indicate that
19 they were quoted from the unamended rather than the
20 proposed plan.

21 If the ALJ had suggested this is what the policy
22 says in the current plan, rather than just saying this
23 is what the policy says, the implication of
24 inconsistency wouldn't follow.

25 However, it's still accurate to say that this is

1 what the policy says in the Plan.

2 For that reason, my recommendation is that the
3 Commission should reject on each exception, because the
4 findings were based upon competent substantial
5 evidence. And, the effect upon the final conclusion of
6 that action would be that it would not have an effect
7 on the final outcome of the case.

8 Governor, you would ask for a motion to approve
9 the rejection of those exceptions.

10 GOVERNOR SCOTT: Is there a motion?

11 ATTORNEY GENERAL BONDI: So moved.

12 GOVERNOR SCOTT: Is there a second?

13 CFO PATRONIS: Second.

14 GOVERNOR SCOTT: Any comments or objections?

15 COMMISSIONER PUTNAM: This would be siding with
16 the ALJ?

17 ATTORNEY MACIVER: For this block of exceptions,
18 yes, Commissioner.

19 The ALJ, in my opinion, did base these findings of
20 fact upon competent substantial evidence. They are at
21 least facially accurate and they should be upheld.

22 GOVERNOR SCOTT: All right. Hearing none, the
23 motion carries.

24 ATTORNEY MACIVER: The second block of exceptions
25 are Exception Number-- these are

1 Respondent/Intervenors' exceptions-- Exception Numbers
2 five, six, seven, eight, 13, 20, 25, 26, 34, and 35.

3 In each of the above exceptions, the ALJ made a
4 misstatement or an error of minor detail that does not
5 have a significant impact on the case.

6 For example, scrivener's errors in citations,
7 immaterial errors on acreage, or geography.

8 My analysis is that the incorrect statements as
9 written are not based upon competent substantial
10 evidence, and can be remedied by modifying the
11 respective paragraphs.

12 The ultimate effect on the final conclusion is
13 that changing these would make the findings of fact
14 more accurate, but would not effect the final outcome
15 of the case.

16 My recommendation is that the Commission should
17 vote to accept the above exceptions, because the
18 findings are not based upon competent substantial
19 evidence, and modify the findings as delineated in the
20 Respondent/Intervenor's exceptions.

21 Those are all listed in the binder that I gave you
22 as well, with the strike alls and underlines that would
23 be appropriate to make the changes.

24 GOVERNOR SCOTT: Is there a motion?

25 ATTORNEY GENERAL BONDI: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 CFO PATRONIS: Second.

3 GOVERNOR SCOTT: Any comments or objections?

4 (NO RESPONSE)

5 GOVERNOR SCOTT: Hearing none, the motion carries.

6 ATTORNEY MACIVER: Commissioner Putnam, this is
7 the threshold question that we were talking about a few
8 minutes earlier.

9 Respondent/Intervenor's Exception No. 1:

10 Respondent/Intervenors argue that the ALJ erred by
11 finding in multiple paragraphs that the proposed
12 amendments constituted urban rather than rural use.
13 They argued that the interpretation of a provision in a
14 Comprehensive Plan is purely a question of law, that
15 the ALJ's finding is a question of law, and subject to
16 de novo review.

17 Florida Courts recognize a local governing board's
18 authority to construe and interpret its own
19 Comprehensive Plan. The County Commission's
20 interpretation of the Comprehensive Plan need not be
21 desirable, but it is enough that the interpretation is
22 quote, permissible under the language of the
23 Comprehensive Plan, end quote.

24 The County Commissioners' finding that the project
25 is rural is within the realm of possible and reasonable

1 interpretations and is fairly debatable.

2 Petitioners argued that the urban versus rural use
3 is a question of fact rather than a question of law,
4 and that the ALJ was entitled to examine the entire
5 record, including the entire Comprehensive Plan, to
6 make her finding.

7 They pointed to paragraph 77 in the recommended
8 order where the ALJ stated, quote, the testimony of
9 Petitioners' experts, combined with the Plan itself,
10 was the most reliable and persuasive evidence, end
11 quote, on the issue of whether the Plan Amendments are
12 urban versus rural.

13 My analysis: Whether the Plan Amendments would be
14 urban or rural use is, in my opinion, an interpretation
15 of the terms that are used in the Comprehensive Plan.

16 Interpreting the terms in a written instrument is
17 a question of law. It is subject to de novo review.

18 De novo simply means that the Commission does not
19 owe deference to the ALJ's findings.

20 If the Commission finds that in its view the legal
21 question is as reasonable, or more reasonable, than the
22 ALJ's, the Commission can apply its own interpretation.

23 The County's asserted interpretation of the Plan
24 Amendments as in compliance is subject to the fairly
25 debatable standard of review. That means that if

1 reasonable people could disagree about the
2 interpretation, both the ALJ and this Commission are
3 required to uphold the policy choice of the County's
4 duly elected legislative officials.

5 By parsing out several threshold legal questions,
6 and subjecting those questions to a differing standard
7 of review, instead of affording the County the required
8 deference, the ALJ instead treated this standard as
9 something more akin to-- and I might rely on your help,
10 Madam Attorney General-- as something more akin to
11 manifest weight the evidence; that is, she sought,
12 considered, and weighed evidence in an attempt to see
13 if the stronger argument would be for finding the Plan
14 Amendments to be urban. That's not what the case law
15 directs.

16 The case law directs for both the ALJ and this
17 Commission to defer to the County's policy decisions.

18 Paragraphs 77 and 82 are mixed findings of fact
19 and conclusions of law. Because the ALJ gathered and
20 weighed evidence regarding the interpretation of the
21 Plan's terms, rather than deferring where reasonable
22 people could disagree, as directed by the law, the
23 findings can be rejected because they are based upon
24 proceedings on which did not comply with the essential
25 requirements of law.

1 Paragraphs 94, 99, 102 and 105 are each questions
2 of law that have been mislabeled as findings of fact,
3 and can be rejected de novo because the ALJ failed to
4 apply the correct standard of review.

5 My recommendation is that we accept Exception 1,
6 because the ALJ erred by failing to defer to the
7 County's reasonably debatable interpretations of the
8 terms in its own Comprehensive Plan, and that we would
9 strike paragraphs 77, 82, 94, 102 and 105.

10 The effect on the ultimate conclusion, if the
11 Commission finds the matter of law that the ALJ erred
12 by finding the proposals constitute urban use, the
13 ALJ's ultimate conclusion that the proposed amendments
14 created an internal inconsistency by directing urban
15 development to the rural service area would be
16 reversed.

17 Again, my recommendation is that we accept these
18 exceptions and strike those paragraphs.

19 You would need a motion and a vote, Governor.

20 GOVERNOR SCOTT: Is there a motion?

21 ATTORNEY GENERAL BONDI: So moved.

22 GOVERNOR SCOTT: Is there a second?

23 CFO PATRONIS: Second.

24 GOVERNOR SCOTT: Any comments or objections?

25 (NO RESPONSE)

1 GOVERNOR SCOTT: Hearing none, the motion carries.

2 ATTORNEY MACIVER: Moving to
3 Respondent/Intervenor's Exception No. 2.

4 Respondent/Intervenor argues that paragraph 85 is
5 not a finding of fact, but a conclusion of law, and
6 that the ALJ ignored other language that allows
7 clustering where required for protection of significant
8 environmental features.

9 The Lake Pickett study area is within the Econ
10 River Basin, and policy C231 of the Comprehensive Plan
11 states, the County shall provide for protection of the
12 Econ River Basin through mechanisms such as clustering
13 of development.

14 I'm going to take a step back in my explanation.
15 There was a challenge by Petitioners regarding the
16 densities and the ultimate densities, and we heard this
17 a little bit earlier where the Respondent/Intervenor
18 said the total density of this project would be 2.49.
19 And, the Petitioners had said, well, in your highest
20 zones it would be this high, and if you take an
21 aggregate, rather than the highest number, then what
22 you are doing is what's called clustering.

23 The Comprehensive Plan does have a provision that
24 says the County cannot use clustering, except where
25 they find that it is important for the preservation of

1 certain environmental areas, such as the Econ-- I'm
2 sorry-- the Econlockhatchee River Basin. That's what
3 happens when I make my own abbreviations. I apologize.

4 My analysis: Paragraph 85 is, in fact, a
5 conclusion of law that has been mislabeled a finding of
6 fact.

7 Future Land Use held in Policy 6.1.3 states, in
8 relevant part, cluster zoning shall not be permitted in
9 the rural service area except where required for
10 protection of significant environmental features.

11 Whether clustering in this case is required for
12 the protection of a significant environmental feature
13 is a policy question, and the County's assertion of
14 their interpretation of that necessity is subject to
15 the fairly debatable standard.

16 Because reasonable people could disagree about
17 this policy decision, the ALJ was required to defer to
18 the County.

19 My recommendation is that Exception 2 should be
20 accepted, and paragraph 85 would be stricken.

21 The effect upon the final conclusion would be that
22 if the Commission finds, as a matter of law, that the
23 ALJ erred by finding that the Plan inappropriately
24 followed clustering in a rural service area, the ALJ's
25 ultimate conclusion on that point would be reversed.

1 GOVERNOR SCOTT: Is there a motion?

2 ATTORNEY GENERAL BONDI: So moved.

3 GOVERNOR SCOTT: Is there a second?

4 CFO PATRONIS: Second.

5 GOVERNOR SCOTT: Comments or objections?

6 (NO RESPONSE)

7 GOVERNOR SCOTT: Hearing none, the motion carries.

8 ATTORNEY MACIVER: Respondent/Intervenors'

9 Exception No. 3. Respondent/Intervenors argue that the
10 ALJ has drawn an erroneous conclusion of law.

11 The language in the Future Land Use Elements
12 states that urban uses shall be concentrated within the
13 urban service area, except as specified.

14 Respondent/Intervenors' argument continues;
15 interpretation of the Comprehensive Plan is purely a
16 question of law, and reviewed de novo.

17 The ALJ had applied what is referred to as an
18 expressio unius canon, to say that an explicit list of
19 exceptions means that there may be no other exception.
20 This interpretation causes the word concentrated to be
21 meaningless.

22 Courts and ALJs must assume legislative bodies
23 understood the language, and did not omit words nor
24 include surplus words.

25 Local government ordinances, like comp plans, are

1 held to the same rules of construction as state
2 statutes.

3 The dictionary defines be concentrated as to be
4 mainly focused in a place, and it is reasonable to
5 conclude that urban uses shall mainly, but not
6 exclusively, be located within the urban service area.

7 The ALJ had no authority to choose to ignore the
8 language of the text because she believed it was poorly
9 drafted.

10 Petitioners argue that the Intervenors' reading of
11 the policy would render the listed exceptions rural as
12 mere surplusage. The fact that the County listed
13 specific exceptions to the mandate that urban uses be
14 concentrated to the urban service area is significant,
15 and that it is not an open-ended list.

16 The phrase, but not limited to, is not present in
17 the exceptions. And, it is acknowledged that the
18 findings in paragraph 101, of the recommended order,
19 while correct, and only insofar as a direct result from
20 the ALJ's interpretation of the Plan, are conclusions
21 of law.

22 My legal analysis: Interpretation of the term
23 concentrated in the Comprehensive Plan is subject to
24 the fairly debatable standard.

25 Because reasonable people could disagree about

1 this policy decision, the ALJ was required to defer to
2 the County.

3 My recommendation is that we accept Exception 3,
4 and strike paragraph 101.

5 If the Commission finds as a matter of law that
6 the ALJ erred by finding the Comprehensive Plan use of
7 the term concentrated prohibit urban development
8 outside of the urban service area, except under
9 enumerated circumstances, the ALJ's ultimate conclusion
10 that the proposed amendments are inconsistent with
11 policy 1.1.1 would be reversed.

12 Again, my recommendation is to accept Exception 3
13 and strike paragraph 101.

14 GOVERNOR SCOTT: Is there a motion?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 CFO PATRONIS: Second.

18 GOVERNOR SCOTT: Comments or objections?

19 (NO RESPONSE)

20 GOVERNOR SCOTT: Hearing none, the motion carries.

21 ATTORNEY MACIVER: Respondent/Intervenors'

22 Exception No. 4: the Respondent/Intervenors have argued
23 that the interpretation of a provision of a
24 Comprehensive Plan is purely a question of law.

25 Florida Courts recognize local governing board's

1 authority to construe and interpret its Comprehensive
2 Plan. The County Commission's interpretation of the
3 Comprehensive Plan need not be desirable, but it is
4 enough that the interpretation is permissible under the
5 language of the Comp Plan.

6 Petitioners argued that the ALJ's findings in
7 paragraph 118 and 122 were based upon the weight or
8 creditability of testimony by witnesses, and was
9 determinable by ordinary methods of proof.

10 Again, the ALJ was permitted to use the Plan to
11 deduce Orange County's understanding and application of
12 the terms urban and rural by examining those terms in
13 the context of density, intensity, allowable uses and
14 surrounding uses.

15 My analysis: Paragraphs 118 and 122 are
16 conclusions of law, and have been mislabeled findings
17 of fact.

18 Policy decisions by the County about how to
19 encourage urban strategies, consistent with Future Land
20 Use Element Goal 2, are subject to the fairly debatable
21 standard. Because reasonable people could disagree
22 about this policy decision, the ALJ was required to
23 defer to the County.

24 My recommendation is that we accept Exception 4
25 and strike paragraphs 118 and 122.

1 If the Commission finds as a matter of law that
2 the ALJ erred by finding that the Plan Amendment
3 discourages strategies, such as in-fill, the ALJ's
4 ultimate conclusion that the proposed amendments are
5 inconsistent with the FLU Goal 2 would be reversed.

6 My recommendation is that we accept Exception No.
7 4, and strike paragraphs 118 and 122 from our final
8 order.

9 GOVERNOR SCOTT: Is there a motion?

10 ATTORNEY GENERAL BONDI: So moved.

11 GOVERNOR SCOTT: Is there a second?

12 CFO PATRONIS: Second.

13 GOVERNOR SCOTT: Comments or objections?

14 (NO RESPONSE)

15 GOVERNOR SCOTT: Hearing none, the motion carries.

16 ATTORNEY MACIVER: We now move again to a block of
17 exceptions. Exceptions 27, 28, 29, 30 and 36.

18 In each of the exceptions above, the ALJ made a
19 finding of fact which the Respondent/Intervenor argue
20 are mislabeled and erroneous conclusions of law.

21 My analysis is that each of the above exceptions
22 is a mislabeled conclusion of law.

23 If the Commission has found, as a matter of law,
24 that Respondent/Intervenor arguments in Exception 1
25 were correct, and has granted Respondent/Intervenors'

1 Exception 1, then each of the paragraphs above would be
2 an incorrect conclusion of law.

3 My recommendation, because you have granted
4 Exception No. 1, is that we would also grant Exceptions
5 27, 28, 29, 30 and 36, and strike the respective
6 paragraphs that they refer to.

7 The effect upon the final conclusion, striking the
8 above paragraphs does not by itself change the ultimate
9 conclusion in this case, but would remove legal
10 conclusions that are inconsistent with the Commission's
11 prior legal conclusions, if so made.

12 CFO PATRONIS: Read those again. 27--

13 ATTORNEY MACIVER: 27, 28, 29, 30 and 36.

14 GOVERNOR SCOTT: Is there a motion?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 CFO PATRONIS: Second.

18 GOVERNOR SCOTT: Comments or objections?

19 (NO RESPONSE)

20 GOVERNOR SCOTT: Hearing none, the motion carries.

21 ATTORNEY MACIVER: Respondent/Intervenors'
22 Exception No. 37.

23 Paragraph 285, is the ALJ's ultimate conclusion
24 regarding Petitioners' internal inconsistency claim.

25 If the Commission has found already, as a matter

1 of law, that Respondent/Intervenors' arguments in
2 Exception 1 through 4 were correct, and has granted
3 Respondent/Intervenors' Exceptions 1 through 4, this
4 exception would necessarily be granted, and paragraph
5 285 would be rewritten, as indicated in the
6 Respondent/Intervenors' submission, which is also
7 reproduced in the briefing notes that I gave you.

8 My recommendation, because we have already voted
9 to accept Respondent/Intervenors' Exceptions 1 through
10 4 would be to also accept Exception 37, and rewrite
11 paragraph 285 as indicated.

12 GOVERNOR SCOTT: Is there a motion?

13 ATTORNEY GENERAL BONDI: So moved.

14 GOVERNOR SCOTT: Is there a second?

15 CFO PATRONIS: Second.

16 GOVERNOR SCOTT: Comments or objections?

17 (NO RESPONSE)

18 GOVERNOR SCOTT: Hearing none, the motion carries.

19 ATTORNEY MACIVER: Respondent/Intervenors' final
20 exception is number 38, which deals with paragraph 291
21 of the recommended order.

22 Paragraph 291 is the ALJ's ultimate conclusion of
23 noncompliance, and should be addressed as part of the
24 final vote action addressed under tab six, after we
25 address the remaining exceptions that were filed by

1 Petitioners. So we will return to Exception No. 38 at
2 the end.

3 Petitioner Brooke's Exceptions: Petitioner Brooke
4 Exception 1A deals with-- and that is number six in the
5 recommended order-- the Petitioner's argument is that
6 the ALJ's reasoning here contradicts her reasoning in
7 paragraph 82. Essentially, footnote six, said this
8 would be remedied by creating a new exception. It was
9 just a footnote in the recommended order.

10 The existing exceptions are for preexisting uses
11 that have been grandfathered in, and adding in new use
12 would contradict the clear direction Orange County has
13 set for future development in the rural service area.

14 My analysis is that the footnote is mere dicta.
15 Dicta are extra statements made by a tribunal that are
16 not relevant to the questions that are before the
17 tribunal.

18 The statement made in the footnote does not help
19 answer the question of whether the Plan Amendments are
20 in compliance.

21 The statement is not binding on any party, and is
22 not precedential for any future cases.

23 The footnote may reasonably be treated as a
24 finding of fact, albeit an irrelevant finding of fact.

25 My recommendation is that we grant Petitioner

1 Brooke's Exception 1A to the extent with the above
2 analysis, and strike the footnote.

3 The effect on striking the footnote will have no
4 effect on the final outcome of the case.

5 And, we would need a vote to do so.

6 GOVERNOR SCOTT: All right. Is there a motion?

7 ATTORNEY GENERAL BONDI: So moved.

8 GOVERNOR SCOTT: Is there a second?

9 CFO PATRONIS: Second.

10 GOVERNOR SCOTT: Comments or objections?

11 (NO RESPONSE)

12 GOVERNOR SCOTT: Hearing none, the motion carries.

13 ATTORNEY MACIVER: Respondent-- Respondent [sic]
14 Brooke Exception 1B.

15 The Petitioners have argued that objective 6.2 of
16 the Comprehensive Plan sets the County's desired
17 development pattern that the Comp Plan exists to
18 express. Because the ALJ found the Plan Amendments to
19 constitute urban development, and they cite urban
20 development in the rural service area, the Plan
21 Amendments are inconsistent with objective 6.2.

22 My analysis is that while one of the arguments by
23 Respondent/Intervenors was that this was not properly
24 put before the Commission, because it did not properly
25 cite to the correct paragraphs within the recommended

1 order, or make the correct legal arguments of where
2 they are; while the Petitioner does fail to cite a
3 specific paragraph within the recommended order, the
4 exception can be addressed on its merits.

5 Paragraphs 111 and 112 address the issue raised in
6 this exception. Paragraph 112 is a conclusion of law
7 that has been mislabeled as a finding of fact. The
8 Commission could reject the fact of-- if its own
9 conclusion was as reasonable or better than the ALJ's
10 conclusion; however, here the ALJ has accurately cited
11 the law, and applied facts to this case.

12 My recommendation is that we reject Exception 1B.
13 It will have no effect on the ultimate conclusion of
14 the case.

15 GOVERNOR SCOTT: Is there a motion?

16 ATTORNEY GENERAL BONDI: So moved.

17 GOVERNOR SCOTT: Is there a second?

18 CFO PATRONIS: Second.

19 GOVERNOR SCOTT: Comments or objections?

20 (NO RESPONSE)

21 GOVERNOR SCOTT: Hearing none, the motion carries.

22 ATTORNEY MACIVER: Respondent [sic] Brooke
23 Exception 1C.

24 The Petitioners have argued that the ALJ failed to
25 address a key provision in Goal T1, regarding

1 multi-modal transportation systems. The Plan
2 Amendments do not propose a multi-modal transportation
3 system, and thus are inconsistent with Goal T1.

4 My analysis is that while Petitioner has failed to
5 cite a specific paragraph within the recommended order,
6 the exception can be addressed on its merit.

7 The exception seeks a conclusion of law rather
8 than a finding of fact. Given the highly deferential
9 standard afforded to the County's interpretation of its
10 own Comprehensive Plan, the ALJ did not err by omitting
11 the conclusion sought by the Petitioner.

12 My recommendation is that we reject Exception 1C,
13 and it will have no effect on the ultimate conclusion
14 in this case.

15 GOVERNOR SCOTT: Is there a motion?

16 ATTORNEY GENERAL BONDI: So moved.

17 GOVERNOR SCOTT: Is there a second?

18 CFO PATRONIS: Second.

19 GOVERNOR SCOTT: Comments or objections?

20 (NO RESPONSE)

21 GOVERNOR SCOTT: Hearing none, the motion carries.

22 ATTORNEY MACIVER: Petitioner Brooke Exception 1D.

23 Petitioner has argued that the Comprehensive Plan
24 qualifies as data under Florida Statutes, and that
25 providing the Plan Amendments are inconsistent with the

1 Comprehensive Plan, or proves the Plan Amendments could
2 not be based upon required data.

3 While the Plaintiff [sic] has failed to cite a
4 specific paragraph within the recommended order,
5 because they are seeking to remedy an omission, the
6 exception can be addressed on its merits.

7 The exception seeks a conclusion of law, rather
8 than a finding of fact. The ALJ's conclusion was a
9 reasonable application of the law to the facts, and the
10 ALJ did not err.

11 My recommendation is that we reject Exception 1C
12 [sic], and it will have no effect on the ultimate
13 conclusion in this case.

14 GOVERNOR SCOTT: Is there a motion?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 CFO PATRONIS: Second.

18 GOVERNOR SCOTT: Comments or objections?

19 ATTORNEY GENERAL BONDI: 1D?

20 CFO PATRONIS: D, right?

21 ATTORNEY MACIVER: Did I say--

22 ATTORNEY GENERAL BONDI: Yes--

23 ATTORNEY MACIVER: I'm sorry. I meant D. Thank
24 you.

25 GOVERNOR SCOTT: Start all over. We are doing 1D;

1 right?

2 ATTORNEY MACIVER: Yes. My recommendation was
3 that we reject Exception 1D.

4 GOVERNOR SCOTT: Is there a motion?

5 ATTORNEY GENERAL BONDI: So moved.

6 GOVERNOR SCOTT: Is there a second?

7 CFO PATRONIS: Second.

8 GOVERNOR SCOTT: Comments or objections?

9 (NO RESPONSE)

10 GOVERNOR SCOTT: Hearing none, the motion carries.

11 ATTORNEY MACIVER: Respondent [sic] Brooke
12 Exception 1E.

13 Petitioners' argument is that an internally
14 inconsistent Comp Plan cannot establish meaningful and
15 predictable standards for the use and development of
16 the land, or for content of more detailed land
17 development use regulations.

18 While Petitioner failed to cite a specific
19 paragraph within the RO, and again that failure to cite
20 is only because they are seeking to correct an omission
21 and there wouldn't be anything to cite to, the
22 exception can be addressed on its merits.

23 The exception seeks a conclusion of law rather
24 than a finding of fact, and the ALJ's conclusion was a
25 reasonable application of the law to the facts, so the

1 ALJ did not err.

2 My recommendation is that we reject Exception 1E.
3 It will have no effect on the ultimate conclusion in
4 this case.

5 GOVERNOR SCOTT: Is there a motion on 1E?

6 ATTORNEY GENERAL BONDI: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 CFO PATRONIS: Second.

9 GOVERNOR SCOTT: Comments or objections?

10 (NO RESPONSE)

11 GOVERNOR SCOTT: Hearing none, the motion carries.

12 ATTORNEY MACIVER: Respond-- I'm sorry. Petitioner
13 Brooke Exception 2A; the Petitioner seeks to modify the
14 conclusions stated in paragraph 285, to be consistent
15 with the remedy sought in Exceptions 1B and 1C.

16 If the Commission rejected Exceptions 1B and 1C,
17 then it should also reject Exception 2A. It will have
18 no effect on the ultimate conclusion in the case.

19 My recommendation is to reject Exception 2A.

20 GOVERNOR SCOTT: Is there a motion?

21 ATTORNEY GENERAL BONDI: So moved.

22 GOVERNOR SCOTT: Is there a second?

23 CFO PATRONIS: Second.

24 GOVERNOR SCOTT: Comments or objection?

25 (NO RESPONSE)

1 GOVERNOR SCOTT: Hearing none, the motion carries.

2 ATTORNEY MACIVER: Respondent [sic] Brooke
3 Exception 2B; this seeks a legal conclusion that is the
4 same remedy argued for in Exception 1D.

5 The Commission rejected that exception, and it
6 should also reject Exception 2B.

7 My recommendation is that we reject Exception 2B.

8 GOVERNOR SCOTT: Is there a motion?

9 ATTORNEY GENERAL BONDI: So moved.

10 GOVERNOR SCOTT: Is there a second?

11 CFO PATRONIS: Second.

12 GOVERNOR SCOTT: Comments or objections?

13 (NO RESPONSE)

14 GOVERNOR SCOTT: Hearing none, the motion carries.

15 ATTORNEY MACIVER: Respondent-- I'm sorry--
16 Petitioner Brooke's Exception 2C. This seeks a legal
17 conclusion that would be the same remedy argued for in
18 Exception 1E.

19 The Commission has already rejected Exception 1E,
20 and therefore consistently would also reject Exception
21 2C.

22 My recommendation is that we explicitly reject
23 Exception 2C.

24 GOVERNOR SCOTT: Is there a motion?

25 ATTORNEY GENERAL BONDI: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 CFO PATRONIS: Second.

3 GOVERNOR SCOTT: Comments or objections?

4 (NO RESPONSE)

5 GOVERNOR SCOTT: Hearing none, the motion carries.

6 ATTORNEY MACIVER: Petitioner Brooke's Exception

7 2D.

8 Petitioners have argued that the-- Petitioners
9 have proven beyond fair debate that the Plan Amendments
10 contemplate development characterized by low density
11 multiple uses, not functionally related, and requires
12 extension of roads and civil services inefficiently.

13 Petitioners have proven beyond fair debate that
14 the Plan Amendment contemplates a development that
15 fails to prove-- provide a clear separation between
16 urban and rural uses. This was the argument that the
17 plans failed to adequately discourage urban sprawl.

18 The ALJ, in this case, made a reasonable
19 application of the facts to the law in this case. See
20 paragraphs 184 to 230 of the recommended order.

21 My recommendation is that we reject Exception 2D.

22 GOVERNOR SCOTT: Is there a motion?

23 ATTORNEY GENERAL BONDI: So moved.

24 GOVERNOR SCOTT: Is there a second?

25 CFO PATRONIS: Second.

1 GOVERNOR SCOTT: Comments or objections?

2 (NO RESPONSE)

3 GOVERNOR SCOTT: Hearing none, the motion carries.

4 ATTORNEY MACIVER: The individual Petitioners in
5 this case filed one exception. It is labeled
6 individual Petitioners' Exception 1A. It is
7 essentially the same exception as Petitioner Brooke's
8 Exception 1A, although it called for a different
9 remedy.

10 While we have already accepted Petitioner Brooke's
11 Exception 1A, limited to the striking of the footnote,
12 because we are required to explicitly rule on every
13 exception, I would recommend that we also grant this as
14 limited to striking the paragraph-- or the footnote.

15 My recommendation is that we accept Petitioners'--
16 accept individual Petitioners' Exception 1A, but only
17 to the extent that we are striking the footnote.

18 GOVERNOR SCOTT: Is there a motion?

19 ATTORNEY GENERAL BONDI: So moved.

20 GOVERNOR SCOTT: Is there a second?

21 CFO PATRONIS: Second.

22 GOVERNOR SCOTT: Comments or objections?

23 (NO RESPONSE)

24 GOVERNOR SCOTT: Hearing none, the motion carries.

25 ATTORNEY MACIVER: We turn now to tab six, which

1 is a vote on final action.

2 I am going to remind both the folks in the
3 audience, and the Commission itself, that these final
4 votes are not choosing one side or the other. They are
5 applying the legal standards of review to the facts in
6 this case, and arriving at the conclusion that is
7 dictated by the law. It's not choosing one side and
8 then getting the exceptions that support that side, or
9 vice-versa.

10 Because the Commission has accepted
11 Respondent/Intervenors' Exceptions 1 through 4, the
12 only logical conclusion is the third option that I have
13 listed here, which is that the Commission would modify
14 the recommended order in favor of
15 Respondent/Intervenors. This will take a vote of the
16 Governor, plus one, or rather simple majority.

17 A motion or a vote would be to issue a final order
18 that adopts the recommended-- the findings of fact and
19 conclusions of law of the recommended order, except as
20 modified by the adoption of relevant exceptions, and to
21 grant Respondent/Intervenors' Exception No. 38, which
22 was to change the paragraph that stated the ultimate
23 conclusion of law.

24 The effect of this option would be that we would--
25 this Commission would find that the Plan Amendment is

1 in compliance with Chapter 163, because the meaning of
2 the language contained in the policy is fairly
3 debatable. And, paragraph 291 would be rewritten to
4 state that the Petitioner had failed to prove, beyond
5 fair debate, that the Plan Amendment is not in
6 compliance with the specified provisions of Chapter
7 163.

8 Again, the motion that is necessary is to issue a
9 final order that adopts the findings of fact and
10 conclusions of law in the recommended order, except as
11 modified by the adoption of the exceptions that have
12 been adopted today, and to grant Respondent/Intervenor
13 Exception No. 38.

14 GOVERNOR SCOTT: Is there a motion?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 CFO PATRONIS: Second.

18 GOVERNOR SCOTT: Comments or objections?

19 (NO RESPONSE)

20 GOVERNOR SCOTT: Hearing none, the motion carries.

21 ATTORNEY MACIVER: Governor, and members of the
22 Commission, I'm going to ask for one more motion, and
23 that is a motion by the Commission to direct staff to
24 draft the final order consistent with the findings made
25 by the Commission today, and for the Secretary of the

1 Commission to review and sign the final order.

2 GOVERNOR SCOTT: Is there a motion?

3 ATTORNEY GENERAL BONDI: So moved.

4 GOVERNOR SCOTT: Is there a second?

5 CFO PATRONIS: Second.

6 GOVERNOR SCOTT: Comments or objections?

7 (NO RESPONSE)

8 GOVERNOR SCOTT: Hearing none, the motion carries.

9 ATTORNEY MACIVER: Thank you, Governor, and
10 members of the Cabinet. That concludes the
11 Administration Commission's agenda.

12 GOVERNOR SCOTT: Thank you.

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DIVISION OF BOND FINANCE

1
2 GOVERNOR SCOTT: Next I'd like to recognize Ben
3 Watkins with the Division of Bond Finance.

4 EXECUTIVE DIRECTOR WATKINS: Good afternoon
5 Governor, Cabinet members.

6 Item number one is approval of the minutes of the
7 December 13th meeting.

8 GOVERNOR SCOTT: Is there a motion on the item?

9 ATTORNEY GENERAL BONDI: So moved.

10 CFO PATRONIS: Second.

11 GOVERNOR SCOTT: Comments or objections?

12 (NO RESPONSE)

13 GOVERNOR SCOTT: Hearing none, the motion carries.
14 Item two?

15 EXECUTIVE DIRECTOR WATKINS: Item number two is a
16 three part item; Reports of Award on Bond sales.

17 2A was a competitive sale of \$272.9 Million in
18 PECO Refunded Bonds. The bonds were awarded to the low
19 bidder at an accrued interest cost of approximately
20 2.85 percent. That allowed us to reduce interest rates
21 on outstanding bonds from 5.01 percent to 2.85 percent,
22 generating gross debt service savings of 66.2 Million,
23 present value savings of 48.7 Million, or 17 percent of
24 the principal amount of the refunded bonds.

25 Item 2B Report of Award is a competitive sale of

1 131.9 Million of Turnpike Revenue Refunding Bonds. The
2 bonds were awarded to the true bidder, at a true
3 interest cost of approximately 1.90 percent. That
4 allowed us to reduce the interest rate on outstanding
5 bonds from 5 percent to 1.9 percent, generating gross
6 debt service savings of 14 and a half Million, present
7 value savings of 12.6 Million, or 7.8 percent of the
8 principal amount of the refunded bonds.

9 And, lastly, Item 2C, Report of Award on
10 competitive sale of \$23.2 Million of Dormitory Revenue
11 Refunding Bonds for University of Central Florida.
12 Bonds awarded to the true interest cost of 2.51
13 percent, reducing interest rates from 5.18 percent to
14 2.51 percent, generating gross debt service savings of
15 4 Million, present value savings of 3.4 Million, or
16 13.2 percent of the principal amount of the refunded
17 bonds.

18 So, that completes Reports of Award.

19 Action item; action item three is a resolution
20 authorizing the issuance of competitive sale of \$52
21 Million in Capital Improvement Revenue Refunding Bonds
22 for the Florida College System for debt service
23 savings.

24 GOVERNOR SCOTT: Is there a motion on the item?

25 ATTORNEY GENERAL BONDI: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 CFO PATRONIS: Second.

3 GOVERNOR SCOTT: Comments or objections?

4 (NO RESPONSE)

5 GOVERNOR SCOTT: Hearing none, the motion carries.

6 EXECUTIVE DIRECTOR WATKINS: Lastly, item four is
7 adoption of a resolution authorizing the competitive
8 sale of \$100 Million of Right-of-Way Bonds. These
9 bonds are to reimburse the Department for various
10 right-of-way acquisitions included in the '17-'18
11 budget.

12 GOVERNOR SCOTT: Is there a motion on the item?

13 ATTORNEY GENERAL BONDI: So moved.

14 GOVERNOR SCOTT: Is there a second?

15 CFO PATRONIS: Second.

16 GOVERNOR SCOTT: Comments or objections?

17 (NO RESPONSE)

18 GOVERNOR SCOTT: Hearing none, the motion carries.

19 EXECUTIVE DIRECTOR WATKINS: And, if I could,
20 Governor, CFO Patronis sent me a letter asking me to
21 comment on, and provide my thoughts on a recent Moody's
22 rating report that they released. And, the report is
23 entitled *Florida and Texas: Despite Climate Risk and*
24 *Hurricane Damage, Florida and Texas Maintain Strong*
25 *Ratings.*

1 The essence of that, Governor, is in the world of
2 climate change there is a greater concern in evaluation
3 of the risks associated with climate change and
4 hurricane damage.

5 The long and the short of the report is, not
6 surprisingly, Florida has a lot of coastline, and so
7 therefore we have a greater risk to-- for climate
8 change and hurricane-- financial impact of hurricanes
9 than most other states.

10 But, in reaching their conclusion, which is not
11 surprising obviously making that statement, in reaching
12 the conclusion, importantly what they pointed out is
13 that because of strong economies and finances, both
14 states have off-setting resilience to these factors.

15 And, so, when I think about the report relative to
16 the state, and how we are different, there are a lot of
17 financial policies that have been implemented by the
18 state over the years dealing with these issues, that
19 have put us in a very strong position to provide for
20 the resiliency to be able to deal with the cost
21 associated with hurricanes.

22 And, so those are-- when I think about it,
23 specifically related to us, not mentioned in the
24 report, but Florida Hurricane Catastrophe Fund, for
25 example. We've got \$17 Billion in the bank, relative

1 to a liability of \$17 Billion. The de-population of
2 citizens also reducing the exposure the state has to
3 some future tax increase that would be necessary to pay
4 for those hurricane damages.

5 And, then when I think about the economy, we think
6 about the State of Florida being a low cost state, low
7 cost of living, low tax burden, business-friendly
8 environment; and, that translates into employment
9 growth, business diversity, a low debt burden by
10 reducing debt for \$9 Billion over the last seven years.

11 All of those things are very, very positive, and
12 demonstrate what the state has done to position itself
13 to deal with the risk of hurricanes and hurricane
14 losses.

15 And, then lastly, on state finances, the rating
16 agencies and the rating reports indicate strong budget
17 and financial management practices, a structurally
18 balanced budget, and solid reserve levels.

19 So, all of those things are intentional by
20 implementing conservative and prudent financial
21 policies, and the work that the legislature does in
22 adopting policies, and adopting a budget, and leaving
23 sufficient money on the table to provide financial
24 flexibility to deal with exogenous events like
25 hurricanes.

1 So, that's my thought. So, at the end of the day,
2 you don't like to see yourself in a headline dealing
3 with climate change and hurricane risk, but they got it
4 right this time, because they said basically the
5 policies that have been implemented have put us in a
6 position to deal effectively with those issues.

7 So, that's the report on those, or my thoughts on
8 that.

9 GOVERNOR SCOTT: Thank you, Ben.

10 EXECUTIVE DIRECTOR WATKINS: Thank you.

11 ATTORNEY GENERAL BONDI: Thanks, Ben.

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STATE BOARD OF ADMINISTRATION

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2 GOVERNOR SCOTT: I'd like to recognize Ash
3 Williams, with the State Board of Administration.

4 EXECUTIVE DIRECTOR WILLIAMS: Thank you. Good
5 afternoon, Governor, Trustees and Cabinet members.

6 By way of update on the Fund, as of last night's
7 close fiscal year-to-date, Florida Retirement System
8 Trust Fund is up 8.71 percent. That's five basis
9 points ahead of target. Leaves the Fund balance at
10 \$162.2 Billion, which is 8.7 Billion ahead of where we
11 started the year, net of distributions that, as you
12 know, average about 600 Million a month.

13 I would also report, we had yesterday a report
14 from a firm called CEM, which is Cost Effectiveness
15 Management, based in Toronto. They manage-- they study
16 data on major pension funds, both public and private,
17 in north America, and they come out with reports that
18 show relative value added, and relative cost, etc., and
19 the CEN that's the source of our cost effectiveness
20 information that we share with you. I'm happy to
21 report that we continue to be among the lowest cost
22 funds in north America.

23 But, I think of equal, if not greater, interest is
24 that on a trailing five year basis our value added
25 relative to our policy portfolio, which is to say the

1 value added by the way we execute that policy, through
2 our active management decision making, the amount of
3 value we added, compared to all the other pension funds
4 in north America, puts us in the 98th percentile of
5 accomplishment over a trailing five year period, and
6 the dollar value of that out performance is 74.4
7 Billion. So, that's a nice thing to have. Happy to
8 report on that.

9 GOVERNOR SCOTT: That's very positive.
10 Congratulations, sir.

11 EXECUTIVE DIRECTOR WILLIAMS: Thank you.
12 Appreciate your support in getting there, because it's
13 good governance and policy on your part that makes a
14 lot of that possible.

15 So, with that, I will jump on into the agenda.

16 Item one, request approval of the minutes of the
17 December 13, 2017 Cabinet meeting.

18 GOVERNOR SCOTT: So, item one and two together,
19 they are both minutes. Is there a motion on items one
20 and two?

21 ATTORNEY GENERAL BONDI: So moved.

22 GOVERNOR SCOTT: Is there a second?

23 CFO PATRONIS: Second.

24 GOVERNOR SCOTT: Comments or objections?

25 (NO RESPONSE)

1 GOVERNOR SCOTT: Hearing none, the motion carries.

2 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

3 Items three and four are fiscal determinations
4 relating to the Florida Housing Finance agency.

5 The first is construction of a multi-family rental
6 apartment facility in Palm Beach County. And, item
7 four is construction of a multi-family facility in
8 Hernando County. If we want to do those two together,
9 Governor.

10 GOVERNOR SCOTT: Three and four. Is there a
11 motion?

12 ATTORNEY GENERAL BONDI: So moved.

13 GOVERNOR SCOTT: Is there a second?

14 CFO PATRONIS: Second.

15 GOVERNOR SCOTT: Comments or objections?

16 (NO RESPONSE)

17 GOVERNOR SCOTT: Hearing none, the motion carries.

18 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

19 Item five, is the fiscal sufficiency, not
20 exceeding \$52 Million, State of Florida Department of
21 Education, Florida College System, Capital Improvement
22 Revenue Refunding Bonds.

23 GOVERNOR SCOTT: Is there a motion on the item?

24 ATTORNEY GENERAL BONDI: So moved.

25 GOVERNOR SCOTT: Is there a second?

1 CFO PATRONIS: Second.

2 GOVERNOR SCOTT: Comments or objections?

3 (NO RESPONSE)

4 GOVERNOR SCOTT: Hearing none, the motion carries.

5 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

6 The next item, item six, approval of fiscal
7 sufficiency of an amount not exceeding \$100 Million,
8 State of Florida, Department of Transportation,
9 Right-of-Way Acquisition and Bridge Construction Bonds.

10 GOVERNOR SCOTT: Is there a motion on the item?

11 ATTORNEY GENERAL BONDI: So moved.

12 GOVERNOR SCOTT: Is there a second?

13 CFO PATRONIS: Second.

14 GOVERNOR SCOTT: Comments or objections?

15 (NO RESPONSE)

16 GOVERNOR SCOTT: Hearing none, the motion carries.

17 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

18 Item seven, this is the report on the Protecting
19 Florida's Investments Act. We have the same group of
20 companies that appear relative to both Soudan and Iran.
21 We added six to the scrutinized category. Did not take
22 any away, and we did not add any to the continued exam
23 category. With regard to Soudan, we took two off.
24 There were no changes regarding to Iran.

25 I do have a compliance item I'd like to report on.

1 Last week, tail-end of the week, we learned of
2 something that's rare, but not unprecedented, and that
3 is we were accomplishing a transaction between several
4 of our external third-party investment partner managers
5 where we were terminating one and moving to some
6 others, and incorrectly shares of two companies, that
7 are on the prohibited list, were purchased. We caught
8 the error immediately. Reversed the trades. Were out
9 of them, and we are economically neutral on the whole
10 experience.

11 So, it's cured, but nonetheless it occurred, and
12 that's a statutory compliance issue. So, I wanted to
13 report it to you. Immediately it's dealt with. We
14 located the source of that error, and we will do
15 whatever is necessary to make sure it doesn't recur.

16 So, unless there is anything further on that one.

17 GOVERNOR SCOTT: Is there a motion on item seven?

18 ATTORNEY GENERAL BONDI: So moved.

19 GOVERNOR SCOTT: Is there a second?

20 CFO PATRONIS: Second.

21 GOVERNOR SCOTT: Comments or objections?

22 (NO RESPONSE)

23 GOVERNOR SCOTT: Hearing none, the motion carries.

24 Item eight?

25 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

1 Item eight, request approval of a draft letter to
2 the Joint Legislative Auditing Committee affirming that
3 the SBA trustees have reviewed and approved the monthly
4 Florida Prime summary reports, and taken actions as
5 needed to address any impacts. There are no impacts,
6 and therefore no action is needed.

7 GOVERNOR SCOTT: All right. Is there a motion on
8 the item?

9 ATTORNEY GENERAL BONDI: So moved.

10 GOVERNOR SCOTT: Is there a second?

11 CFO PATRONIS: Second.

12 GOVERNOR SCOTT: Comments or objections?

13 (NO RESPONSE)

14 GOVERNOR SCOTT: Hearing none, the motion carries.

15 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

16 Item nine, is the normal sweep of quarterly
17 reports, and I guess what I would say there, in the
18 interest of time, is that when we look at both the
19 defined benefit and the defined contribution plan,
20 performance is ahead of target for one, three, five,
21 and ten year periods.

22 With regard to the pension plan, we finished in
23 the top quartile of the TUCS, Trust Universe Comparison
24 Service of major pension funds for all periods. And,
25 as I said earlier, we've been very successful in adding

1 value.

2 I would say that the one period in which we have
3 under-performed in the pension plan is the ten year
4 timeframe on the absolute nominal basis, and that's
5 because that ten year period has both the great
6 financial crisis in it--

7 GOVERNOR SCOTT: Because you weren't here, right?

8 EXECUTIVE DIRECTOR WILLIAMS: Almost. I got that
9 defense for a few more months. It will be 10 years in
10 October I've been back. So, but, yes-- I thank you for
11 that. I will take that defense.

12 Also, I would say, you know we always have
13 included in the background materials for the quarterly
14 meetings major mandate performance, which covers
15 Florida Prime, Hurricane Catastrophe Fund, and the
16 Lawton Chiles Endowment; all of those are performing
17 ahead of target, and none have compliance issues.

18 We also have reports from our Inspector General,
19 our Chief Audit Executive, our audit committee, local
20 government advisory counsel, and investment advisory
21 counsel; the key thing there is an update on
22 legislation, that you had previously approved, to
23 repeal the participant local government advisory
24 counsel.

25 Representative White and Senator Montford have

1 been handling that for us. It will be on special order
2 in the Senate Thursday. It's already out of the House.
3 That's going well. So, we thank them for their
4 assistance.

5 Um, and--

6 GOVERNOR SCOTT: CFO, you have a question?

7 CFO PATRONIS: Yeah. thank you, Governor.

8 Give us a recap. Storm's over. What's the CAT
9 fund gonna look like for the 2018 season?

10 EXECUTIVE DIRECTOR WILLIAMS: Good question. We
11 are holding back an anticipated \$2 Billion in
12 Irma-related losses. You know, losses can take years
13 to develop, so we still think that's a good estimate.

14 We have \$14.1 Billion in cash, unincumbered. We
15 have \$2.2 Billion in pre-event data issuance proceeds.
16 We will eventually have to pay those back, so we always
17 treat those differently. But, that gives us
18 essentially enough cash in pre-event, on-hand, and we
19 are taking into consideration of premium for the
20 upcoming hurricane season.

21 We are within a fairly limited-- short striking
22 distance, \$700 Million, or so, from our statutory limit
23 of \$17 Billion.

24 Our debt capacity estimate, which will be renewed
25 in May, is currently about 8 Billion. So, 700 Million

1 short fall, versus 8 Billion debt capacity, we've got
2 plenty of runway. And, I think we come into the
3 current season-- the coming season in very strong
4 position.

5 We will make a decision a little bit later on, on
6 risk transfer.

7 We've got-- we'll be looking at that market very
8 closely in the next few weeks to get a better sense of
9 capacity pricing, et cetera, see where we were, where
10 we are, relative to the past few seasons, and we'll
11 make that call at the appropriate time and come to you
12 with a recommendation.

13 GOVERNOR SCOTT: Thanks, Ash.

14 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

15 GOVERNOR SCOTT: All right. This concludes our
16 meeting. Our next one is May 15th.

17 WHEREUPON, the meeting was adjourned at 1:59 p.m.

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CERTIFICATE OF REPORTER

I HEREBY CERTIFY that I, Lisa C. Snyder, Court Reporter and Notary Public, did report the foregoing proceedings and that these proceedings were reduced to computer transcription under my personal supervision and is a true and accurate record of the proceedings;

THAT the proceedings were taken at the time and place as specified.

THAT I am neither of kin nor counsel to any of the parties involved in this matter, nor in any manner interested in the results thereof.

THIS 20th of March, 2018.

/s/ _____
LISA C. SNYDER