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CONSTITUTION REVISION COMMISSION

MARCH 20, 2017

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Transcribed by:

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Court Reporter

1 T A P E D P R O C E E D I N G S

2 THE SECRETARY: Commissioners and guests
3 in the gallery please silence all electronic
4 devices. All Commissioners, please indicate
5 your presence. A quorum is present, Mr. Chair.

6 CHAIRMAN BERUFF: The Commission will be
7 in order. Good afternoon everyone. Thank you
8 for all the members here today. I am sure I
9 speak for everyone in the room that this is a
10 tremendous honor.

11 We are very thankful to our host, the
12 Florida Senate. I am sure we are all mindful
13 that we are guests today in the Chamber. I
14 trust that we will respect the Senate protocol.

15 Commissioners and guests, please rise for
16 the opening prayer to be given this morning by
17 Commissioner Gary Lester. Afternoon.

18 COMMISSIONER LESTER: Let's bow our heads.
19 Eternal God, Father of us all, we lift up our
20 hearts in praise and Thanksgiving for you have
21 blessed us. We live as free people, citizens
22 of an exceptional nation, a land of liberty
23 like no other in human history, and as people
24 of Florida we are blessed to live in a state
25 with boundless opportunities.

1 We gather today thankful for this
2 opportunity to serve. Humble us as we face the
3 task before us. Lead us with your wisdom, fill
4 us with our spirit of kindness and grace.
5 Challenge us, oh God, bring out the best in
6 each one of us that we have been so blessed
7 might be a blessing and bring honor and glory
8 to you, oh God, our rock and our redeemer.

9 Amen.

10 CHAIRMAN BERUFF: Amen. Please remain
11 standing for the pledge of allegiance to be led
12 this afternoon by Commissioner Heuchan's
13 children, Julianna, Brecht, Jr., and Caleb
14 Heuchan.

15 I pledge allegiance to the flag of the
16 United States of America, and to the republic
17 for which it stands, one nation, under God,
18 indivisible, with liberty and justice for all.

19 CHAIRMAN BERUFF: Please be seated.

20 Before we start our business I would like to
21 recognize Governor Scott and all of the
22 appointing authorities, Senate President Joe
23 Negron, House Speaker Richard Corcoran, Chief
24 Justice Florida Supreme Court, Jorge Labarga.

25 Thank you for joining us today for our

1 first meeting, and thank you, President Negron,
2 for generously allowing this Commission to meet
3 in the Senate Chamber today, and specifically
4 because the first time in my life I am the
5 tallest person in the room. We truly
6 appreciate your hospitality. I would now like
7 to invite Governor Scott to make some remarks.

8 (Applause)

9 GOVERNOR SCOTT: Thank you. Thank you
10 very much. Please have a seat. Thank you. I
11 want to thank everybody for being here today
12 and really I want to thank you for your
13 commitment to serve. I know it is going to
14 take -- take a lot of time and this is
15 historic.

16 As you travel the state you will have the
17 incredible opportunity to hear firsthand from
18 families all across our great state. I have
19 had the opportunity to do that for the last
20 seven years, and it is a great experience.

21 This is a great opportunity you have
22 before you, a chance to impact Florida's
23 future, to fit a growing state and the hard
24 working families that make up our communities.
25 My hope is that your work will ensure the

1 continued economic success and prosperity of
2 every citizen in our great state, and you build
3 upon the legacy of all the achievements this
4 state has had in the past. This will ensure
5 Florida continues to move in the right
6 direction and remains the best place to live,
7 work and raise a family.

8 I want to take a few moments to highlight
9 the members I have appointed to this
10 Commission, beginning with your Chairman and my
11 good friend, Carlos Beruff.

12 Carlos has been a friend of mine for many
13 years and during that time I have come to know
14 him as a committed businessman, very committed
15 businessman and someone who truly believes in
16 fighting for Florida. I know that Carlos will
17 fight for policies that will ensure a strong
18 future for Florida and build a legacy upon
19 which the families and businesses in our great
20 state will thrive for generations to come.

21 I want to thank Carlos for his willingness
22 to Chair this important Commission.

23 Thanks.

24 CHAIRMAN BERUFF: Thank you.

25 GOVERNOR SCOTT: Next, Dr. Jose Pepe

1 Armas. Dr. Armas is a distinguished physician
2 and healthcare executive from Miami. He
3 currently serves as the Chairman of MCCI group
4 and as my appointee to the Florida
5 International University Board of Trustees and
6 does a great job.

7 Thank you, Dr. Armas.

8 Lisa Carlton, an eighth generation
9 Floridian, and a co-owner manager of the Mabry
10 Carlton Ranch in Sarasota County. She has
11 spent much of her life in public service to the
12 people of Florida, including most recently as
13 Florida State Senator where she fought for
14 Florida families.

15 I want to thank you for your dedication to
16 our great state.

17 (Applause)

18 GOVERNOR SCOTT: Tim Cerio. Tim is an
19 accomplished attorney, practicing in his own
20 law firm right here in Tallahassee. He was my
21 General Counsel and also Chief of Staff and
22 General Counsel of the Florida Department of
23 Health under Governor Bush. I am sure many of
24 you know he is a big Florida Gator.

25 Tim does great work and I am happy to have

1 him on the Commission.

2 (Applause)

3 GOVERNOR SCOTT: Emery Gainey. Emery is a
4 member of the Attorney General Senior Executive
5 Management Team, and currently serves as the
6 Director of Law Enforcement, Victim Services
7 and Criminal Justice programs. Last year I had
8 the -- had the distinct honor to appoint Emery
9 to serve as interim Sheriff of Marion County
10 and he did a great job, and his 35 years of law
11 enforcement experience will be a valuable asset
12 to this Commission.

13 Congratulations.

14 (Applause)

15 GOVERNOR SCOTT: Brecht Heuchan. Brecht
16 is a founder and CEO of Contribution Link here
17 in Tallahassee and has the extensive
18 legislative, governmental and policy
19 experience, making him a great part of the
20 Commission.

21 Believe it or not, this isn't Brecht's
22 first time working with the CRC. In 1997 he
23 was tasked by Speaker Daniel Webster to
24 coordinate the Speaker's CRC appointments. He
25 also monitored the work of the 1997-1998 CRC on

1 the Speaker's behalf, giving him a deep
2 understanding and familiarity of the CRC
3 process.

4 Brecht is a great friend, and as you see,
5 he has a wonderful family.

6 (Applause)

7 GOVERNOR SCOTT: Marva Johnson. Marva is
8 an accomplished member of Florida's business
9 community and a leader in Florida education.
10 She is the Regional Vice President of State
11 Government Affairs for Charter Communications
12 and currently serves as the Chair of Florida
13 State Board of Education.

14 Thank you for your dedication and your
15 willingness to do this.

16 (Applause)

17 GOVERNOR SCOTT: Darlene Jordan. Jordan
18 couldn't be here, but I will talk about her
19 background. She is the Executive Director of
20 the Gerald R. Jordan Foundation, a non profit
21 organization that supports the education,
22 health and youth services and the arts.

23 Last year I appointed Darlene to the Board
24 of Governors of the State University system.

25 She has been a leading advocate for higher

1 education, and I am proud to have her on this
2 Commission.

3 (Applause)

4 GOVERNOR SCOTT: Fred Karlinsky is a
5 nationally recognized authority on insurance
6 regulation and co-chair of Greenberg Traurig
7 insurance regulatory and transactions practice
8 group.

9 As an expert in the insurance industry,
10 Fred brings great insight to the Commission on
11 issues facing our state. He currently serves
12 as my appointee on the Florida Supreme Court
13 Nominating Commission and has done a great job.

14 I have got to know Fred and his wonderful
15 family and they are wonderful.

16 (Applause)

17 GOVERNOR SCOTT: Belinda Keiser. In
18 addition to serving on various governmental
19 boards, Belinda has been the Vice Chancellor of
20 Keiser University for more than 20 years, and
21 is an advocate for student's acceptability to
22 higher education and workforce talent
23 development.

24 Currently she is serving as a member of
25 the 17th Circuit Judicial Nominating Commission

1 in Broward county, and is an appointment of
2 mine to the Enterprise Florida Board of
3 Directors.

4 She is very focused on growing our
5 economy.

6 (Applause)

7 GOVERNOR SCOTT: Frank Kruppenbacher is an
8 accomplished attorney who has spent much of the
9 past 30 years serving his community through
10 positions on various boards and commissions.
11 He currently serves as the Chairman of the
12 Greater Orlando Aviation Authority.

13 Thanks for your hard work.

14 (Applause)

15 GOVERNOR SCOTT: Dr. Gary Lester, is the
16 Vice President of The Villages for Community
17 Relations and has spent 34 years as an ordained
18 minister in the Presbyterian Church. Has
19 served on numerous boards and advocacy groups,
20 including the United States Military Academy
21 Nominations Board and the Judicial Nominating
22 Commission, Middle District of Florida.

23 It is great to have Dr. Lester as part of
24 the CRC.

25 (Applause)

1 GOVERNOR SCOTT: Jimmy Patronis. Jimmy is
2 a Commissioner on the Florida Public Service
3 Commission in a position I appointed him to in
4 January 2015. Prior to his appointment, Jimmy
5 represented District 6, Bay County, in the
6 Florida House of Representatives. He is a
7 lifelong Floridian, and I know he will fight
8 for what is right for Florida.

9 Thank you, Jimmy.

10 (Applause)

11 GOVERNOR SCOTT: Pam Stewart has dedicated
12 her life to ensure Florida students have access
13 to a high quality education that enables them
14 to reach their full potential and achieve their
15 academic and career goals. She has served 37
16 years in education, beginning her career as a
17 school teacher and we are blessed to have her
18 on the Commission of Education as our
19 Commissioner of Education in Florida.

20 She also fought cancer over the last
21 couple of years and beat it. Congratulations.

22 (Applause)

23 GOVERNOR SCOTT: Nicole Washington. As a
24 state policy consultant for the Lumina
25 Foundation Nicole has worked to expand access

1 and success for students in higher education.

2 She has also served as the Associate
3 Director of Governmental Relations for the
4 State University System Board of Governors and
5 Budget Director for Education in my office and
6 is currently an outstanding Board member of
7 Florida A&M.

8 Thank you for everything you do.

9 (Applause)

10 GOVERNOR SCOTT: I just want to finish by
11 thanking everybody. This is, you have a
12 distinct opportunity and I know everyone of you
13 is going to focus on doing the right thing for
14 our great state, and you will love doing this,
15 and have fun traveling the state.

16 CHAIRMAN BERUFF: Thank you, Governor. I
17 would like to introduce President Negrón to
18 make some comments and introduce his folks.

19 PRESIDENT NEGRÓN: Well, good afternoon,
20 and on behalf of the Florida Senate I would
21 like to welcome you all to our Chamber. We are
22 so delighted that we were able to complete the
23 renovations in time to have everyone here, and
24 we take the responsibility of hosting the
25 Constitution Revision Commission very seriously

1 and we really appreciate the fact that all of
2 you are here and we welcome you on behalf of
3 the Senate.

4 I just wanted to really make one brief
5 comment, and that is a reminder to all of us,
6 myself included, that under our system of
7 government any small amount of power or
8 responsibility that we have for a very limited
9 period of time is 100 percent derivative of the
10 citizens.

11 There is no such thing as power untethered
12 from the people that give us the authentic
13 ability to exercise judgment on their behalf.
14 And so my -- my request is simply as you go
15 about your duties to consider updates and
16 possible changes or deletions from our
17 Constitution, is just to recognize that our
18 entire system of government is founded on the
19 supremacy of the individual.

20 And our Florida Constitution to me is a
21 blueprint that sets very limited and discreet
22 roles for government to play, puts boundaries
23 on the power and potential abusive power by
24 government, and the entire Constitution is
25 predicated on the citizens as individuals being

1 the ones who are in charge. So I look forward
2 to your deliberations.

3 I look forward to the public having an
4 opportunity to interact with each of you and as
5 a group as you travel the state to -- to hear
6 ideas. And again, welcome to the Senate. We
7 are so glad that all of you are here and I wish
8 you all the best in your deliberations.

9 Thank you.

10 (Applause)

11 CHAIRMAN BERUFF: Thank you,
12 Mr. President. I would like to invite Speaker
13 Corcoran to make remarks.

14 SPEAKER CORCORAN: Thank you. I am
15 reminded when I was a staffer I was a
16 legislative aid back in like 1990. Lawton
17 Chiles was the Governor, and he came to
18 introduce and say a few words to the incoming
19 freshmen that just got elected to a very
20 esteemed position.

21 And he came over and he was reminding them
22 and reminiscing about how he was a House member
23 at one point when he first got elected. And so
24 he said, and you guys look around and you see
25 amongst yourselves, over the next week or so

1 you will mingle and talk and you will say to
2 yourself, man, look at these people. These
3 people are some of the most successful people
4 in the state.

5 They are talented, they have Ivy degrees,
6 they are renowned in their field. What the
7 heck am I doing here. And then Lawton Chiles
8 said, but then, you know, the Florida debate
9 and the session will start or your time will
10 start and then you will come back and you will
11 regroup and you will say for yourself after
12 interacting for a month or two with each other,
13 you will say, man, who in the heck appointed
14 this guy to the Commission?

15 And I did want to give you a couple of
16 encouragements. And the first one is there is
17 true irony in it, being a member of the
18 Legislature and not always following the Golden
19 Rule, but as you guys get into the
20 Constitution, which is a sacred document, my
21 first word of encouragement would be sometimes
22 it is what you don't do which is more important
23 than what you do do. And try not to do any
24 harm to that document, would be one of my first
25 pieces of encouragement.

1 The second one I would tell you is you
2 guys are an esteemed group. You are a, for
3 lack of a better phrase, a statewide all star
4 team, and I would encourage you guys to work
5 together. Encourage dissent, have robust, free
6 and challenging debate with each other, and if
7 you engage in that kind of behavior with each
8 other, which is the foundation of our democracy
9 that we can meet in a Chamber like this,
10 talented people from all different aspects,
11 diversity and opinions and have this tremendous
12 open and free debate where you can speak your
13 mind and speak it well, if that happens I am
14 very confident that you guys will have a
15 tremendously unique opportunity.

16 And that is you will get to fix what still
17 exist today in Florida, and that is some
18 serious injustices. And to the extent that you
19 guys can do that and that is your legacy, you
20 all should be very, very proud, and that is our
21 hope for all of you guys.

22 Thank you very much.

23 CHAIRMAN BERUFF: Thank you, Mr. Speaker.
24 I would like to invite Chief Justice Labarga to
25 make some remarks.

1 CHIEF JUSTICE LABARGA: Thank you. Today
2 we mark the beginnings of what will be a very
3 historic event in the ongoing development of
4 Florida law, the opening of the 2017
5 Constitution Revision Commission.

6 As you know, the Chief Justice has three
7 appointments to the Commission. I appointed
8 them with the advice of the other six members
9 of the Florida Supreme Court, out of 70 plus
10 applicants.

11 This Commission, make no mistake about it,
12 has awesome power, and my colleagues and I felt
13 important that my appointees should bring a
14 balanced perspective, with a perspective to
15 speak in an understanding of our system of
16 liberty under law and especially the importance
17 of the separation of powers that is so deeply
18 embedded in the American system.

19 Changes to our fundamental law should
20 never be made lightly and never without a
21 thorough base of knowledge about what the
22 founders of this great nation chose the system
23 we have today.

24 The three people I have selected certainly
25 have a deep understanding of those things. But

1 I also look for people who have practical
2 experience in the functions of government and
3 its impact upon the everyday lives of everyday
4 people.

5 As all of you know, the three people I
6 named to the CRC are Hank Coxe of Jacksonville,
7 Arthenia Joyner of Tampa, and Roberto Martinez
8 of Coral Gables.

9 (Applause)

10 CHIEF JUSTICE LABARGA: Mr. Coxe is a
11 Jacksonville lawyer who specializes in Federal
12 and State criminal matters, has served as
13 President of the Florida Bar, as well as the
14 Jacksonville Bar Association.

15 He has also served on the Judicial
16 Qualifications commission which is the
17 constitutionally created entity that receives
18 and investigates allegations of judicial
19 misconduct.

20 He served on the Florida Supreme Court
21 Innocence Commission and the Judicial
22 Nominating Commissions for the Fourth Judicial
23 Circuit as well as the First District Court of
24 Appeals. He has won many, many awards for his
25 service to his profession and to his community.

1 Senator Joyner, a name well known to all
2 of you, a Tampa lawyer served the community in
3 the Legislature with great distinction for 16
4 years. First, in the House of Representatives,
5 and then in the Florida Senate.

6 She was a student participant in the first
7 Civil Rights demonstration in Tampa. Part of
8 the effort to desegregate department stores
9 lunch counters. A few years later as a student
10 at Florida A&M University here in Tallahassee
11 she was part of the Civil Rights demonstrations
12 seeking to desegregate the city's movie
13 theaters and churches. Senator Joyner also has
14 a long and distinguished record of service to
15 the people.

16 Mr. Martinez, a Coral Gables lawyer, has
17 served in the United States Attorney's Office
18 in South Florida, first as an assistant U.S.
19 Attorney, and then as the United States
20 Attorney, as the U.S. Attorney, himself.

21 He has a record of active service in
22 education, both in his home county of
23 Miami-Dade, and also on a state level, serving
24 as a member of the State Board of Education for
25 several years.

1 Mr. Martinez also has experience on State
2 Commission with the power to put issues
3 directly on the ballot. He served on the
4 Florida Taxation and Budget commission in 2007
5 to 2008, where he Chaired the Commissions
6 Government Service Subcommittee.

7 Like Mr. Coxe and Senator Joyner,
8 Mr. Martinez has a lengthy record of service to
9 and awards from his profession and community.

10 I would like to thank my appointees, and
11 indeed, all of the appointees here today who
12 will serve on this Commission and propose
13 changes if needed to our State Constitution.

14 Thank you very much.

15 CHAIRMAN BERUFF: Thank you, Chief
16 Justice.

17 (Applause)

18 CHAIRMAN BERUFF: The Commission is
19 honored to have Chief Justice Labarga here
20 today to administer the oath of office to all
21 Commissioners. We will begin by administering
22 the oath to the Attorney General. Yes, ma'am,
23 please. Wherever you would like to be, you are
24 the Chief Justice. There we go.

25 CHIEF JUSTICE LABARGA: If you will repeat

1 after me. I do solemnly swear.

2 COMMISSIONER BONDI: I do solemnly swear.

3 CHIEF JUSTICE LABARGA: I will support,
4 protect and defend.

5 COMMISSIONER BONDI: I will support,
6 protect and defend.

7 CHIEF JUSTICE LABARGA: The Constitution
8 and government.

9 COMMISSIONER BONDI: The Constitution and
10 government.

11 CHIEF JUSTICE LABARGA: Of the United
12 States.

13 COMMISSIONER BONDI: Of the United States.

14 CHIEF JUSTICE LABARGA: And of the State
15 of Florida.

16 COMMISSIONER BONDI: And of the State of
17 Florida.

18 CHIEF JUSTICE LABARGA: That I am duly
19 qualified.

20 COMMISSIONER BONDI: That I am duly
21 qualified.

22 CHIEF JUSTICE LABARGA: To hold office.

23 COMMISSIONER BONDI: To hold office.

24 CHIEF JUSTICE LABARGA: Under the
25 Constitution of the State.

1 COMMISSIONER BONDI: Under the
2 Constitution of the State.

3 CHIEF JUSTICE LABARGA: And that I will
4 well and faithfully.

5 COMMISSIONER BONDI: And that I will well
6 and faithfully.

7 CHIEF JUSTICE LABARGA: Perform the
8 duties.

9 COMMISSIONER BONDI: Perform the duties.

10 CHIEF JUSTICE LABARGA: Of the Commission.

11 COMMISSIONER BONDI: Of the Commission.

12 CHIEF JUSTICE LABARGA: Upon which I am
13 now.

14 COMMISSIONER BONDI: Upon which I am now.

15 CHIEF JUSTICE LABARGA: About to enter.

16 COMMISSIONER BONDI: About to enter.

17 CHIEF JUSTICE LABARGA: So help me God.

18 COMMISSIONER BONDI: So help me God.

19 (Applause)

20 CHAIRMAN BERUFF: Now we will proceed with
21 the other Commissioners in groups of five.
22 Please join Chief Justice Labarga at the front
23 of the Chamber when your name is called and
24 return to your seat after you have taken the
25 oath.

1 Commissioner Armas, Commissioner Carlton,
2 Commissioner Cerio, Commissioner Coxe,
3 Commissioner Diaz, please proceed to the front
4 of the Chamber. Thank you.

5 CHIEF JUSTICE LABARGA: Please raise your
6 right hand and repeat after me. I do solemnly
7 swear.

8 COMMISSIONERS: I do solemnly swear.

9 CHIEF JUSTICE LABARGA: That I will
10 support, protect and defend.

11 COMMISSIONERS: That I will support,
12 protect and defend.

13 CHIEF JUSTICE LABARGA: The Constitution.

14 COMMISSIONERS: The Constitution.

15 CHIEF JUSTICE LABARGA: And government.

16 COMMISSIONERS: And government.

17 CHIEF JUSTICE LABARGA: Of the United
18 States.

19 COMMISSIONERS: Of the United States.

20 CHIEF JUSTICE LABARGA: And the State of
21 Florida.

22 COMMISSIONERS: And the State of Florida.

23 CHIEF JUSTICE LABARGA: That I am duly
24 qualified.

25 COMMISSIONERS: That I am duly qualified.

1 CHIEF JUSTICE LABARGA: To hold office.

2 COMMISSIONERS: To hold office.

3 CHIEF JUSTICE LABARGA: Under the
4 Constitution of the State.

5 COMMISSIONERS: Under the Constitution of
6 the State.

7 CHIEF JUSTICE LABARGA: And I will well
8 and faithfully.

9 COMMISSIONERS: And I will well and
10 faithfully.

11 CHIEF JUSTICE LABARGA: Perform the duties
12 of the Commission.

13 COMMISSIONERS: Perform the duties of the
14 Commission.

15 CHIEF JUSTICE LABARGA: On which I am now.

16 COMMISSIONERS: On which I am now.

17 CHIEF JUSTICE LABARGA: About to enter.

18 COMMISSIONERS: About to enter.

19 CHIEF JUSTICE LABARGA: So help me God.

20 COMMISSIONERS: So help me God.

21 (Applause)

22 CHAIRMAN BERUFF: Commissioner Donalds,
23 Commissioner Gaetz, Commissioner Gainey,
24 Commissioner Gamez, Commissioner Heuchan,
25 please proceed to the front of the Chamber.

1 CHIEF JUSTICE LABARGA: If you will repeat
2 after me, please.

3 I do solemnly swear.

4 COMMISSIONERS: I do solemnly swear.

5 CHIEF JUSTICE LABARGA: That I will
6 support, protect and defend.

7 COMMISSIONERS: I will support, protect
8 and defend.

9 CHIEF JUSTICE LABARGA: The Constitution
10 and government.

11 COMMISSIONERS: The Constitution and
12 government.

13 CHIEF JUSTICE LABARGA: Of the United
14 States.

15 COMMISSIONERS: Of the United States.

16 CHIEF JUSTICE LABARGA: And of the State
17 of Florida.

18 COMMISSIONERS: And of the State of
19 Florida.

20 CHIEF JUSTICE LABARGA: I am duly
21 qualified.

22 COMMISSIONERS: I am duly qualified.

23 CHIEF JUSTICE LABARGA: To hold office.

24 COMMISSIONERS: To hold office.

25 CHIEF JUSTICE LABARGA: Under the

1 Constitution of the State.

2 COMMISSIONERS: Under the Constitution of
3 the State.

4 CHIEF JUSTICE LABARGA: And I will well
5 and faithfully.

6 COMMISSIONERS: And I will well and
7 faithfully.

8 CHIEF JUSTICE LABARGA: Perform the
9 duties.

10 COMMISSIONERS: Perform the duties.

11 CHIEF JUSTICE LABARGA: Of which I am now.

12 COMMISSIONERS: Of which I am now.

13 CHIEF JUSTICE LABARGA: About to enter.

14 COMMISSIONERS: About to enter.

15 CHIEF JUSTICE LABARGA: So help me God.

16 COMMISSIONERS: So help me God.

17 CHIEF JUSTICE LABARGA: Thank you.

18 CHAIRMAN BERUFF: Commissioner Johnson,
19 Commissioner Joyner, Commissioner Karlinsky and
20 Commissioner Keiser, please proceed to the
21 front of the Chamber.

22 CHIEF JUSTICE LABARGA: Raise your right
23 hands. Repeat after me.

24 I do solemnly swear.

25 COMMISSIONERS: I do solemnly swear.

1 CHIEF JUSTICE LABARGA: That I will
2 support, protect and defend.

3 COMMISSIONERS: That I will support,
4 protect and defend.

5 CHIEF JUSTICE LABARGA: The Constitution
6 and government.

7 COMMISSIONERS: The Constitution and
8 government.

9 CHIEF JUSTICE LABARGA: Of the United
10 States.

11 COMMISSIONERS: Of the United States.

12 CHIEF JUSTICE LABARGA: And the State of
13 Florida.

14 COMMISSIONERS: And of the State of
15 Florida.

16 CHIEF JUSTICE LABARGA: I am duly
17 qualified.

18 COMMISSIONERS: I am duly qualified.

19 CHIEF JUSTICE LABARGA: To hold office.

20 COMMISSIONERS: To hold office.

21 CHIEF JUSTICE LABARGA: Under the
22 Constitution of the State.

23 COMMISSIONERS: Under the Constitution of
24 the State.

25 CHIEF JUSTICE LABARGA: And that I will

1 well and faithfully.

2 COMMISSIONERS: And that I will well and
3 faithfully.

4 CHIEF JUSTICE LABARGA: Perform the duties
5 of the Commission.

6 COMMISSIONERS: Perform the duties of the
7 Commission.

8 CHIEF JUSTICE LABARGA: On which I am now.

9 COMMISSIONERS: On which I am now.

10 CHIEF JUSTICE LABARGA: About to enter.

11 COMMISSIONERS: About to enter.

12 CHIEF JUSTICE LABARGA: So help me God.

13 COMMISSIONERS: So help me God.

14 CHAIRMAN BERUFF: Commissioner
15 Kruppenbacher, Commissioner Lee, Commissioner
16 Lester, Commissioner Levesque, Commissioner
17 Martinez, please proceed to the front of the
18 Chamber.

19 CHIEF JUSTICE LABARGA: Repeat after me.
20 I do solemnly swear.

21 COMMISSIONERS: I do solemnly swear.

22 CHIEF JUSTICE LABARGA: That I will
23 support, protect and defend.

24 COMMISSIONERS: That I will support,
25 protect and defend.

1 CHIEF JUSTICE LABARGA: The
2 Constitution and government.

3 COMMISSIONERS: The Constitution
4 government.

5 CHIEF JUSTICE LABARGA: Of the United
6 States.

7 COMMISSIONERS: Of the United States.

8 CHIEF JUSTICE LABARGA: And of the State
9 of Florida.

10 COMMISSIONERS: And of the State of
11 Florida.

12 CHIEF JUSTICE LABARGA: That I am duly
13 qualified.

14 COMMISSIONERS: That I am duly qualified.

15 CHIEF JUSTICE LABARGA: To hold office.

16 COMMISSIONERS: To hold office.

17 CHIEF JUSTICE LABARGA: Under the
18 Constitution of the State.

19 COMMISSIONERS: Under the Constitution of
20 the State.

21 CHIEF JUSTICE LABARGA: And that I will
22 well and faithfully.

23 COMMISSIONERS: And that I will well and
24 faithfully.

25 CHIEF JUSTICE LABARGA: Perform the duties

1 of the Commission.

2 COMMISSIONERS: Perform the duties of the
3 Commission.

4 CHIEF JUSTICE LABARGA: That I am now.

5 COMMISSIONERS: That I am now.

6 CHIEF JUSTICE LABARGA: About to enter.

7 COMMISSIONERS: About to enter.

8 CHIEF JUSTICE LABARGA: So help me God.

9 COMMISSIONERS: So help me God.

10 CHAIRMAN BERUFF: Commissioner Newsome,
11 Commissioner Nocco, Commissioner Nunez,
12 Commission Patronis and Commissioner Plymale,
13 please proceed to the front of the Chamber. It
14 is Plymale.

15 CHIEF JUSTICE LABARGA: Please raise your
16 right hand and repeat after me.

17 I do solemnly swear.

18 COMMISSIONERS: I do solemnly swear --

19 CHIEF JUSTICE LABARGA: That I will
20 support, protect and defend.

21 COMMISSIONERS: That I will support,
22 protect and defend.

23 CHIEF JUSTICE LABARGA: The Constitution
24 and government.

25 COMMISSIONERS: The Constitution and

1 government.

2 CHIEF JUSTICE LABARGA: Of the United
3 States.

4 COMMISSIONERS: Of the United States.

5 CHIEF JUSTICE LABARGA: And of the State
6 of Florida.

7 COMMISSIONERS: And of the State of
8 Florida.

9 CHIEF JUSTICE LABARGA: That I am duly
10 qualified.

11 COMMISSIONERS: That I am duly qualified.

12 CHIEF JUSTICE LABARGA: To hold office.

13 COMMISSIONERS: To hold office.

14 CHIEF JUSTICE LABARGA: Under the
15 Constitution and the State.

16 COMMISSIONERS: Under the Constitution and
17 the State.

18 CHIEF JUSTICE LABARGA: And that I will
19 well and faithfully.

20 COMMISSIONERS: And that I will well and
21 faithfully.

22 CHIEF JUSTICE LABARGA: Perform the duties
23 of the Commission.

24 COMMISSIONERS: Perform the duties of the
25 Commission.

1 CHIEF JUSTICE LABARGA: Of which I am now.

2 COMMISSIONERS: Of which I am now.

3 CHIEF JUSTICE LABARGA: About to enter.

4 COMMISSIONERS: About to enter.

5 CHIEF JUSTICE LABARGA: So help me God.

6 COMMISSIONERS: So help me God.

7 CHAIRMAN BERUFF: Commissioner Rouson,
8 Commissioner Schifino, Commissioner Smith,
9 Commissioner Solari and Commissioner Sprowls,
10 please proceed to the front of the Chamber.

11 CHIEF JUSTICE LABARGA: Raise your right
12 hands and repeat after me.

13 I do solemnly swear.

14 COMMISSIONERS: I do solemnly swear --

15 CHIEF JUSTICE LABARGA: That I will
16 support, protect and defend.

17 COMMISSIONERS: That I will support,
18 protect and defend.

19 CHIEF JUSTICE LABARGA: The Constitution
20 and government.

21 COMMISSIONERS: The Constitution and
22 government.

23 CHIEF JUSTICE LABARGA: Of the United
24 States.

25 COMMISSIONERS: Of the United States.

1 CHIEF JUSTICE LABARGA: And of the State
2 of Florida.

3 COMMISSIONERS: And of the State of
4 Florida.

5 CHIEF JUSTICE LABARGA: I am duly
6 qualified.

7 COMMISSIONERS: I am duly qualified.

8 CHIEF JUSTICE LABARGA: To hold office.

9 COMMISSIONERS: To hold office.

10 CHIEF JUSTICE LABARGA: Under the
11 Constitution of the State.

12 COMMISSIONERS: Under the Constitution of
13 the State.

14 CHIEF JUSTICE LABARGA: And I will well
15 and faithfully.

16 COMMISSIONERS: That I will well and
17 faithfully.

18 CHIEF JUSTICE LABARGA: Perform the duties
19 of the Commission.

20 COMMISSIONERS: Perform the duties of the
21 Commission.

22 CHIEF JUSTICE LABARGA: On which I am now.

23 COMMISSIONERS: On which I am now.

24 CHIEF JUSTICE LABARGA: About to enter.

25 COMMISSIONERS: About to enter.

1 CHIEF JUSTICE LABARGA: So help me God.

2 COMMISSIONERS: So help me God.

3 CHIEF JUSTICE LABARGA: Thank you.

4 CHAIRMAN BERUFF: Commissioner Stemberger,
5 Commissioner Stewart, Commissioner
6 Thurlow-Lippisch, Commissioner Timmann and
7 Commissioner Washington, please proceed to the
8 front of the Chamber.

9 CHIEF JUSTICE LABARGA: Raise your right
10 hands and repeat after me. I do solemnly
11 swear.

12 COMMISSIONERS: I do solemnly swear.

13 CHIEF JUSTICE LABARGA: That I will
14 support, protect and defend.

15 COMMISSIONERS: That I will support,
16 protect and defend.

17 CHIEF JUSTICE LABARGA: The Constitution
18 and government.

19 COMMISSIONERS: The Constitution and
20 government.

21 CHIEF JUSTICE LABARGA: Of the United
22 States and of the State of Florida.

23 COMMISSIONERS: Of the United States and
24 of the State of Florida.

25 CHIEF JUSTICE LABARGA: That I am duly

1 qualified to hold office.

2 COMMISSIONERS: That I am duly qualified
3 to hold office.

4 CHIEF JUSTICE LABARGA: Under the
5 Constitution of the State.

6 COMMISSIONERS: Under the Constitution and
7 of the State.

8 CHIEF JUSTICE LABARGA: That I will well
9 and faithfully.

10 COMMISSIONERS: That I will well and
11 faithfully.

12 CHIEF JUSTICE LABARGA: Perform the duties
13 of the Commission.

14 COMMISSIONERS: Perform the duties of the
15 Commission.

16 CHIEF JUSTICE LABARGA: On which I am now.

17 COMMISSIONERS: On which I am now.

18 CHIEF JUSTICE LABARGA: About to enter.

19 COMMISSIONERS: About to enter.

20 CHIEF JUSTICE LABARGA: So help me God.

21 COMMISSIONERS: So help me God.

22 CHIEF JUSTICE LABARGA: Thank you.

23 CHAIRMAN BERUFF: I guess it is my turn.

24 CHIEF JUSTICE LABARGA: Raise your right
25 hand. Repeat after me.

1 I do solemnly swear.

2 CHAIRMAN BERUFF: I do solemnly swear.

3 CHIEF JUSTICE LABARGA: That I will
4 support, protect and defend.

5 CHAIRMAN BERUFF: That I will support,
6 protect and defend.

7 CHIEF JUSTICE LABARGA: The Constitution
8 and government.

9 CHAIRMAN BERUFF: The Constitution and
10 government.

11 CHIEF JUSTICE LABARGA: Of the United
12 States and the State of Florida.

13 CHAIRMAN BERUFF: Of the Unites States and
14 the State of Florida.

15 CHIEF JUSTICE LABARGA: That I am duly
16 qualified to who hold office.

17 CHAIRMAN BERUFF: That I am duly qualified
18 to hold office.

19 CHIEF JUSTICE LABARGA: Under the
20 Constitution of the State.

21 CHAIRMAN BERUFF: Under the Constitution
22 and the state.

23 CHIEF JUSTICE LABARGA: And that I will
24 well and faithfully.

25 CHAIRMAN BERUFF: That I will well and

1 faithfully.

2 CHIEF JUSTICE LABARGA: Perform the duties
3 of the Commission.

4 CHAIRMAN BERUFF: Perform the duties of
5 the Commission.

6 CHIEF JUSTICE LABARGA: On which I am now
7 about to enter.

8 CHAIRMAN BERUFF: On which I am now about
9 to enter.

10 CHIEF JUSTICE LABARGA: So help me God.

11 CHAIRMAN BERUFF: So me God.

12 CHIEF JUSTICE LABARGA: Thank you.

13 (Applause)

14 CHAIRMAN BERUFF: Congratulations,
15 Commissioners, for your service and your
16 willingness to participate on what is one of
17 the most important parts of the history of
18 Florida. Thank you.

19 We are convened here pursuant to Article
20 11, Section 2 of the Florida Constitution,
21 which provides the Constitution Revision
22 Commission shall convene at the call of its
23 Chair, adopt its rules and procedure, examine
24 the Constitution of the state, hold public
25 hearings and not later than 180 days prior to

1 the next general election file with the
2 custodian state records its first -- its first
3 proposal if any of the revision to this
4 Constitution or any part of it.

5 This process to revise the Constitution
6 only happens once every 20 years. It is the
7 third time in history. We are all fortunate to
8 it be a part of it. I am for personally
9 looking forward to advancing policies that will
10 help make the future of our state even stronger
11 than it already is.

12 I had a son last year, yes I know, old
13 people have children, and it is important to me
14 that we make the state great for our future
15 generations. And I am truly honored Governor
16 Scott appointed me to this important role.

17 I would like to introduce Jeff Woodburn,
18 the Executive Director of the CRC since we are
19 now calling it in the acronym.

20 Mr. Woodburn, thank you.

21 I would like to welcome the Secretary of
22 the Senate, Debbie Brown and the Sergeant of
23 Arms, Tim Hay.

24 Thank you, and thank you for making this
25 so easy for me.

1 (Applause)

2 CHAIRMAN BERUFF: We truly appreciate you
3 and your staff and this lovely setting that you
4 laid out for us, we will take care of it.
5 Okay.

6 As Chair I am focused on creating an
7 environment which can be openly debated on
8 their merits. Every member of the CRC will
9 have the opportunity to be heard and have the
10 chance to fight for the issues they believe are
11 important to this state.

12 Most importantly though we need to listen
13 to the citizens, because this is the venue that
14 can only the State of Florida offers where one
15 person can make a difference.

16 Next we will discuss the rules of the
17 Commission. It is important that our rules
18 empower members individually and at the
19 committee level. Draft rules were sent to all
20 Commissioners on March 16th.

21 These draft rules have created an
22 unprecedented level of transparency and
23 increased public input from the Florida
24 citizens. I understand many Commissioners
25 still have questions regarding the draft rules.

1 In order to ensure that every Commissioner
2 has an opportunity to thoroughly review and
3 provide feedback, we will not be voting today
4 on those rules.

5 Everyone is not going to agree, not just
6 on our rules, on other issues before this
7 Commission. There is 37 of us. I have never
8 gotten 10 people to agree, but we will debate
9 and we will reach a conclusion that is the best
10 for Florida citizens.

11 The process has to be heard. I am willing
12 to take as much time as necessary to discuss
13 our differences. We can take as long as it
14 takes today or we can have another meeting,
15 whether it takes 12 hours or 12 days.

16 It is a commitment we all made when we
17 chose to participate in this process. I want
18 to make sure everyone provides input. I want
19 to do this in a productive, meaningful process.
20 At some point we will have to vote, and when
21 the majority of the Commission agrees on a set
22 of rules, those are the rules that will govern
23 this process.

24 We will notice another meeting on the
25 rules soon. I will check to see everyone's

1 availability and pick a date that works for
2 everyone. Following today's organizational
3 meeting staff will be available to field any
4 questions you may have and discuss a future
5 date for votes.

6 Although we not voting today I will move
7 forward with a statewide tour to get public
8 input which is, indeed, the most important part
9 of this process. Our top priorities are to
10 speak with Florida families on the issues that
11 they care about most and what makes a
12 difference in their lives.

13 I will now ask Commissioner Cerio to
14 briefly explain the draft rules.

15 Commissioner Cerio, you are recognized.

16 COMMISSIONER CERIO: Thank you, Mr.
17 Chairman. Commissioners, good afternoon. I
18 want to start off by thanking Chairman Beruff
19 and Director Woodburn. When these rules came
20 out I had some questions. I had lots of
21 questions and Executive Director Woodburn spent
22 some time walking me through the document.

23 At the end I felt like I had a pretty good
24 handle and the Chairman gave me a call and
25 asked me, Commissioner Cerio, do you, you know,

1 do you understand what we are doing here and I
2 said I think I do.

3 I think it is a good workable product and
4 he said, good, then I appreciate you
5 volunteering to present the rules on Monday.
6 So be careful what you ask for. And I would
7 like to say don't fear about whether or not you
8 will be able to be involved in CRC business.

9 If you ask a question you are going to be
10 constricted into service I am pretty sure. But
11 I would like to point out to everybody, in the
12 back of your packet you have a red line version
13 of the old rules.

14 So the old rules from the '97/'98
15 Commission are in the back of your binder, and
16 it is a red line version so you can sort of
17 follow along with what I am talking about.

18 I would like to hit the high points and
19 talk about the overall philosophy that is
20 behind these rules and then, of course, as the
21 Chairman said, there will be voting for another
22 day, but at least, at least hopefully you will
23 become familiar with the subject matter and we
24 can discuss and debate.

25 So the first, the CRC 20 years ago

1 embraced the concept that obviously the CRC is
2 a deliberative body, and for reasons I will
3 discuss momentarily and mostly out of a need
4 and a necessity to carefully consider and
5 evaluate a whole lot of information that the
6 Commission had 20 years ago, these rules are
7 more information than the Commission had to
8 deal with 20 years ago.

9 These rules implements even more of a
10 structure of a deliberative body and they look
11 quite a bit to the rules of the House and
12 Senate. So much of the new language in these
13 rules is taken directly from the House rules
14 and the Senate rules.

15 We believe this will promote access, it
16 will promote procedures that are more
17 transparent, more predictable to the public
18 who, you know, may be familiar with these rules
19 or certainly those in the process that are
20 familiar with these rules, and it will just
21 hopefully yield a better process.

22 So the first example of what I am talking
23 about could be found in Rules 1.23 and 1.24.
24 This may be the most important thing we talk
25 about today regarding public records and the

1 Sunshine law, open meetings.

2 The former rules combine these concepts,
3 the current rules separate them out. Regarding
4 public records, the rule is intended to be
5 essentially the same, actually the rule was
6 intended to be stronger. The thought was that
7 the language saying that records shall be
8 accessible to the public is better than saying
9 it is open. I think there has been some
10 discussion about that. That is certainly
11 something that can be revisited, but I think
12 the intent is that we are going to go beyond
13 and ensure protections beyond what at least
14 meeting or going beyond what was done 20 years
15 ago to ensure the public's access to public
16 records.

17 Now, regarding open meetings. The rules
18 with respect to open meetings are different.
19 In fact, these rules do go farther than the
20 Commission did 20 years ago. They go farther
21 than the rules of the Taxation and Budget
22 Reform Commission 10 years and they promote
23 transparency and government and sunshine for
24 the public.

25 So the former Commission basically

1 required that all proceedings of the Commission
2 shall be open to the public, the proceedings,
3 that was it. So the only requirement was that
4 the public have notice and access for official
5 proceedings of the Commission.

6 The draft rules go further, essentially
7 adopting the legislative standard that any
8 meeting at which Commission business is
9 discussed between more than two members of the
10 Commission shall be open to the public. The
11 rules then go on to define Commission business.

12 What is it? It is defined very broadly.
13 As issued, the Commission business are issues
14 upon which foreseeable action is reasonably
15 expected to be taken by the Commission or a
16 Commission committee. So if three
17 Commissioners decide to meet for dinner they
18 may not discuss Commission business because it
19 will be outside the contest of a noticed
20 meeting.

21 That is different than 20 years ago.
22 Commissioners, this is a very positive change,
23 it promotes sunshine in government,
24 transparency, public confidence. I think it is
25 a giant step, and again, it is taken from the

1 legislative process and the legislative rules.

2 The next major change is also borrowed
3 from the legislative model, and that is an
4 enhanced and an empowered role of the
5 committees, and committee members and I am
6 specifically talking about Rules 12.2 through
7 12 point -- 2.12 through 2.14. My apologies.

8 Under the former rules of the committees
9 or the Commission the committee served a
10 function that was advisory only. They were
11 required, the committees were required to
12 report proposals out of committee with the
13 recommendation, the recommendation only to
14 either approve or disapprove or they could even
15 report out a proposal with no recommendation.
16 Proposals didn't die and frankly all were
17 kicked up for consideration by the full CRC.

18 Now fast forward 20 years. With the
19 advent of social media, government, web-based
20 portals, the public has become very accustomed
21 to more access in government, the ability to
22 provide comments about government online and
23 just this web-based access.

24 And Commissioners, the reality is if we do
25 this right then the people of Florida are going

1 to have an unprecedented opportunity for
2 electronically submitting proposals, for
3 commenting on proposals to the Constitution and
4 citizens will not have to appear before the
5 Commission in order to be heard. And just as a
6 brief aside to dovetail with that point, Rule
7 3.3, we are making it easier for Commissioners
8 to sponsor public proposals, whereas before the
9 sponsor for a proposal from the public or if a
10 Commissioner wanted to sponsor a proposal from
11 the public they had to -- they had to make a
12 motion and get 10 yea votes in order to sponsor
13 it.

14 Now any Commissioner can sponsor any
15 number of proposals from the public whether or
16 not they have the support of their other
17 Commissioners. So the result of affording this
18 additional access is that we are almost
19 certainly going to see a tremendous, tremendous
20 spike in the sheer volume of constitutional
21 proposals, far more than the Commissions of 20
22 years ago and 40 years ago had to contend with.
23 So the question is how do we deal with that.

24 On the one hand we have an obligation to
25 afford the public access and transparency, but

1 once we received the public's input we have an
2 obligation to carefully consider and evaluate
3 and thoroughly vet each and every proposals,
4 and quite frankly, Commissioners, the thought
5 is that the full Commission is just not going
6 to have the ability to thoroughly and properly
7 consider all these proposals, the full
8 Commission. So that is the idea of empowering
9 the committees.

10 The solution presented here is to adopt a
11 legislative committee model for considering
12 proposals which will mean the bottom line is
13 that all of us sitting in our capacity as
14 committee members are going to have a lot more
15 work to do. We are going to be held
16 accountable for the decisions we make.

17 We are going to have to take ownership.
18 And the proposals submitted by the public, they
19 deserve a thorough vetting. So again this
20 model is going to require committee members to
21 be informed, to actively deliberate proposals.
22 The committee process is also closer to the
23 public because the public cannot come and
24 testify in full Commission proceedings, but
25 they can appear and be heard at the committee

1 meetings, and that is a positive. That is a
2 positive for the public.

3 So, again, the thought behind, the
4 philosophy behind these rules is that
5 empowering the committee and the Commissioners
6 is going to promote ownership regardless of the
7 action that is taken, and, you know, and that
8 is not necessarily true if we are simply voting
9 up or down and our up or down vote is merely a
10 recommendation.

11 It is easier to quite frankly punt and
12 that is just not going to be fair with the
13 sheer volume of proposals we think we are going
14 to have.

15 So in sum I believe this change is
16 positive, it promotes responsibility and
17 frankly it is necessary if we really want to
18 get to the bottom and the heart and thoroughly
19 vet these proposals.

20 Finally, the last big difference I would
21 like to mention is with the Style and Drafting
22 Committee. Under the '97/'98 rules, if a
23 public proposal passed the Commission by a
24 majority vote, the proposal would be submitted
25 to the Style and Drafting Committee.

1 The Style and Drafting Committee would
2 then prepare recommended ballot language. The
3 committee could recommend amendments to the
4 proposals, including amendments to group
5 similar proposals for presentation on the
6 ballot. These amendments including each and
7 every floor amendment that may be -- that may
8 be made from the Commission individually
9 required a vote up or down of the full
10 Commission, each and every vote.

11 So Commission staff spoke with former
12 Commission members, former Commission staff and
13 basically the feedback was that this process
14 could be very cumbersome, sometimes confusing.
15 And for those of you who may not be familiar
16 with the process, proposed amendments to the
17 Constitution appearing on the ballot are
18 subject to judicial scrutiny. So quite
19 frankly, at this stage of the process the
20 thought is we need to get it right.

21 We cannot miss getting it wrong and a
22 piecemeal amendment process without having the
23 opportunity for the full Style and Drafting
24 Committee to come back and just -- and get it
25 right. A very piecemeal amendment process

1 could put the -- these proposals at risk.

2 So the changes that are made specifically
3 I am talking about Rules 2.17 and 5.4 is to
4 take up reports in the Style and Drafting
5 Committee and vote.

6 If the report -- if the reports and the
7 proposal are accepted by the Commission, the
8 proposal would head to the ballot. However, if
9 there are concerns and the Commission does not
10 accept the report, the proposal does not die.
11 It is sent back to Style and Drafting.

12 At that point the committee can work with
13 the members who have concerns to try and
14 address those concerns, but also ensure that
15 the structure and drafting is going to survive
16 scrutiny. And then, of course, the proposal
17 would be resubmitted by the Style and Drafting
18 Committee to the full CRC.

19 So in essence we are recognizing some
20 expertise of the Style and Drafting Committee
21 and staff and the need to rely on that
22 expertise.

23 Those are the high points. I understand
24 there are certainly folks that still have
25 questions. But I hope this helps provide sort

1 of the philosophy of what we are trying to
2 accomplish and basically problems that we are
3 trying to anticipate and deal with in a way
4 that still provides the public access.

5 Mr. Chairman, that is the conclusion of my
6 presentation.

7 CHAIRMAN BERUFF: Thank you, Commissioner
8 Cerio, for that explanation. As I mentioned
9 before, transparency is an absolute must in
10 this process. Today with the advent of the
11 technology we have it will be much easier for
12 Floridians to participate in this process over
13 the next 12 months as we prepare.

14 On that note I would now like to introduce
15 Ben Gibson, Deputy General Counsel in the
16 Governor's Office, to provide an ethics
17 briefing.

18 MR. GIBSON: Thank you, Mr. Chairman, and
19 distinguished members. It is an honor to be
20 here with you today. My name is Ben Gibson and
21 I serve as Deputy General Counsel for Governor
22 Scott.

23 And this afternoon my goal is to just give
24 you a brief overview of the various aspects of
25 Florida law dealing with public records and

1 ethics that are important to this body.

2 First off, this Commission, as was
3 mentioned before, is unique. There is none
4 like it in the entire country. Every 20 years
5 Florida's Constitution mandates that this
6 Commission be established to examine the
7 Constitution of our state, and your powers and
8 duties stem not from statute, but directly from
9 the Constitution.

10 As was mentioned before, Article 11,
11 Section 2 of the Florida Constitution provides
12 the basic framework for this Commission,
13 provides the membership of the Commission, the
14 time for its establishment, the designation of
15 a Chair by the Governor, and it provides
16 procedural guidelines for the Commission, such
17 as that the Commission shall convene at the
18 call of its Chair, adopt its own rules and
19 procedure, examine the Constitution, hold
20 public hearings, and if there are any revisions
21 to the Constitution they have to be filed no
22 later than 180 days prior to the next general
23 election.

24 Those are the basic requirements in the
25 Constitution. So when we talk about public

1 records, because the Constitutional Revision
2 Commission is a Constitutional entity, there
3 are two places that we have to look for
4 guidance.

5 Number one, we have to look at the rules
6 of the Commission which you just talked about
7 and that you will have to adopt. And then we
8 have to look at the actual Constitution,
9 itself.

10 So looking at the Constitution, there is
11 clear direction for the Commission when it
12 comes to public records. Namely, Article 1,
13 Section 24(a).

14 Now, Florida has historically had very
15 broad laws dealing with public records in the
16 statute. Just a little bit of history. In
17 1992, the voters enshrined these laws into the
18 Constitution and provided a constitutional
19 right of access to records.

20 Article 1, section 24(a) is very broad.
21 It provides, and I quote, "Every person has the
22 right to inspect or copy any public record made
23 or received in connection with the official
24 business of any public body." And the language
25 goes on to clarify that this section

1 specifically applies to each constitutional
2 officer, Board and Commission or entity created
3 pursuant to law or this Constitution.

4 So in addition to any procedural rules
5 that you would adopt, you would also have to
6 abide by Article 1, Section 24(a).

7 So how do you determine what is and what
8 is not a public record. Well, under
9 longstanding Florida law a public record has
10 been deemed to be simply any material prepared
11 in connection with official agency business
12 which is intended to perpetuate, communicate or
13 formalize knowledge of some type.

14 This basically means that any
15 communication you have regarding the CRC is
16 going to be a public record. And it is
17 important to note that in order to determine
18 whether or not something is a public record or
19 not, you have to look at the nature of the
20 record and not just its physical local
21 occasion.

22 In other words, you have to look at the
23 content of the record, not the form of the
24 communication. I know sometimes there is
25 misconception that if something is sent from a

1 personal e-mail or it is from your personal
2 phone or your personal computer, that somehow
3 it is not a public record, and it really
4 doesn't matter what device you could send
5 something with.

6 What matters is the content of the
7 communication. Does it have to do with the
8 business of the CRC. And this Commission
9 obviously has many more ways to communicate
10 than the last one, but the rule remains the
11 same, whether it is an e-mail, a text message,
12 a Facebook post or even an official memorandum
13 from the Chair, this same test is going to
14 apply. Is it related to the business of the
15 CRC, and, if so, it is going to be a public
16 record.

17 Now, just because something is a public
18 record doesn't mean that it is automatically
19 disclosed. There are exemptions to public
20 records law as you know. Article 1, Section
21 24(c) allows for the Legislature to enact
22 specific exemptions with a two-thirds vote in
23 each House.

24 But if there is not a specific exemption
25 either in law or in the Constitution, then the

1 record has to be disclosed. And Florida courts
2 have stated routinely that the public records
3 law should be construed liberally in favor of
4 openness and any exemptions are to be construed
5 narrowly and limited to their designated
6 purpose.

7 The records of this Commission that this
8 Commission creates are important not only for
9 public records purposes, but also for
10 historical purposes. The work that you do in
11 reviewing and revising our Constitution is
12 going to be referenced and researched by
13 scholars and legal professionals for decades to
14 come.

15 And, in fact, today, if you go into the
16 State Archives of Florida within Department of
17 State they house all of the records from all of
18 the previous Constitutional Revision
19 Commissions. And upon the completion of your
20 work the records of this Commission will also
21 be preserved for historical reference.

22 So this, again, sort of underscores the
23 importance to preserve and retain the
24 Commission's records, not only for public
25 records purposes, but also for historical

1 purposes.

2 And now I am going to talk a little bit
3 about ethics. And in addition to public
4 records, Florida has also been a leader when it
5 comes to ethics reforms. And again, we have to
6 look at the Constitution. Article II, Section
7 8 of the Florida Constitution provides the
8 framework for ethics amongst public officials
9 and employees in our state.

10 The Constitution, to give you a little
11 history, was revised in 1968, to require a Code
12 of Ethics prescribed by law for all state
13 employees and non judicial officers. The goal
14 behind this was to prohibit conflicts between
15 one's public duties and one's private interest.

16 In 1976, Florida's first successful
17 Constitutional initiative resulted in the
18 adoption of the Sunshine Amendment which
19 provided additional Constitutional guarantees
20 concerning ethics. And it also created an
21 independent Commission, known as the Commission
22 on Ethics to investigate complaints concerning
23 breaches of the public trust.

24 Article II, Section 8 also contains
25 financial disclosure requirements for public

1 officers, candidates and public employees, and
2 they allow the Legislature to establish other
3 disclosures created by law.

4 Now, many of you are already public
5 officers, either elected or appointed and I
6 want to stress to you that it is very important
7 for you to be conscious of your other
8 positions, too, because you are still going to
9 be subject to any sort of ethical requirement
10 that stems from other public positions that you
11 may or may not hold, whether they are found in
12 the legislative rule, statute or in local
13 rules.

14 Those ethical requirements that attach to
15 your other position do not simply go away
16 because you are now a member of the CRC.

17 Now, because you are a public officer and
18 a reporting individual required to file a
19 financial disclosure statement, there are a
20 number of ethical requirements that you should
21 be aware of if you are not already. We are not
22 going to have time to cover them all, but I do
23 want to highlight some, especially as they
24 relate to three different areas, gifts,
25 honorariums and expenditures.

1 There are certain types of gifts that are
2 prohibited. First, any gift that is based on
3 an understanding that your vote official action
4 or judgment will be influenced by such gift is
5 prohibited.

6 Second, there are certain types of
7 entities and people that you cannot solicit
8 gifts from. Namely, political committees,
9 lobbyists or the principle partner or firm or
10 employer of a lobbyist or from a vendor. But
11 be careful here because this is the gift law.

12 There is the expenditure ban which we will
13 talk about in a little bit, which basically
14 prevents you from accepting anything from a
15 lobbyist or a principle.

16 And lastly, there is also a prohibition
17 that was put into law back in 2013, that
18 prohibits you or an immediate family member of
19 yours from soliciting or accepting any gift
20 from a political committee. The definitions
21 are obviously important here, too.

22 Under this law gift there is defined as
23 something that does not have to do with
24 political activities and it is not authorized
25 by Chapter 106 of the Florida Election Code.

1 So obviously if something was authorized under
2 Chapter 106 it would be acceptable.

3 And now, and remember, too, that if you
4 pay for something it is not considered a gift.
5 However, you have to provide equal or greater
6 consideration, and if you pay for something you
7 obviously don't have to worry about these gift
8 prohibitions.

9 We will talk a little bit about
10 honorariums. An honorarium is simply a payment
11 for a speech, address or a writing other than a
12 book that relates to your official duties.
13 There is a prohibition on soliciting an
14 honorarium related to your public officer
15 duties.

16 Basically what that means is you cannot
17 ask people to pay you to give a speech about
18 the CRC. There is also a prohibition on
19 accepting an honorarium from a political
20 committee, a lobbyist or the partner of a firm,
21 employer or principle of a lobbyist or from a
22 vendor. You can't solicit honorariums from
23 these entities or individuals and you cannot
24 accept them either.

25 Normally if you are invited to speak

1 somewhere about the CRC, a group could pay for
2 what is known as your honorarium event related
3 expenses, your travel, your hotel, your meals,
4 but the one big exception to that is lobbyists
5 and principles. They cannot pay for your
6 honorarium event related expenses.

7 If a lobbyist or principle invites you to
8 a dinner event to speak about the CRC you can
9 go and you can speak, but you couldn't take any
10 payment for the speech. If there is a meal at
11 the dinner and you wish to partake in that, you
12 would have to pay for that meal and the
13 lobbyist or principle could not pay for any of
14 your travel expenses to that event either, like
15 your flight or your hotel.

16 Lobbyists and principles cannot pay for
17 anything and the reason they can't is because
18 of the expenditure ban.

19 So let's talk a little bit about lobbyists
20 and principles. So today on the state level if
21 somebody wants to lobby the Executive Branch or
22 the Legislative Branch they have to register as
23 Executive Branch lobbyist or they have to
24 register as a Legislative Branch lobbyist.

25 The same thing applies for people who want

1 to lobby the CRC. Under Section 112.321(5)
2 they have to register and whoever hires them to
3 lobby, their principle has to register as well.

4 The registration for those that want to
5 lobby the CRC is done with the Commission on
6 Ethics. It is the same as is done for
7 Executive Branch lobbyists.

8 This is important to you because back in
9 2006, the Legislature passed a series of ethics
10 reforms that included what is known as the
11 expenditure ban, and that ban is on knowingly
12 accepting directly or indirectly any
13 expenditure from a lobbyist or a principle.

14 This law, Section 112.321(5) specifically
15 bans you from taking any expenditure from a
16 lobbyist or a principle. So what is an
17 expenditure?

18 Well, in law it is defined very broadly.
19 Essentially anything of value. So this would
20 be dinner, transportation, lodging, some sort
21 of special discount that is not publicly
22 available, even down to a cup of coffee or a
23 bottle of water.

24 There are some exceptions to the
25 expenditure ban. For example, political

1 contributions, and there are other exceptions
2 for various ethics opinions where a lot of the
3 exceptions to the gift law have also been
4 applied to the expenditure ban.

5 If a lobbyist or a principle provides
6 anything of value for the purpose of lobbying,
7 and for the purpose of lobbying includes, it is
8 very broad, even seeking your goodwill then you
9 may not take it without paying.

10 Normally you have to pay fair market
11 value, but there are specific rules that have
12 been promulgated by the Commission on Ethics
13 that can help you with valuing certain items
14 like tickets and private transportation. But
15 it is important to remember with lobbyists and
16 principles, if you are going to make a payment,
17 the payment has to be made contemporaneously or
18 preceding your acceptance of the item of value.

19 Some -- some other ethical requirements
20 that are pretty straightforward. Public
21 officers and their spouses and children are
22 prohibited from accepting any compensation,
23 payment or thing of value when they know or
24 should know that it is given to influence your
25 voter or official action. This basically means

1 that you or your family members cannot take
2 something if you know it is being given to
3 influence with your official action.

4 Secondly, there is a -- there is a
5 prohibition on the misuse of your public
6 position, attempting to use your official
7 position or the resources thereof to obtain
8 some sort of special privilege or benefit for
9 yourself or others.

10 You can't misuse your position for your
11 own benefit or for the benefit of someone else.
12 And then lastly, public officers are prohibited
13 from disclosing or using information that is
14 not available to the public. You can't use
15 information not available to the public to
16 benefit yourself or others.

17 And finally, let's talk a little bit
18 disclosures. There are certain disclosures
19 that must be filed with the Commission on
20 Ethics because you are a member of the CRC. As
21 an appointed member of the CRC you must file
22 with the Commission on Ethics what is known as
23 a Form 1 limited financial disclosure and that
24 would be for the year 2016.

25 I would advise you to go ahead and file

1 that as soon as possible. The Form 1 is very
2 different and not as extensive as the Form 6,
3 full and public disclosure that if you are a
4 legislator or you are an elected constitutional
5 officer, those individuals still have to file
6 that because of their other position.

7 For example, with the Form 1 you are not
8 required to report amounts of income, just the
9 actual source of the income. If you have to
10 file a Form 6 for another position that you
11 hold, for example, if you are a member of the
12 Legislature, then you can go ahead and just
13 file that Form 6 and you don't have to file the
14 Form 1 on top of that, because the Form 6
15 provides more disclosure.

16 And then once you are finished serving on
17 the CRC, if you are not in some other position
18 that requires you to complete a financial
19 disclosure form, you have to file what is known
20 as a Form 1-F within 60 days after leaving
21 office. But this is only if you are not in
22 another position at the time you leave office
23 that requires you to fill out a financial
24 disclosure form.

25 And lastly is the Form 9 which is the

1 quarterly gift disclosure. This requires you
2 to disclose any permissible gift that you
3 received that is in excess of \$100. So any
4 gift that you receive that you can take
5 obviously, that is in excess of \$100 you have
6 to disclose that quarterly on a Form 9.

7 The biggest the exception here is that you
8 do not have to disclose gifts from relatives.
9 And also if you don't have anything to report,
10 then you don't need to file anything either.

11 Again, this is just a brief overview of
12 what the requirements are. I would encourage
13 you to familiarize yourself with all of the
14 public records and ethics requirements in law,
15 and of course, if you have any questions as we
16 go along as you serve on the CRC, feel free to
17 get with myself or another member of the
18 Commission staff, we would be happy to help you
19 as well.

20 Again, congratulations on your appointment
21 to this historic Commission and I wish you all
22 the best as you complete your work.

23 Thank you.

24 CHAIRMAN BERUFF: Thank you, Mr. Gibson.
25 My answer to that is, when it doubt, call him

1 or Mr. Woodburn, much faster.

2 Before we close I would like to go over
3 the schedule of public hearings we have
4 confirmed at this time.

5 On Wednesday, March 29th, we will be
6 meeting in Orange County. The venue and the
7 exact location will be sent to you in the next
8 few days.

9 On Thursday, April the 6th, we will be
10 meeting in Miami-Dade County. On Friday,
11 April the 7th, we will meet in Palm Beach
12 County. We will have more details and dates as
13 we move forward. Thank you.

14 Commissioner Cerio, you are recognized for
15 a motion.

16 COMMISSIONER CERIO: Thank you, Mr. Chair.
17 Thank you, Mr. Chair. I move that the
18 Commission adjourn.

19 CHAIRMAN BERUFF: Thank you. The motion
20 is made. We stand adjourned without objection.
21 Thank you very much.

22 The Commission is now adjourned.

23 (Whereupon, the proceedings were
24 concluded.)

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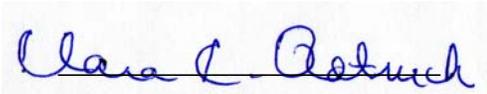
STATE OF FLORIDA)
COUNTY OF LEON)

I hereby certify that the foregoing transcript is of a tape-recording taken down by the undersigned, and the contents thereof were reduced to typewriting under my direction;

That the foregoing pages 2 through 68 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 24th day of May, 2018.



CLARA C. ROTRUCK
Notary Public
State of Florida at Large
Commission Expires:
November 13, 2018
Commission NO.: FF 174037