

JANUARY 9, 2001 – REGULAR MEETING

The Board of County Commissioners, Walton County, Florida, held a Regular Meeting on Tuesday, January 9, 2001 at 9:00 A.M. in the Boardroom of the Walton County Courthouse.

The following Board members were present: Commissioner Tim Pauls, Commissioner Larry D. Jones, Chairman Herman L. Walker, Vice-Chairman Lane Rees and Commissioner Gene Ryan. Ms. Shirl Williams, Administrative Supervisor, Attorney George R. Miller and Ms. Martha Ingle, Clerk of Courts, were also present.

Commissioner Pauls led with prayer following the Pledge of Allegiance to the American Flag.

Chairman Walker called the meeting to order.

Ms. Patti Yates, Finance Supervisor, presented the Expenditure Approval List consisting of the following bills for payment:

General Fund	\$446,456.75
County Transportation Trust	33,857.67
Fine & Forfeiture	615,944.66
N. W. Mosquito Control	1,038.90
Walton-DeFuniak Library	7,072.54
Solid Waste Enterprise	86,788.03
Mossy Head VFD	838.47
Glendale VFD	326.47
Darlington VFD	1,037.46
Liberty VFD	220.86
Red Bay VFD	7,677.41
Tourist Development Council	34,800.60
Section 8 Housing	30.78
Mosquito Control State	1,453.05
Capital Funds Project	148,958.30

Discussion was held regarding payment to the Medical Examiner. The Commissioner requested Ms. Williams to research the details of billing and report back to

the Board. Invoices for the Governmental/Education Center were also questioned. Mr. William Imfeld, Financial Director, advised that he has been reviewing all invoices submitted for that project, which appears to be 10-15% complete. Chairman Walker voiced concern with the 7% contract fee and possible duplication of costs.

Mr. Imfeld stated that no departments can spend over and above their budgeted line items without Board approval. If a line item change is requested, an explanation must first be given.

Motion by Vice-Chairman Rees, second by Commissioner Pauls, to approve payment of bills as presented on the EAL. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

The Commissioners welcomed Ms. Ingle as the newly elected Clerk of Courts.

Mr. Imfeld updated the Board on the status of the fuel bids stating that their goal is to provide one-stop fuel service for the entire county. Waller's Inoco, DeFuniak Springs, and Curt Miller Oil Company, Bonifay, submitted the only two bids. After careful analysis Mr. Imfeld recommended award of the fuel bid to Waller's Inoco, overall low bidder. He advised that they are licensed and have the capabilities to perform the job.

Discussion was held regarding the fluctuating cost per gallon during the year. Waller's bid was submitted on a fluctuating market price, whereas Curt Miller submitted their cost on a locked in price. Concerns were voiced regarding rising fuel prices and the ability to provide the commodity with the fluctuating market.

Mr. Glen Williamson, Owner of Waller's Inoco, assured the Commissioners that they are able to deliver the fuel and reiterated the fact that his bid was submitted based on

a daily rack price with a percentage markup cost. He stated that daily rack prices could be verified by the county for assurance that they are paying the correct prices.

Commissioner Ryan advised that a vendor couldn't be locked into a fixed rate due to the ever-changing market and the possibility of him not being able to perform. The Commissioners agreed that it would be appropriate to go with the daily rack price in addition to a percentage. Mr. Imfeld will review the bid to clarify if it was bid on a flat fee or with a percentage. He will report back to the Board at a later date.

Mr. Imfeld updated the Commissioners on the status of the air conditioning unit at the Agricultural Building. After contacting vendors to verify why no bids were submitted, it was determined that the companies would only sell the equipment if they would be allowed to install it due to possibly voiding the warranty. Mr. Imfeld advised that he was able to obtain three quotes for the purchase of the equipment only and the county would install it. Air Conditioning & Heating of Santa Rosa Beach submitted the low bid in the amount of \$49,825.00.

The Commissioners questioned the possibility of purchasing the equipment directly from the manufactures. Mrs. Kathy Elswick, Purchasing Secretary, advised the Board that Trane was contacted, however they were also concerned with voiding the warranty if they did not perform the actual installation. The Commissioners requested Mr. Imfeld contact other manufacturers to see if they are willing to sell equipment only and evaluate the costs versus buying it and allowing them to install it with a maintenance agreement.

Mr. Imfeld presented the following three quotes for the purchase of material for construction of dune walkovers as requested by Tourist Development Council. Franks

Cash & Carry - \$6,996.46; Southbay Ace Hardware - \$8,745.42; Hodges Brothers Lumber - \$7,026.74.

Motion by Vice-Chairman Rees, second by Commissioner Jones to accept the low quote from Franks Cash & Carry in the amount of \$6,996.46. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

The following quotes were submitted for the purchase of 250 rolls of silt screen: John M. Warren - \$4,562.00 and Merlin Callahan - \$4,625.00. Mr. Imfeld stated that the Department of Transportation is requiring the installation of the silt screen and requested to award the quote to the low bidder.

Motion by Commissioner Pauls, second by Commissioner Ryan to award the low quote to John M. Warren in the amount of \$4,562.00 for the purchase of silt screen. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Imfeld presented a resolution to amend \$181,440.00 into the budget for unanticipated revenues received from the State of Florida, Department of Community Affairs, CDBG Drought Relief grant. These funds are for well drilling.

Motion by Vice-Chairman Rees, second by Commissioner Ryan to adopt a Resolution (2001-01) accepting \$181,440.00 of unanticipated revenues from the State of Florida. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mrs. Angie Biddle, Grants Coordinator, addressed the Commissioners regarding the nine bids she received for the installation of private wells under the CDBG Drought Relief grant. Mrs. Biddle requested that a Building Inspector, or someone qualified, be directed to work with her to insure that the necessary equipment has been installed and working properly. Of the nine bids, Leavins-Hughes Well Drilling submitted the low bid

at a cost of \$1,945.00 base price and \$4.70 per foot over 100'. Ms. Biddle recommended awarding the bid to Leavins-Hughes Well Drilling, low bidder.

Motion by Commissioner Jones, second by Commissioner Ryan to award the bid to Leavins-Hughes Well Drilling, low bidder, in the amount stated. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Williams advised the Commissioners that she is relocating the Grants Department (Mrs. Biddle) to the purchasing building and will be under the supervision of Mr. Imfeld. The Board concurred.

Upon request of Chairman Walker, the Board approved travel for Mr. Imfeld to attend the Florida Governor's Hurricane Conference along with the Sheriff in order to acquire proper requirements to obtain funding for disasters.

Mr. Ronnie Bell, Public Works Director, presented an invoice in the amount of \$5,000.00 from Choctaw Engineering, which reflects 50% of the costs for previously bid contract for surveying and wetlands mapping of the 40-acre site obtained from Waste Management.

Motion by Commissioner Pauls, second by Vice-Chairman Rees to approve payment to Choctaw Engineering in the amount of \$5,000.00. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Bell also presented an invoice from Three Rivers Recreation Conservation District Council in the amount of \$3,917.22.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to approve payment to Three Rivers Recreation Conservation District Council in the amount of

\$3,917.22, reflecting one-third of the cost on Wycoff Road. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Pauls, second by Commissioner Jones to approve the purchase of mounting brackets in the amount of \$3,524.00 from Municipal Supply and Signs for the Landfill. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Bell reminded the Commissioners that when they acquired the 40-acres from Waste Management last year, they also received the current permit for the closed Class III landfill. Monitoring tests of the water wells are required every six months according to the DEP permit. The County currently holds a contract with Severn Trent Services (formerly Savannah Laboratories) to perform these services at the landfill. Mr. Bell stated that the contract could be amended to include the monitoring at the 40-acre parcel on J.D. Miller Road at an annual cost of \$4,032.00. Monitoring would be performed on a semi-annual basis. Approximately 4-5 years remain on the current DEP permit. Attorney Miller stated that a request could be made for an early determination of release.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to approve amending Severn Trent Services' contract for an annual amount of \$4,032.00 to include well monitoring at the old J.D. Miller Landfill site that now belongs to the county. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Ryan, second by Vice-Chairman Rees to approve repairs in the amount of \$4,013.05 for repairs on the District 4 D3 Dozier. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Bell informed the Board that a date for a public forum has been set for February 10, 2001 at 2:00 P.M. to discuss Rosemary Beach Traffic Study and traffic related issues along CR 30-A in order to receive public input. Vice-Chairman Rees suggested holding the meeting in a neutral location for all parties involved. Mr. Bell will confirm the Tourist Development Council's Boardroom as the meeting place.

Motion by Commissioner Jones, second by Vice-Chairman Rees to waive the bid procedure and obtain quotes for the resurfacing of the parking lot at the Warren Building with approximately 187 tons of asphalt. Ayes 4, Nays 1. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Naye.

Motion by Commissioner Ryan, second by Commissioner Jones to waive the bid procedure and obtain quotes to pave the approaches to the Corbin Gainey Road Bridge, District 4, approximately 100' on each end. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Bell presented a Local Agency Program Agreement with the Department of Transportation for the bridge located on George Montgomery Road, District 1. The Bridge Crew can construct this bridge for approximately \$100,000.00 with reimbursement by DOT during their 2002 budget year in the amount of \$100,000.00. Mr. Bell recommended approval.

Motion by Commissioner Ryan, second by Vice-Chairman Rees to approve the Local Agency Program Agreement with the Department of Transportation. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Bell stated that he received a letter from Mr. Dan Trotman, Code Enforcement Officer, regarding a fence that has been erected at the Eastern Lake outlet to

the gulf. Concerns were voiced that the fence may be on county property. Mr. Bell requested approval for Attorney Miller and himself to look into the situation and to be allowed to proceed with having the fence removed if it is determined that it is on county property.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to approve for Attorney Miller and Mr. Bell to take the necessary action to have the fence removed if determined that it is on county property. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Commissioner Pauls stated that there can not be any obstruction within 50' of the outfall, which may even cause a problem with fences that are located on private property.

Mr. Bell presented a letter of resignation as submitted by Mr. Nelson Miner, County Engineer, and effective March 31, 2001 to pursue other career opportunities.

Motion by Commissioner Ryan, second by Commissioner Jones to accept Mr. Miner's resignation. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Vice-Chairman Rees encouraged Mr. Gary Mattison, Human Resource Director, to hold an exit interview with Mr. Miner.

Motion by Commissioner Ryan, second by Vice-Chairman Rees to allow Ms. Williams to work with Mr. Mattison to proceed with developing an up-to-date job description and begin the advertising process for the County Engineer position. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye. Vice-Chairman Rees wants to assure good communication is maintained and reiterated the value of looking at the organization and working with Analytica.

Any necessary engineering work would be subbed out to Hartman & Associates or Preble-Rish during the interim. Chairman Walker stated that he would like to hold an informational workshop with the Public Works Department before advertising for bids. He also stated that clear direction needs to be given to the newly hired engineer with specific duties.

Ms. Ingle brought to the attention of the Commissioners the Gasb 34, a Governmental Accounting Standard requiring that a value be placed on all infrastructure, paved roads, bridges and fixed assets in the county. Ms. Ingle requested to meet with Mr. Imfeld and Mr. Bell to discuss whom will be assigning the value or if a consultant needs to be hired. Chairman Walker asked that Commissioner Jones also work with Ms. Ingle on this issue.

Mr. Imfeld advised the Board that Gasb 34 requires a value be placed on assets for the past twenty years. Chairman Walker questioned how values could be placed on prescriptive right of ways. These individuals will meet to discuss the requirements and report back to the Board.

Chairman Walker stated that he received numerous letters regarding a company who is performing rock grinding on church property adjacent to their business. Ms. Williams stated that Code Enforcement has given them an allotted number of days to remove their business operations off of the church property along with a fine. Ms. Williams will send a memorandum to the Commissioners regarding the actions that have been taken.

Mr. Bell advised the Commissioners that he has sent memos to the department heads informing them that Ms. Suzie Adams, Safety Officer, will begin “workplace safety” for CPR instruction in January.

The Commissioners recessed briefly.

Ms. Williams presented an issue regarding the Walton County Humane Society. She stated that some members of the Board of Directors have voiced their opinion that they do not want to purchase the Lang property as their new site.

Mr. Gerald Wilkerson appeared before the Commissioners and stated that several members, Alice Becker, Sandra Holm, Inge Clark and himself, submitted letters to the Board as citizens stating that they do not want to purchase the Lang property. Citizens have voiced their opinion that they want a more centrally located facility and stated that they also have concerns with the purchase cost. Mr. Wilkerson suggested that the Humane Society reorganize their Board of Directors and adopt new bylaws, as the current ones are not being followed. Ms. Clark concurred with his comments and stated that they are not holding monthly meetings as stated in the bylaws. Commissioner Ryan questioned if the Commissioners have any jurisdiction over their Board. Attorney Miller advised that the County gives funds to the Humane Society and only have authority to assure they are being spent in a proper manner. He stated that interaction between the Humane Society and the County should be handled through the agreement.

Mr. Wilkerson contends that they were not told they were going to be removed from the Board of Directors and have not even been notified, however, they have heard through other sources that they have been removed. The Commissioners agreed that the 1988 contract should be updated.

Motion by Commissioner Jones, second by Commissioner Pauls to request all items of business relating to Ordinance 87-8, including financials for the past two years, be presented to the Commissioners for review. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Imfeld advised that the Humane Society was requested to present quarterly financial statements to the Commissioners during this budget year and have not done that thus far.

Motion by Commissioner Jones, second by Vice-Chairman Rees to request a report to be presented by the February 23<sup>rd</sup> Board meeting, from the Humane Society on their process for following the bylaws set forth. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye. Attorney Miller will contact the Humane Society's attorney, Mark Davis, for a report.

Ms. Alice Becker, member of the Board of Directors, stated that she does not feel they are being heard as board members. They have requested financial statements for people who have made donations and were refused.

Staff Attorney, Jonathan Walker, addressed the issue regarding the City's lease option at the health department that would allow expansion of their facilities. Mr. Mike Standley, City Manager, explained that they currently lease a parcel to Walton County and they are requesting to amend the lease to include only the portion of property that the county utilizes. This would allow them the additional space they require.

Motion by Vice-Chairman Rees, second by Commissioner Jones to amend the property lease between the County and the City of DeFuniak Springs for property located behind the health department. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees

Aye, Ryan Aye. The county's retention pond will remain on that portion being leased by the county.

Mr. Standley agreed to consider amending the lease for a 10-year period at the time of renewal.

Attorney Walker introduced Mr. Jonathan Hughes who addressed the Board regarding his agreement for the placement of benches at the previous trolley stops. Mr. Hughes explained that he has invested \$10,500.00 and now looking for a way to recoup his funds due to the termination of the trolley service. He stated that he had spoken with the District 5 Secretary who suggested that the Tourist Development Council might be interested if he would contact them, however, he has not yet contacted them. Vice-Chairman Rees stated that he would place this item on the TDC's agenda for discussion.

Attorney Miller asked for a reasonable time for Mr. Hughes to remove the benches for liability reasons. He stated that 30 days would be sufficient. The Board agreed to allow Mr. Hughes 60 days to have the benches removed.

Attorney Walker presented a contract between District 3 and Mossy Head Water Works for the new location of the District 3 Road Office. The contract was also amended from four to eight years. Attorney Miller requested the contract also include that they hold a clear title to the property.

Motion by Commissioner Jones, second by Commissioner Pauls to approve the contract with Mossy Head Water Works for the relocation of the District 3 Office. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Williams advised the Commissioners that county staff visited the home site located on Whitfield Road regarding the request for release of lien for the mother to give

her daughter one-half acre to construct a home. Ms. Williams stated that staff does not feel the property is worth \$25,000.00 and recommended granting the release allowing an opportunity for an individual to build her home.

Motion by Commissioner Jones, second by Commissioner Ryan to accept staff's recommendation and grant the release. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Williams requested clarification regarding information presented by Mr. Matt Douglas, EMS Director, during the December 12<sup>th</sup> meeting. Mr. Douglass requested authorization to advertise for bids to remount two chassis' and no action was taken.

Motion by Commissioner Ryan, second by Commissioner Pauls to approve to advertise for bids (#00-42) for the remounting of two EMS chassis. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Williams presented Ms. Kassy Keyes' contract for lobby services at a rate of \$5,000.00 per month plus expenses. The contract is for a four-month period and an increase of \$2,000.00 per month.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to advertise for requests for proposals (RFP's) for a lobbyist to represent Walton County. Ayes 4, Nays 1. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Naye.

Ms. Williams presented appraisals on four properties to be acquired through the Hazard Mitigation Grant. If accepted, the county would then make an offer to the owners.

Motion by Commissioner Jones, second by Commissioner Ryan to accept the appraisal and proceed with making an offer to the owner. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Vice-Chairman Rees complimented staff for being consistent with the items they are placing on the agenda.

Discussion was held regarding installation of new hot water heaters at the Sheriff's Department. Mr. Toby Prater will install the equipment and the Sheriff's Department will be responsible for related costs.

Ms. Ingle requested to work with Ms. Williams and Mr. McMillian to relocate an employee out of the basement due to safety issues. Chairman Walker stated that he would be glad for her to coordinate with Board staff.

Ms. Ingle also requested clarification if the Clerk will serve as the records liaison for all constitutional officers at the records facility building or only for the finance and Clerk's Office. Shirl recommended that the Clerk be in charge of all records. Ms Ingle stated that she would be sending a letter to all the departments notifying them of the procedures that need to be followed.

Mr. Bell advised the Commissioners of a storm water problem on Quail Ridge Road. He stated that he met with Attorney Allen Ramey and Mr. Gaston, owner. Mr. Bell stated that the county needs a 10' drainage easement and have come to a solution with the owner for the county to place a drop inlet plus a piping system.

Motion by Commissioner Ryan, second by Commissioner Jones to approve to accept the 10' drainage easement. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

The Commissioners recessed until 5:00 P.M.

Chairman Walker reconvened the meeting at 5:00 P.M. in the auditorium of the Butler Elementary School.

Mr. Alex Alford, Clerk of Courts MIS Director, presented the need for eight (8) additional dial-up lines. The estimated cost for this is \$5,316.00.

Motion by Commissioner Ryan, second by Vice-Chairman Rees to approve the recommended upgrade. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Alford also requested authorization to upgrade the countywide e-mail service at a cost of \$4,999.00. The upgrade is necessary due to the uncertainty of the current system.

Motion by Commissioner Ryan, second by Commissioner Pauls to approve the purchase of an e-mail server and software. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Attorney Miller reported on the Brown Versus Walton County case for wrongful termination against the county in 1993. The case has been appealed in the District Court of Appeals several times and was also subject to a federal lawsuit, which was dismissed. Mr. Miller stated that he received an order from the Appellate Court dismissing the case for lack of jurisdiction. He is uncertain if this is final or if it can be appealed any further.

Mr. Miller reminded the Board that he would be in Tampa on Thursday regarding the GRIT worker's compensation bankruptcy hearing.

Motion by Vice-Chairman Rees, second by Commissioner Jones for all Commissioners to attend the New Commissioner's Workshop on February 2<sup>nd</sup> in Destin given by the Florida Association of Counties at a cost of \$98.00 per person. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to conduct the quarterly staff meeting in South Walton, as well as the quarterly meeting, in the Tourist Development Council's Boardroom unless the topic of discussion is controversial. If so, they could relocate to Butler Elementary for the regular portion of the meeting. Ayes 5, Nays 0.

Vice-Chairman Rees also stated that due to the growth in South Walton he would like to entertain the idea of holding meetings more frequently than once per quarter in South Walton and possibly begin holding meetings in various districts in order to get better public representation from the different areas. No action was taken at this time.

Chairman Walker called to order the advertised public hearing to consider the TOPS'L DRI Notice of Proposed Change, which was tabled from December 12, 2000.

Attorney Jessie Rigby appeared on behalf of the Development of TOPS'L. Mr. Rigby stated that this is the first request for an extension to the build out date and being less than five years; it is not a substantial deviation, by law. He referenced the Killearn Properties Case and stated that if the Local Government Development Order contains a build out date, then the date must arrive from the terms of the development order itself. He believes that the TOPS'L case is identical and should be treated as such. He submitted a prepared motion on behalf of the Commissioners that provides for the amended adoption of the development order determining that there is no substantial deviation. He also prepared an alternative motion.

Commissioner Ryan questioned Attorney Miller regarding no specified build out date in the original DRI and stated that in the information provided by Carlton Fields, they refer to a specific build out date. Commissioner Ryan voiced concerns regarding

traffic studies and capacity. Mr. Rigby addressed traffic issues and projections according to Engineer studies. Commissioner Pauls stated that the only issue is whether or not this extension request is in fact an extension and if that constitutes a substantial deviation. Mr. Rigby stated that in his opinion this is the first extension to the build out date and is less than five years; therefore not a substantial deviation.

Attorney Rigby stated that the issue is a question of vesting on height on the remaining development on one interior parcel, which is 15 units. He stated that he believes they will not lose that vesting and have to drop to 4 stories.

Attorney Rigby stated that the county took the position in 1990 that there had been a build out date. The county then included in the ordinance two sentences “the change requested is to extend the build out date off the development from 1996 to December 30, 2001”. “All the statements contained in the notice or in the notification (notification of proposed change) are incorporated herein by reference as amended development order conditions.”

Attorney Michael Donaldson, Carlton Fields Law Firm, disagreed with Mr. Rigby and stated that the development order issued in 1994 was to extend the build out date to the December 2001 date. Mr. Donaldson reviewed certain events that have occurred over a 16-year period leading to an extended build out date, which is a substantial deviation. He stated that the only traffic issues addressed were concurrency. Other issues not addressed are hurricane evacuation, utilities, and other infrastructure. Mr. Donaldson asked for this issue to go through further review.

Attorney Amy Perry, Pleat and Associates, appeared before the Commissioners representing The Summit who also opposes the extension of the build out date. She also

stated that Ordinance 94-5 requests to “extend” the build out date, which makes this the second request; therefore a substantial deviation.

Ms. Nancy James, South Walton Community Council, urges TOPS’L to comply with the substantial deviation application process to quantify the developments impact with updated projections regarding traffic, evacuation and other infrastructure.

Vice-Chairman Rees stated that traffic, hurricane evacuation and utilities are important concerns and he also has additional concerns that relate to the 4-laning of Highway 98.

Commissioner Pauls believes that this is an extension but not his intention to change the requirements of the DRI to decrease the development from 15 stories to 4 stories. He feels that it would be beneficial to go through the review process that a substantial deviation requires, but does not feel that the vesting right for a 15-story unit should be taken away.

Motion by Commissioner Ryan, second by Commissioner Jones to find this as a substantial deviation and require them to go through the review process. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Attorney Rick Peterman, representing Treasure Island Marina, gave an overview of the proposed business and stated that they will provide service for what they sell. Projected revenues are about 97% from sales and 3% from repairs. Mr. Peterman advised that his client has addressed the noise allegations and agreed to limit the amount of noise generated during certain times of the day. Mr. Peterman stated that under the Land Development Code, this would qualify as a quasi-judicial hearing.

There was not an attorney representing the opposing side, therefore, Attorney Miller recommended appointing a spokes person and the remaining people would be sworn in as witnesses in order to testify.

Mr. Mike Judkins requested that Attorney Miller recuse himself and asked for this issue to be heard at another time designating a time for this topic only. Mrs. Shari Judkins will be the spokes person. She asked for a response from the Commissioners regarding the requirement of sign posting. She stated that signs were never posted regarding the proposed project. Mrs. Latilda Henninger, Planning Director, stated that Treasure Island Marina was already in process before the sign requirement was adopted. The Board recessed this issue to allow Planning Staff to research the date of adoption versus the application date for Treasure Island Marina.

Ms. Michelle Lach, Students Working Against Tobacco (SWAT), introduced a group of students participating in SWAT. John Alexander, Walton High School, addressed the Commissioners regarding the purpose of the SWAT team and stated their purpose is to prevent the use of tobacco among youth. Each of the seven students present addressed the Commissioners regarding their role in SWAT. The group thanked the Board for allowing them to speak and invited them to attend of their meetings.

Mrs. Latilda Henninger stated that the modification to the lettering size was adopted October 10<sup>th</sup>.

Chairman Walker opened the quasi-judicial hearing and Mrs. Henninger repeated the information stating that due to the lettering not adequately fitting on the size of the board the modification was adopted October 10<sup>th</sup> and the sign-posting requirement was adopted approximately one month before that modification.

Mrs. Judkins presented her opening statement by saying she or the neighbors are not aware of any signed statements by themselves as previously stated by Attorney Peterman. She stated that it was not right placing Eric Gurr as the spokesperson for the entire neighborhood and concluded by stating the Attorney Miller is in conflict and should be representing the county in this issue and defending the county's codebooks.

Attorney Peterman called the following witnesses to be sworn in: Mr. Jack Dorman, Mr. Jimmy Todd, Mrs. Amy Lemay, Mr. Ted Davidson and Mrs. Latilda Henninger. Being sworn in for the opposing side was Mr. William Bard, Mr. Mike Judkins and Mrs. Dana Odom. Each of these individuals was sworn in by Chairman Walker and Attorney Peterman requested to invoke the rule of sequestration. Mrs. Judkins was excluded from the rule.

The Commissioners recessed briefly in order to hear other matters.

Ms. Chris Zajicek, USDA Forestry, appeared before the Commissioners to update the new commissioners on the status of the Mossy Head property exchange. She stated that she is well pleased with the progress and advised that the average exchange normally takes a minimum of three years. Ms. Williams advised that St. Joe has granted a six-month extension until June 30. Ms. Zajicek advised that the exchange is based on a value for value exchange as established by the state appraisers. They are in the process of accepting public comment, which is open until January 31. She stated that the Forestry Supervisor will be visiting the Mossy Head property site on January 16 and invited the Commissioners to also attend.

Chairman Walker voiced concerns with the cost of acquiring the property as they continue to escalate and suggested not having a third updated appraisal performed until near the final completion date to avoid duplication of costs.

Commissioner Ryan stated that he is also concerned with the escalating costs, however, feels that the potential uses for the land far outweigh the cost.

Commissioner Pauls stated that he would like to move forward with the exchange.

Chairman Walker called back to order the quasi-judicial hearing regarding Treasure Island Marina. Both sides agreed to withdraw the rule of sequestration.

Attorney Peterman called Mrs. Henninger, Planning Director, and presented exhibit A, a memo dated June 5, 2000 from Ken Shannon, Planning Technician, to Ms. Shirl Williams and read it into record. The exhibit was admitted into record. Exhibit B, a memo dated June 21, 2000 from Latilda Henninger to Attorney Miller, was presented with no objections and admitted into record. Exhibit C, a letter dated July 19, 2000 from Attorney Miller to Latilda Henninger, was presented. Ms. Judkins objected because Mr. Miller wrote the letter and feels that he should rescind the letter because she feels it is not true. The Commissioners allowed Exhibit C to be admitted into record. Attorney Peterman proceeded to question Mrs. Henninger.

Mrs. Judkins presented exhibit 1, minutes from the June 15, 2000 Planning Commission Meeting. Attorney Peterman objected due to the records containing handwritten notes on them. Chairman Walker overruled and allowed it because the notes do not compromise the contents of the documents. Mr. Peterman objected because they contain hearsay. Exhibit 1 was admitted into record. Mrs. Judkins proceeded with questioning Mrs. Henninger. Mrs. Judkins stated that the minutes of the Planning

Commission reflect that staff strongly suggests the Planning Board obtain a legal opinion on the noise ordinance issue before making a recommendation to the Commissioners, which she attests was not done. Mrs. Judkins questioned why some projects are sent for a determination of suitability and not others. Mrs. Henninger stated that it is for the purpose of receiving additional feed back, not a code requirement.

Mrs. Judkins requested the current Land Development Code and the August 23, 1999 Comprehensive Planning Book be admitted into record advising of conflict between them. Mrs. Henninger stated that when in conflict, she makes her final decision based on the language in the Comp Plan. Vice-Chairman Rees questioned why the Land Development Code has not yet been amended. Mrs. Henninger stated that it was due to time restraints. Commissioner Pauls questioned Mr. Peterman about the agreement. He stated that he has the agreement and neighbors have not signed it. Commissioner Ryan stated that he recalls the Board previously approving the agreement with Treasure Island Marina based on the adoption of a noise ordinance with a decibel level. Mrs. Henninger agreed that the categories should be more clearly defined.

Mr. Peterman called Mr. Jack Dorman, Growth Management Consultant. Mr. Dorman stated that he has prepared 16 Comprehensive Plans for various counties and local agencies in addition to 11 Land Development Code Books. Attorney Peterman requested that Mr. Dorman be allowed to testify as an expert witness. Chairman Walker allowed the request. Mr. Dorman reviewed Rule 9J5, which states the rules of the local comprehensive plan. Mr. Peterman presented exhibit E, a portion of Rule 9J5, and asked the Commissioners to take judicial notice of Rule 9J5, noting that the Commissioners don't have to be aware of the entire document. Exhibit D, Land Development Code

definition of “Commercial”, was also presented under judicial notice. Exhibit F, Webster’s definition of “Retail” was admitted into record along with Exhibit G, dictionary definition of “Service”.

Attorney Peterman questioned Mr. Dorman if Treasure Island Marina was properly classified. Mr. Dorman stated that it was according to the language of the Walton County Comprehensive Plan.

Mrs. Judkins called Mike Judkins for questioning and entered Exhibit 1, minutes of the June 15, 2000 Planning Commission Meeting and Exhibit 2, minutes of the Planning Commission Meeting July 20, 2000, which were both admitted into record. Mrs. Judkins continued admitting Exhibits 3 through 19 for the record. After objections to various documents Chairman Walker admitted the exhibits into record.

Mrs. Amy Lemay, representing Treasure Island Marina, was called on to testify. Mrs. Lemay stated that all property owners within 300’ were notified. Mrs. Henninger stated that all of the postal return receipt cards were reviewed at the Planning Commission Meeting.

Mrs. Dana Odom was asked to testify and she stated that she is an adjoining property owner and did not receive any notification, but had only purchased her home approximately nine months ago.

Commissioner Ryan stated that a determination should be made as to the proper classification for Treasure Island Marina. Mrs. Odom stated that they don’t want the noise level any higher, don’t want light in their back yard and wants limitations on the hours of engine testing.

Mrs. Judkins called Mr. Bill Bard who stated that the Treasure Island Marina was voted on by the Board of County Commissioners with faulty understanding of restriction in the Coastal Center.

Attorney Peterman presented his closing argument by stating that the Comprehensive Plan is the controlling document and Treasure Island Mariana is a retail service as the Plan states.

Mrs. Judkins stated that Coastal Center is primarily residential and Treasure Island Marina does not fit in this category and asked that the previous vote be rescinded.

Attorney Miller stated that the evidentiary hearing can be concluded and then the Board can make their final decision within 10 days providing the findings and facts and conclusion of law with final presentation to both parties. The findings will be presented publicly upon determination. The Commissioners agreed that they are prepared to render their final decision this evening.

The Commissioners recessed briefly before rendering their decision.

Attorney Miller stated that the Board is to take into consideration the Planning Commission's recommendation, either in favor or in opposition. The Commissioners questioned the current status of the previous motion approving the project based on the adoption of a noise ordinance. A noise ordinance has not yet been drafted successfully.

Motion by Commissioner Ryan to accept the recommendation of the Planning Commission removing the reference to the noise ordinance as presented previously. The motion died for the lack of a second.

Vice-Chairman Rees stated that the various definitions of service and commercial should be more clearly defined, however Highway 98 is a major thoroughfare even though that particular area has been zoned Coastal Center.

Commissioner Pauls stated that a problem exists with inconsistencies in staff opinions. Another problem is that the category that the proposed project falls within was removed. He stated that he would like to see this project denied based on the current standing with a caveat that does not require the applicant to wait a year before resubmitting their project.

Ms. Williams stated that Planning Staff is currently working on further defining all categories. Consideration to adopt an ordinance amending the Land Development Code would take approximately 60 days.

Motion by Commissioner Pauls, second by Vice-Chairman Rees to deny the Treasure Island Marina project with a caveat that the applicant does not have to wait one year before resubmitting their application and approve to waive the application fee. Ayes 3, Nays 2. Pauls Aye, Jones Aye, Walker Naye, Rees Aye, Ryan Naye.

Commissioner Pauls stated that action needs to be taken to clean up the code books.

Attorney Miller recommended the Board adopt an order presenting the findings and facts that the applicant failed to establish by substantial and competent evidence the entitlement to create a boat sales and service business at this location. The facts read inconsistencies with county staff as to the interpretation of the Comprehensive Plan and Land Development Code. The evidence shows that compliance with the Board of County Commissioners previous motion was not complied with, therefore ordered that the

Planning Commission's recommendation is denied because the proposed business is not authorized by the Walton County Land Development Code. The one-year period for reapplication is hereby waived along with the application fee.

Ms. Ingle presented an invoice from Twin Cities Hospital under the Health Care Responsibility Act for Mr. Ronnie Hubert. The request is to obtain prior approval for continuing surgery under indigent care and has been previously approved by the Walton County Health Department. Attorney Miller requested to review the request further. No action was taken. Vice-chairman Rees requested Ms. Ingle, Attorney Miller, and Ms. Carol Whited of the health department meet to further clarify these requests.

Vice-Chairman Rees presented recommended changes to the December 12<sup>th</sup> minutes.

Motion by Vice-Chairman Rees, second by Commissioner Jones to approve the minutes of November 28, 2000 and December 12, 2000 minutes with recommended changes. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Naye, Rees Aye, Ryan Naye.

Commissioner Jones presented discussion he had with Mrs. Virginia Cole, the new Director of the Emergency Operations Center, regarding the construction at the EOC Building, which is behind schedule. Mr. Jones stated that the county is the recipient of funds being received for the projects and wants to assure to protect the county's interest. Mrs. Cole stated that upon taking her position she discovered that the first quarterly report was late. She asked approval for the public works staff to work along with Mr. Bill Bishop, EOC, to coordinate the progress of construction. The Board agreed and Mr. Ken Little and Mr. William Imfeld will meet as well. Mrs. Cole stated that a six-month extension could be applied for if necessary.

Attorney Miller requested to meet with Mrs. Cole to discuss and review the current 911 Agreement.

Commissioner Ryan informed the Board that Mr. Tom Powell, Walton County Economic Development Council, is currently in the hospital and has undergone heart surgery.

Vice-Chairman Rees requested authorization to develop a dialogue with Sheriff Johnson regarding 911 and the Emergency Operations Center and also asked Ms. Williams to coordinate the meetings to allow Mr. Jimmy Helms, State EOC, to attend. Commissioner Ryan stated that he would like the construction of a work camp to be part of the discussions. Chairman Walker asked each Commissioner to prepare a list of concerns to present to Ms. Williams in order to allow the Sheriff the opportunity to study the issues before he meets with them.

Commissioner Pauls stated that he was appointed to serve on Beach Improvement and he already serves on Beach Nourishment, however, his main conflict is that he is unable to serve on the Tri-County Disadvantaged Transportation Board. Commissioner Ryan will serve on the Beach Improvement in place of Commissioner Pauls. Vice-Chairman Rees suggested finding out if the appointment to Tri-County has to be a Commissioner, otherwise he would like to make an appointment for that position.

Commissioner Pauls presented a proposed policy regarding new boards, agencies and committee members for review. He also presented a worksheet for review regarding travel reimbursement. Lastly, he presented comments regarding the need for a Parks and Recreation Director. Vice-Chairman Rees also voiced his support of that position. The Commissioners agreed to review all of these issues and discuss at a later date.

There being no further business, Vice-Chairman Rees motioned to adjourn at 11:00 P.M., second by Commissioner Jones. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

APPROVE: \_\_\_\_\_  
Herman L. Walker, Chairman

ATTEST: \_\_\_\_\_  
Martha Ingle, Clerk of Courts

Approved as amended January 23, 2001