

July 24, 2007-Regular Meeting

The Board of County Commissioners, Walton County, Florida, held a regular meeting on Tuesday, July 24, 2007 at 4:00 p.m., at the Walton County Courthouse in DeFuniak Springs, Florida.

The following Board members were present: Commissioner Kenneth Pridgen, Chairman; Commissioner Cindy Meadows, Vice-Chair; Commissioner Larry Jones, Commissioner Scott Brannon, and Commissioner Sara Comander. Mr. Ronnie Bell, County Administrator, Mr. Mike Burke, Interim County Attorney and Ms. Martha Ingle, Clerk of Court.

Commissioner Jones led the invocation followed by the Pledge of Allegiance to the American Flag. Chairman Pridgen called the meeting to order.

Commissioner Meadows noted that Resolution 2007-68 declaring July as recycling month will be advertised.

Mr. Bill Imfeld, Finance Director, stated that the transmittal letter did not include the approval of the agreement with DEP regarding the Lake Jackson FRDAP grant project. He asked the Board to approve the agreement along with the resolution to amend the budget for grant revenues.

Motion by Commissioner Meadows, second by Commissioner Brannon, to approve the consent agenda consisting of the items below. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Approve Consent Agenda

1. Approve Expenditure Approval List (EAL)

General Fund	\$ 1,689,236.41
County Transportation	\$ 173,877.85
SHIP	\$ 34,148.00
Fine & Forfeiture	\$ 94,024.34

Debt Service Hospital	\$	-
Mosq. Control State	\$	-
Mott Sign Grant	\$	-
Section 8 Housing	\$	412.52
Tourist Dev. Council	\$	118,754.99
N.W. Mosquito Control	\$	511.23
W. Co. Library	\$	15,936.67
Tax Deed Surplus Trust	\$	-
Recreation Plat Fee	\$	397,582.04
Public Safety- 911	\$	5,174.14
Solid Waste Enterprise	\$	816.08
Mossy Head VFD	\$	-
Glendale VFD	\$	75.00
Darlington VFD	\$	-
Red Bay VFD	\$	-
Preservation	\$	-
Sidewalk Fund	\$	-
Local Option Gas Tax	\$	-
Special Law Enf. Trust	\$	-
Driftwood Debt Service	\$	3,000.00
Criminal Justice Ed Fund	\$	-
Bldg Dept/Enterp. Fund	\$	1,866.22
Capital Projects Fund	\$	471,862.48
Imperial Lakes MSBU	\$	885.00
<b>Totals</b>	\$	<b>3,008,162.97</b>

2. Approve Minutes: June 28, 2007 – Special Meeting and July 11, 2007 – Special Meeting
3. Approve Resolution 2007-64 to amend the budget for unexpended non-ad Valorem Judicial Furnishing Funds for the new Courthouse
4. Approve Resolution 2007-65 to amend the budget for unexpended non-ad Valorem Court Technology Trust Funds
5. Approve Resolution 2007-66 to amend the budget for excess revenues from additional court surcharges
6. Approve Resolution 2007-67 to amend the budget for grant revenues from DEP for the Lake Jackson FRDAP grant project
7. Approve to surplus equipment as requested by the Clerk’s Office
8. Approve Resolution 2007-68 declaring July as Recycling Month

Mr. Bill McRae, Paxton City Council, thanked the Board and county staff for the assistance in obtaining the Lake Jackson grant.

Mr. Brad Alford, Parks and Recreation Manager, requested the Board grant to Evergreen Landscaping & Maintenance, LLC the irrigation project for Douglass

Crossroads Park. Evergreen Landscaping & Maintenance, LLC was the lowest bidder at \$15,264.75. Mr. Alford stated the money will be taken out of the District 1 Plat Fees. Commissioner Brannon stated the services were for irrigation to maintain the existing foliage.

Motion by Commissioner Brannon, second by Commissioner Meadows, to award the project to Evergreen Landscaping & Maintenance, LLC. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Ronnie E. Bell, County Administrator presented a request from Sam Shine Foundation, Inc. to re-convey the property recorded in Official Records of Walton County, Florida Book 2632, Page 2743 by Quit Claim Deed. The 20 acres had been previously donated to Walton County to be used for the Walton County Animal Shelter.

Motion by Commissioner Jones, second by Commissioner Comander, to approve the re-conveyance of Sam Shine Foundation, Inc. property. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell presented to the Board a request from American Cancer Society (ACS) to use the South Walton Courthouse Annex parking lot on September 29, 2007 for a Fall Festival to raise money and promote awareness of the ACS's Relay for Life.

Motion by Commissioner Meadows, second by Commissioner Brannon, to approve the use of the South Walton Courthouse Annex parking lot by the American Cancer Society. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell requested the Board approve an Interlocal Agreement for Governmental Services between the City of Paxton and Walton County for upkeep and maintenance of the Paxton ballparks and facilities supporting the ball fields.

Motion by Commissioner Comander, second by Commissioner Brannon, to approve the agreement as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Ken Little, Citizens Services Director, received a request from the West Florida Regional Planning Council to continue the administration of the Walton County SHIP program.

Motion by Commissioner Comander, second by Commissioner Brannon, to approve the request as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell gave an update on the progress of the DFS All Stars. The team has won the district tournament and the sectional tournament. He stated that donations were being taken to provide meals and lodging. Mr. Bell said the team will be playing in the State playoff this weekend.

Mr. Aaron Warren, Assistant County Engineer, Public Works Department, presented to the Board an update on the status of Waste Management's new yard waste collection. Mr. Rory Cassidy, Government Affairs Manager of Waste Management, stated that Waste Management has added new trucks and Saturday service to better serve Walton County.

Mr. Warren presented Public Works recommendation to approve the Professional Services Contract with Tetra Tech to satisfy the Water Quality Grant application.

Motion by Commissioner Jones, second by Commissioner Meadows, to approve the agreement as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Mike Shaffer, FDEP, distributed photos of the area that will be improved in the Oakwood Hills Subdivision.

Commissioner Brannon asked if re-application was required to continue to receive monies from this grant. Mr. Drew Kendall, EPA Grants Coordinator, stated these grants, also known as Section 319 grants, refer to the clean water act. He stated that annual application is required. Mr. Kendall stated the application should be submitted to the DEP in Tallahassee. The FDEP will then submit the application to the DEP office in Atlanta.

The issue regarding the alignment of personnel and resources to address maintenance needs was pulled from the agenda.

Mr. Allen Brown, Public Works Department, requested the Board approve the Developer Agreement/Road Extension for Macedonia Church to allow the developer to improve thirty feet of county right of way and include it in a sixty foot county specifications roadway. The Florida Department of Transportation deeded the route to the County to allow the developer utilization as a public roadway.

Motion by Commissioner Brannon, second by Commissioner Meadows, to approve the Developer's Agreement as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

The issue regarding the visioning for Kellogg and Hogtown Bayou properties was pulled from the agenda.

The issue regarding the OC's Towing case was pulled from the agenda.

Mr. W. C. Henry, Office of the County Attorney, requested two actions on behalf of the Planning Department in regards to coastal armoring permits. Mr. Henry requested approval of Resolution 2007-69 concerning a \$5,000 deposit paid to the county by applicants for coastal armoring permits to defray cost of services of a coastal armoring expert. He stated that paragraph 3c had been changed to state that the armoring expert would cease work if he finds the work exceeding the \$5,000 deposit imposed by the resolution. The county would then inform the applicant and collect an additional deposit to allow the expert to proceed.

Mr. Henry requested the Board approve an agreement with Dr. Dean to provide services as an expert on coastal armoring structures. He stated that sections 3 and 5b of the agreement will reflect the changes made in the resolution.

Motion by Commissioner Jones, second by Commissioner Comander, to adopt Resolution 2007-69 with changes as recommend by Mr. Henry. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Motion by Commissioner Comander, second by Commissioner Brannon, to approve the agreement with changes as recommended by Mr. Henry. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Commissioner Meadows presented to the Board the application for designation of Highway 30A and connector roads as Florida Scenic Highways.

Motion by Commissioner Meadows, second by Commissioner Brannon, to authorize the Board Chairman to sign the designation application for the Florida Scenic

Highway designation of Highway 30A and connector roads. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Commissioner Comander stated that Mr. Randy Lingerfelt, District 4 Road Foreman, reported 30 road signs, including 2 stop signs, had been stolen off of Coy Burgess Loop. Commissioner Comander stated according to FS 812.014 it is a felony to remove stop signs. The other commissioners stated that signs had also been stolen from their district. Mr. Bell stated that charges would be brought against the individual(s) involved.

Commissioner Brannon requested the Board approve Resolution 2007-63 supporting the Muscogee Nation of Florida in their efforts to obtain federal recognition and to designate their historic tribal lands.

Motion by Commissioner Brannon, second by Commissioner Comander, to adopt Resolution 2007-63 as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

The Board recessed at 4:25 p.m.

The Board reconvened at 5:00 p.m.

Commissioner Jones did not attend the Driftwood Public Hearing.

Chairman Pridgen called to order the public hearing to consider an ordinance placing a moratorium on new construction in the Driftwood Estates area of Walton County.

Mr. Burke presented a draft copy of the proposed ordinance for the public to view and recommended the floor be open for comments.

Mr. Allen Osborne, resident of Driftwood Estates, presented a video recorded on July 3, 2007 during a normal rain event to show the existing drainage problems. He stated one concern is that the moratorium does not state that the drainage should comply with the state developmental order. He reported that the water does not flow into the lakes designed for the drainage but instead flows directly to the bay. At present the water level in the designated lakes are two feet below the normal water line.

Commissioner Brannon asked if the problem of standing water in the entrance road still existed. Mr. Osborne stated that it did still exist and that the access located at West Harborview Road was submerged approximately 6 times in 2006. He also stated that without a culvert, the excess water cannot flow into the designated pond. Mr. Osborne recommended the Board require the developer to comply with the state developmental order.

Mr. Lane Smith, Attorney and representative of the residents of Greater Driftwood, expressed concern that the ordinance is not worded strongly enough to solve the drainage problems. He stated a plan needs to be in place before October 31.

Commissioner Brannon asked what the Board should do to solve this problem. Mr. Smith stated the county needs to work with Florida Department of Community Affairs to find a solution to prevent storm water from collecting in the roadways and draining into the bay untreated; and allow access in and out of Driftwood without crossing areas subject to flooding.

Commissioner Brannon asked if the water could be diverted into the existing pond. Mr. Smith stated that the pond was incapable of holding all the drainage. He stated the 12 to 18 ponds and the golf course that were in the original plans would have



given sufficient areas for the storm water to be absorbed or drained. Mr. Smith stated that the secondary access at issue needs to be opened either through litigation or by eminent domain.

Commissioner Brannon questioned whether the road would be public access or an internal road into Sandestin resort. Mr. Smith stated the road is a vested public right-of-way accepted by the county.

Commissioner Pridgen stated that with the flow of the water, the possibilities of changing the direction is nearly impossible. Mr. Smith stated there was not an inexpensive method of redirecting the drainage. He also stated that any delay in action could cause the State and Federal governments to become involved.

Mr. Osborne responded to Commissioner Brannon's question regarding the designation of the secondary access. He stated it was originally a public road but was included in a private development and was left off when the original DRI was approved. However according to the agreement in 1988; the road was specified to be used by those who had a vested right to use it by deed or legal instrument. He stated the developers are still in control of the areas designated for the lakes. He recommended enlarging and replatting some of the lots in Driftwood Trails, and then build lakes to approved size. He also stated that according to this plan, pipes could be run into those lakes without damaging any homes.

Discussion continued regarding the rightful developer and ownership.

Commissioner Brannon asked if the problem is fixed would that solve the public safety issue. Mr. Osborne answered no. He asked that the county oversee the

development order and keep the road plan as it was originally intended with the proper drainage included.

Commissioner Comander asked if an assessment had been made by public works to find a solution for the entrance road. Commissioner Meadows replied that a drainage plan was formed to adjust some of the culverts; clean out some of the ditches and place pipes in some of those areas. She stated a bid was awarded at a cost of \$3.5 million for the entire loop road. Commissioner Meadows stated that she along with the engineer and several county department heads are trying to find a less expensive solution to the drainage problem. She stated that upon the advice of the County attorney she was unable to discuss the secondary access road at Driftwood Drive and Baytowne Avenue. Commissioner Meadows stated the county's responsibility is to address the drainage to the maximum extent possible and to alleviate the flooding at the entrance and the drainage flowing into the bay. She stated the reason for the moratorium was to provide time to find a solution, start the process of repair and protect the public safety and well being. Commissioner Meadows recommended the expiration date of the moratorium be changed to November 30, 2007 and eliminate sections 3 and 4.

Ms. Marie Baretta, Driftwood resident, voiced agreement with Mr. Osborne regarding possible lot enlargement to prevent future drainage problem. Commissioner Meadows stated that lot enlargement is a separate issue since it is an approved engineering plan.

Mr. George Miller, Attorney and representative for Olsen and Associates, stated that testimony will be held until the second public hearing on August 14, 2007. He stated that he felt the moratorium is improper and illegal to his client. He asked the Board not

approve the moratorium ordinance stating that by doing so would deprive his client of economic advantage. Mr. Miller stated that his client does not agree that the circumstances justify a moratorium. He stated that his client is willing to discuss a compromise.

Mr. Shaun McBride, resident of Driftwood Estates, asked why a moratorium is being proposed if there is no intent to utilize the land for drainage. He also asked why the county needs Nabors, Giblin and Nickerson if there is already a county attorney in place. He also asked who would be responsible for paying the bill.

Commissioner Brannon responded that the land where the ponds are located does not belong to the county but to private individuals. He stated the county has to work within the set parameters.

Mr. Burke stated that Nabors, Giblin and Nickerson is a state wide local government law firm who is representing the county in the lawsuits filed by Mr. Smith on behalf of his clients. Mr. McBride asked if the services were being paid by the county and the taxpayers. Commissioner Meadows replied they were.

Mr. Alex Kish, Driftwood resident, asked if an outside party was responsible for paying the legal fees accrued by the county. Commissioner Pridgen answered no.

Mr. Burke stated there was an indemnification agreement that has been invoked on behalf of the county. He stated there are several issues relating to Driftwood but it is unknown as to whether the indemnifying party is paying for all of them.

Mr. Kish voiced concern that the legal fees are being paid by opposing sides.

Commissioner Meadows asked Mr. Burke if the Sandestin is paying the legal fees. Mr. Burke stated that the indemnity agreement was a wise choice for the county.

He stated the issue is that Sandestin may be reimbursing the county for legal fees but it is not controlling the direction of the defense. He also stated the indemnity agreement does not involve the moratorium.

Chairman Pridgen stated that the second public hearing for the Driftwood Estates will be held on August 14, 2007 at 5:00 p.m.

Ms. Rebecca Bardwell, Driftwood Estates Lot Owner, stated she is selling her parameter lot, but the new owners would not be able to build if the moratorium was in place. She urged the Board not to include the outer lots in the moratorium.

Commissioner Jones entered the meeting at 5:55.

Ms. Pat Blackshear, Growth Management Director, asked the Board to approve the continuation of the Alys Beach Phase 2A-1Q to August 14, 2007, Walton Plantation, Coffeen (SSA 2007-11) and S & S Materials Industrial Facility to August 28, 2007.

Motion by Commissioner Meadows, second by Commissioner Comander, to approve the continuation of items 5, 7, 10 and 17. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Blackshear asked the Board to approve the removal of Junno/Pritt Petition for Abandonment; Howell Abandonment; Tiger Joint Ventures Petition for Abandonment; Carnrite Petition for Abandonment and Toscanna f/k/a Sienna Place from the agenda.

Motion by Commissioner Brannon, second by Commissioner Meadows, to approve the removal of the items 12, 13, 14, 15 and 18 from the agenda. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Blackshear presented to the Board the Transportation Concurrency Review Interlocal Agreement with the Town of Paxton.

Motion by Commissioner Comander, second by Commissioner Meadows, to approve the interlocal agreement as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Blackshear presented to the Board an agreement with the City of DeFuniak Springs to collect proportional fair share for traffic reviews.

Motion by Commissioner Comander, second by Commissioner Brannon, to approve the agreement as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Blackshear presented two items to add to the agenda. She requested the Board adopt Resolution 2007-71 to add projects to the Capital Improvements Program. The two items to be approved are TDC projects for San Juan Neighborhood Beach Access Parking Lot/Dune Walkover Enhancement and Blue Mountain Beach Access Parking Lot Restroom Facility.

Motion by Commissioner Meadows, second by Commissioner Jones, to adopt Resolution 2007-71 as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Blackshear requested the Board adopt Resolution 2007-70 adding the Helen McCall Park and Kellogg Nature Center to the Capital Improvements Program.

Motion by Commissioner Meadows, second by Commissioner Brannon, to adopt Resolution 2007-70 as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

The Quasi Judicial hearing was called to order and Mr. Burke administered the oath to those intending on speaking.

Mr. Burke asked the Commissioners to submit any ex parte forms regarding the upcoming items.

Mr. Darrell Burgis, Emerald Coast Associates representative of Mr. Chandler Huff, Huff Developments, LLC; presented Church Street Village First Addition Plat-project number 07-003-00002 for final plat. The plat application submitted by Emerald Coast Associates Inc., consists of a re-plat of three lots in an existing, platted single family subdivision on 28.58 acres with a future land use of NPA/small neighborhood. The site is located on the east side of Church Street, north of U.S. 98 (parcel numbers 27-2S-20-33210-000-0180 and 27-2S-20-33210-000-0191.) Staff found the project consistent with the Land Development Code and Comprehensive Plan contingent upon the conditions set forth in the staff report and by the Planning Commission.

There was no public comment.

Motion by Commissioner Meadows, second by Commissioner Brannon, to approve the final plat of Church Street Village First Addition. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Blackshear presented Peachcreek Subdivision Phase I Plat-project number 05-001-00008, by Choctaw Engineering. The project consists of an 88 lot single family subdivision on 164 acres with a future land use of CR 2:1. The site is located in the Point Washington area between US 98 and the Intracoastal Waterway along both sides of Old Ferry Road (parcel number 36-2S-19-24000-008-0000.) Staff found the project

consistent with the Land Development Code and Comprehensive Plan contingent upon the conditions set forth in the staff report and by the Planning Commission.

There was no public comment.

Motion by Commissioner Jones, second by Commissioner Brannon, to approve the final plat of Peachcreek Subdivision. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Allen White presented for approval Red Bay Fire Department-project number 07-003-00014. This is a major development order application submitted by Jehle-Halstead, Inc. The request is for an 8,566 square foot fire station to replace an existing 1,500 square foot fire station and modular home. The site is 3.92 acres with a future land use of commercial and is located at the intersection of State Highway 81 and Rock Hill Road in DeFuniak Springs (parcel number 09-2N-17-05000-012-0010.) Staff found the project consistent with the Land Development Code and Comprehensive Plan contingent upon the conditions set forth in the staff report and by the Planning Commission. **(Red Bay Exhibits 1 & 2)**

There was no public comment.

Motion by Commissioner Jones, second by Commissioner Comander, to approve the Red Bay Fire Department project as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Darrell Barnhill, Barnhill and Barnhill, presented Rivard SSA 2007-09 a small scale amendment to change 0.16+/- acres from NPA/residential preservation to village mixed use, capped at 10 units per acre, or any less dense or intense category. The parcel is located south of Choctawhatchee Bay at 2 Magnolia Street, Grayton Beach

(parcel number 17-3S-19-25020-017-0140). Staff found the project consistent with the Land Development Code and Comprehensive Plan contingent upon the conditions set forth in the staff report and by the Planning Commission. **(Rivard Exhibit #1)**

Commissioner Meadows asked if the property was named The Magnolia Shop. Mr. Barnhill stated that it was and he wanted to preserve the property in case of destruction by fire or storm. Commissioner Meadows stated she had received one e-mail against the proposed change.

Ms. Blackshear stated that a community meeting would be scheduled to discuss the neighborhood commercial rights at the beginning of the EAR Based Amendments.

Commissioner Meadows asked what type of impact this proposal would have on surrounding areas. Ms. Blackshear responded by saying there are existing commercial areas that is nonconforming. She stated a land use amendment will be created to accommodate the existing neighborhood commercial.

Ms. Angeline Sprott, homeowner, opposed the change proposed to the Magnolia House stating she was concerned about other owners or future owners wanting to change the land use to commercial.

Mr. Barnhill stated that he and his staff had looked at all the land uses that were available and felt the application submitted was compliant.

Commissioner Jones stated that he discussed with Ms. Blackshear placing a requirement on new businesses to qualify for a certificate of compliance.

Ms. Blackshear stated that she would address the concerns regarding other possible commercial changes.



Mr. David Kramer presented Reinhart SSA 2007-10 requesting to change 10 +/- acres from undesignated to coastal center, or any less dense or intense category. The parcel is located south of Choctawhatchee Bay within the Point Washington State Forest, approximately 1,000 feet north of Gulf Hill Estates unrecorded subdivision in Blue Mountain Beach (parcel number 01-3S-20-34120-000-0600). **(Reinhart Exhibits Staff Report 1, Petitioner Exhibits 2 – 7)**

Ms. Blackshear stated that this is a private sector amendment that received an allocation from the drawing. She stated that the staff could not support Mr. Kramer's request for either Coastal Center or NPA/infill designation. The staff could support conservation residential either 1:2.5 or 2:1 units per acre. Staff is concerned about the 33 ft. easement access to the parcel that goes through a cul-de-sac in an adjacent subdivision. Staff did find a Cattle Dipping Vat (CDV) on the parcel which would cause problems during development.

Mr. Kramer objected to the CDV information submitted by staff.

Ms. Blackshear referenced Mr. Kramer's e-mail stating there were no CDV's on the site. She submitted photos which show the CDV upon the first visit of staff to the property. Upon a second visit, the CDV had been removed. The staff is concerned that the chemicals in the old CDV are a public safety issue. Ms. Blackshear stated that staff did support Mr. Kramer's plan amendment but wanted to state for the record that the CDV would need to be cleaned up and addressed.

Commissioner Brannon stated that an environmental assessment would be required to make an application for a land use amendment and is also part of the

development order. He also stated the 33 ft. access would not be sufficient to handle the proposed traffic and an additional right-of-way would need to be planned.

Commissioner Brannon asked if there were any restrictions on the subdivision where the access road would be located. Ms. Blackshear stated that no homes were on the property, but the lots are vested and available for construction.

Commissioners Jones and Meadows stated that compliance and compatibility would need to be considered.

Commissioner Brannon asked if the 33 ft. easement allowed for ingress and egress. Ms. Blackshear stated it was an old government easement. She stated that additional information will be brought to the second hearing on this issue.

Mr. George Newman, Walton County Engineering, stated his staff looked at the Santa Rosa Plantation easement in that area and found a 33 ft. road right-of-way easement section on either side stopping at the northwest corner of the property and on the east side of the section line through the property.

Ms. Blackshear stated that access could not open the road way and go through the state forest. She stated that the road way would be researched and presented at the next public hearing.

Mr. David Kramer asked Mr. Newman to clarify that a 33 ft. easement existed on the west side of the property and proceeds north to a 66 ft. east/west easement. Mr. Newman stated he would have to review the maps to provide a sufficient answer.

Commissioner Brannon asked Mr. Kramer if the other route could be used to access the property without having to go through the subdivision. Mr. Kramer answered that he could.

Mr. Kramer presented photos in rebuttal to the testimony presented by Mr. Hammons at the Planning Commission Meeting in which he stated that the site was not accessible by vehicular traffic.

Commissioner Brannon asked which easement is shown in the pictures. Mr. Kramer stated the pictures were taken at the northwest corner at the intersection of the 66 ft. easement and 33 ft. easement.

Commissioner Jones asked which route was driven to the point in the picture. Mr. Kramer stated he came from the southern access through the subdivision.

Commissioner Meadows asked if this property was state surplus or had it always been privately owned. Mr. Kramer replied that the state has never owned the property and it has always been an individual a lot of record.

Commissioner Meadows left the meeting at 6:50 and returned at 6:54.

Mr. Kramer submitted a list of infill properties surrounded by state land.

Commissioner Brannon asked Ms. Blackshear to clarify the Staff Report regarding the advertisement of the amendment. Ms. Blackshear stated that Mr. Kramer had asked for Coastal Center or Neighborhood Planning Infill so that he would not have to re-advertise.

Mr. Kramer stated that he and Mr. John Reinhart, applicants, would be happy to take the infill designation but no others.

Mr. Kramer presented a residential density compatibility analysis to show the success of infill. The three developments listed are Gulf Hills, Pines at Blue Mountain and Forest Lakes. Mr. Kramer stated that the evidence shows this parcels fits the defined comprehensive plan and LDC criteria for infill. He stated the applicants did not feel the

large scale development criteria needed to be a planning tool therefore they are asking the parcel to be designated as Coastal Center. The applicant has made a privately sponsored amendment and asked the Board to vote yes or no only on the specific request.

Ms. Anita Page, South Walton Community Council, stated there is a discrepancy with the definition of infill in the comprehensive plan and expanded definition in the Land Development Code. She feels it need to be resolved. Ms. Page also voiced concern over the CDV. She stated that Eglin had to perform extensive research and studies before removing the 1926 vat located on their property. She suggested that soil samples be done before development begins.

Mr. Kramer replied to Ms. Page's remarks. He stated it is clearly defined in the Comp Plan and LDC what is allowed in a NPA.

Commissioner Jones asked Mr. Kramer to clarify his position on the existence of the CDV. Mr. Kramer replied that the vat had been located on the property, but had been removed by the applicant. He stated that the applicant was informed of the environmental issue surrounding CDV's after its removal. Since this is a possible safety issue, the applicant will perform a Phase 1 and Phase 2 Analysis to determine the toxicity of the soil.

Mr. Jack Rhodes, agent for A & A Properties, is requesting a small scale amendment SSA 2007-12 to change 5.44 +/- acres from estate residential to commercial, or any less dense or intense category. The parcel is located north of Choctawhatchee Bay on the south side of Forest Oak Road and the west side of U.S. 331 (parcel number 35-2N-19-18000-001-0058.) The Planning Commission recommended approval and staff

found the proposed land use change consistent with the Comprehensive Plan. (**A & A Properties of Destin Staff Exhibit 1**)

Ms. Victoria Hughes, neighboring property owner, stated that she was not opposed to the change, but voiced concern regarding access and drainage.

Mr. Rhodes addressed Ms. Hughes comments and stated that a practical access would be from U.S. Highway 331 S. however, this is a development issue. He stated the drainage issue would also be handled in the development order.

There was no other public comment.

Mr. Darrell Barnhill, representative of Barnhill and Barnhill, presented Village by the Sea-project number 06-001-00125. This is a major development order application consisting of a 4 unit residential development on .40 +/- acres with a future land use of village mixed use. The site is located at 54 Grayton Village Drive (parcel number 08-3S-19-25180-000-0010.) Staff found the project consistent with the Land Development Code and Comprehensive Plan contingent upon the conditions set forth in the staff report and by the Planning Commission.

Mr. Barnhill stated that there were discrepancies regarding lot size. The Planning Commission approved the project but did not recommend the 1.65 foot exception. He urged the Board to approve the project as submitted the plan with two lots having a 5.85 feet setback.

Mr. Jason Bryan, AICP, Walton County Planning Department, stated that staff recommended the conditions set forth in the Staff Report as well as the applicant paying a Proportional Fair Share, obtaining FDEP Waste Water/Potable Water Permits, pay the

recreational fee and participate in the sidewalk buy-out. When those conditions are met, the project will meet the minimum requirements of the LDC and comprehensive plan.

Commissioner Brannon asked if this would circumvent the variance process. Mr. Bryan stated that is what Mr. Barnhill was trying to accomplish.

Ms. Blackshear stated the project was advertised as a PUD, and in agreement with the Planning Commission, this is not traditionally a PUD. She stated there is no minimum standard stated in the code.

Mr. Barnhill stated he was not trying to circumvent the process; however this is the only process to apply for an exception.

Commissioner Jones asked if this was the only exception. Mr. Barnhill replied that it was.

Commissioner Meadows asked Mr. Bryan what the reason was for the denial of the lesser setbacks. Mr. Bryan stated that he did not recommend either way. He stated that Mr. Barnhill was only asking for a slight variation in two lots. The Planning Commission was the entity that suggested the exception be denied.

Ms. Blackshear stated that staff was only bringing the Planning Commission's recommendation to the Board.

Mr. Jack Rhodes, agent for Grayton Villa Townhomes, stated he did not understand the request for a variance from the LDC on setbacks. He stated the rules should be equally applied to each project. He stated he was unsure whether the project in question was a PUD or a major development order. Mr. Rhodes stated he had not received certified notice regarding this project. He asked that staff provide

documentation where he and his client were notified of the planning meeting regarding the setback.

Commissioner Meadows asked Mr. Rhodes if his client objected to the project. Mr. Rhodes stated that his objection was regarding the setback. He stated that staff should verify that the project was submitted and advertised as a PUD.

Ms. Blackshear stated that she had Mr. Bryan check the advertising and found that the procedures required by the county to advertise PUD's were followed.

Mr. Rhodes asked if the actual application for the project was submitted as a PUD or a major development order. He also asked if the applicants were specific to the variance in asking for the setback. Mr. Bryan stated according to the code, any PUD is a major development order. He stated that the application was for a PUD with a request for the setback.

Commissioner Brannon asked if it would be acceptable for Mr. Rhodes' client to review this and revisit the issue at the next meeting.

Commissioner Meadows stated that the changes would not affect surrounding villas or town homes only the area between the interior of the houses within the development.

Mr. Rhodes stated that his client was not sufficiently notified of the meetings or changes.

Mr. Barnhill stated that proof of notification in accordance to the county requirements was submitted in a timely manner.

Motion by Commissioner Meadows, second by Commissioner Jones, to approve Grayton Villa Townhomes as presented with the variances that have been requested. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

The meeting recessed at 7:30 and reconvened at 7:43.

The Quasi Judicial hearing reconvened and Mr. Burke administered the oath to those intending on speaking.

Mr. Jessie Rigby, Project Attorney, Clark, Partington, Hart, Larry, Bond & Stackhouse; requested the Board discount the ex parte communications submitted in opposition to the Angelos Project. He reasoned that he would be unable to question the witnesses.

Mr. Burke stated that all the ex parte forms had been submitted to the Clerk and were available for review by Mr. Rigby and his clients.

Mr. Rigby on behalf of Mr. William Wilson, applicant, presented to the Board Angelos-project number 06-001-00079. This is a major development order application submitted by Emerald Coast Associates, consisting of 24 multi-family unites on 3.57 acres with a future land use of NPA/infill. The site is located on the west side of Beachside Drive south of San Roy Road (parcel number 19-3S-18-16080-000-0162).

**(Staff Exhibits 1-5, 10-12; Petitioner Exhibits 6-9; Respondent Exhibits 13-15)**

Staff found the project consistent with the Land Development Code and Comprehensive Plan contingent upon the pending conditions set forth in the staff report and by the Planning Commission.

Mr. Rigby introduced the witnesses on behalf of the Angelos Project: Mr. Dean Burgis, Project Engineer of Emerald Coast Associates; Mr. Darryl Burgis, Project



Surveyor; Mr. Dennis Chavez, Project Architect of Dougherty & Chavez Architects; Ms. Wendy Grey, AICP of Wendy Grey Land Use Planning; Mr. Bill Stoddard, Project Engineer of Schulke, Bittle & Stoddard; Mr. Dan Garlick, Ecologist of Garlick Environmental Associates, Inc.; Mr. Thomas Tomasello, Environmental Attorney, Mr. Tom Gardner, Consultant in Coastal Permitting with DEP, and Mr. Charlie Clary. He presented the resumes of the witnesses with the exception of Mr. Clary. Mr. Rigby asked the Board accept these individuals as experts within the area of their testimony. The Board approved those individuals as expert witnesses

Mr. Dean Burgis presented to the Board a project packet consisting of timelines, architectural drawings, maps, floor plans and data associated with the Angelos Project. He gave a brief overview of the project and the compliance of the LDC.

Ms. Grey stated that in preparation of her report, she conducted a site visit and a visit to the surrounding areas within a .25 mile radius. She discussed the compatibility of use in regards to the neighboring residential area and multi-family dwellings. She stated based on her analysis, the project is compatible with the surrounding areas.

Dr. Stoddard, presented the historical data that shows recent changes to the property. Dr. Stoddard stated that he had recommended to Mr. Wilson that he consider a dune re-nourishment project to protect the natural resources that exists on this property and the properties to the north. He recommended that Mr. Wilson restore the Dune to elevation 21 with a 3:1 slope which closely matches the dune configuration in 1998. He stated that the proposed dune development is 18 ft. further landward of the CPZ and the restoration project will protect the primary dune feature. He recommended a dune re-vegetation project be implemented along with the restoration project.

Mr. Rigby asked Dr. Stoddard if there were any permanent hardened structures as part of the dune restoration project and if hardened structures are recommended. Dr. Stoddard answered that the project does not propose any hardening structures. He would not recommend that type of structure and neither would it be allowed by the FDEP. Mr. Rigby asked Dr. Stoddard why it was important for the dune restoration to extend across the county access easement. Dr. Stoddard stated that the extension would provide a continuous line of protection and would require a rebuilding of the dune cross over.

Mr. Rigby stated for the record that the dune reconstruction would be done by his client, Mr. Wilson, and not be the responsibility of the county.

Mr. Dean Burgis discussed the 95% habitat preservation issue. He stated the existing vegetation is .66 acres of beach dune habitat within the CCCL which more landward than the CPZ. Together with dune restoration, there will be 1.14 acres of total vegetation on the site. Without the dune enhancement recommended by Dr. Stoddard, there would still be .67 acres of native vegetation on the site and will require the replanting of the washout area on the west side of the property.

Commissioner Meadows asked where the vegetation restoration would be located. Mr. Burgis replied there were .55 acres to remain in place, and .12 will be replanted in the washout area of the site and the dune vegetation will bring the total vegetation to 1.14 acres.

Commissioner Jones asked how much property is in the area seaward of the CCCL. Mr. Burgis stated there were .66 acres. Mr. Rigby stated that in his opinion, 95% of the CPZ line is to be preserved and this project impacts 0% of that area. He stated that staff interpreted the code to say 95% of the CCCL and CPZ is to be preserved. He stated

the total vegetation will be .67 acres which is above the .627 which is 95% of the total vegetation seaward of CCCL. Mr. Rigby stated the historic county interpretation of the Comprehensive Plan has been that the developer had to retain 95% of the vegetation seaward of either the CCCL or CPZ, whichever line was most seaward. He stated that Ms. Blackshear disagreed with the interpretation.

Commissioner Jones asked Mr. Rigby if there was evidence proving the historical interpretation. Mr. Rigby stated there was evidence. Commissioner Jones asked Mr. Rigby when he intended to present the evidence. Mr. Rigby replied that it was not intended to be presented into evidence at this meeting.

Commissioner Brannon questioned whether the intent behind the interpretation was to preserve the dune system. Mr. Rigby answered that the code prohibits construction seaward of the CPZ. He stated there were examples where the CPZ is landward of the CCCL, but it is not in regards to the Angelos project. Commissioner Brannon asked if the circumstances of the beach would be different in those other areas. Mr. Rigby stated it is a possibility and then continued to point out the CCCL on the site. Commissioner Brannon stated that the intent of the Staff was to preserve and protect the one dune located on the site. Mr. Rigby pointed out the houses and condominiums that have been built seaward of the CCCL. Commissioner Brannon asked if Mr. Rigby agreed that these policies are to protect natural dune vegetation. Mr. Rigby replied that he did. He stated that it would be inappropriate to build a dune project without proper vegetation. He also stated that the project would give back more vegetation than what is presently on the site. Commissioner Brannon stated that the issue was the difference between restoration and preservation. Mr. Rigby stated the exception to the code is the

provision on vegetation does not apply to single family homes. Commissioner Brannon stated that the impact of a single family home is different than this project. He stated that the current single family homes in the surrounding area are situated more seaward than this project. He stated that the wording should change to reflect that there will be no development forward or seaward of the CCCL.

After continued discussion, the Board concurred with Commissioner Brannon that the issue to be addressed is restoration or preservation.

Commissioner Meadows remarked that the long fight to restore what was destroyed during past storms has given the Board just cause to hold to the code as interpreted by staff.

Mr. Rigby stated that Mr. Garlick would provide testimony that the dune re-vegetation project would be irrigated which would in turn re-establish the vegetation quickly. He stated that he understood the interpretation of the code by the Board and staff to be no impact forward of the CCCL and CPZ lines that exceeds 5%. He feels that the word "or" is being written out of the code. He suggested the wording of the code be changed to justify the modification.

Commissioner Meadows asked why the project could not be redesigned to prevent having to re-vegetate in the impacted area. Mr. Rigby stated the project would have to be cut 50% and it would not be financially feasible.

Ms. Marlene Stern, Nabors, Giblin & Nickerson, spoke on behalf of Walton County. She introduced the witnesses that would be testifying: Ms. Pat Blackshear, Director of Growth Management; Mr. Jason Bryan, Senior Planner; Mr. Rick Tooke, County Surveyor; Mr. Billy McKee, Environmental Manager; Mr. Brad Pickel, Coastal

Management Consultant. She asked the Board to accept Ms. Blackshear, Mr. Tooke, Mr. McKee and Mr. Pickel as experts within the area of their testimony. The Board approved those individuals as expert witnesses.

Ms. Blackshear submitted the transcript from Walton County Planning Commission. She stated their expert witness, Mr. Mike Trudnick of Taylor Engineering, was unable to attend this meeting but had testified and was cross examined by Mr. Rigby at the Planning Commission Meeting. Mr. Rigby had no objection to Mr. Trudnick's testimony being entered into evidence.

Ms. Blackshear stated that staff was not objecting to the restoration plan but the lack of meeting the comprehensive plan requirement for preservation of the 95%. After reading a portion of the code, she stated that several attorneys were consulted regarding the interpretation of the CPZ or CCCL within the code. Counsel agreed with the staff's interpretation. She stated the issue to be addressed is whether the Board will allow use of any restored area to meet the 95%. She disagreed with the compatibility analysis and felt it did not adequately address the surrounding uses of single family.

Mr. Rigby stated that the Staff Report is in the record and addresses the discrepancies within the report. Ms. Blackshear read into the record the portion of the staff report to which Mr. Rigby referred. Mr. Rigby stated the use of mitigation was understood to mean moving the building 49 ft. from the western area and to put 10 ft. of vegetation which was done at staff's request.

Commissioner Brannon stated that the essence of compatibility is to make the project fit within its surroundings.

Ms. Blackshear stated there was an appeal process to the Board of Adjustment to address challenges to staff interpretations. She stated that the applicant had yet to appeal to the BOA.

Mr. Rigby asked Ms. Blackshear to describe what the mitigation is referred to in the Staff Report. Ms. Blackshear stated that mitigation of compatibility is provided for in most compatibility ordinances and there were several avenues to comply with mitigation. Mr. Rigby asked Ms. Blackshear if she felt the buffering and step down density as proposed was insufficient. Ms. Blackshear stated that the entire project needed to be taken into consideration and that the planner employed by the applicant is responsible for designing the project.

Commissioner Brannon stated that the Board decides what is compatible based on the evidence submitted. He also stated that the code was written as a means of protection not only for land preservation but also for the public.

Mr. Bryan stated that each condition listed in the staff report needs to be considered individually.

Mr. Tooke stated there were discrepancies with the recently revised boundary survey provided by the developer. He stated that more information was needed to make a viable comparison with the governmental plat. Mr. Rigby asked Mr. Tooke if he disagreed with acreage determination and why it was not stated so at the Planning Commission Meeting. Mr. Tooke stated that he could not render an opinion without performing a boundary survey.

Commissioner Brannon exited the meeting at 9:00 and re-entered at 9:05.

Mr. McKee agreed that preservation is not restoration. He asked that he be allowed to have input on the restoration planning. He stated that the vegetation being considered for the restoration project will not be substantial to fully restore that area. Mr. McKee stated the community type of vegetation located in that specific area is listed as GIII and SII which is designations for global rarity and state threatened and vulnerable to extinction.

Mr. Brad Pickel stated that seasonal impacts of storms and the water levels would make the restoration more vulnerable. Studies have shown there is an on going loss of the beaches. He stated that even though the design is well planned, the survivability of the restoration is low considering the distance of the project from the shoreline. Mr. Rigby questioned whether the present isolated dune feature, taking into consideration its present condition and the surrounding washout, would survive a future storm. Mr. Pickel stated that depending on the size of the storm and the level of storm surge, the dune could be impacted. Mr. Rigby asked Mr. Pickel if the county's restoration projects were as well designed as that of Angelos project. Mr. Pickel stated that the county has not preformed dune restoration but emergency BERM replacement which is a 5 year protection value. There is a project in the development stages. Mr. Rigby asked if Mr. Pickel would agree that with the construction of the dune restoration as planned by the developer has a greater survivability in future storms. Mr. Pickel replied yes. Mr. Rigby asked if construction of this dune restoration project would provide protection for everything behind it including the existing vegetation and the existing dunes. Mr. Pickel answered yes. Mr. Pickel stated that during Hurricanes Ivan and Dennis 30 cubic yards of sand per

foot of beach was lost; therefore he could not say that the protection would last more than 5 years.

Commissioner Brannon asked Mr. Pickel's view in general on preservation and restoration. Mr. Pickel stated new vegetation would not have a chance to survive in a storm. More established areas have a higher survivability rate. Pioneer plants have to be established for a long period of time to be able to support other forms of vegetation.

Ms. Stern asked Mr. Pickel since 4,628 cubic yards of beach had naturally eroded during the past few years, is there a guarantee that the new net fill of 4,024 cubic yards will not be eroded. Mr. Pickel stated no. He stated the beaches are now more narrow which would make the restoration project more susceptible to erosion. Ms. Stern asked Mr. Pickel to state his education and credentials. He stated that he has an undergraduate degree in Marine Biology and Geology, Masters in Marine Sciences focusing on coastal geology and engineering, he has worked seven years as Director of Beach Management with the Walton County Tourism Development Council and presently owns his own business as a Coastal Management Consultant.

Ms. Blackshear concluded the staff presentation by stating that the staff conditions need to be met before the staff could approve this project. She read the list of conditions as found in the staff report. She stated the most important condition to be met is the updated boundary survey.

Commissioner Pridgen called for public comment.

Mr. Bill Bullock stated the biggest concern is the primary dune issue and vegetation impact issue. He stated that he did not want to completely destroy this project, but wants the developers to comply with the conditions set forth. Mr. Bullock read from



a memo dated June 3, 2004 from the Walton County Planning Department. He voiced concerns that the project will have a greater impact than originally discussed by Mr. Rigby.

Commissioner Jones exited the meeting at 9:29 and re-entered at 9:32.

Mr. John Martin, homeowner, presented the compatibility issues related to the Angelos project. He voiced his opposition to the development and asked the Board to deny the project as proposed.

Mr. Rigby asked Mr. Martin if his information included the 50ft side setback. Mr. Martin said that he used the footprint shown on the April 25, 2007 site plan. Mr. Rigby asked if the washout area was depicted in the photo. Mr. Martin stated that it was.

Commissioner Brannon exited the meeting at 9:44 and re-entered at 9:53.

Mr. Phil Jones, President of Beachside Villas Homeowners Association, and Mr. Michael Barrington, Treasurer, stated that the association was in support of this project.

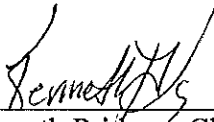
Ms. Anita Page, South Walton Community Council, encouraged the county to resolve the issues of the amount of acreage in the parcel. She stated there was a discrepancy with the original plat being .85 acres and the current survey showing 3.57 acres. Ms. Page suggested that the survey be updated to represent what is there today. She also voiced concern regarding the compatibility analysis which relies on the condominiums and questioned the height of the structure in comparison to all of the buildings in the neighborhood. She stated that restoration is not the same as preservation. She asked that the project be redesigned.

Motion by Commissioner Meadows, second by Commissioner Brannon, to continue the discussion of the Angelos project to August 14, 2007 at the South Walton

Annex. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Burke stated that the continued meeting is a continuance of the public comment portion and Mr. Rigby will have the opportunity to rebut any comments.

There being no further business, meeting was adjourned at 10:05

Approved:   
Kenneth Pridgen, Chair

Attest:   
Martha Ingle, Clerk of Court