

OCTOBER 23, 2007-REGULAR MEETING

The Board of County Commissioners, Walton County, Florida, held a regular meeting on Tuesday, October 23, 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 Courts were also present.

Mr. Lyle Seigler, Public Works Director, led the invocation followed by the Pledge of Allegiance to the American Flag. Chairman Pridgen called the meeting to order.

Motion by Commissioner Jones, second by Commissioner Meadows, to approve the consent agenda as follows. 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	\$ 1,786,969.06
County Transportation	\$ 241,401.27
SHIP	\$ 25,000.00
Fine & Forfeiture	\$ 474,754.00
Debt Service Hospital	\$ -
Mosq. Control State	\$ -
Mott Sign Grant	\$ -
Section 8 Housing	\$ 252.25
Tourist Dev. Council	\$ 350,034.36
N.W. Mosquito Control	\$ 7,716.51
W. Co. Library	\$ 3,836.17
Tax Deed Surplus	
Trust	\$ -
Recreation Plat Fee	\$ 12,086.33
Public Safety- 911	\$ 11,725.61
Solid Waste Enterprise	\$ 214,176.23



Chairman Pridgen called the public hearing to order.

Mr. Bill Imfeld, Finance Director, presented for public hearing a resolution (2007-98) to roll forward reserve funds in the amount of \$237,121 into the TDC Budget to use for operations.

Mr. Sonny Mares, Tourism Development Council, stated that the monies requested were marketing items that were previously contracted during the 2006-2007 fiscal year. The monies would be used to pay for advertising that was placed during late August and early September and not billed until late October.

There were no public comments voiced.

Motion by Commissioner Jones, second by Commissioner Brannon, to adopt Resolution **2007-98** amending \$237,121 to the TDC Fund for Fiscal Year 2007-2008. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell requested approval of a Memorandum of Agreement between Walton County and the West Florida Regional Planning Council for the Small Quantity Generator Assessment, Notification and Verification Program (SQG). This is an annual contract in the amount of \$5,000.

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

Mr. Bell presented a proposed ATV Ordinance. In January, 2007 the Board requested the County Attorney to gather information on an ATV ordinance and to set two public hearings.

Mr. Mike Burke, Interim County Attorney, stated that the Board could choose to either leave F.S. 316.2123 in place or to opt out. Commissioner Comander asked if there were any other counties that have chosen to opt out and adopt their own ordinance. Mr. Burke stated that the statute is new and there has been no appellant action thus far. Commissioner Comander stated that there have been problems with ATV operators in the Choctaw and Villa Tasso area. She feels that hunters and farmers should not be restricted. Mr. Burke stated that under the status of the law, it is an all or nothing proposition.

Commissioner Jones feels the legislation is flawed and suggested moving forward by opting out of the statute and offering exemptions.

Commissioner Brannon asked if there was an ordinance already in place. Mr. Burke stated that an ordinance did exist (**1998-19**), however it is no longer valid due to the State Statute.

Motion by Commissioner Jones, second by Commissioner Comander, to instruct the County Attorney to prepare an ordinance to opt out of FS 316.2123 and craft exemptions to allow for agriculture use and sporting activities. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Burke stated that only one public hearing was needed. Mr. Bell asked the Board if they desired two hearings. Commissioner Jones stated that the first step would be to opt out of the statute then the second step would be to amend the ordinance with special exemptions. The commissioners agreed to one public hearing.

Mr. Bell presented the seven responses for State Lobbying Services RFP 07-052. He stated that an evaluation team had not been appointed because the Board had

interviewed the applicants in the past. After some discussion, the Board agreed to allow Mr. Bell to set up an interview with each applicant before the regular meeting on November 13, 2007.

Mr. Bell presented for approval an Interlocal Agreement between Walton County and the City of Freeport. He stated that the Board had previously approved to fund Freeport Fire Department in the amount of \$141,000.

Motion by Commissioner Comander, second by Commissioner Meadows, to approve the Interlocal Agreement with the City of Freeport. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Officer Danny Glidewell, Corrections Director, presented the COPE Grant Application for approval. He stated that this is an opportunity to apply for Criminal Justice Mental Health and Substance Abuse Reinvestment Grant in the amount of \$47,372.50 with a match requirement of \$23,686.25 which would be funded through in-kind sources. He stated the deadline to apply is November 1, 2007.

Motion by Commissioner Jones, second by Commissioner Meadows, to approve the COPE Grant Application. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell presented Sheriff Ralph Johnson's requested use of the Lang Property and the need to expand and relocate an impound yard, install a 20' x 20' helipad and add 14 +/- parking spaces including sidewalk.

Commissioner Comander suggested the impound yard be moved to the Lang Property. Sheriff Ralph Johnson stated that moving the impound yard to the Lang property would cost more due to higher security costs. He stated that the Lang property

was to be used for a driver training course, metal storage buildings and other accessory uses. He asked that a committee be formed to draft a master plan that will show how the property can best be utilized.

Commissioner Jones motioned to draft a Master Plan and suggested that Public Works look into paving the parking area. Mr. Bell stated that funding sources would need to be determined. Commissioner Jones suggested working with Sheriff Johnson to obtain funding.

Commissioner Meadows stated that she had asked Mr. Cliff Knauer, Preble-Rish, to obtain an aerial photograph of all the county property in that area and Mr. Rick Millard, Construction Manager, to obtain a site plan for the Animal Control Facilities. She suggested that a time frame be set.

Discussion continued regarding the uses for the Lang Property and the surrounding property.

Commissioner Meadows suggested that information on the cost, funding sources and answers to constructions questions be brought back to the next meeting on November 13, 2007.

Commissioner Jones, amended motion, second by Commissioner Meadows, to continue the issue until November 13, 2007 so that information on costs, funding, construction and site plans could be compiled. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Allen Brown, Public Works, stated that an environmental permit is required for the Four-Mile Park. The City of Freeport did not have property in which to mitigate. He requested that the Board allow mitigation property to be taken out of the Bunker

Mitigation Bank to allow for the permit. He presented a draft copy of the description of the property to be placed in preservation.

Commissioner Meadows asked the size of the mitigation land. Mr. Knauer stated that it was 2.9 acres. He said that DEP has issued the Dredge and Fill permits for the park project. He stated that the Army Corp of Engineers required 2.9 acres of mitigation property for the boat ramp improvements and the impacts for the new docks.

Mr. Bell requested the Board cancel the December 25, 2007 County Commission Meeting.

Motion by Commissioner Meadows, second by Commissioner Brannon, to cancel the December 25, 2007 BCC meeting. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell presented the Helen McCall Park final improvements which include the completion of dugouts and batting cages for some of the baseball fields. He asked for the Board's approval to waive the regular bid process by proceeding with request for quotes and accepting the lowest bid so that the project can be completed by January 15, 2008.

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

Commissioner Brannon brought to the Board's attention that a motion had not been made regarding the Four Mile Park Mitigation.

Motion by Commissioner Meadows, second by Commissioner Brannon, to allow mitigation property to be taken out of the Bunker Mitigation Bank to allow for

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

Mr. Bud Clark, President, CRA Consultants, requested the Board authorize the submittal of a Fiscal Year 2007 Florida Housing Finance Corporation (FHFC) Community Workforce Housing Initiatives Program (CWHIP) application by J. Roy Godwin on the Nellie Road site and to authorize the County Administrator to schedule the required Public Hearings after administration review and approval. Mr. Godwin, Freeport resident, has site control of 10 +/- acres on Nellie Road north of Chat Holly Road in South Walton County. The application is due on January 29, 2009. The 2006 Florida Legislature authorized \$63.5 million for the 2007 CWHIP program to build affordable housing for workforce personnel in the Sunshine State. Walton County is a Tier One county and will receive bonus points in the application.

Commissioner Comander asked if this application would impact the project that was previously approved. Mr. Lloyd Blue, Workforce Housing Corporation, stated that the Housing Authority determined that CWHIP monies could only be used for construction. The Housing Authority requested the application be modified to allow their funds be put at risk by utilizing it through construction. The Authority also required that a financial underwriting be completed to show the risks were minimal. He stated that the credit underwriters questioned whether there is a sufficient need in Walton County for workforce housing. Mr. Blue said that a pending market study will determine the status of the underwriting. He suggested the Board set a date to accept applications with summaries to determine which projects should be supported.

Commissioner Meadows feels that the grant application should be considered.



Motion by Commissioner Meadows to authorize the FHFC CWHIP grant application. Motion died for lack of a second.

Discussion ensued whether the Board could support more than one grant application.

Commissioner Jones suggested that the first meeting in December be set aside as the date to review and consider any applications.

Mr. Clark stated that the developers of workforce housing are fast tracked to cut the process to 30 days. He stated that any delay would affect the CWHIP Application due to the deadline being January 29, 2008.

Motion by Commissioner Jones, second by Commissioner Comander, to schedule December 11, 2007 to consider and review submitted applications. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Clark presented Alaqua Commercial Park CDBG-ED grant application. The requested grant amount will be \$750,000 for the running of utilities to the park site. The Alaqua Park has received a firm commitment from a successful existing business, Rip's Professional Landscaping, Inc., which will provide 23 new FTE jobs for citizens of Walton County. Mr. Clark requested the Board's approval to submit an application for the FY 2007 CDBG-ED Grant.

Ms. Angie Biddle, Grants and Special Projects Coordinator, stated that the grant application was originally approved for Mossy Head Industrial Park (MHIP) as first recipient and Alaqua Commercial Industrial Park (ACP) as second. However, there is not a company committed to building in the MHIP at this time. She asked that the Board

allow ACP to apply for the grant and that the application be reviewed by Mr. Imfeld and herself prior to the Chairman's signature.

Motion by Commissioner Comander, second by Commissioner Meadows, to approve Alaqua Commercial Park application for the FY 2007-CDBG-ED Grant. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Aaron Warren, Public Works Department, requested approval to bid maintenance of Driftwood Phase A revised plans. He stated that a vote to proceed was not made during the meeting in which the bid was approved.

Motion by Commissioner Meadows, second by Commissioner Brannon, to approve the maintenance bid. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Ryan Douglass, Public Works Department, requested approval of a change order for Allen Road Culvert in the amount of \$40,995.01. FEMA has approved the additional funds reimbursement in the amount of \$12,087.00.

Motion by Commissioner Jones, second by Commissioner Comander, to approve the change order request in the amount of \$40,995.01. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Douglass presented the Morrison Springs Park Improvements Bid award. He stated that Carr Engineering was the lowest bidder in the amount of \$1,317,984.20 but was non-responsive because 67% of their work was sub-contracted out. Therefore he asked that the Board approve Tindle Enterprise with the base bid amount of \$1,325,411.00 in addition to \$77,153.00 for the restrooms.

A representative of Carr Engineering stated that the company had planned to do more than 50% of the project in house. Mr. Douglass stated that the information was gathered from the required sub-contracting list submitted with the proposal from Carr Engineering. The Carr Engineering representative stated that a letter documenting 50% sub-contracting was submitted.

Commissioner Meadows asked if the letter had been submitted in a timely manner. Mr. Douglass stated that the letter was not submitted with the bid package, but he did not have the letter with him for the Board to review. He withdrew his request so that all the information could be brought back to the Board on November 13, 2007.

Mr. Douglass requested the Board approve a grant application in the amount of \$450,000 to complete Phase II of the Morrison Springs project.

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

Mr. Ken Little, Citizen Services Director, requested Commissioner Pridgen be appointed to represent Walton County on the Tri-County Community Council Board of Directors for 2008 and a letter of designation be sent to the Council confirming the appointment.

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

Mr. Little requested approval of subcontracts for emergency repair and replacement housing strategies in the SHIP program. He asked the emergency repair be

subcontracted to Tri-County Community Council and the replacement housing subcontract to USDA, Rural Development. He stated that both agencies continue to provide service to the Walton County SHIP Program.

Motion by Commissioner Jones, 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 presented an ordinance (**2007-40**) to dissolve the United Fire District repealing Ordinances 1983-8, 1984-10 and 1989-1.

There was no public comment.

Motion by Commissioner Jones, second by Commissioner Comander, to adopt Ordinance **2007-40** dissolving the United Fire District. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bell presented an ordinance (**2007-39**) to dissolve the Tri-Village Fire District repealing Ordinances 1975-5, 1975-6 and 1982-3.

There was no public comment.

Motion by Commissioner Brannon, second by Commissioner Comander, to adopt Ordinance **2007-39** dissolving the Tri-Village Fire District. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Ed Baltzley, Emergency Response Director, requested approval of Union Contract changes. He stated that changes were made to Articles 14, 17 and 26. The Local Union approved the changes and requests the Board's approval.

Motion by Commissioner Jones, second by Commissioner Brannon, to approve the contract changes. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Baltzley, requested approval of the Annual Emergency Preparedness Trust Fund Grant in the amount of \$105,806. He stated that \$2,847 would be used for satellite service leaving \$102,959 in the Trust Budget.

Motion by Commissioner Brannon, second by Commissioner Comander, to approve the grant in the amount of \$105,806. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Burke requested approval of final payment to Floridian Construction for Hurricane Dennis Phase 3 beach access construction in western Walton County. He stated the issue was brought before the Board on September 25, 2007. After investigation and review it was found that the pay is based on linear feet construction. He requested the Board approve the amended change order in the amount of \$49,104.30.

Motion by Commissioner Meadows, second by Commissioner Brannon, to approve the amended change order in the amount of \$49,104.30. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Bob Jones, resident, requested acceptance of Lolley Lane for county maintenance. Lolley Lane is located off North Davis Lane in DeFuniak Springs and is not listed in the Walton Count Maintained Roads Index. He asked that specification requirements be waived.

Mr. Allen Brown stated that he had been in contact with Mr. Jones. He stated that he researched for dedication of right-of-way and found that there was not ample enough

real estate for easements. He stated that he told Mr. Jones that public works could not proceed without Board approval. He said that the road does not meet the current guidelines. His only suggestion was pay-to-grade.

Commissioner Jones stated that the guidelines are codified by ordinance in the Land Development Code. Mr. Brown confirmed Commissioner Jones' statement.

Commissioner Brannon asked the width of the road. Mr. Brown stated that he was unable to find substantial easements. He said that a dedicated public right-of-way could not be found.

Commissioner Comander asked if the road was inside the city limits. Mr. Brown stated that it was just outside the limits.

Commissioner Brannon asked if this road was connected to a county maintained road. Mr. Brown stated that it was connected to Howell Avenue which is on the boundary line.

Mr. Jones said that the six people living in the area would give up land for right-of-way. Commissioner Pridgen urged Mr. Jones to work with Mr. Brown regarding the right-of-way and grading.

Ms. Meg Nelson, Chairman of the Coastal Lake Advisory Board, stated that the Florida Forever Grant Application deadline is October 29, 2007. She stated that \$1.5 million is available to the entire district. She and Mr. Knauer have identified a project that would help the water quality of Draper Lake making it eligible for application. She stated that storm drainage runs into Draper Lake from Blue Gulf Drive. The project should cost approximately \$50,000.

Motion by Commissioner Meadows, second by Commissioner Brannon, to review and sign the grant application. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Commissioner Brannon Aye, Comander Aye.

Ms. Nelson asked that the Board quickly fill the position left open by Mr. Scott Jackson on the Coastal Dune Lake Advisory Board.

Commissioner Comander requested that the Board consider revisiting implementing a county wide occupational license. She feels that the license would be beneficial not only in an economic standpoint, but also in assisting the fire and rescue departments in efficiently fighting business fires. She stated that an occupational license would also benefit FEMA should a catastrophic hurricane hit our region. Commissioner Meadows agreed and stated that the information obtained from the license would also be important to the Planning Department.

Commissioner Comander stated that she along with Mr. Mark Martin, Planning Department and Ms. Shirl Williams, Assistant County Administrator, attended a Visioning Conference in Jackson County. She feels that a visioning program is needed to determine the best areas of growth for the county. She suggested that a special meeting be planned to discuss visioning. Commissioner Brannon agreed and stated that areas such as capital projects, substations, and fire-rescue stations should also be included.

Commissioner Brannon asked Mr. Douglas to present the Bruce Avenue Reconstruction Project proposal. Mr. Douglas stated that the county had been working with the City of DeFuniak Springs in the reconstruction and paving of Bruce Avenue. He stated the cost estimates were approximately \$100,000. Funds are available in the Road

Materials budget. He requested the Board approve the dispensing of the funds to reconstruct and pave Bruce Avenue.

Motion by Commissioner Brannon, second by Commissioner Meadows, to approve the expending of funds for reconstruction of Bruce Avenue. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

The meeting recessed at 5:35 p.m. and reconvened at 5:57 p.m.

Mr. Gerry Demers, CBO, Deputy Building Official, presented an ordinance (**2007-43**) amending section 6-67 of the Walton County Code to create a category of specialty contractor for hurricane shutter installation.

Motion by Commissioner Jones, second by Commissioner Brannon, to adopt Ordinance **2007-43** as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Demers presented an ordinance (**2007-44**) amending section 6-26 of the Walton County Code “codes adopted by reference” to update the reference to the unsafe building code; to adopt by reference the Walton County Wind-Borne Debris Regions and Basic Wind Speed Map.

Commissioner Meadows asked what affects this would have on the county. Mr. Demers stated that engineers would have to design the buildings south of the bay to the 140 mph 3 second gust guidelines. He stated that prior to March, 2007, the wind-borne debris zone was designated as the first one mile inland of the coast line, now it is designated to the 120 line.



Motion by Commissioner Brannon, second by Commissioner Meadows, to adopt Ordinance **2007-44** as presented. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Pat Blackshear, Growth Management Director, requested that the Toscana issue be moved forward on the agenda. She stated that the Engineering Department had been working through a selection process to choose a consultant to provide design services for TRIP Grants. She said that there have been 14 firms to submit and asked whether the Board wished to review the top ranked firms.

Motion by Commissioner Meadows, second by Commissioner Brannon, to interview the top five firms that met qualifications. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Burke administered the oath to those intending on speaking during the quasi-judicial portion of the hearing.

Ms. Blackshear presented the Tindle Plan Amendment LSA 06-01.5. Mr. Kent Hatchett, representative for Mr. Timothy Tindle, requested a 30 day extension and understands that this will push the issue into the next acceptance period. He stated a meeting will be set up during this time so that the people concerned can meet with Mr. Tindle. Ms. Blackshear stated that pulling this issue from the agenda would mean that the issue could not be adopted until sometime in 2008.

Mr. Randy Cox and Mr. Dale O'Brien, residents, spoke against the continuance and the project.

Commissioner Comander stated that this is the second continuance and the public should have a chance to be heard.

Ms. Jillian Wolfe, resident, spoke against the ordinance.

Mr. Hatchett stated that he had received four names of residents but contact numbers were not made available. He stated that he had not heard from any of the residents.

Ms. Nelson asked if the gopher tortoises have been relocated from the site. Mr. Dean Burgis, Emerald Coast Associates, agent for applicant, stated that since this application is not for a development but a land use change, a permit is not needed at this time. When a development is proposed, a permit will be obtained to relocate the tortoises as required by the FDEP.

Mr. Jeffery Fiquette, Mr. George Osborne and Mr. Eric Thompson, residents, spoke against the ordinance.

Mr. Warren stated that Public Works would perform a traffic analysis at the request of the Board and work with Sheriff's Department to identify the speeding problem.

Mr. Hatchet stated that this is for a land use change. He said that other factors have been included and asked that only the land use change be addressed.

Motion by Commissioner Meadows, second by Commissioner Comander, to deny LSA 06-01.5 Tindle Enterprises. Ayes 4, Nays 1, Pridgen Aye, Meadows Aye, Jones Nay, Brannon Aye, Comander Aye.

Ms. Blackshear asked that the Toscana issue be heard at this time.

Mr. Burke stated that he had a conflict of interest and that Attorney Ken Goldberg would be representing the Board in his absence. He stated that Attorney Harry Chiles, Nabors, Giblin & Nickerson, is representing the Planning Staff.

Attorney Gary Vorbeck, of Theriaque, Vorbeck and Spain, representing of Toscana, requested that the Board remove Mr. Goldberg as acting attorney for the Board. He accused Mr. Goldberg of advising both the Planning Staff and the Board by rendering his opinion that the proposed development did not comply with code. He stated that the law requires his removal so that minimum due process could be established.

Commissioner Comander asked if the Board voted to remove Mr. Goldberg as acting attorney, leaving the Board without representation, would that delay the Board's decision on the development. Mr. Goldberg stated that he would recuse himself at the Board's wishes. He stated the case referenced in Mr. Vorbeck's letter dealt with disciplinary quasi judicial administrative proceedings, not with land use issues. He stated that the role of the County Attorney is to advise staff to make recommendations regarding the consistency of the project of the Comprehensive Plan. He felt that the project was not consistent with the Comprehensive Plan and recommended revision. He submitted the job summary of the County Attorney.

Mr. Vorbeck spoke in opposition stating that Nabors, Giblin and Nickerson represented the Planning Staff, not the County Attorney.

Commissioner Meadows asked why the issue was not brought up at the beginning of the project. Mr. Vorbeck stated the issue was brought to the attention of the County Attorney in August and that the reports were changed during the continuance and are continuing to be changed.

Commissioner Jones asked Mr. Vorbeck if he felt it was inappropriate for staff to change the reports up to the point of presentation. Mr. Vorbeck replied that he felt it was

inappropriate and that the staff report had been changed approximately six times and should be justified.

Commissioner Meadows stated that setting a cut-off date for changes would hinder the process. A larger problem may arise after the cut-off date that would determine the outcome of the project. Mr. Vorbeck stated that the issue is that council to the Board was giving direction to the staff and instructing them on how to do the report.

Mr. Chiles stated that the first time the project was heard by the Planning Commission, it was denied due to compatibility issues. He said that the plans were revised and approved at the second presentation to the Planning Commission. Mr. Chiles stated that he became involved a second time when Mr. Burke made known his conflict of interest and appointed Mr. Goldberg as representative. He does not feel that the staff attorney should advise on this issue, however he suggested that the project be approved or denied based upon merits, not the side issues.

Mr. Vorbeck stated that none of the plans have changed since the Planning Commissions approval.

Commissioner Comander asked Mr. Vorbeck if he felt that the Board would be unable to make a fair decision. Mr. Vorbeck replied that the evidence must be heard, but that this is a due process issue and it could be appealed.

Commissioner Brannon questioned Mr. Vorbeck if his greatest concern was the fact that Mr. Goldberg advised the staff on the land use and how to complete the report. Mr. Vorbeck stated that it was.

Commissioner Jones asked Mr. Vorbeck if the Board voted to dismiss Mr. Goldberg and the staff recommends denial, would he continue the due process dispute. Mr. Vorbeck stated that he would not state his position at this point.

Commissioner Comander interpreted Mr. Vorbeck as saying that if the Board kept Mr. Goldberg and denied the project, a lawsuit would be inevitable. Mr. Vorbeck stated that would be the decision of his client.

Commissioner Meadows feels that this issue should continue with Mr. Goldberg as advisor.

Mr. Goldberg stated that changes had been made to the project since the approval by the Planning Commission. He stated the issue was the consistency of the project with the current regulations.

Mr. Chiles stated that the staff does not recommend denial. Staff has laid out findings of fact and recommends approval with conditions.

The Board denied the request to remove Mr. Goldberg as council.

Mr. Vorbeck submitted into evidence a transcript from the August 9, 2007 Planning Commissioner Meeting. He read a passage stated by Board Member Terrell approving the project.

Mr. John LaPlant, developer, Seagrove Sand, L.L.C., spoke of the assets of the Toscana project. He stated that the project was downsized to better suit the surrounding area. He spoke of the different changes in the staff report. Mr. LaPlant stated that the project has always been a condominium project. He stated that the project would be well maintained and he expressed a desire to comply with the neighborhood.

Mr. Dean Burgis, President, Emerald Coast Associates, Incorporated, presented Toscana f/k/a Sienna Place a major development order application submitted by Emerald Coast Associates, Inc., Agent, consisting of one (1) 11,960 square foot 6-unit single-family condominium on 1.27 +/- acres with a future land use of NPA/infill. The site is located on the south side of County Road 30A and Eastern Lake Road intersection. He stated the project was denied by the Planning Commission. Modifications were made to satisfy green space then brought back to the Planning Commission where it was approved. He stated that the project has been continued on two occasions to address the neighbors' concerns. He discussed the issues regarding compatibility and green space. He feels that the project meets the requirements of the Land Development Code (LDC).

**(Toscana: Exhibits 1-13, Ex Parte Communications)**

Commissioner Meadows asked if the buildings were connected. Mr. Burgis stated that the buildings were connected by a courtyard wall. Commissioner Meadows asked if the project was a gated community. Mr. Burgis stated that the Variance Board would have to approve for the project to be gated. Commissioner Meadows asked if there were any other single-family homes in the area that are connected by a wall. Mr. Burgis stated he was unable to accurately answer that question.

Commissioner Meadows said that she feels that this project is a detached single family home built to resemble a condominium to get by the setbacks to achieve more units on the property. She stated that although the project is beautiful, she feels it does not meet the intent of the code.

Commissioner Brannon asked if the garden wall that attaches the buildings is what determines it as a condo. Mr. Vorbeck stated that what makes it a condo is there is no subdivision of land. Mr. Burgis stated that there are other projects similar to Toscana.

Commissioner Brannon asked where the designated parking area was located. Mr. Burgis stated that there are two garages per unit.

Commissioner Meadows stated that she was concerned that the density may cause problems with fire protection and parking. Mr. Burgis stated that the project met fire department approval and the parking requirements are met. Commissioner Meadows stated that even though the project may have received approval and met requirements, the influx of visitors to the beaches increase the problem in an already small area.

Mr. Vorbeck stated that the project density allowed is 4.71 units per acre and that the project was in compliance.

Mr. Goldberg asked who would own the houses. Mr. Burgis stated that the association would be the owners of the structures.

Discussion continued regarding condo ownership.

Commissioner Meadows stated that the difference between this project and the surrounding neighborhood is the setbacks which lends to the compatibility issue. Mr. Burgis stated that staff had determined the compatibility issue was the green space.

Commissioner Jones questioned the setbacks for this project. Mr. Burgis stated that the setbacks exceeded the single family requirements.

Commissioner Brannon asked if there is sufficient room between the buildings for emergency vehicles. Mr. Burgis stated that the distance between the buildings is greater than 15 feet which is required by the fire code.

Mr. Chiles and Mr. Vorbeck questioned Mr. Burgis regarding setbacks, compatibility, and areas designated as green space and impervious areas.

Mr. Vorbeck presented Mr. Wiley C. “Buddy” Page, MPA, APA, Professional Growth Management Services, LLC, as an expert witness.

Mr. Page stated that he performed a compatibility study of the development and surrounding areas. He stated his research and review shows that the project is compatible with the surrounding areas.

Commissioner Meadows questioned Mr. Page’s affiliation with this part of Walton County. She felt that his review and studies did not take into account the activities and uniqueness of the area.

Commissioner Jones asked Mr. Page who requested clarification of the single family dwelling/condominium issue. Mr. Page stated that the request was made by county staff for clarification on why the term single-family was used instead of condominium.

Mr. Chiles questioned Mr. Page regarding the compatibility with the surrounding single-family units and the definition of setbacks as it relates to single-family and multi-family.

Discussion ensued on compatibility as it relates to multi-family, single-family or condominium.

Commissioner Jones raised concerns that the compatibility analysis was changed to suit the staff report but the site plan remained unchanged. Mr. Burgis stated that the site plan was changed from eight units to six units prior to the August Planning Commission Meeting.



Mr. Vorbeck asked Mr. Page if this project negatively affected the surrounding areas. Mr. Page stated that it would not.

Mr. Chiles requested that Ms. Blackshear be considered as an expert witness.

Ms. Blackshear stated that the project had come a long way in complying with the regulations, but there are still some issues to be resolved. She stated that there has been confusion with the compatibility analysis labeling the project as single-family when the application was filed as a six unit single-family condominium. She said that clarification of the designation was requested. She stated that staff felt that the project needed more green space. Ms. Blackshear said that Attorney Dana Matthews said that the developer would reduce the project by no more than two units and would work the staff on redesign. Ms. Blackshear stated that she felt the compatibility analysis should not have focused on the area across from the established single-family neighborhood surrounding the project area. She then stated that all final staff reports are signed. She stated the greatest concern was the compatibility analysis and maintaining the residential character of the neighborhood.

Mr. Jason Bryan, Planning Department, stated that the Planning Commission recommended nine conditions to be met. He stated that all staff reports are a work in progress and can be changed until final signature. Ms. Blackshear stated that during the June Planning Commission Meeting that she had expressed concern over the single-family multi-family set back issue. She stated that she had asked Mr. Bryan to clarify the report even before Mr. Goldberg advised revision.

Commissioner Brannon asked Mr. Bryan if setbacks were met, how many units could be built. Mr. Bryan stated approximately three. He had suggested a duplex so that

the footprint would be compatible to the neighborhood but the applicant did not want that type of building.

Commissioner Pridgen asked if the six buildings outside the development were single-family residences. Mr. Bryan stated that they were.

Mr. Vorbeck questioned Mr. Bryan on the Planning Board's adoption of the conditions. Mr. Vorbeck stated that the Planning Board did not adopt the report presented tonight. Mr. Bryan stated that the Planning Board had told the applicant to work with staff on meeting the conditions. Mr. Vorbeck asked Mr. Bryan how the project will negatively affect the surrounding areas. Mr. Bryan stated the proposed gated community would interfere with the scenic corridor and the density is more than other projects. Another issue to consider is the added traffic that may affect life safety. Mr. Vorbeck stated that the fire department had given their approval.

Mr. Goldberg stated that the question is whether the project is consistent with county code and comprehensive plan. Mr. Vorbeck disagreed with Mr. Goldberg stating that the definition of compatibility was a basis of condition. He then asked Mr. Bryan what made this project incompatible. Mr. Bryan stated that in his opinion that this project should be a three unit subdivision. He stated that the adjacent properties were not the primary focus of the compatibility analysis and that the surrounding neighbors have spoken against it.

Mr. Chiles and Mr. Vorbeck questioned Mr. Bryan about compatibility. Mr. Bryan stated that the project was an attempt to use condominiums in a single-family area.

The meeting recessed at 8:51 p.m. and reconvened at 8:58 p.m.

Dr. Dennis Riddle, resident and representative of surrounding homeowners, spoke against the project citing the project is not compatible.

Ms. Anita Page raised concerns about the setbacks.

Mr. Gordon VanMol, resident, encouraged the Board to vote against the project.

Attorney David Milam, Dunlap, Toole, Shipman and Whitney, legal representative for the surrounding 24 homeowners, spoke against the project. He stated that his clients feel that limiting the development to three single family homes would be more compatible.

Mr. Burgis responded to the concerns of the people stating that the conditions and criteria have been met and the green space exceeds the requirements. He also stated that the density of the project is within the required parameters. He stated that the project could be changed to meet the single-family setbacks if needed, however, the setbacks for multi-family are more strict.

Commissioner Meadows stated that the project cannot be designated both multi-family and single-family.

Commissioner Jones asked if the project was less than the required 65% building width. Mr. Burgis stated it was and that the project could meet single-family setbacks.

Commissioner Meadows stated that a condominium is one building therefore the project does not meet the 65% calculation. Mr. Burgis stated that there are six individual buildings within the condominium plat and the roadway through the middle was not part of the 65% calculation.

Commissioner Meadows asked if the garden walls were six feet high. Mr. Burgis stated that they were. Commissioner Meadows asked Ms. Blackshear if six foot walls

were only permitted by variance. Ms. Blackshear stated that part of the problem is that the application was for a PUD. She stated that the single family setbacks applied to the whole parcel. She said that it would be more appropriate to meet the single family setbacks, but it is not the responsibility of the Planning Department to redesign the project.

Discussion continued on determining single-family setbacks.

Mr. Vorbeck concluded by stating that the project is compatible and has more green space than the surrounding homes and it has not changed since the Planning Commission's approval.

Commissioner Brannon, Jones and Meadows all agreed that the project is denser than the surrounding area and feel the project needs to be smaller. Commissioner Comander voiced concern over the parking availability and concurred with the need of a smaller project.

Motion by Commissioner Brannon, second by Commissioner Comander, to deny the Toscana project. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Lois La-Seur presented LSA 06-01.21 an ordinance (**2007-42**) amending the Walton County Comprehensive Plan Future Land Use Element Policy L-1.1.1(B)(6)2 to clarify the locations of VMUC developments that include affordable housing; defining percentages of commercial and residential development in VMUC, to include a required percentage of affordable housing. She stated that the ordinance has been revised to include in the compatibility analysis.

Commissioner Meadows asked if US 331 was included as a designated roadway. Ms. La-Seur stated that US 331 is an arterial roadway in the affordable housing mixed use. She stated that the original was limited to Highways 30A and 98.

Mr. Bill Bard, resident of Santa Rosa Beach, spoke against the ordinance stating he felt the ordinance would allow for more commercial.

Commissioner Meadows stated that this ordinance is very strict and would require a compatibility analysis, up to 50% of the site will be workforce housing and excluded strip malls.

Ms. Blackshear stated that the control factors are the non-residential uses limited to a 0.5 floor/area ratio and the impervious surface ratio is 0.75.

Discussion continued on the details of the ordinance.

Commissioner Comander stated that this type of neighborhood is very important for working families.

Ms. Page asked if the impervious area applied to the whole site or commercial area. Ms. Blackshear stated that it would apply to the whole site and would include the buildings.

Commissioner Comander asked what methods would be required to make sure that affordable housing is built. Ms. Blackshear stated that the development order would have conditions to be met before receiving a permit.

Commissioner Meadows asked if a developer would be allowed to do phasing. Ms. Le-Seur said that policy states that the project must be built concurrently.

Mr. Nolan Baker, CDBG Engineering, spoke in favor of the ordinance.

Mr. Alan Ficara voiced concerned with the impervious surface and preservation areas. Ms. Blackshear stated that any protected area will be set aside.

Commissioner Meadows suggested that US 331 be added to the roadways listed in the ordinance.

Mr. Bard spoke in opposition of US 331 being added to the ordinance.

Ms. Le-Suer stated that VMUC required a plan amendment to contain the growth within in the neighborhood. Single-family neighborhoods will voice concerns if the project does not meet their satisfaction.

Ms. Page stated that the VMUC issue should be studied to determine what restrictions need to be placed on the centers.

Motion by Commissioner Comander, second by Commissioner Meadows, to adopt LSA 06-01.21 (Ordinance 2007-42) and adding US 331 to roadway designations in paragraph 2. Ayes 4, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Comander Aye. (Commissioner Brannon exited the meeting at 10:16 p.m.)

Ms. La-Seur presented for adoption LSA 06-01.3 (Ordinance 2007-41) Kuykendall partners, LLC and IMARC Partners, Inc. a Large Scale Amendment to change 60 +/- acres in Walton County south of the Choctawhatchee Bay for affordable housing from Neighborhood Planning Area/Infill and Conservation Residential 1:2.5 to Village Mixed Use. The property is located east of the intersection of Chat Holley Road and US 331 between Nellie Drive and Old Indian Woman Road.

Commissioner Meadows stated that she met with the applicant. She said the plan did not meet the revised VMUC ordinance and changes would have to be made.

Mr. Baker thanked Commissioner Meadows for discussing the plans with him and his staff and they are willing to make the recommended changes.

Mr. Bard spoke in opposition of the project.

Motion by Commissioner Meadows, second by Commissioner, to adopt LSA 06-01.3 (Ordinance 2007-41). Ayes 4, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Comander Aye.

Ms. Melissa Ward, Planning Department, presented Pinewood Preserve Plat, a final plat application submitted by PBS&J, requesting approval for 33 single-family lots on +/- 5.078 acres with a future land use of NPA/infill. This site is located on the northeast corner of the intersection of Orange Street and Pinewood Lane. 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.

Motion by Commissioner Jones, second by Commissioner Comander, to approve Pinewood Preserve. Ayes 4, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Comander Aye.

(Commissioner Brannon entered the meeting at 10:25 p.m.)

Ms. Ward presented Bungalows at Seagrove, First Addition Plat, a final plat application submitted by Ruben Surveying and mapping requesting approval for a 3 lot single family subdivision on +/- .59 acres with a future land use of small neighborhood. This plat is the final phase of the Bungalows at Seagrove Planned Unit Development, approved by development order number 1771, and the technical approval of phase I approved by development order 04-000-00050. The site is located on Somerset Bridge Road, approximately 0.3 miles north of County Road 30A. 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.

Motion by Commissioner Brannon, second by Commissioner Comander, to approve Bungalows at Seagrove, First Addition Plat. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Ms. Ward presented for first public hearing for Rosa Del Mar SSA 2007-13 a request to change 6.21 +/- acres from NPA/infill 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, on the west side of Moll Drive south of US 98. 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.

Ms. Le-Seur presented for first public hearing Thompson SSA 2007-14 a request to change 1.0 +/- acre from NPA/RPA to low density residential or any less dense or intense category. The parcel is located south of Choctawhatchee Bay immediately north of the Cassine Garden/Village development in Seagrove. 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. Ficara asked if a compatibility analysis was required. Ms. La Seur stated that it was not.

Ms. Le-Seur presented for first public hearing Rex and Lumpann Chambless SSA 2007-16 a request to change 3.79 +/- acres from NPA/RPA to low density residential, or any less dense or intense category. The parcel is located south of the Choctawhatchee Bay, 450' north of the intersection of Pisces Drive and Chat Holly Road. 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. Terrell Smith, Bay Pine Shore Homeowners Association President, spoke in opposition to the project.

Ms. Le-Seur presented for first public hearing McHenry and Chaney SSA 2007-17 a request to change 1.39 +/- acres from CR 2:1 to low density residential or any less dense or intense category. The parcel is located south of Choctawhatchee Bay on the south side of Sierra Court (f/k/a Jennifer Drive), east of West Hewitt Road. 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. **(Ex parte Communications)**

Ms. Blackshear stated that this project would be controlled by a compatibility analysis.

Mr. Daryl Barnhill encouraged the Board to support this project.

Mr. Ficara stated that he was not notified of any change. Mr. Barnhill stated that notification was sent out via certified mail.

Ms. La-Seur presented M.A. Properties SSA 2007-18. She stated that the applicant has requested the application be withdrawn.

Mr. Barnhill presented Assisi Villas PUD a proposed planned unit major development order application submitted by Barnhill, Barnhill & Barnhill, consisting of 40 single-family homes on 10.4 +/- acres with a future land use of NPA/infill. The site is located on the east side of Thompson Road, approximately 1,400 feet south of US 98 West. 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 requested that the Board approve the project with the three deviations as follows: right of way reduction from 40 feet to 29 feet, reduce side yard setbacks from 7.5 feet to 5 feet, and reduce rear setbacks of the southern section of phase one from 15 feet to 10 feet. **(Assisi Village Exhibits: 1-5)**

Ms. Blackshear stated that traffic concurrency approval is for phase I technical.

Ms. La-Seur stated that staff recommended against the second and third deviations. This is a technical approval for phase I and a conceptual approval for phase II.

Mr. Barnhill asked the Board to grant minimal exceptions.

Mr. Hanie Nasri encouraged the Board to approve the project with exceptions.

Commissioner Comander asked Mr. Barnhill why the applicant requested a reduction of right of way. Mr. Barnhill stated that there was 51 feet available and requested that 29 feet be used for right-of-way and the other 22 feet be designated for drainage and utilities.

Commissioner Meadows asked if this action was to give the buyers more property. Mr. Barnhill stated that it was and it would give maximum distance from the State Forrest buffer. Commissioner Meadows stated that the covenant and restrictions should include that the roads are private and not county maintained.

Mr. Ficara asked if the change is a variance from the front setback. Mr. Barnhill stated that there is adequate distance between the houses and more than minimal parking on the site.

Commissioner Comander stated that there should be adequate drainage. Mr. Barnhill stated that storm water permits have been issued.

Motion by Commissioner Meadows, second by Commissioner Brannon, to approve Assisi Village with requested exceptions. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

Mr. Scott Jenkins, Jenkins Stanford and Associates, presented Live Oak Business Plaza (f/k/a BRW Commercial Office Building Park) a major development order application consisting of 2 buildings having a total 80,047 square feet on 4.2 acres with a future land use of light industrial. The site is located on CR 393 North, approximately .16 mile south of Chat Holly Road. 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. **(Live Oak Business Plaza Exhibit: Staff Report)**

Ms. La-Seur stated that the engineering issues have been resolved.

Motion by Commissioner Comander, second by Commissioner Meadows, to approve Live Oak Business Plaza. Ayes 5, Nays 0, Pridgen Aye, Meadows Aye, Jones Aye, Brannon Aye, Comander Aye.

There being no further business the meeting adjourned at 10:48 p.m.

APPROVED \_\_\_\_\_  
Kenneth Pridgen, Chair

ATTEST \_\_\_\_\_  
Martha Ingle, Clerk of Court