

REGULAR MEETING – AUGUST 25, 2009

The Board of County Commissioners, Walton County, Florida, called to order the regular meeting on August 25, 2009 at 3:00 p.m., at the Walton County Courthouse in DeFuniak Springs in order to recess into Executive Session.

The following Board members were present: Commissioner Sara Comander, Chair; Commissioner Larry Jones; Commissioner Cecilia Jones; and Commissioner Kenneth Pridgen. Mr. Lyle Seigler, Interim County Administrator; Mr. Ronnie Bell, County Administrator; and Attorney W. C. Henry, County Attorney, were also present.

Attorney W. C. Henry, County Attorney, stated that litigation strategy for D & H Sand, Inc. v. Walton County (2009-AP-000001) would be discussed during the Executive Session. Also to be discussed will be the Edgewater Beach owners Association and Suzanne Harris v. Walton County cases. Attending the executive session will be County Commissioners, County Administrator, Interim County Administrator, a certified court reporter, and County Attorney staff.

The meeting recessed at 3:02 p.m. and entered into Executive Session. This meeting was not open to the public pursuant to Florida Statute 286.011(8).

The Executive Session adjourned at 3:45 p.m. and the regular meeting reconvened at 4:00 p.m.

Commissioner Scott Brannon, Vice-Chair; and Ms. Martha Ingle, Clerk of Courts, were present during the regularly scheduled meeting.

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



4. Approve a **Resolution (2009-66)** to amend the budget for unanticipated grant revenue for the Chat Holley Road SCOP Grant from DOT.
5. Approve the FCT Grant for Town Center Park (Padgett Park).
6. Approve the Public Assistance Funding Agreement for Sever Weather/April Flooding.
7. Approve the 2009-2010 Consolidated Small County Solid Waste Management Grant.
8. Approve to designate approximately \$537,618.00 from District 5 Recreation Plat Fee Funds for Helen McCall Park Phase I.
9. Approve amended Lease Agreement with Ken Mitchem (storage space for the Supervisor of elections).

Chairman Comander announced that due to time constraints, the Toscanna Major Development Project issue, found under the Office of the County Attorney Agenda Items, would be presented at this time.

Attorney Harry Chiles, Nabors Giblin & Nickerson, asked for Board direction on a pre-litigation matter dealing with Toscanna Major Development Project. He gave a brief history of the project and its decrease in density to four units. The four-unit project was approved by the BCC in January, 2008. In October, 2008, the developer filed a Burt Harris claim with the county. After review, the county was found to have acted appropriately. Attorney Chiles stated that the developer wishes to resubmit the project beginning at the six unit stage approved by the Planning Commission. A new quasi-judicial hearing would be required before the Board. Commissioner L. Jones stated that the BCC denied the six unit project and asked if a Finding of Fact and a Final Order was issued. Attorney Chiles stated that the developer requested that no final written order be entered. Commissioner L. Jones questioned if new evidence would be presented. Attorney Chiles stated if the plans were changed, the project would have to return to the Planning Commission. Discussion ensued regarding the potential problems related to rehearing the six unit project. Attorney Henry reported that the issue is still in the Burt

Harris negotiation stages and that there is no requirement to rehear the project. Attorney Chiles said that if there is no out of court settlement then the Burt Harris proceeding would continue. The Commissioners voiced reluctance to reconsider the project under the threat of litigation. Commissioner L. Jones stated that he would be open to hearing the project again if substantial new evidence is presented to support the six unit project but absent new information reconsideration is pointless.

Motion by Commissioner L. Jones, second by Commissioner Brannon, to direct Attorney Chiles to request additional information, not presented during the original hearing in which the six unit project was denied.

Chairman Comander stated that the six unit project had already been presented and rejected by the Board and felt that it should not come back before the Board.

Ayes 4, Nays 1. Comander Nay, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Lyle Seigler, Interim County Administrator, presented the following Board and Committee reappointments: Mr. Tom Terrell, Planning Commission; and Ms. Sally Merrifield, Planning Commission.

Motion by Commissioner L. Jones, second by Commissioner C. Jones, to approve the Board and Committee reappointments as presented. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler presented the SHIP Program Annual Report for approval and signatures. He recommended approval.

Motion by Commissioner Pridgen, second by Commissioner Brannon, to approve the SHIP Program Annual Report and approve the Chair and County Administrator

signatures. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler presented for approval two quotes from Gulfwinds Construction and Renovation to purchase and construct a 40' x 80' equipment/hay barn for Hinote Pit (\$16,776.34), and a 40' x 100' equipment/hay barn for Brown Pit (\$21,042.90). Gulfwinds Construction and Renovation was the lowest bidder.

Motion by Commissioner Pridgen, second by Commissioner C. Jones, to approve Gulfwinds Construction and Renovation, as lowest bidder, to construct two barns in the total amount of \$37,819.24. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler requested to place up to 2.5 acres of the County's Bunker parcel in a conservation easement. He stated that there are .24 acres of unavoidable wetland impacts associated with the completion of Goldsby Road. Florida Department of Environmental Protection (FDEP) is requiring 1.3 acres be mitigated and the Army Corps will possibly require two or more acres depending on their evaluation. Permits must be obtained through FDEP and the Army Corps.

Motion by Commissioner Brannon, second by Commissioner Pridgen, to approve up to 2.5 acres of the County's Bunker parcel in a conservation easement. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler requested approval to purchase herbicide and application equipment for Cogon grass control. The equipment and chemicals needed would include: Clyphosate and Imazapyr (\$8,000); and a tractor mounted boom sprayer as well as 10 hand sprayers (\$2,750).

Motion by Commissioner C. Jones, second by Commissioner Pridgen, to approve the purchase of chemicals and equipment for Cogon grass control.

Commissioner L. Jones asked if this would specifically be used in the county right-of-ways. Mr. Seigler stated that it would.

Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler requested to collect on the Trout Branch Letter of Credit (VA-08-02) if an extension of the current letter of credit or a new approved letter of credit has not been obtained prior to September 7, 2009. The Trout Branch Industrial Park infrastructure is not complete.

Motion by Commissioner Pridgen, second by Commissioner Brannon, to collect on the Trout Branch Letter of Credit (VA-08-02). Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler announced that the RFQ process will be advertised for Construction Engineering Inspection Services on Federal Stimulus projects. The projects include the C.R. 30A resurfacing project and the Redfish Lake Pedestrian Bridge project. The top three firms will be presented to the Board on September 22, 2009.

Mr. Seigler announced that the RFQ process will be advertised for Continuing Professional Services Contract. The expiration on the current services is September 30, 2009.

Officer Danny Glidewell, Department of Corrections Director, requested that the Board allow the Chair to sign the Edward Byrne Memorial JAG grant application.

Motion by Commissioner Pridgen, second by Commissioner Brannon, to approve the Chair signature on the Edward Byrne Memorial JAG grant application. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler requested to advertise for RFQ for architectural services for the future Emergency Management Joint Communications Center located at the Sheriff's office. The funds will come from the \$1 million set aside for Sheriff's Department capital projects. The RFQ will be for design only.

Motion by Commissioner L. Jones, second by Commissioner Pridgen, to advertise for RFQ for architectural services for the Sheriff's office. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Mr. Seigler requested permission to receive quotes for a walk behind blower. This item has been budgeted for the current year and will be utilized by the Parks Department.

Motion by Commissioner Pridgen, second by Commissioner Brannon, to approve the request for quotes for a walk behind blower. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Attorney Henry presented the establishment of Board policy for participating paving projects. The necessity of this item stemmed from a meeting held in August, 2009 to discuss the proposed Beachview Heights MSBU. Use of county employees and equipment to do paving work and necessary road material funding by the property owners were discussed at the meeting. A special meeting is scheduled for September 1, 2009 to consider the adoption of the Beachview Heights MSBU. The meeting cannot be held if there are still concerns and questions regarding the use of county resources for this project. In the past Walton County has entered into developer agreements on a case by

case basis where the developer paid for the materials and the county crews and equipment were used to perform the paving work. There are no written procedures to follow. He said the negative side of this issue is that the list of current paving projects may have projects deferred to accommodate a particular project.

Chairman Comander felt that resources should be spent on the approved project list, and that the county should not be competing for jobs. Attorney Henry stated that F. S. 336.41 dictates that projects \$400,000 or greater must be bid out to private industry. Any project below that is at the county's discretion.

Commissioner Brannon pointed out that the roads within the MSBU are private roads. Attorney Henry said that the property owners are willing to dedicate the easements obtained from the developer to the county for maintenance.

Commissioner L. Jones felt that the developer agreements, on road paving, were mutually beneficial to the developer and the county but a MSBU is citizen initiated and all details need to be agreed upon at the beginning. Commissioner Brannon asked if it would be more cost effective for the county to perform the work than bid it out. Attorney Henry stated it would. Commissioner L. Jones asked if the MSBU dollars would be applied to the county resources as well as the road materials. Attorney Henry said that the MSBU dollars would cover road material only and the county would bare the cost of labor and equipment. Mr. Ronnie Bell, County Administrator, discussed the issues surrounding the MSBU. He stated that the project was to be a shared project similar to a developer agreement. He reminded the Board that the ballot count was very close which indicates that the neighborhood was not in full agreement. He said that it would be cost effective for the county to perform the work; however, the MSBU would allow the

money to be paid back over a seven to 10 year period. Commissioner Pridgen voiced concern over the inability to complete the current project list. Discussion continued regarding the monetary concerns and responsibilities of the county.

Mr. David Kramer spoke in opposition of the MSBU and the proposed policy. He felt that competing with the private sector would be a mistake.

Mr. Bill Wyrough and Mr. Philip Fleet, Beachview Heights residents, spoke in favor of the MSBU citing public safety as being a major factor. Mr. Fleet played a 911 recording of a recent incident where emergency vehicles were unable to access an injured child. Commissioner L. Jones asked if that particular road was county maintained. Mr. Wyrough stated that it was a private road that was unofficially maintained by the county. Mr. Fleet stated that the county proposed to the residents a cost share partnership and the residents have complied with everything that has been required of them. They feel that constitutes a commitment. Mr. Bell confirmed that the residents were told that it would be a cost share partnership as long as the MSBU was approved.

Mr. Klaus Driscoll spoke against the MSBU.

Commissioner L. Jones feels that the Beachview Heights situation needs to be reviewed differently than future situations. He said that the county has promised to move the MSBU process forward and feels that the commitment should be honored. Chairman Comander voiced concern that county departments have made commitments without seeking the Board's approval. Mr. Seigler stated that staff provided information based upon current rate of cost of resources, if the Board approved the MSBU. Chairman Comander asked how long the project would take and how many miles were involved. Mr. Allen Brown, Deputy Public Works Director, stated that it would be phased out and

would take approximately three months to complete the estimated one mile project. He stated that only two roads in the subdivision are county maintained. Discussion ensued on the deference of current projects.

Mr. Seigler felt that it would be prudent to receive private bids on the Beachview Heights if the MSBU is approved. Attorney Henry reported that the cost of the material would be approximately \$283,000. Mr. Brown reported that the county cost was approximately \$99,000.

Attorney Henry stated that the issues to be addressed were: if the Board was willing to use county resources for the Beachview Heights project; and if the Board wanted a policy codified by ordinance for future projects with MSBU use.

Motion by Commissioner L. Jones that in the event the MSBU is approved with an established dollar figure, county crews would be made available subject to a review of bids requested to ensure that the project cannot be bid less than the resources of the county.

Attorney Henry asked for clarification as to whether the MSBU would cover the entire cost or if there would be a county contribution. Commissioner L. Jones stated that an MSBU estimate was based on the total project cost. Attorney Henry stated that the assessment was based on materials only. If the MSBU is to fund the entire project then the amount per property would increase.

Commissioner L. Jones rescinded his original motion and entered a new motion based on Attorney Henry's comments.

Motion by Commissioner L. Jones, second by Commissioner Brannon, subject to the passage of the Beachview Heights MSBU, the county, at its discretion may perform

the work in house or contract the work to an outside firm, providing the bids from outside vendors do not cause the cost of the project to exceed MSBU collections. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Attorney Henry stated that a policy needed to be established addressing future participating paving projects with contributions from the county and the owners of abutting properties. He stated that Bay County uses two different methods to approach this type of situation: 1. the members of the public bring a petition to the Board for consideration; and 2. a mandatory participating paving program. The second approach imposes a cost share program to pave individual roads when funding is not readily available. The county would bear the majority of the cost.

Chairman Comander asked that the deferral of paving projects be discussed before deciding on the policy establishment.

Commissioner Brannon voiced concern regarding the mandatory option. The MSBU process allowed the property owner to vote. Commissioner L. Jones asked that a mechanism to allow a neighborhood to initiate the process be reviewed that is less complicated than an MSBU. Attorney Henry was instructed to prepare a document for Board review.

Mr. Seigler addressed the deferral option. Commissioner Brannon asked if deference would delay the paving projects schedule. Mr. Seigler stated that the number of special projects would not adversely affect the current paving schedule.

Attorney Henry presented for adoption a resolution **(2009-73)** amending Resolution 2002-23 assessing charges for inspecting, copying and answering public records requests.

Motion by Commissioner Brannon, second by Commissioner Pridgen, to adopt a resolution **(2009-73)** amending Resolution 2002-23. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Attorney Henry presented a resolution **(2009-72)** requesting FDOT to install a traffic light at the intersection of US Highway 331 and Chat Holly Road.

Motion by Commissioner L. Jones, second by Commissioner C. Jones, to approve the resolution **(2009-72)** requesting the installation of a traffic light at Chat Holly and Highway 331. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Attorney Henry requested permission for staff to bring to the Board an ordinance imposing an additional \$15 surcharge for any traffic infraction or criminal violation to fund State Court Facilities pursuant to F.S. 318.18(13)(a) and amending Ordinance 2004-23.

Motion by Commissioner Brannon, second by Commissioner C. Jones, to set a public hearing for September 22, 2009 to present an ordinance imposing additional surcharges on any traffic infraction or criminal violation and amending Ordinance 2004-23. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Commissioner C. Jones requested approval to allow staff to pursue the Bikes Belong Coalition Grant in the amount of \$10,000.

Motion by Commissioner C. Jones, second by Commissioner Brannon, to allow staff to pursue the Bikes Belong Coalition Grant. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Motion by Commissioner C. Jones, second by Commissioner Pridgen, to appoint Mr. Greg Catalano to the Planning Commission. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

Commissioners L. Jones, Pridgen and Brannon had no items to present.

Chairman Comander stated that she and Mr. Rick Millard, Construction Manager, had recently discussed the Senior Center renovations. Tri-County now runs the facility and has proceeded in making the recommended improvements. She stated that Mr. Millard had informed her that there was not enough funding left to carpet the great room. She would like to take \$5,000 from her Recreational Plat Fee Fund to go toward this project. Commissioners Brannon and C. Jones stated that they would match her donation.

Motion by Commissioner Pridgen, second by Commissioner Brannon, to approve the designating of Recreational Plat Fee Funds totaling \$15,000 (District 1-\$5,000, District 4-\$5,000 and District 5-\$5,000) to carpet the great room of the Senior Center. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

There were no public comments.

There being no further items to present, the meeting was recessed at 5:27 p.m. and reconvened at 5:41 p.m.

Mr. Gerry Demers, Development Services Division Director, presented for first public hearing an ordinance amending sections 3.01.03C, 11.01.05b, and 11.01.06c of the Land Development Code to allow an exception that would extend by two years the time in which final orders, minor development orders and major development orders shall remain valid; providing a sunset provision; and providing for retroactive effect of the amendment. The provision will allow any development order that expired September,

2008 and January, 2012 be extended two years past the expiration date. Mr. Demers stated that an extension request must be made in writing before the end of the year. He also said that the ordinance will mirror Senate Bill 360 that was recently passed.

Motion by Commissioner Pridgen, second by Commissioner Brannon, to move the issue forward for a second public hearing to be held on September 8, 2009.

Mr. Kramer voiced his opposition to the ordinance and felt that the extension should not be longer than one year.

Ms. Valerie Simmons spoke in favor of a longer extension period. She felt that setting a time limit between final approvals and development orders would be financially detrimental to the developer. Discussion continued on the time limits and its affects on monies invested in the projects.

Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

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

Mr. Mac Carpenter, Planning Manager, gave a brief overview of Topsail West Mixed Use Conceptual PUD.

Ms. Angela Bradley, St. Joe Company, stated the project was a major development order application, consisting of 31 mixed-use buildings including 308,300 square feet of retail, 5,000 square feet of office space, 190 senior living units, 110 assisted living units, and 310 multi-family units on 119.785 acres, which are variously designated as TC-2 and VMU. This site is located on the northwest corner of US Highway 98 and C.R. 30A. This was a part of the consent amendment and final judgment

for Topsail Lake. She said they wanted to establish floor area ratio (2.0) and impervious surface ratio (80%) which was not established in the consent final judgment. She also requested parking deviation. She asked that each of the conditions in item three be assessed during each phase. Commissioner Brannon asked for the estimated time frame of completion. Ms. Bradley stated that the project was schedule to begin between 2010 and 2012 and would be completed around 2020. She also asked to deal with the traffic concurrency during each phase. 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. Anita Page, South Walton Community Council, felt the impervious surface ration could not be vested when staff would perform environmental analysis with each phase.

Chairman Comander asked Mr. Carpenter to clarify the designated parking areas addressed on pages six through 10. Mr. Carpenter briefly discussed the Planning Commissions recommendations as found on page two of the Staff Report. Chairman Comander asked if there was a letter from Environmental stating that there were no issues. Mr. Carpenter stated that an Environmental memorandum dated June 22, 2009 was referenced on page nine.

Ms. Page asked how many acres were classified VMU and TC. Mr. Tim Brown, Assistant Planning Manager, stated that 10 acres were designated VMU. He stated that the town center preservation, recreation, and open area were included in the consent agreement and would not have to be addressed.

Ms. Tammy Ebie suggested that the projected parking area be located behind the facility. This would be more visibly pleasing and would provide buffering for the residential area behind the project. Mr. Carpenter stated that the parking would be assessed during each phase. He stated that in phases one and two the commercial is located on Highway 98 and that apartments and assisted living will be located on the north side.

Motion by Commissioner Brannon, second by Commissioner C. Jones, to approve Topsail West Mixed Use Conceptual PUD with the conditions outlined in the Planning Commissions recommendations. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye. **(Exhibit: Staff Report 1)**

Mr. Carpenter presented The Market Shops, a notice of proposed change (NOPC) for the Sandestin Development of Regional Impact (DRI) **(Ordinance 2009-13)** submitted by Ms. Sharon Gold, Sandestin Golf and Beach Resort.

Ms. Gold and Ms. Christine Buscarello, Compass Rose Academy Director, said the request proposes an E2 change of use from commercial to commercial and school for parcel 108C, to allow Intrawest to locate a private school in a 770 square foot space. The school would enroll approximately 24 children from pre-kindergarten through fifth grade, with a primary focus on children with special learning needs. The site is at 9375 Emerald Coast Parkway West. Commissioner C. Jones voiced concern that the school would be located near an establishment which served alcohol and that the school's location may contradict with Ordinance 2004-26. Ms. Gold stated that according to Florida Statute 1002 it is allowable for a private school to locate near a previously established restaurant which serves alcoholic beverages. Attorney Henry stated that the county is allowed to

have more restrictive ordinances than State law and briefly discussed the distances referenced in the ordinance and the statute. The purpose of the ordinance is to separate children from establishments that sell alcoholic beverages. Commissioner L. Jones asked if the same language applied to churches. Attorney Henry stated that the ordinance allows for church waivers.

Chairman Comander asked if an outside play area was available. Ms. Buscarello stated that there was. Commissioner C. Jones asked if the area was fenced. Ms. Buscarello stated that money had been budgeted for fencing.

Commissioner Brannon questioned the distance from the school to the restaurant. Ms. Gold stated that there were about seven shops in between the two. Commissioner L. Jones asked if the project would violate the ordinance if it was approved. Attorney Henry said that it would not since the school is choosing to locate near the establishment.

Staff found that the project is consistent with Florida Statutes 380.06(19)e(20) (a-j) and is not considered a substantial deviation. **(Exhibit: Staff Report 1, Letter)**

Motion by Commissioner L. Jones, second by Commissioner Pridgen, to approve The Market Shops-Sandestin DRI NOPC **(Ordinance 2009-13)**.

Commissioner C. Jones stated that she was not against the school, but its location.

Ayes 4, Nays 1. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Nay, Pridgen Aye.

Mr. Carpenter requested that Villas at Inlet Beach PUD be continued to the September 8, 2009 commission meeting.

Motion by Commissioner L. Jones, second by Commissioner Pridgen, to continue the Villas at Inlet Beach PUD to September 8, 2009. Ayes 5, Nays 0. Comander Aye, Brannon Aye, L. Jones Aye, C. Jones Aye, Pridgen Aye.

There being no further items to discuss, the meeting adjourned on motion by Commissioner Brannon at 6:00 p.m.

APPROVED \_\_\_\_\_  
Sara Comander, Chair

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