

**OCTOBER 25, 2016 – REGULAR MEETING/SPECIAL MEETING/EXECUTIVE
SESSION**

The Board of County Commissioners, Walton County, Florida, held a Regular Meeting on October 25, 2016 at 9:00 a.m. at the Walton County Courthouse in DeFuniak Springs, Florida.

The following Board members were present: Commissioner Sara Comander, Chairman; Commissioner Cecilia Jones, Vice-Chairman; Commissioner W. N. (Bill) Chapman; Commissioner Bill Imfeld; and Commissioner Cindy Meadows. Mr. Larry Jones, County Administrator; and Attorney Mark Davis, County Attorney; were also present.

Chairman Comander called the meeting to order.

Motion by Commissioner Jones, second by Commissioner Chapman, to approve the agenda with revisions as follows. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

1. Addition: County Attorney-Request to direct staff to initiate the process to change the land use category of Parcel # 12-3N-21-37060-00B-0130 from Public Facilities to Rural Residential

Mr. John Boushy encouraged the Board to form of a committee to work with the community to review beach uses and provide solutions and recommendations regarding customary use of the beaches. He addressed issues regarding the changes to the 25' buffer and umbrella size requirements.

There were no items pulled from the Consent Agenda for discussion.

Motion by Commissioner Imfeld, second by Commissioner Jones, to approve the Consent Agenda as follows. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

1. Clerk Items:

1. Approve Expenditure Approval List (EAL) excluding the Waste Management expenditures

FUND	FUND AMOUNT	WASTE MGT
General Fund	\$ 918,662.67	
County Transportation	\$ 830,288.70	
SHIP	\$ 12,990.00	
Fine & Forfeiture	\$ 178.17	
Section 8 Housing	\$ 1,605.51	
Tourist Dev. Council	\$ 1,070,620.38	\$ (8,626.87)
N.W. Mosquito Control	\$ 18,802.91	
Recreation Plat Fee	\$ 1,962.68	
Solid Waste Enterprise	\$ 267,533.09	\$ (245,250.06)
Bldg Dept/Enterp. Fund	\$ 346.07	
Imperial Lakes MSBU	\$ 1,532.08	
Stormwater Drainage	\$ 96,495.09	
Totals	\$ 3,221,017.35	\$ (253,876.93)
Grand Total		<u>\$ 2,967,140.42</u>

2. Approve the Minutes of the October 11, 2016 Regular Meeting

2. Administrative Items:

1. Approve the Quarterly Report for the Fourth Quarter (July, August, September 2016) from the Life Enrichment Senior Center

3. Budget Amendment Resolutions/Transfers:

1. Request to adopt a **Resolution (2016-80)** amending the FY 2016 Budget in the General Fund for unanticipated grant revenue from Florida Fish and Wildlife Conservation Commission and Department of Environmental Protection in the amount of \$71,550.00 for the retrofit lighting for sea turtle nesting project
2. Request to adopt a **Resolution (2016-81)** amending the FY 2016 Budget in the General Fund for unanticipated grant revenue in the amount of \$7,000.00 from the Florida Department of Revenue for Service of Process Child Support Enforcement
3. Request to adopt a **Resolution (2016-82)** amending the FY2016 Budget in the Public Safety 911 Fund for unanticipated grant revenue in the amount of \$88,751.00 for the Spring 2016 Rural County Grant for E911 maintenance
4. Request to adopt a **Resolution (2015-83)** for unanticipated revenues in the amount of \$170,000.00 into the FY 2016 Building Department Fund Budget
5. Request to adopt a **Resolution (2016-84)** amending the FY 2017 Budget to roll forward revenues and expenditures for Project, Encumbrances, and Grants from the FY 2016 Budget into the FY 2017 Budget
6. Request to adopt a **Resolution (2016-85)** amending the FY 2017 Budget for unanticipated new grants and new projects

4. Agreements/Contracts:

1. Request to approve and authorize the Chairman to sign an Interlocal Agreement with the Tax Collector's Office to collect the 2016 Freeport Fire Services MSBU
2. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for FY 2016 attestation services for the E911 fund
3. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for the FY 2016 Section 8 Housing Audit
4. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for testing of compliance with Florida Statutes related to the FY 2016 Statement of county Funded Court-Related Functions
5. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for completion of the FY 2016 Annual Local Government Financial Report
6. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for the FY 2016 financial statement audit
7. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for a review of Deepwater Horizon expenditures as required by Florida Statute 288.8018
8. Request to approve and authorize the Chairman to sign an agreement with Carr, Riggs & Ingram for the FY 2016 Landfill Escrow Audit
9. Request to approve and authorize the Chairman to sign a Memorandum of Agreement (MOA) with the Florida Division of Emergency Management (FDEM) for use of the AlertFlorida Statewide alert and notification system
10. Request to approve and authorize the Chairman to sign the renewal agreement with Bay Area Printing & Graphics Solutions for the GIS Department's HP 4000 (BCC# 5353; \$1,650.00 annually) and Canon iPF765 MFP (BCC# 8314; \$1,550.00 annually)
11. Request to approve and authorize the Chairman to sign the Lease Agreement with Vanguard Modular Building Systems for the District 3 Road Maintenance Facility
12. Request to approve and authorize the Chairman to sign Change Order No. 1 to Task Order No. 16-10 for CEI Services for Western Lake Pedestrian Bridge with Tetra-Tech, Inc. in the amount of \$11,747.00
13. Request to approve and authorize the Chairman to sign the Amendment and First Option to renew to Contract No. 014-030 Pest Control and Termite Control Services with Southland Pest Services, Inc.
14. Request to approve and authorize the Chairman to sign a Lease Agreement with Guardian Ad Litem
15. Request to approve and authorize the Chairman to sign the amendment for ValleyCrest Landscape name change to Brightview Landscape Services

5. Expenditure Requests:

1. Request to approve the purchase of a Latitude E6540 Laptop for Engineering in an amount not to exceed \$2,000.00
2. Request to approve repairs to the Bandit Beast 3680 Chipper/Recycler at the Landfill in an amount not to exceed \$20,000.00

Commissioner Chapman announced his voting conflict regarding Waste Management expenditures and submitted Form 8B: Memorandum of Voting Conflict to the clerk.

Motion by Commissioner Imfeld, second by Commissioner Jones, to approve the Waste Management Expenditure Approval List in the amount of \$253,876.93. Ayes 4, Nays 0. Comander Aye, Jones Aye, Chapman Abstain, Imfeld Aye, Meadows Aye.

Chairman Comander announced the Public Hearing to consider a Walton County Ordinance addressing the public's customary use of the dry sand areas of the beaches, buffer areas around private permanent structures and penalties for ordinance violation would be heard at this time. She requested the public comments submitted during the October 19, 2016 Workshop be submitted into the record. Chairman Comander asked for public input only from those who have not submitted comment prior to today's meeting. **(Excerpt attached: October 19, 2016 Customary Use Workshop Minutes pages 6-13)**

Motion by Commissioner Chapman, second by Commissioner Jones, to allow into the record the public comments submitted during the October 19, 2016 Workshop. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Chapman, second by Commissioner Jones, to open the Public Hearing. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Attorney David Theriaque, Special Counsel to the Board, presented responses to questions raised during the workshop regarding liability and the "Taking of a Right to Exclude." Research shows the people who use the dry sand would be considered uninvited licensees which means the landowners should refrain from "wanton negligence or willful misconduct" which

would expose the person to injury and to refrain from “intentionally exposing the person to danger, and to warn a person of a defect or condition known to the landowners to be dangerous and such danger is not open to ordinary observation by the licensee.” He also said “no duty is imposed by law on an owner or an occupant to keep its premises in a safe condition for those who come there solely for their own convenience or pleasure.” Attorney Theriaque said it is limited exposure and resembles what is currently in place. He also addressed the concerns raised on the taking of the right to exclude. He briefly discussed a finding by the Oregon Supreme Court which addresses the same issue. The Oregon Supreme Court held when plaintiffs’ took title to their land, they were on notice that exclusive use of the dry sand was not a part of the bundle of rights acquired. Customary Use preceded their ownership.

Commissioner Jones expressed her desire to form a committee to gather information and ideas. She encouraged letters of application be submitted to serve on the committee. She suggested the committee hold two public meetings to vet input and to use the information gathered to produce solutions and/or revisions to the ordinance.

Chairman Comander agreed the formation of a committee would be beneficial in reaching a compromise and produce solutions. She recommended, if the ordinance is adopted, that the effective date be set to a later date to give the committee an opportunity to work with the community and submit proposed revisions to the ordinance.

Ms. Hughes read an excerpt from a 2009 statement from the Florida State Bar which states the Oregon Court ruling does not have an effect on Florida beaches. According to the 2009 statement, customary use is to be determined by the court. She said the legal opinion was written in response to Destin’s attempt to pass a similar ordinance.

Attorney Richard Brightman, Hopping, Green & Sams, said he was representing 20 gulf front property owners. He reiterated that customary use is a judicial doctrine. He also raised concerns to the affect the ordinance would have on the tax base. He claimed if customary use is imposed property values will decrease and therefore would affect ad valorem. He requested the ordinance not be adopted.

Mr. Richard Butela expressed appreciation for the work the attorneys' have done regarding customary use. He argued if customary use is not implemented property taxes would be severely impacted. He said most people who use the beach do not live on the beach. Mr. Butela briefly discussed the history of beach activities which included horseback riding, driving, camping, etc.

Mr. Max Watson voiced concern with language found on Page 2 in Paragraph 3 regarding access points to the beach siting it does not differentiate between public and private. Attorney Davis said all access points are either owned by or have been dedicated to the county. Mr. Watson requested clarification be made to the ordinance language to indicate the accesses referred to are public accesses and not private.

Ms. Nora Murphy thanked the commission for the work done. She too voiced concern regarding the beach access language. She discussed additional concerns regarding the 15 foot buffer stating it needed to be larger. Ms. Murphy spoke in support of forming a committee to communicate with the public and staff. She requested the ordinance not be adopted.

Mr. John Boushy spoke in support of the formation of a committee. He stated there were significant gaps in Dr. Miller's presentation at the October 19, 2016 Workshop and said there has not been constant public access to the beaches at Lake Stewart and Seascape since the 1970's.

Mr. Robert Shelton, representing Surfside, questioned when an ordinance would be presented to allow public use of private areas such as Sandestin, Emerald Bay, Mack Bayou, and to all shores of the Choctawhatchee Bay. He said the county could not selectively enforce public use of private property.

Mr. Frank Day briefly discussed the long standing customary use of Walton County beaches and spoke in favor of the ordinance.

Ms. Brenda Rees briefly discussed the history of Eden Garden State Park, Point Washington, and the use of beaches since the early 1900's. She also discussed an 1888 Supreme Court case which said the history of use should be considered.

Mr. Jack Hanes, Sanctuary by the Seaside HOA President, spoke in favor of the formation of a committee. He asked the ordinance not be passed until a committee can be formed and solutions/compromises sought.

Ms. Julie Hilton spoke in favor of the formation of a committee. She voiced concern that the ordinance would take more rights from property owners than the State beach restoration project.

Attorney Bruce Anderson, Bruce P. Anderson Law-Destin and representing Sandestin, encouraged the Board to request information from the Property Appraiser as to the affects the ordinance would have on property values. He said the arguments using Oregon and California case law will not hold up in Florida. He asked why Walton County is the only county in Florida to take up this issue and felt the courts should determine customary use.

Ms. Beth Clay said her home is less than 4/10 of a mile from a Regional Beach Access and briefly discussed incidents when the public intruded by crossing her private deck to access

the beach. She encouraged the board to consider the rights of the property owners and spoke in favor of forming a committee.

Chairman Comander questioned if the 15 foot buffer could be measured from the Mean High Water Line rather than the toe of the dune. She said this would give the private property owners more buffer from the public use area.

Commissioner Meadows questioned when Mr. Rick Hall would be making his presentation to the board and asked how so many of the properties were able to obtain quiet title and quit claim deeds over the years. Mr. Larry Jones, County Administrator, said Mr. Hall is scheduled to attend the November 7, 2016 Regular Meeting. Commissioner Meadows said Attorney Theriaque was hired to research customary use and to write the ordinance. She voiced concern for the need of a committee at this point and said the loss in tourism would be a greater financial impact to the county than the decrease in property values. She said action should be taken now to prevent exclusive beaches and diminish tourism.

Commissioner Chapman asked how the courts could decide the issue without an ordinance being passed. Attorney Davis replied the county would have to file a suit against all 900 to 1,000 private beach front property owners.

Commissioner Chapman asked about the size, make-up, and management of the proposed committee. A committee which is too large will not accomplish anything. Commissioner Meadows asked if recommendations would be made by the committee and stated no matter the outcome of the committee's proposal and board action, there will still be those who will choose to sue the county.

Commissioner Chapman asked how the change from 25 feet to 15 feet was determined. Attorney Davis said Code Enforcement was asked to measure the beach areas. He said based on

the erosion on the eastern end, there is not 25 feet of beach in some areas. Commissioner Chapman stated the language needs to be clarified regarding county access points. Attorney Davis said the language would be changed to state "public" to clarify existing and future beach accesses.

Commissioner Imfeld asked how the City of Destin resolved their customary use issues. Attorney Davis replied it was resolved because of beach re-nourishment and an erosion control line was established. Attorney Theriaque said initially it was resolved by the Okaloosa Sheriff's Office which said they would not arrest anyone within 20 feet of the debris line. Commissioner Imfeld asked what a debris line was. Attorney Theriaque explained it is the line of debris which is left by various tides. He said the difficulty in using the Mean High Water Line was because the line varies.

Attorney Anderson said the county's attorneys had given the opinion that a lot by lot determination for the right of customary use was needed and there would have to be an establishment of use of reparative time for customary use for each individual lot. Attorney Davis stated he, nor Attorney Theriaque, has ever advised the board that customary use would have to be determined lot by lot.

Commissioner Jones suggested eight to 10 individuals be appointed to the committee and suggested letters of application be submitted to Attorney Sidney Noyes, Assistant County Attorney; and for her to choose from those applicants individuals who would represent a majority of views. She also recommended two Public Workshops be held; one in January, 2017 and one in February, 2017. The committee will meet in March to prepare their recommendations to the board to determine what action should be taken. Commissioner Jones said if the ordinance is passed today it will be subject to changes. Chairman Comander asked if the ordinance is

passed today could an effective date of April 1, 2017 be included. Attorney Davis said there were two choices: 1. Move the effective date to March 31, 2017; or 2. Adopt the ordinance then by separate motion stating the ordinance would not be enforced until March 31, 2017. He said if a committee is appointed all meetings of that committee would be subject to the Sunshine Law and Public Records Law. Chairman Comander said a common ground must be found before spending any more taxpayer money in legal fees.

Commissioner Chapman said he did not oppose a committee as long as something is being done. He does not want this issue to be extended any longer than necessary.

Commissioner Meadows said the Sheriff's Office is not enforcing trespass laws in these areas. Attorney Davis said that was correct and they would not as long as the board is taking action and moving toward an ordinance. Commissioner Chapman said the Sheriff can take action against violators of the Beach Activities Ordinance but not on trespassing until this issue is settled.

Commissioner Meadows said she promised to fight for the people of Walton County to have the right to access the beaches and adopting the ordinance will get people to the table to find solutions.

Motion by Commissioner Meadows, to adopt the Customary Use Ordinance **(2016-23)** as written.

Attorney Davis requested to change Page 2 Paragraph 3 to add "future public" to the language.

Chairman Comander noted the Public Hearing must be closed before a motion to adopt could be made.

Motion by Commissioner Chapman, second by Commissioner Jones, to close the Public Hearing. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion amended by Commissioner Meadows to adopt the Customary Use Ordinance **(2016-23)** with the changes as presented by Attorney Davis.

Commissioner Jones said she would second the motion contingent upon an April 1, 2017 effective date being included in the ordinance.

Motion amended by Commissioner Meadows to adopt the Customary Use Ordinance **(2016-23)** with the changes as presented by Attorney Davis and the inclusion of an April 1, 2017 effective date. Second by Commissioner Jones.

Commissioner Imfeld asked how extensive the erosion was in the areas mentioned earlier. Attorney Davis said there were places where there were not 25 feet of beach. Commissioner Meadows stated in the area of Seagrove Beach there is approximately 20 feet of beach left. Commissioner Imfeld asked how much of the 26 miles of beaches are impacted in that fashion. Attorney Noyes stated Mr. Brian Kellenberger, Director of Beach Operations, would have that information. She said she had asked Mr. Kellenberger to measure those areas and the majority of the critical erosion is at the eastern end of the beach from Inlet Beach to Seacrest. Commissioner Jones stated the committee could look at this information and make a determination whether or not anyone needed to be in those areas.

Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Jones to form a committee between 8 and 10 constituents, to hold two Public Workshops (one in January and one in February), and meet as a committee in March to formulate suggestions, and ideas for consideration by the board to amend the ordinance.

Chairman Comander said the committee would have to make their recommendations by March 1st in order to apply the changes to the ordinance before the April 1st effective date. She suggested the two public meetings be held in January to allow the committee to meet in February. She suggested 10 members be appointed to the committee. Attorney Davis recommended the applications be sent to Ms. Dede Hinote, Deputy County Administrator, and set a deadline to have the applications in before November 7, 2016. Commissioner Meadows suggested the volunteer form be filled out and serve as the application. Chairman Comander said the application is on line. Commissioner Imfeld said all views must be represented in the committee. Attorney Davis said Mr. Jones, Ms. Hinote and he would make the recommendations to the board.

Second by Commissioner Chapman.

Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

The meeting briefly recessed.

Mr. Walter Bowers, Florida Forest Service, introduced Mr. Thomas Moss who is the new Walton County Forrester and presented the 2015-2016 Commissioner Report containing a renewed Operating Plan, Fire Control Report, and Forest Management Summary. He discussed burn permits and reported if rainfall is not received within the next couple of weeks a significant fire situation could occur.

Motion by Commissioner Chapman, second by Commissioner Jones, to accept the 2015-2016 Commissioner Report. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Meadows, second by Commissioner Jones, to approve to close both lanes of C.R. 30A from Western Lake to Wilderness Way for the Children's Volunteer

Health Network Smile Mile and 5k Charity Fundraiser on May 20, 2017 as presented by Mr. Jones. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. Commissioner Meadows and Mr. Mike Gavigan, CVHN Board, discussed the areas affected by the race. Mr. Gavigan thanked the board for considering the request.

Motion by Commissioner Chapman, second by Commissioner Jones, to allow the Coastal Seniors to utilize the Grayton Grand property for parking of approximately 25 cars on November 5, 2016 from 8:00 a.m. to 6:00 p.m. as presented by Mr. Jones. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. Mr. Jones reported the courthouse annex parking was considered, but early voting will be in session on that day. Chairman Comander questioned Attorney Davis if the county was legally covered to utilize the area for this request. Attorney Davis confirmed it was.

Motion by Commissioner Chapman, second by Commissioner Imfeld, to hold a Public Hearing on December 13, 2016 to consider a Resolution of Intent electing to use the uniform method of collecting non-ad valorem special assessments levied within the county. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. Mr. Jones said this is a statutory requirement.

Motion by Commissioner Jones, second by Commissioner Chapman, to approve the Employee Safety Manual as submitted by the Department of Risk Safety. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Mr. Jones presented an update on Michaela Lane. The assessment has been done and the roadway does meet the current standards of the Land Development Code (LDC)-Chapter 5. He recommended taking the roadway into maintenance contingent upon conditions being met as stated in Exhibit "A." Mr. Jones also recommended taking into county maintenance South Deno

Drive which was constructed at the same time as Michaela Lane. Commissioner Imfeld asked if there were conditions to be met for South Deno Drive. Mr. Jones stated there were none.

Motion by Commissioner Chapman, second by Commissioner Jones, to approve the taking of Michaela Lane and South Deno Drive into county maintenance with conditions as discussed being completed by the landowners in that area. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Meadows, second by Commissioner Jones, to approve the proposal with Winton Engineering for consulting services for the Helen McCall Park press box and concession stand in the amount of \$4,400.00 as presented by Mr. Jones.

Commissioner Chapman questioned if the correction had been made to indicate the proposal was the Helen McCall Park and not the Walton County Fair. Mr. Buddy Wright, Public Works, stated it had been corrected.

Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Chapman, second by Commissioner Imfeld, to obtain a lease financing for the purchase of one Pierce Freightliner 3000 Gallon Tanker and two Osage ambulances as presented by Mr. Jones. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Chapman, second by Commissioner Meadows, to approve the revisions to the existing County Travel Policy regarding pre-authorization of travel as presented by Mr. Jones. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. The revision will ensure the policy is in compliance with Florida Statute.

Mr. Jay Tusa, TDC Executive Director, requested to appoint a Commissioner and one other person to the Application Review Committee to review Tourist Development Council

applications for qualifications for the open seats on the TDC. He briefly discussed the seats which would be available on the council. He recommended appointing Commissioner Jones, who is the current council chairman; and Mr. Stan Sunday, Deputy County Administrator, due to his previous work with the TDC.

Motion by Commissioner Chapman, second by Commissioner Imfeld, to appoint Commissioner Jones to the Application Review Committee. Ayes 4, Nays 1. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Nay.

Motion by Commissioner Chapman, second by Commissioner Jones to appoint Mr. Stan Sunday to the Application Review Committee. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Mr. Tusa said the Application Review Committee would be subject to the Sunshine Law. The recommendations will be presented at the December 13, 2016 meeting.

Motion by Commissioner Jones, second by Commissioner Chapman, to approve the FY 2017 TDC Media Plan as presented by Mr. Tusa. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Chapman, second by Commissioner Jones, to seek conceptual design services for a surface parking lot at the Grayton Grand property (parcel #: 08-3S-19-25000-004-0030) as requested by Mr. Tusa. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. Mr. Tusa said gravel and asphalt are being considered. The design cost estimate is between \$3,000 to \$5,000. Commissioner Meadows asked if storm water drainage would be considered if asphalt is used. Mr. Tusa said it would be.

Motion by Commissioner Jones, second by Commissioner Chapman, to approve to seek design permitting services for a beach access at the Dune Allen parcel as requested by Mr. Tusa.

Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. The design cost estimate is between \$3,000 to \$5,000 and \$25,000 for permitting.

Motion by Commissioner Chapman, second by Commissioner Jones, to demolish and remove the existing structure at the Dune Allen property located at 599 W. C.R. 30A at a cost not to exceed \$24,000 as requested by Mr. Tusa. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. Commissioner Chapman questioned if the pool had been removed. Mr. Tusa said it had.

Mr. Tusa reported some new areas had been presented to the TDC for purchase which include a beach access and parking opportunities. (Properties: 5900 Block of W. C.R. 30A at Dune Allen-\$15.5 Million; S. C.R. 393 at Gulf Place- \$4.85 Million; 4100 Block of W. C.R. 30A at Gulf Place- \$3.39 Million; 8500/8600 Block of E. C.R. 30A at Seacrest- \$13 Million; and N. C.R. 393 (Bayfront Property)-\$1.174 Million) Mr. Tusa said the 5900 Block is the Dune 1 Condo Development which is 14 condominium parcels and one common area parcel. He briefly discussed all the other areas being considered and the benefits each would provide.

Chairman Comander said if the Dune Allen property is considered, demolition cost would be a concern. Mr. Tusa said he had met with Legal, Public Works and Planning to discuss the previously approve properties and presented these properties for review. Upon board direction these could be added into the previous list. Commissioner Meadows said all of the properties needed to be reviewed for their potential uses. She said the Seacrest area was underserved and purchasing the parcels in that area would be very beneficial.

Commissioner Imfeld voiced concern about the amount in reserves to purchase property. Mr. Tusa said there is approximately \$8 Million in reserves. Commissioner Imfeld asked that when this issue is brought back that information be presented on what can be afforded.

Attorney Davis said title searches would be needed and to perform the searches for 40+ properties would be expensive. He asked if the board wished to wait until a selection is made before the Ownership and Encumbrance Report is compiled. Chairman Comander and Commissioner Meadows said there was no need to perform title searches on properties the county chooses not to purchase. Attorney Davis said a brief search could be done by legal to insure there was nothing out of the ordinary. Mr. Tusa said after the selection, the next step would be to obtain appraisals and the attorneys could perform a formal title search at that time.

The board concurred to add the additional properties to the previously approved list for vetting.

Mr. Tusa said there were no updates to present. He said the shoulder season is building but has not reached spring and summer numbers.

Motion by Commissioner Chapman, second by Commissioner Jones, to open the Public Hearing to consider an ordinance amending Walton County Code of Ordinances Chapter 22 "Walton County Waterways and Beach Activities." Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Attorney Davis said with passing of the Customary Use Ordinance, there is a conflict in Section 22-52 of the Beach Activities Ordinance. He asked to strike Section 22-52 from the ordinance. Commissioner Chapman asked if a definition of "tent" was added. Attorney Davis said it was.

There was no public comment.

Motion by Commissioner Chapman, second by Commissioner Jones, to close the Public Hearing. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Motion by Commissioner Chapman, second by Commissioner Jones, to adopt the Waterways and Beach Activities Ordinance (2016-24) as amended.

Commissioner Imfeld asked if the umbrella size had been determined. Attorney Davis said the size is a maximum of 10 feet.

Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Attorney Davis requested the board review the proposed ordinance regarding waiving the requirement that a property owner file an annual application or statement for the additional homestead exemption for persons 65 years or older in accordance with Section 196.011(9), Florida Statutes. Mr. Patrick Pilcher, Property Appraiser, has asked to implement the waiver. The ordinance will be presented for consideration at the November 7, 2016 Regular Meeting.

Attorney Davis stated the county recently sold a piece of property which has a land use category of Public Facilities. He requested to direct staff to initiate the process to change the land use category of Parcel #: 12-3N-21-37060-00B-0130 from Public Facilities to Rural Residential.

Motion by Commissioner Jones, second by Commissioner Chapman, to approve to direct staff to initiate the process to change the land use category on Parcel #: 12-3N-21-37060-00B-0130 from Public Facilities to Rural Residential. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Commissioner Meadows requested to discuss the Headland Avenue Beach Access at the November 7, 2016 Regular Meeting. There is additional information on the access.

Commissioner Meadows discussed proposed uses for the 30 acre Fox Lake property including conservation, preservation, and recreation; and suggested using preservation funds to purchase the property. She said this parcel could be used to solve storm water issues; be used as a vital preservation area; a nature park; and the wetlands could be used for school studies. She

said the traffic could be limited and would restrict the ingress/egress to the property. She also said the park would be gated and closed at night. She asked to move forward in obtaining two appraisals on the property and present them to the board for consideration. Chairman Comander asked if this property would be valuable for development. Commissioner Meadows said the current land use designation would allow for 120 single family homes to be built on it and therefore would be valuable to a developer.

Commissioner Jones asked Mr. Sunday what information he was able to collect from his meeting with the bank representatives. Mr. Sunday said he had spoken with a TrustMark Bank representative and was provided a copy of the survey of the 30 acres and given a purchase price of \$6 Million, but he has yet to receive the requested written proposal. Commissioner Jones said there was only \$3.3 Million in the Preservation Fund and asked how the remaining amount would be funded. Commissioner Meadows suggested using some of the remaining RESTORE funds and said the purchase is worth pursuing. Chairman Comander said she would support obtaining the two appraisals. Commissioner Jones asked how much the appraisals would cost. Mr. Jones replied \$1,500 to \$2,500 for each lot. Commissioner Jones said she would like to see the written proposal from the bank. Commissioner Meadows discussed her conversation with bank representatives stating they showed interest in selling the property to the county.

(Chairman Comander stepped down as chair to second the following motion. Commissioner Jones assumed the Chairman position.)

Motion by Commissioner Meadows, second by Commissioner Comander, to proceed with getting two appraisals on the Fox Lake property and to consider funding sources.

Commissioner Jones asked how much money was in the RESTORE account. Ms. Melissa Thomason, County Finance Manager, stated there was approximately \$1.6 Million left in the fund. Discussion ensued on other funding sources and possible changes to the asking price.

Commissioner Chapman stated Preservation Funds were not limited to uses south of the bay and that he had requested to use \$500,000 toward improvements of ramps and other locations along the Choctawhatchee River. He said the funding sources considered to purchase the Fox Lake Property would be significantly short.

Ayes 2, Nays 3. Comander Aye, Jones Nay, Chapman Nay, Imfeld Nay, Meadows Aye.
Motion failed.

(Chairman Comander resumed the Chair position.)

Motion by Commissioner Imfeld, second by Commissioner Chapman, to appoint Mr. John Dixon to the Zoning Board of Adjustments as the District 3 appointee. Ayes 5, Nays 0.
Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Commissioners Jones and Chapman had no items to present.

Chairman Comander discussed the need for more Code Enforcement Officers and Beach Ambassadors. She asked Mr. Tusa to come back with the number of full time people he would need. Commissioner Jones said there was a growing volunteer program that could partner with the county. Mr. Tusa said the information would be presented at the November 7, 2016 Regular Meeting.

Mr. Robert Raymond stated Dalton Drive is a deeded private access road and was taken into county maintenance. He said the residents are requesting the road be removed from the county maintained road list. He expressed concern the access would be turned into a commercial access. Commissioner Chapman noted the list of four parcels which are on different named

streets and asked if all of them are included in the request. Mr. Raymond said just Dalton Drive. Attorney Davis said Dalton Drive was taken into county maintenance under a motion and second and to remove the roadway from the list a formal abandonment process should be followed. He suggested the request be referred to Public Works and instruct them to begin the process. Chairman Comander asked if the abandonment process should begin after the ongoing issue with a specific property on Dalton Drive has been satisfied. Attorney Davis said it would be acceptable to proceed or wait; it is the board's discretion. Commissioner Meadows asked if the county could actually take into maintenance a road which was deeded as a private access only. Attorney Davis said it would have to be determined if all of the property owners at that time agreed to have the road county maintained. However, since the county has maintained a portion of Dalton Drive, a formal process must be followed to abandon the acceptance. Mr. Raymond said he had signed documentation from the owners at that time stating they received no notification. A small notice was sent to a limited number of owners. The board directed Public Works to look into this issue and bring back the information. Mr. Raymond asked a decision be made prior to action being taken on the Dalton Drive Commercial project.

Mr. David Bailey, Rosemary Beach Town Manager, spoke in opposition to the Customary Use Ordinance.

Mr. Ted Missildine spoke regarding the Dalton Drive issue and the designation of the use of the road way as private access only. He stated he had owned his property on Dalton Drive since 1991 and had not relinquished his rights to the private access road way. Mr. Missildine said he was never notified the road was being considered for county maintenance.

The Quasi-Judicial hearing was called to order and Attorney Davis administered the oath to those intending to speak. There were no objections to the advertisements. Attorney Davis instructed all Ex Parte forms are to be submitted to the clerk.

Mr. Wayne Dyess, Planning and Development Director; presented the Robert O'Brian Lot Split a Major Development Order application submitted by Marilyn and Robert O'Brian requesting a lot split of the existing parcel of 0.41 acres at 15 Carson Lane into 0.22 acres and 0.19 acres. The parcel has a future land use of Neighborhood Infill (parcel #: 36-3S-18-16100-000-0990) Staff found the project to be consistent with the Walton County Comprehensive Plan and Land Development Code contingent upon conditions being met as stated in the Staff Report.

(Exhibit 1: Staff Report)

There was no public comment.

Motion by Commissioner Jones, second by Commissioner Chapman, to approve the Robert O'Brian Lot Split. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. **(Exhibits: Staff Report 1)**

Ms. Christine Sammelmann, Planning and Development Senior GSA Planner, presented Pando SSA (SSA 2016-05) a Small Scale Amendment application submitted by McNeil Carroll Engineering, Inc. requesting to amend the Future Land Use designation from Conservation Residential 2:1 to Low Density Residential on 2.5 acres to support a proposed 10 lot single family residential subdivision. The project is located on the north side of Michaela Lane off of South Deno Drive (parcel #: 02-3S-20-34160-000-0120) Staff found the project to be consistent with the Walton County Comprehensive Plan and Land Development Code contingent upon conditions being met as stated in the Staff Report. The Planning Commission voted on October

13, 2016 to not recommend approval of the request to the Board of County Commissioners.

(Exhibit 1: Staff Report)

Mr. Robert Carroll, McNeill Carroll Engineering, submitted two maps of the property **(Exhibit 2: Petitioners Maps)** and gave a brief history of the proposal. He noted other surrounding properties with greater densities have presented the same request and were approved. Ms. Pando is requesting four units per acre. Mr. Carroll discussed the traffic flow to the project and the buffers between the project and the development to the west. The access road way will be built along the eastern property line which will be accessed from Michaela Lane.

Ms. Susan Pando, applicant, briefly discussed the project and requested approval of the land use amendment.

Mr. Paul Kauf and Ms. Denise Kauf spoke in opposition to the request. Ms. Kauf submitted documents supporting her opposition and her request to restrict the zoning to five homes. **(Exhibit 3: Respondent Diagrams)**

Mr. Mike Hewitt and Mr. Graham Matthews spoke in favor of the amendment. Both gentlemen stated the applicant was planning for four homes not 10 as stated and voiced the development would be less dense than other surrounding developments.

Mr. Carroll said this was an allowable density and the applicant would not be asking for 10 units, only six units.

Commissioner Imfeld voiced concern with changing of the land use and how it would affect the quality of life for the surrounding residents.

Commissioner Chapman voiced concern regarding the request and asked to see the development plan before making a land use change. Attorney Davis said if the change is approved, the plan would be brought back to the board for review and consideration.

Motion by Commissioner Imfeld, second by Commissioner Chapman, to deny Pando SS. Ayes 3, Nays 2. Comander Nay, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Nay. **(Exhibits: Staff Report-1; Petitioner Maps-2; Respondent Diagrams-3) (Ex Parte: Jones)**

Ms. Sammelmann presented Southland Utility Services (SSA 2016-06) a Small Scale Amendment application submitted by Southland Utility Services, Inc. requesting to amend the Future Land Use designation from Urban Residential to Industrial on 8.256 acres. The project is located at the corner of Oakwood Lakes Blvd. and U.S. Highway 331 (parcel #s: 19-3N-19-19768-00V-0760; 19-3N-19-19768-00V-0770; 19-3N-19-19768-00V-0780; 19-3N-19-19768-00V-0750; 19-3N-19-19768-00V-0710; 19-3N-19-19768-00V-0781; 19-3N-19-19768-00V-0690; and 19-3N-19-19768-00V-0790. Staff found the project to be consistent with the Walton County Comprehensive Plan and Land Development Code contingent upon conditions being met as stated in the Staff Report. **(Exhibit 1: Staff Report)**

Attorney Jeff McInnis, representing Southland Utilities, discussed the plan to build the corporate headquarters for Southland Utilities on the site. He discussed the concerns regarding noise and confirmed this would not be a factory operation thereby anticipating no noise problems. All codes and standards would be met in the development of this property.

Commissioner Meadows asked if Commerce Circle would be used as an access. Attorney McInnis said there would be primary accesses from U.S. Highway 331 and Oakwood Lakes Boulevard; and he reserved to have a gated access from Commerce Circle which would not be used as a main entrance. Commissioner Meadows asked if there would be fencing and landscaping buffers between the development and the residential area. Attorney McInnis stated there would be both chain link fencing to protect equipment and the applicant would work with staff at plan approval to discuss buffering. Security will be a big issue to protect the equipment.

Commissioner Chapman asked if there was any anticipatory use for the Commerce Circle access. Attorney McInnis said it would be only for additional access, but he did not anticipate it to be used as a daily access point. The entrance to the equipment area would be on Oakwood Lakes Boulevard and the corporate entrance on U.S. Highway 331.

Commissioner Meadows questioned where the gopher tortoises would be relocated to. Attorney McInnis said they are working on a plan for the removal; one option is the Nokuse Plantation area.

There was no public comment.

Motion by Commissioner Imfeld, second by Commissioner Jones, to adopt **Ordinance 2016-25** approving Southland Utilities SSA (2016-06)

Commissioner Meadows asked the motion be amended to include no access onto Commerce Circle except in the case of emergencies and the addition of landscape screening adjacent to residential properties.

Motion amended by Commissioner Imfeld, second amended by Commissioner Jones to include the amendment as presented by Commissioner Meadows.

Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

(Exhibits: Staff Report-1)

Mr. Tim Brown, Planning and Development Senior Planner, presented Spyglass Hill 2 Plat a plat Development Order submitted by Seaside Engineering and Surveying requesting the approval to plat 5 residential lots on +/- 2.51 acres with future land use of Low Density Residential. The project is located on the south side of Sea Croft Drive, approximately 485 feet east of C.R. 395 South (parcel #s: 02-3S-20-34160-000-0070; 02-3S-20-34160-000-0071; 02-3S-20-34160-000-0072; 02-3S-20-34160-000-0073; and 02-3S-20-34160-000-0074). Staff found

the project to be consistent with the Walton County Comprehensive Plan and Land Development Code contingent upon conditions being met as stated in the Staff Report. **(Exhibit 1: Staff Report)**

Commissioner Meadows noted the project is in District 5 not in District 1 as stated in the Staff Report. Mr. Dyess said corrections would be made.

Commissioner Meadows asked if the land use was Low Density Residential and when it was changed. Mr. Dyess confirmed it was Low Density Residential and Mr. Brown said it was changed within the last year. Commissioner Meadows asked if Seacroft Drive. would be paved as a part of the project. Mr. Brown said Deno Drive would be extended and paved, but not Seacroft Drive. Discussion ensued on the access to the project from Deno Drive rather than Seacroft Drive. Commissioner Meadows expressed since the project was allowed a higher density the developer needed to pave Seacroft Drive to provide easier access.

Commissioner Meadows asked if a Recreation Plat Fee was required. Mr. Brown said it has been paid in the amount of \$12,757.50.

Commissioner Imfeld referred to the earlier vote to accept maintenance of S. Deno Drive and asked if N. Deno Drive was county maintained. Mr. Brown said he did not know if the N. Deno Drive was county maintained, but reported a credit was given to Spyglass Phase I and II were given credit for paving Deno Drive. Commissioner Imfeld asked if the county did not maintain the roadway if it could still be used as an access to the project. Mr. Brown said the area was a 66' easement and 33' is being dedicated as right of way. Commissioner Meadows voiced a desire to require the developer to pave Seacroft Drive and not place the burden on the taxpayers.

Commissioner Meadows noted the plan shows the drainage going into the Deno Drive easement. Mr. Brown said there were swells along the front, side, and rear of the property. Commissioner Meadows asked if the swells were in the public right of way. Mr. Mac Carpenter, Planning Manager, stated there were two sets of swells; one which serves the lots and one set between the driveways to provide for stormwater for Deno Drive, which is in the public easement. Commissioner Meadows asked if the drainage easements were platted in the lots. Mr. Carpenter said it is a part of the 66' government patent easement. The swells in that easement serve the roadway only.

Discussion ensued regarding the private alley situated at the rear of the development. Commissioner Meadows said Seacroft Drive should be paved based on the number of accesses to the project.

Mr. Carpenter said there were three developments further to east on Seacroft Drive which were approved during 2006. A part of that approval was a condition where Seacroft Drive had to be paved all the way to C.R. 393.

Mr. William Abbott, upon being sworn, discussed the process the project has gone through and said it was not brought up prior to this meeting that the paving of Seacroft Drive would be required. He reported there were issues with right of ways on Seacroft Drive that have not been resolved and Public Works has been contacted. Seacroft Drive is inside the project property and the easement was given to the county. Commissioner Meadows said the paving was a condition of other developments and should also apply to this one as well. Discussion continued on the paving of Seacroft Drive.

Commissioner Meadows said the survey shows the property boundaries with a 33' road way and utility easement to the north and does not seem to encroach on the boundary line. Mr.

Kermit George, Seaside Engineering and Surveying, project surveyor, said Seacroft Drive was a part of the lot in the beginning. Mr. Abbott said originally there were five parcels and title to a 33' easement to the north and east. The remaining part of the property was four separate parcels. The fifth parcel was dedicated to the county. There was no requirement to pave Seacroft Drive.

There was no public comment.

Motion by Commissioner Meadows, second by Commissioner Imfeld, to approve Spyglass Hill 2 Plat with the condition to pave the portion of Seacroft Drive connecting to Deno Drive which is adjacent to the project.

Attorney Davis stated this is a plat approval in which the Development Order has already been issued; he did not think conditions could be added to the plat. Commissioner Meadows directed staff and Public Works to look at these projects closer.

Motion amended by Commissioner Meadows, second amended by Commissioner Imfeld to approve Spyglass Hill 2 Plat. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. **(Exhibits: Staff Report 1)**

Mr. Carpenter presented Costa Blanca a Major Development Order application submitted by Emerald Coast Associates requesting removal of 3 existing homes and building a 14 unit condominium on 3 lots on +/- 1.6 acres with a future land use of Infill and Village Mixed Use. The project is located at 4461, 4463, and 4483 C.R. 30A (parcel #s: 03-3S-20-34000-022-00B2; 03-3S-20-34000-031-0000; and 03-3S-20-34000-022-00B0). He reported Staff found the project to be consistent with the Walton County Comprehensive Plan and Land Development Code contingent upon conditions being met as stated in the Staff Report. **(Exhibit 1: Staff Report)**

Commissioner Imfeld asked if this project was located within the beach mouse habitat. Mr. Carpenter said that it was and permitting would be required.

Attorney Davis said an amended Final Order was handed to the Board for review.

Commissioner Meadows asked if there was a Recreation Impact Fee for this project. Mr. Carpenter said there was a required Proportionate Fair Share Fee of \$43,150.00 and since there was no plat to approve a Recreational Impact Fee is not required. Commissioner Meadows asked if the project would be subject to the wildlife lighting. Mr. Carpenter said it would.

Mr. Dean Burgis, Emerald Coast Associates, Engineer of Record, briefly discussed the project and the parking aspects. He said the developer accepts the conditions of the Staff Report. Commissioner Chapman questioned if precautions had been taken to insure the underground parking would be safe and prevent a "blow out" which happened recently in another area. Mr. Burgis said that it was an armoring wall which "blew out" at a development to the west of this project and reported precautions are being taken. He was confident the drainage design would prevent the same issue.

There was no public comment.

Motion by Commissioner Jones, second by Commissioner Imfeld, to approve Costa Blanca contingent upon the conditions being met as stated in the staff report. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. **(Exhibits: Staff Report 1) (Ex Parte: Comander)**

Mr. Bob Baronti, Planning and Development, presented Treasure Trove Phase 1 Plat a Plat Development Order application submitted by Emerald Coast Associates requesting platting for single family residential lots on 5.30 +/- acres with a future land use of Residential Preservation. The project is located at Las Roblas Grande Drive and Casa Grande Lane (parcel #: 19-2S-20-33020-00A-0130). Staff found the project to be consistent with the Walton County

Comprehensive Plan and Land Development Code contingent upon conditions being met as stated in the Staff Report. **(Exhibit 1: Staff Report)**

Mr. David Hutchins said there was no objection to the request but spoke in opposition of the unresolved flooding issues. He asked the project be tabled until the flooding issues could be resolved. **(Exhibit 2: Respondent Petition)**

Mr. Daryl Burgis, Surveyor of Record, said the Development Order for Phase I is complete and has been inspected.

Commissioner Meadows asked if Phase I was Lots 1-11 and if this was a Final Plat. Mr. Baronti stated it was. He said Phase II and III are working their way through the Development Order Process. Commissioner Meadows asked if a Flood Plain Map Amendment had been applied for. Mr. Burgis said no. Mr. Baronti said there is a large preservation area for Phase II and III. Commissioner Meadows asked if Phases II and III would be presented together as one project. Mr. Baronti said it would. Commissioner Meadows asked if Las Roblas Grande Drive was paved. Mr. Baronti said it was.

Mr. David Thomas, applicant, said he deeded the road to the county as a part of the initial Development Order. The project is not encroaching on any wetlands. He said \$60,000.00 was spent on a DEP pond. He voiced concern with the lack of Development Order enforcement and discussed the drainage issues with Forrest Park.

Commissioner Meadows asked if lot 12 was in Phase I. Mr. Thomas said it was in Phase II.

Attorney Davis said the county does have Development Order inspectors.

Motion by Commissioner Meadows, second by Commissioner Jones, to approve Treasure Trove Phase I Plat contingent upon the conditions being met as stated in the Staff Report. Ayes

5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye. **(Exhibits: Staff Report-1; Respondent Petition-2) (Ex Parte: Comander)**

The Regular Meeting was adjourned and the Special Meeting was called to order.

(Due to technical difficulties, the audio recording for the following meeting is minimal.)

Motion by Commissioner Meadows, second by Commissioner Imfeld, to call to order the Special Meeting to convene into Executive Session. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

Attorney Davis stated the Special Meeting was being held in order to convene into Executive Session to discuss Edward Goodwin and Delanie Goodwin v. Walton County, Florida (Case No.: 3:16-cv-00364-MCR-CJK). The following will be in attendance: Commissioner Sara Comander, Chairman; Commissioner Cecilia Jones, Vice-Chairman; Commissioner W. N. (Bill) Chapman; Commissioner Bill Imfeld; Commissioner Cindy Meadows; Mr. Larry Jones, County Administrator; Attorney Mark Davis, County Attorney; Attorney Sidney Noyes, Assistant County Attorney; Attorney David Theriaque, Special Counsel; Attorney Bill Warner, Special Counsel; and Ms. Candace Alison, Certified Court Reporter.

The Special Meeting was recessed and the Executive Session was called to order.

Executive Sessions are not open to the public pursuant to Florida Statute 286.011(8).

The Executive Session was adjourned and the Special Meeting reconvened.

Attorney Davis stated counsel would proceed as directed by the board during the Executive Session.

Motion by Commissioner Chapman, second by Commissioner Meadows, to direct County Attorney and staff to proceed as directed during the Executive Session. Ayes 5, Nays 0. Comander Aye, Jones Aye, Chapman Aye, Imfeld Aye, Meadows Aye.

There being no further items to discuss, the Special Meeting was adjourned.

Approved: 
Sara Comander, Chairman

Attest: 
Alex Alford, Clerk of Court and County Comptroller

Public Comment excerpt from the October 19, 2016 Customary Use Workshop Minutes

pages 6-13

Ms. Beverly Humphrey asked the Board to protect private property ownership rights. She stated private ownership was either by purchase or land grant from the government. Ms. Humphrey stated compensation is required under the 5th and 14th Amendments of the U.S. Constitution. She requested they give no further consideration to the draft ordinance for customary use.

Ms. Sissie Canale, owner at Seaside, presented a petition to Board.

Mr. Allan Lege submitted a Warranty Deed for Gulf Pines which specifies exclusive, perpetual use of 1,400' of beach. He felt more discussion should be taking place for a solution rather than hearing the history.

Mr. Jim Bagby asked the Board to consider taking a step back on the issue. Most beachfront property owners do not mind people walking along the beach. The concern was for individuals who behave badly. He questioned if the issues would be addressed parcel by parcel or a blanket assessment. There needs to be common ground and he recommended going back and drafting something everyone can agree on.

Mr. Jerry Kalish spoke about people who bought property in Walton County and the language on their deeds when they purchased it. He voiced opposition to the bad activity occurring on the beach.

Mr. Richard Brightman, an attorney from Tallahassee was present to represent property owners who want to protect their property. He stated the evidence Dr. Miller presented was from a personal perspective and would not be admissible in a court of law. He felt adopting an

ordinance is taking a shortcut. He suggested the county take it to court and let a judge decide the issue of customary use if the facts support it.

Ms. Tiffany Hughes questioned how her liability would be affected if customary use is granted.

Ms. Sue Bennett stated she is a new property owner and was not told her property could be used by anyone for any purpose. She previously appeared before the Board regarding signs on the beach. Once the signs came down she had to pick up trash from the beach. She stated she needs to protect what they purchased.

Mr. Bob Gelardi stated he has owned beachfront property since 1992. He stated private property rights are a key element and the one element the county provided is a 25' buffer. He asked to give consideration to people who bought here and if this will be in the interest of integrity of the County, the Commission, and the United States.

Mr. John Crunk, Blue Mt. Beach resident, stated he has public access beside his property. He felt there are more options available to resolve this issue than being considered. This issue is costing a lot of money on attorney fees. He stated there should be some protection when you own the property. He requested the Board find a better solution.

Ms. Annie Briggs is from California where the public owns the beach. She stated there were no signs when she moved here. She felt that vendors are out of control. She also asked for other solutions to be sought and does not want to be blocked from using the beach.

Mr. Jimmy Kuhn, resident of the Eastern Lake area and a member of the Surf Riders Foundation, addressed the Board. Beach access is a universal right necessary for the public's enjoyment of the beach. The Surf Riders Foundation promotes the rights of the public to enjoy beach access and use of the beach. Members live, work, recreate and own property near the

beaches. They encourage groups to balance their interests and work cooperatively with residents and decision makers to maximize coastal access for all persons. He felt the proposed ordinance protects the public's customary use rights to county beaches based on historic and traditional use. He encouraged the Commissioner's support and voiced concern with the 25 foot buffer.

Mr. Bill Bullock stated there are a lot of people who do not want to preclude others from using the beach, but that is not true the entire length of beach. One question raised was if the lots were properly measured. He explained some research he performed and provided an example using a lot that was transferred by government patent in 1954 and contained 1.95 acres. After changing ownership several times, that lot now shows it to be 3.7 acres; the increase being southward of the mean high water line. He asked the County Appraiser how that happened and was told the changes occur as new deeds were filed. He suggested the property may not be legally/privately owned and suggested that issue be researched.

Ms. Brenda Rich stated her family has owned property here since 1954. She is the 4th generation in her family using Blue Mt. Beach. Florida is late in looking at this issue and gave an overview of other states who apply customary use: Oregon; Hawaii; New Jersey and Texas who use the Public Trust Doctrine; and North Carolina. Walton County advertises the beaches and if tourists cannot use the beach they will not come.

Ms. Maddie Savoie stated she likes having tourists here. She voiced concern with Section 2 (1) which speaks about no one impeding or interfering with use of beach owned by private entities. She also voiced concerned with the 25 foot buffer zone. She wants a legal right to her property and not be liable for others on her property. She questioned how the public would know where the buffer is and how will it be enforced. She would like to find common ground.

The boundaries of private property owners with a legal deed should be upheld. She asked to not make this permanent, but allow communications to occur to find solutions.

Mr. Scott Covell stated he is a gulf front property owner in Grayton Beach and wants a more palatable way to solve the problems. Grayton Beach has a unique history and he does not know of anyone opposed to use of the beach in Grayton Beach. There was a large portion of beach property set aside for public use by the Butler family which has State owned land on either side. He spoke briefly to patent deeds and the distinction that some deeds granted ownership to the mean high water mark and some expressly reserved public access. He also commented on vehicle permits and the changes in Grayton Beach when the County stopped people from driving on private beaches.

Ms. Sharon Logue-Higgins commented on the notice of hearing for this meeting. She spoke about liability on her property and having to pick up trash on the beach. She spoke about having to pay to get onto beaches in other states.

Mr. Ed Billeaud stated he was born and raised here. He stated money spent protecting freedom is money well spent. He was in favor of customary use and felt his customary rights are being taken away. People want to continue blocking others from the beach. Disorderly conduct on the beach should not be condoned, but is not a reason to block everyone. He commented that people who live on the beach knew the beaches were public when they bought it.

Ms. Kristen Nostrand agrees with Dr. Miller's presentation, but those activities can take place below the mean high water line. She asked to discontinue trying to gain public use of the beaches. The efforts are costly to the County. Owning property is a constitutional right. She stated most property owners are willing to share the beaches to the mean high water line.

Mr. Bill Hackmeyer stated this is a taking of private property for public use. He suggested helping beach front property owners instead of fighting them.

Ms. Garner Chandler stated beaches belong for public use. However, historically, customary use prevents anyone from building a structure in front of yours. It does not mean no one can have access to the beaches. There are activities happening on the beach that do require better enforcement. She said people go to use the beach, not look at it, and asked the Board to pass the proposed ordinance.

Ms. Kelly Anderson thanked the Board for holding the workshop and stated she has been using the beaches since the 1990s and helps keep the beaches clean and safe. She commented on bad behavior from both beach owners and the beach goers. She asked the Board to do the right thing and continue on their current path.

Mr. Mike Sturdivant, resident in Blue Mt. Beach, commented on the importance of discussing this issue. He felt there are a few vocal minorities who oppose customary use and will threaten lawsuits, but asked the Board to keep in mind they represent all of the people in the county. Mr. Sturdivant reminded the Board of the County Seal that includes conservation, preservation, and pride.

Ms. Brenda Reese asked the Board to stay the course and pass the ordinance. Her family has been here since the territorial days. Ms. Reese reflected on a time in 2001 when state representatives held a hearing on customary use. One of the points they brought up was "something that was public was public in perpetuity".

Mr. Leonard Anderson stated he moved here in 2003, but has owned on the beach since 1991. He stated people no longer look at what many fought for in this country. Beaches should be held in the same context as National and State Forests and anyone should be allowed to use

them as long as they do it respectively. He does not understand the attitude of those who say they own the beach. His deed says he owns the beach, but questioned where that right came from. He felt it probably came from a realtor or developer which is where the problem lies.

Mr. David Hewins stated he is in favor of public beach use, but suggested viewing it as a public utility. Regulation is a problem, but with any utility it needs to be regulated. More enforcement is needed. He stated customary use of the beach for public use needs to be preserved. As an illustration, he stated even private property rights under a warranty deed are not absolute. Utility companies have an easement to access your property. Although private rights are important, they are not absolute.

Mr. John Boushy pointed out what he feels are inconsistencies. He stated he owns to the mean high water line and that deed goes back to U.S. government issuance. He stated the Judiciary is the best place to make the decision. Mr. Boushy felt there are false arguments being made and spoke about beach owners stating they are not trying to restrict access. He commented on occurrences by both beach front owners and beach users that are not being addressed, resolved, or enforced by current laws. Mr. Boushy asked the Board to discuss a solution that is more mutual than what the ordinance provides today. He asked the question, "have we done enough" to find a solution for locals, tourists, and people who legally own to the mean high water line.

Ms. Julie Hilton spoke to the issue of owning to the mean high water line and stated Dr. Miller explained the government sold property to private owners. She stated it would be unfair for the County to take private property without compensation. She commented on the problem with tourists who believe they can do what they want on private property. She requested for legal

counsel to explain how customary use will be used across the board without addressing the individual property before they end up in court.

Mr. Jack Hanes, President of the HOA for Sanctuary by the Sea Condominiums, was told their deed has 650 feet of beach front deeded to the mean high water line. He stated they paid \$20 million for the property and this issue will be expensive for the county to pursue. He questioned how many miles of public beach exist in Walton County through accesses and state parks and encouraged the Board to buy more land and make it public rather than using the money to fight the issue in court.

Mr. Lee Padgett thanked the Board and voiced concern with setting precedent. He spoke about the need to study customary use along the Choctawhatchee Bay and other areas that would fall under the same doctrine.

Ms. Lisa Boushy asked the Board to consider appointing a committee to help solve this in a peaceable way. She felt appointing constructive/compassionate people from both sides of the argument would help.