

APRIL 27, 2010 – REGULAR MEETING

The Board of County Commissioners, Walton County, Florida, held a regular meeting on April 27, 2010, at 4:00 p.m., at the Walton County Courthouse in DeFuniak Springs, Florida.

The following Board members were present: Commissioner Larry Jones, Vice-Chair; Commissioner Kenneth Pridgen, Commissioner Cecilia Jones; and Commissioner Sara Comander. Mr. Lyle Seigler, County Administrator; and Attorney Lynn Hoshihara, Interim County Attorney; were also present.

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

Vice-Chairman L. Jones reported that Chairman Brannon would not be in attendance tonight and conducted the meeting.

Motion by Commissioner Comander, second by Commissioner Pridgen, to approve the additions and deletions to the agenda as follows. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

1. Addition: Consent Agenda: Item 8-transfer of 2002 Pontiac from the Sheriff's Office to the Tax Collector's Office
2. Deletion: Planning and Development legislative item: Capital Improvement Schedule
3. Continuation: Planning and Development-Flood Plain Protection and Damage Prevention Ordinance to May 10, 2010
4. Addition: Administration-Workshop to discuss Habitat Conservation
5. Addition: County Attorney-Opt out of the Monroe County Class Action Suit

Vice-Chairman L. Jones recognized Fire Chief Rick Talbert for his award as the 2009 Fire Chief of the Year. Chief Talbert expressed his gratitude for the award.

Motion by Commissioner Pridgen, second by Commissioner Comander, to approve the Consent Agenda as follows. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.



Mr. Seigler requested that two individuals be appointed to represent unincorporated Walton County on the Eglin Noise Committee. The committee is made up of individuals from Okaloosa, Santa Rosa and Walton Counties and was formed to address noise impacts of Eglin on the local community as a result of Eglin's current and future missions. He recommended Mr. Ken Little and Ms. Melinda Wickham be appointed.

Motion by Commissioner Pridgen, second by Commissioner Comander, to appoint Mr. Ken Little and Ms. Melinda Wickham to the Eglin Noise Committee. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Mr. Seigler requested approval to purchase a New Holland 4x4 tractor and boom mower (RFP 010-018) from Kingline Equipment as lowest bidder in the amount of \$93,975.

Motion by Commissioner C. Jones, second by Commissioner Pridgen, to award RFP 010-018 to Kingline Equipment, as lowest bidder, in the amount of \$93,975. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Mr. Seigler requested approval of a maintenance agreement with FDOT for safety improvements on C.R.1087 from U.S. 90 to C.R. 2A (New Harmony Loop). FDOT will handle the design/build project as part of the ARRA stimulus package. A previous maintenance agreement for resurfacing of C.R. 1087 was approved by the Board.

Motion by Commissioner Pridgen, second by Commissioner C. Jones, to approve a maintenance agreement with FDOT for safety improvements on C.R.1087. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Mr. Greg Graham, Engineering Services Manager, presented an update on the Mossy Head Wastewater Treatment Plant. He requested approval to complete the on-going wastewater permitting process with FDEP by Polyengineering, Inc. for the 250,000 gpd (gallons per day)

plant. He also requested approval to authorize one of the County's continuing engineering service firms to evaluate an interim solution until minimum process flows can be maintained at the proposed treatment plant. Commissioner Comander questioned if office type structures could be accommodated with septic systems on an interim basis. Mr. Graham stated that it is an option for consideration. He would like to complete the permitting process then evaluate the needs. Commissioner Comander asked if another option would be to connect to the school's system. Vice-Chairman Jones stated that research is being done whether to move the school facility or utilize it as a part of the larger facility across the road. The Board directed Mr. Graham to continue the permitting process and look at interim solutions.

Mr. Seigler requested that the May 11, 2010 Commission meeting be rescheduled to May 10, 2010 at 4:00 p.m. at the South Walton Courthouse Annex. Some of the Commissioners will be attending the Defense Coalition Meeting in Washington D.C.

Motion by Commissioner C. Jones, second by Commissioner Pridgen, to reschedule the May 11, 2010 meeting to May 10, 2010 at 4:00 p.m. at the South Walton Courthouse Annex. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Mr. Seigler stated that a workshop to discuss the Habitat Conservation Plan will be held on May 10, 2010 at 3:00 p.m. at the South Walton Courthouse Annex.

Vice-Chairman L. Jones questioned if the items continued to the May 11, 2010 BCC Meeting would automatically be heard on May 10. Attorney Lynn Hoshihara, Interim County Attorney stated that those items would need to be re-advertised.

Mr. Seigler reported that at the April 13, 2010 Commission meeting, staff was directed to research the collection process of Letters of Credit (LoC). A meeting between administrative, legal, financial staff and bank representatives was held. Attorney Hoshihara gave a brief

overview of the current LoC process and reported that only eight Letters of Credit remained. She recommended that Chapter 11 of the Land Development Code be updated to require completion of essential infrastructures and still allow developers to post sureties on non essential items. She requested board direction. Vice-Chairman L. Jones felt that all options need to be considered before making any changes. He questioned what would happen to the collected funds if the developers do not come forward. Attorney Hoshihara stated that funds would remain in their account. Vice-Chairman L. Jones voiced concern that development would be hindered if the developers were not allowed to accept pre-sale/construction contracts. Commissioner Comander felt that the developers need to be held responsible for the infrastructure. Attorney Hoshihara stated that she would meet with staff to discuss other options.

Mr. Gary Mattison, Special Assistant to the County Administrator, requested to negotiate a contract renewal with Seahaven Consulting, Inc. Commissioner C. Jones voiced concern regarding the three year renewal and questioned if the period would be negotiable. Mr. Mattison stated that it would be included in the negotiation. Commissioner C. Jones also voiced concern regarding the salary amount and felt that negotiations are needed in that area. Commissioner Comander felt that a one year term would be sufficient and that all of the TDC contracts needed to be reviewed.

Mr. Mattison presented information regarding the TDC Sponsorship Program. Commissioner Comander stated that she had received correspondence questioning the criteria to be met to receive sponsorship. Mr. Mattison agreed to bring back that information.

Mr. Mattison announced that contract renewal negotiations for coastal engineering services with Taylor Engineering are still pending. He said that information will be brought back.

Commissioner Comander requested that the same conditions apply with Taylor Engineering as with Seahaven Consulting, Inc.

Mr. Bob Hudson, Walton County Taxpayers Association President, spoke regarding the agreements presented by Mr. Mattison. He urged the county to utilize local companies that meet qualifications.

Attorney Hoshihara reported that at the April 13, 2010 Commission meeting a vote was not held on the motion to appoint Mr. Bill Imfeld, County Finance Director, to oversee the financial expenditures of the TDC. She asked that this issue be rectified.

Motion by Commissioner Pridgen, second by Commissioner C. Jones, to appoint Mr. Bill Imfeld, County Finance Director, to oversee the TDC expenditures. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Attorney Hoshihara stated that a Notice of Pendency of Class Action (County of Monroe, Florida v. Priceline.com) had been received. Walton County is currently a party with Leon County in a similar class action suit and cannot be a part of both. She recommended opting out of the Monroe County class action suit.

Motion by Commissioner Pridgen, second by Commissioner Comander, to opt out of the Monroe County class action suit. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Commissioner C. Jones addressed a recent article published in the Daily News which reported she had read from a management plan regarding the TDC Executive Director contract. She clarified that she had not seen a management agreement prior to that meeting and therefore did not read a plan as reported.

Attorney Hoshihara presented the draft agreement with Ms. Dawn Moliterno, Walton Area Chamber of Commerce (WACC) President, to manage the operation of the TDC. She recommended entering into an agreement with Ms. Moliterno individually rather than with the WACC. The draft agreement being presented sets the criteria that would be followed. She requested Board direction.

Vice-Chairman L. Jones presented another option for consideration. He requested the Board consider negotiating a contract with Ms. Moliterno to act as Interim TDC Executive Director for one year on a full-time basis; after one year, reassess the position to determine if a different direction is required. During that one year period, the operations of the TDC would be placed under County Administration to provide additional oversight.

Commissioner Comander stated that she had given this issue a lot of thought and felt that four issues needed to be addressed: 1. expenditures and financial records assessed; 2. the current TDC employees need direction and the structure reviewed; 3. enter into a six month detailed agreement; and 4. begin an immediate search for a permanent director and form a committee to review and update the director's job description. She voiced praise for Ms. Moliterno but felt that it would be a strain for her to serve both the WACC and TDC.

Commissioner Pridgen felt that with the beginning of tourist season and the opening of the new airport, a director is needed immediately to guide and grow our county. He also felt that waiting to appoint a director would put the county in a financially stressful situation.

Commissioner C. Jones felt that timing is essential and that Ms. Moliterno would be the most logical choice. Commissioner Comander stated that Ms. Moliterno has shown her devotion to the county and would be available to help where needed, however she felt that a six month agreement is sufficient and that a search should begin immediately.

Commissioner L. Jones stepped down as chair and appointed Commissioner Comander to the Chair position.

Motion by Commissioner L. Jones, second by Commissioner C. Jones, to bring the TDC operation under County Administration, and negotiate a one year agreement with Ms. Dawn Moliterno to act as full-time Interim Executive Director.

Ms. Jeanne Dailey, Newman-Dailey Resort Properties; and Mr. Tim Taylor, Ocean Reef Resort Properties; both felt that the county should begin an immediate search to find the person who is the most qualified to lead the county's tourism industry. Ms. Dailey suggested that Ms. Moliterno follow the same procedures as anyone else seeking a position and voiced her respect for Ms. Moliterno.

Mr. Hudson discussed the possible take over of the TDC by the WACC and submitted a printout of an on-line petition objecting to a take over. He reported that during a meeting with Ms. Moliterno and the incoming WACC president, Ms. Moliterno said that she was not interested in a permanent position with the TDC. He spoke in favor of a national search and that Ms. Moliterno should submit her application. He questioned why Mr. Sonny Mares, former TDC Executive Director, was still receiving a salary and benefits from Walton County; and whether Mr. Mattison had the authority to extend TDC funds to Mr. Mares. Commissioner Comander stated that the benefits issue needed to be addressed and asked that Mr. Hudson present it during public comment. Discussion continued regarding the connection of the benefits issue to the current agreement. Mr. Hudson asked that the agreement be limited to six months, and a national search be started to fill the TDC position.

Ms. Moliterno addressed the comments made regarding her leadership. She stated that she would resign her position with the WACC if the county voted to appoint her as Interim TDC Executive Director for one year.

Mr. Jim Bagby spoke regarding the management agreement. He requested that the agreement be reconsidered and that an immediate national search be done to find the most qualified person to fill the TDC position. He stated that should the county decide to continue with the agreement, measures should be included to gauge Ms. Moliterno's effectiveness.

Mr. Steve Hilliard felt that Ms. Moliterno is familiar with many facets of the county and would be the best qualified person to serve as Interim TDC Director. He also thought that a one year term would be sufficient.

Vice-Chairman L. Jones agreed that, should the motion pass, benchmarks and milestones should be included to determine effectiveness.

Ayes 3, Nays 1. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Nay.

The meeting recessed at 5:22 p.m. and reconvened at 5: 27 p.m.

Commissioner Comander continued as Chair.

Attorney Hoshihara presented an update on the Driftwood Estates drainage issue. She discussed the letter received from DCA stating that a Notice of Violation would be issued if a third party engineer was not hired to find an effective solution to the drainage problem. She reported that she had met with engineering staff to discuss what steps have been taken. Intrawest/Becknell's Engineers and Emerald Coast Associates are working on establishing a model for the existing storm water system for Sandestin DRI. The DCA's biggest concern is the direct discharge into the Choctawhatchee Bay. Funding is being sought through the grant process and the Planning Department is documenting flood concerns from the neighbors. Public Works

has provided ditch modifications on Shipwreck Road. Attorney Hoshihara reported that a DCA attorney had stated that if the county could produce solutions to eliminate direct run off, then a professional engineering study would not be needed. The DCA attorney felt that county funds would be better spent finding a plan of correction. Attorney Hoshihara stated that copies of the letters from DCA would be sent to Mr. Tom Becknell, the declarant of the DRI. A Notice of Violation from DCA would greatly affect development within Driftwood Estates and Sandestin DRI. Commissioner Comander asked how long the process to develop a plan of action would take. Attorney Hoshihara stated possibly one to three months.

Mr. Allen Osborne, Driftwood Estates resident, addressed the faulty drainage system and stated that a plan to retain the storm water does not exist. Commissioner Comander stated that a solution is being sought. Mr. Osborne asked if the emergency exit/entrance gate would be installed. Attorney Hoshihara stated that Sandestin has refused to install an access gate. Mr. Osborne stated that conditions in Ordinance 1993-17 (section 3) would provide for an access gate. He felt that a Breach of Contract should be held against Sandestin. Commissioner Comander asked if a meeting with Sandestin had been scheduled. Attorney Hoshihara stated no. Discussion continued on the contract with Sandestin regarding the access.

Commissioner Comander asked Attorney Hoshihara to schedule a meeting with Sandestin as soon as possible.

Mr. Osborne asked if any action would be taken in regards to the Notice of Violation. Attorney Hoshihara stated that county staff has asked DCA to reveal where violations were occurring so that they could move forward with repairs. Mr. Osborne stated that the violations were pointed out during the Special Magistrate hearings.

Commissioner Comander asked Attorney Hoshihara to continue working with DCA. Attorney Hoshihara stated that a corrective action plan will need DCA approval.

Ms. Doris Beam, Driftwood Estates resident, stated that evidence has been presented to show where the problems lie and the main issue is retention not detention.

Commissioner L. Jones resumed the Chair position.

Vice-Chairman L. Jones called to order the public hearing to consider an **ordinance (2010-06)** repealing Ordinance 1998-12 which established the Magnolia Bluff Community Development District.

Attorney Hoshihara stated that a letter was received from DCA asking that an ordinance be adopted to repeal ordinance 1998-12. No development has taken place within that development district and DCA is asking that it be dissolved.

Motion by Commissioner Pridgen, second by Commissioner C. Jones, to adopt **Ordinance 2010-06** repealing Ordinance 1998-12 and dissolving the Magnolia Bluff Community Development District. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye.

Mr. Seigler gave an update on the Walton County Sheriff's Office administration building. He reported that there have been a number of deducts in the contract price and there will be a change order for additional items. The additional items relate to ADA compliance and safety issues. These change orders fall under the signing authority of administration and is within the budgeted amount.

Vice-Chairman L. Jones called to order the public hearing to consider an **ordinance (2010-07)** repealing Ordinance 2007-01 known as the Disability Parking Ordinance and approve

draft instructions on the proper use of handicapped placards to be given to the Tax Collector's Office for public awareness.

Attorney Hoshihara presented the draft ordinance for consideration. She addressed temporary parking (page 2, paragraph 3) for loading and unloading of disabled persons. She reported that Florida Statutes permits 30 minutes maximum for temporary parking.

Ms. Martha Heller addressed the disabled parking issue. She discussed the possibility of volunteers to ticket those who are violating the disabled parking laws. She also addressed the issuing of parking instructions to those obtaining permits.

Attorney Hoshihara stated that the language of 4d allows the deputizing of volunteers for vehicle removal. She also recommended that the Board request the Tax Collector issue an informational handout with the permits.

Ms. Heller discussed the benefits of having volunteer parking lot enforcers.

Commissioner Comander asked if the ordinance could address the training of volunteers should the Sheriff's office be unable to fund personnel to monitor and issue citations. Attorney Hoshihara stated that it could. Commissioner C. Jones felt that the Sheriff's input should be considered. Attorney Hoshihara stated that specific language addressing volunteers issuing citations is not in the ordinance but will be added.

Mr. Cory Godwin, Chief Deputy Tax Collector, would like a copy of the information to verify with Florida Statute and permission to include it with the marketing strategy of the Tax Collector's office.

Motion by Commissioner Pridgen, second by Commissioner C. Jones, to adopt an **ordinance (2010-07)** repealing Ordinance 2007-01 known as the Disability Parking Ordinance

with suggested language from Florida Statute regarding momentary parking. Ayes 4, Nays 0. L. Jones Aye, Comander Aye, Pridgen Aye, C. Jones Aye.

The Commissioners had no items to present.

There was no public comment.

Commissioner C. Jones exited the meeting.

Mr. Gerry Demers, Planning and Development Services Director; requested that the second reading of the Flood Plain Protection and Damage Prevention Ordinance be continued to the May 10, 2010 Commission meeting.

Motion by Commissioner Comander, second by Commissioner Pridgen, to continue the Flood Plain Protection and Damage Prevention Ordinance to the May 10, 2010 BCC meeting. Ayes 3, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones, Comander Aye.

Mr. Demers requested that the Capital Improvements Schedule for transmittal to DCA be removed from the agenda.

Motion by Commissioner Pridgen, second by Commissioner Comander, to remove the Capital Improvements Schedule for transmittal to DCA. Ayes 3, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones, Comander Aye.

Mr. Demers stated that the City of DeFuniak Springs has requested joint cooperation in creating an Airport Overlay District by ordinance to comply with Florida Statutes Chapter 333.03. He requested Board direction to work with the city to create the ordinance.

Motion by Commissioner Pridgen, second by Commissioner Comander, to work with the City of DeFuniak to create an Airport Overlay District Ordinance. Ayes 3, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones, Comander Aye.

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

Commissioner C. Jones rejoined the meeting.

Attorney Lisa Minshew, Attorney for Blackcreek Developers, LLC, presented Black Creek Plantation PUD, a major development order application for a conceptual planned unit development submitted by Mr. Ed Stanford, and Blackcreek Developers, LLC, consisting of 600 single family units, 117 multi-family units, 20,000 square feet of commercial, 29,500 square feet of boat dry storage, as well as public and civic uses on 300 +/- acres with a future land use of NBNPA/RTC. The site is located on the north side of Black Creek Road intersection. She introduced Mr. Barry Oden, Blackcreek Developers, LLC, representative; Mr. Ed Stanford, P.E. Engineer; and Mr. Jack Dorman, Planner. She stated that on September 11, 2008, the Planning Commission approved the project unanimously. She discussed the history of the plan and the modifications due to changes in staff. She stated that this project meets the requirements of the Land Development Code and the Comprehensive Plan.

Mr. Ed Stanford, P. E. for Blackcreek Developers LLC, discussed the development of the project. He stated that the plan had begun as a less dense development but was changed due to the market. Commissioner L. Jones asked why the project was not presented to the Board in 2008. Mr. Stanford stated there were four issues that had to be addressed and have since been resolved. Vice-Chairman L. Jones asked if the project being presented tonight was different than what was approved by the Planning Commission. Attorney Minshew stated that it was. Vice-Chairman L. Jones questioned why the staff was involved after the Planning Commission approval. Mr. Stanford stated that one of the conditions was to meet with Mr. M. C. Davis to discuss the density of the project. Vice-Chairman L. Jones asked Mr. Demers if the plan needed

to go back to the Planning Commission based on the changes made over the two year period. Mr. Demers stated no. Mr. Stanford continued his presentation and discussed the plans for the project.

Attorney Minshew stated that the developer agrees to accept all of the conditions. She reported that a letter was submitted by Nokuse Plantation, on behalf of Mr. M. C. Davis, expressing concern that the project was too intense.

Mr. Jack Dorman, Professional Planner representing Blackcreek Developers, LLC, addressed the comments made in the Nokuse Plantation's letter, and discussed the compatibility with the surrounding developments. He stated that this project promotes compact development and discourages urban sprawl. He discussed the history of the properties and comments made by Mr. Davis. Vice-Chairman L. Jones asked what relevance Mr. Davis' past comments had on the project if since it met the requirements. Attorney Minshew stated that Mr. Davis challenged the plan at the Planning Commission level and his concerns must be addressed. Mr. Dorman felt that the project meets the minimum requirements of the Land Development Code (LDC) and Comprehensive Plan and is compatible with all surrounding uses.

Mr. Barry Oden, Blackcreek Developers, LLC representative, gave testimony addressing the intent to meet the requirements of the LDC and Comprehensive Plan. He stated that he had met with Mr. Davis to discuss his concerns and stated that Mr. Davis was unwilling to compromise.

Ms. Anita Page voiced concern that Mr. Davis was not available to defend the statements made by the applicant. She stated that he was unable to attend the meeting and had asked her to come in his stead. She requested that the issue be continued to allow Mr. Davis a chance to

respond. Attorney Minshew stated that this was a publicly noticed meeting and Mr. Davis had ample opportunity to attend. Discussion continued on the concerns raised by Mr. Davis.

Attorney Minshew questioned why the staff report was changed after Planning Commission approval. Mr. Demers stated that the letter concerning compatibility was received before the Planning Commission's consideration. Staff was concerned with the core area and has worked with the applicant on compliance. Staff found the plan meets the minimum requirements of the Comprehensive Plan and Land Development Code upon the conditions being met as stated in the Staff Report. Mr. Demers briefly discussed the specific conditions.

Commissioner Comander questioned why the marina was separate from the commercial area. Mr. Dorman referred to the Comprehensive Plan which allows a marina to be located in a public area with the required street grid network.

Mr. Demers reported that the Comprehensive Plan also stated "that the roads should be designed to retain their rural character and not be designed to the characteristics or standards for suburban commercial or subdivision streets." Attorney Minshew asked if the roads would be considered by staff at each technical review phase. Mr. Demers answered that they would and that a road change would also change the lot size.

Mr. Stanford that the developer will work with staff to prepare a plan that is acceptable.

Vice-Chairman L. Jones felt that Mr. Davis should be present to defend his statements.

Ms. Page asked if the newspaper articles were a part of the packet submitted by the applicant. Attorney Minshew stated that it was. Ms. Page then asked that these items be removed if they were considered irrelevant. Attorney Minshew stated that they were relevant to the history of the property.

Motion by Commissioner Pridgen to continue Black Creek PUD to May 10, 2010 at 5:00 p.m. or thereafter. Attorney Hoshihara recommended hearing public comment before voting. Commissioner Pridgen rescinded his motion.

Mr. Ron Thomason, representative for an adjoining property owner, stated that the easement issues between his client and Blackcreek Development, LLC have been resolved and spoke in support of the project. Attorney Minshew asked Mr. Thomason how long he had been a land planner in the State of Florida. Mr. Thomason stated since the early 1990's, he felt the project was consistent with the LDC and Comprehensive Plan and compatible with the land use designation. Vice-Chairman L. Jones questioned Mr. Thomason if he had personally reviewed the plan. Mr. Thomason stated that he did.

Ms. Page reiterated her concern that Mr. Davis should be allowed to present a defense.

Motion by Commissioner Pridgen, second by Commissioner Comander, to continue Black Creek Plantation PUD to May 10, 2010 at 5:00 p.m. or soon thereafter. Ayes 4, Nays 0. L. Jones Aye, Pridgen Aye, C. Jones Aye, Comander Aye. **(Exhibits: Staff Report 1; Petitioner 2-3; Ex Parte: Comander, C. Jones)**

There being no further items to present, the meeting adjourned at 7:24 p.m.

APPROVED \_\_\_\_\_  
Scott Brannon, Chair

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