

**PUBLIC MEETING OF THE BOARD OF COUNTY COMMISSIONERS  
HELD ON JANUARY 27, 2015 AT 3:00 PM  
IN THE COUNTY COMMISSIONERS' MEETING ROOM  
ROOM 103, ADMINISTRATION BUILDING  
ARCADIA, FLORIDA**

The Board of County Commissioners held a Public Meeting on January 27, 2015 with the following persons present:

Commissioner, Buddy Mansfield, Dist#1	Facilities Director, Richard Metzger
Commissioner, James Selph, Dist#2	Planning Manager, Thomas Cookingham
Chairman, Gabriel Quave, Dist#3	Compliance Director, Jorge Hernandez
Commissioner, Elton Langford, Dist#4	Purchasing Director, Cindy Talamantez
Commissioner, Bob Miller, Dist#5	Utilities Director, Eddie Miller
County Administrator, Mandy Hines	Office Manager, Lauri Terry
County Attorney, Don Conn	Parks Director, Tara Anderson
HR Director, Don Kesterson	County Engineer, Mike Giardullo
Administrative Services Director, Linda Nipper	Environmental Svcs. Director, Henry Grimes
Transcribing Secretary, Jill Thompson	Library Director, Linda Waters
Fire Chief, Larry Taylor	Building Official, Lester Hornbake
Road & Bridge Director, Shawn Edwards	Turner Center Director, Jody Sullivan
Social Services Director, Peggy Waters	Emergency Management Director, Doug Christ

**CALL TO ORDER 9:00 AM**

**PRAYER-** Pastor Matt Clayton/Arcadia First Baptist

**PLEDGE OF ALLEGIANCE**

**INTRODUCTION OF ELECTED OFFICIALS**

Sheriff Will Wise and Karen Whaley/Representative Ben Albritton's Office

**SET/AMEND**

A motion was made by Commissioner Mansfield to set the agenda as presented. Seconded by Commissioner Langford. Motion carried unanimously.

**PUBLIC FORUM FOR NON-AGENDA ITEMS**

Daniel Willock expressed his concern regarding construction vehicles speeding in Sunny Breeze. He feels the issue needs to be addressed. Chairman Quave commented he will contact the necessary people. Commissioner Selph commented the County does not currently have the funds to widen all the roads and we are currently on a schedule to repave our roads every 80 years. Further discussion ensued.

David Faulkner stated he addressed the BOCC last year regarding the safety of Liverpool Road; a petition was signed as well. Residents walk, bike ride and drive golf carts to get around the area. Soon traffic will increase due to the Motor Coach Resort. He would like to see pathways or sidewalks installed on the side of the roadway. Mike Giardullo commented the road is being restored and there is increased safety at the railroad crossing in which the County paid half of the cost. There are no current plans for the developer to install sidewalks or shared use paths. Commissioner Miller commented what a great job was done on the railroad crossing and understands the concerns.

Richard Van Hoffen commented there are missing pieces of the shoulder of the road and suggested replacing the shoulders. He is also concerned with the increase in traffic that will come with the Motor

Coach Resort.

Mary Ann King commented she walks daily on Liverpool Road and has found 7 places that the pavement is missing at least 44 inches wide. She is concerned with the speeding vehicles as well.

Carl Norberg commented that Liverpool Road is very narrow with no shoulder. He is concerned about the anticipated increase in traffic that will accompany the Motor Coach Resort. He feels safety improvements are greatly needed and requested that the Board widen the road.

Commissioner Langford commented that at this time there are no funds to address these issues but the Board will try to find a way to possibly help.

### **CONSENT AGENDA-MOTION TO APPROVE**

Commissioner Langford made a motion to approve Accounts and Warrants drawn according to schedule of bills payable; Minutes of November 24, 2014 BOCC Public Meeting; Minutes of December 9, 2014 BOCC Public Meeting; Approval of Budget/Special Projects Coordinator Position; Approval of the revised job description for the Administrative Services Director Position; Approval of the revised job description for Development Director and authorization to advertise and fill the position; Resolution approving the Rental Development Strategy to the Local Housing Assistance Plan. Seconded by Commissioner Mansfield. Motion carried unanimously.

### **PRESENTATION**

7. Linda Nipper presented the first quarterly report for the new fiscal year. There is nothing major to report at this time. She feels good about the first quarter, as well as the ending of last year.

Commissioner Miller commented he likes the format. He feels the budget process needs to be more realistic with zero based budgeting because every quarter stands on its own.

### **REGULAR BUSINESS**

#### **8. Resolution/Budget Amendments**

Linda Nipper presented amendments; #2015-19, #2015-20, #2015-22 and #2015-27. Chairman Quave questioned transfers for the Utility Department were simply transfers and not over-budget. Commissioner Miller questioned the \$50,000 Administration Fee and verified it is transferred from Utilities to the General Fund for services rendered to that department. A motion was made by Commissioner Mansfield to adopt the Resolution amending the 2014/15 Budget including attachments. Seconded by Commissioner Miller. Motion carried unanimously.

#### **9. Declaration of Surplus Property**

Cindy Talamantez stated the Board authorized in the current budget, \$150,000 to replace a scraper at the Landfill. She was able to find a used piece of equipment for \$65,000. She would like to sell the old scraper to assist in recovering some of the cost to purchase the replacement. Commissioner Selph made a motion to declare Asset #2007-204 as surplus and authorize staff to sell the equipment. Seconded by Commissioner Langford. Motion carried unanimously.

#### **10. Resolution/Florida Department of Transportation Section 5311 Grant Application**

Peggy Waters stated she sat with FDOT for an extended period of time discussing this matter and they have agreed to allow the BOCC to incorporate the DART System as part of our coordinated system, which results in Dart being permanent. A motion was made by Commissioner Langford to adopt the Resolution authorizing the Chairman or in his absence the County Administrator to sign the application and all related documents for the Florida Department of Transportation Section 5311 Program Grant. Seconded by Commissioner Selph. Motion carried unanimously.

#### **11. Resolution/Revised DeSoto County Local Mitigation Strategy (LMS)**

Doug Christ stated this is a Federal requirement to have this plan in place in the event that Federal Mitigation funds become available to address problems that may arise around DeSoto County. The plan was revised according to State guidelines and the final step in this process is to be adopted by

the BOCC. A motion was made by Commissioner Mansfield to approve the Resolution adopting the revised DeSoto County Local Mitigation Strategy and authorize the Chairman to sign the document. Seconded by Commissioner Selph. Motion carried unanimously.

**12. Agreement/Ellis, Ged & Bodden, P.A.**

Chief Larry Taylor requested approval of a contingency fee agreement to recover medical expenses from insurance companies; specifically the PIP Auto Insurance. This is to ensure the insurance company is paying according to their policy. Commissioner Miller commented this firm does not go after the individual, only the insurance company. There is no cost to the County unless something is recovered at which time there is a 25% fee. Mr. Conn commented he does not know this particular law firm; although he has spoken with Mr. Jedd. He reviewed the agreement and feels it has the potential of being a great benefit to the County. Further discussion ensued regarding clarifying language in the agreement. Mr. Conn has requested clarified language addressing the fees and has yet to receive anything. He recommended approving the agreement but to hold off on signing it until the clarifying language is received; at which time he will review with the Administrator and the Chairman. As long as it is clear that under no circumstances will the County have to pay any fees or costs associated with this; he believes this is a no lose situation. Commissioner Selph is not in favor of approving this agreement before the information is received. Chairman Quave is not in favor of approving this agreement before the requested information is received. He is concerned with the fact that it has no cancellation date and would like a 1 year review. Further discussion ensued. Commissioner Langford made a motion to table agenda item #12 until the information that we have requested is received. Seconded by Commissioner Mansfield. Motion carried unanimously.

**13. Resolution/Florida Department of Transportation**

Mike Giardullo stated this item goes along with agenda item #14 as well. Both deal with the funding the County has received to repave Roan Road from the intersection of Turner & Gibson to Arcadia Village. The County has received funding in the amount of \$557,148.00 from FDOT for this project. Commissioner Selph made a motion to adopt the Resolution acknowledging and accepting FDOT Agreement FPN #435048 1 58 01. Seconded by Commissioner Langford. Motion carried unanimously.

**14. Agreement/Florida Department of Transportation**

Mike Giardullo stated this item is the actual agreement with FDOT for the same project as presented prior. A motion was made by Commissioner Langford to accept FDOT Financial Project Number 435048 1 58 01 and authorize the Chairman to execute the Agreement. Seconded by Commissioner Mansfield. Motion carried unanimously.

**15. Resolution/Florida Department of Transportation**

Mike Giardullo stated this is for the project to resurface Shores Ave. from CR 760A to US 17. Funding has also been received for the other portion of Shores Ave. from 760A to Beard Ave. A motion was made by Commissioner Miller to adopt the Resolution acknowledging and accepting FDOT Agreement FPN #435097 1 58 01. Seconded by Commissioner Selph. Motion carried unanimously.

**16. Partial Release of Lease 4401 & Application for Easement/Division of State Lands**

Mike Giardullo stated this is the actual agreement with FDOT for the Shores Ave. project. A motion was made by Commissioner Langford to accept the FDOT Financial Project #435097 1 58 01 and authorize the Chairman to execute the Agreement. Seconded by Commissioner Mansfield. Motion carried unanimously.

**17. Resolution/Florida Department of Transportation**

Mike Giardullo stated this is for the bridge projects. Approximately one year ago Mr. Giardullo discussed before the Board that FDOT funded to replace the guardrail on 761 (Lettuce Lake cutoff) on both of the bridges, as well as the Brownville bridge that crosses the Peace River; early in the design process it was discovered we were under funded. FDOT gave the amount needed to complete the work. A motion was made by Commissioner Mansfield to adopt the Resolution acknowledging and accepting FDOT Agreement Amendment for FPN #430095-1-58-01; 430099-1-58-01 and 430100-1-58-01. Seconded by Commissioner Langford. Motion carried unanimously.

**18. Agreement/Florida Department of Transportation**

Mike Giardullo stated this is the actual Agreement for the previous bridge project for additional funds. A motion was made by Commissioner Langford to accept the FDOT Agreement Amendment for FPN #430095-1-58-01; 430099-1-58-01 and 430100-1-58-01. Seconded by Commissioner Selph. Motion carried unanimously.

**19. Bid Award-Contract/ZEP Construction, Inc.**

Chairman Quave stated he has done work for this client in a private business capacity and will not be voting on this agenda item and passed the gavel to Vice Chairman Mansfield. Mike Giardullo stated this is to award a contract to ZEP Construction for the guardrail improvements project. A motion was made by Commissioner Langford to award the bid for the SCOP Bridge Guardrail Retrofit Projects and authorize the Chairman to execute the Contract upon receiving the fully executed SCOP Amendment from FDOT. Seconded by Commissioner Selph. Motion carried 4-0 with one recusal by Chairman Quave.

**20. Work Assignments/Weiler Engineering Corporation**

Cindy Talamantez presented Work Assignments #58, #59 and #60. These are for Weiler to do the construction engineering and inspection overseeing ZEP for the construction period. A motion was made by Commissioner Mansfield to approve Work Assignments #58, 59 and 60 with Weiler Engineering Corporation for CEI Services for Bridges #040004; #040025 and #040005 for Guardrail Retrofit project and authorize the Chairman to execute the Work Assignments. Seconded by Commissioner Langford. Motion carried unanimously.

**ADMINISTRATOR'S REPORT**

Mandy Hines commented that FDOT has requested a letter from the County approving the Draft Tentative Work Plan Report that was presented at a previous BOCC meeting. A letter has been prepared that expresses the Board's appreciation for the projects and the programming. Ms. Hines read the letter to the Board. There was consensus of the Board to submit the letter of support to FDOT.

Ms. Hines commented that in the Parks Department there will soon be a part-time position that needs to be back-filled temporarily while the current employee is on maternity leave during the busy baseball season. There was consensus of the Board.

Ms. Hines informed the Board of the upcoming FAC Legislative Day. She would like to develop a DeSoto Day so that Southern Strategy can host the entire Board, schedule appointments necessary at a time that is more convenient for our delegation members and get key appointments with important agencies. Hotel rooms are booked but no one has been registered with FAC at this time due to a \$50 cancellation fee. All Board members were in favor of the request. Commissioner Langford commented he will not be attending FAC. Commissioner Quave and Commissioner Miller are to let Lauri know regarding hotel accommodations.

George Lempenau commented regarding this matter.

Ms. Hines commented regarding an idea that Shawn Edwards brought to her attention. There was discussion at the City Council Meeting to obtain a quote for demolition of the old livestock market. If the City is interested, County staff and equipment would be utilized for the demolition and any direct cost would be paid by the City. There is clearance from DEP and the asbestos has been removed previously. There was consensus of the Board.

Ms. Hines commented there has been effort over the last five years to perform an NPO/TPO. An apportionment plan has been approved by the Governor. We are still working on the Interlocal Agreement portion. She would like to appoint the Commissioner/Elected Official to the NPO Board to begin pre-meeting. Commissioner Langford volunteered to serve on the NPO Board. There was consensus of the Board.

Ms. Hines stated that the sale of the DJJ property is currently under way; there is a contract in place and has to close by March 9, 2015. The State sold a portion of the County's lease by mistake. On the south end of the County's lease, could there be some passive use of dirt tracks? On the north end of the property there has been additional tracks sketched by the project engineer. The block of trees shown is part of the sale and not part of the lease property; the other pieces are part of the lease. Ms. Hines questioned the Board if they have an issue with this? The State would grant a non-exclusive easement over our lease to the purchaser of the adjacent property, which would allow for the passive use or the active use of the trails and the training courses over our portion of the leased land. Ms. Hines needs to make sure that any discussion to this date did not include these tracks on the north and is there any objection. If the Board does not have problems conceptually, they authorize the County Administrator to send correspondence to FDEP Division of State Lands at the appropriate time to state that we consent to them granting a non-exclusive easement on our lease 4401. The BOCC did not have any objections to what Ms. Hines proposed.

Ms. Hines suggested to the Board to consider over the next month, any specific direction they may have going into the budget process.

#### **COUNTY ATTORNEY'S REPORT**

Mr. Conn reported regarding the lawsuit involving Thornton Creek Motor Coach Development. The plaintiff's had filed a motion for temporary injunction and it was scheduled for February 3, 2015. Mr. Conn feels the 1 hour time frame for this hearing is not appropriate and attempted to have the plaintiff agree to a different date; they did not agree to a change, as well as withdrew their motion for temporary injunction. They filed a motion for summary judgment. The County filed for a motion of continuance for the hearing in order to allow time for depositions. The hearing is set for February 3, 2015 at 2:30pm.

Mr. Conn addressed the issue of public comment at workshops. The law states that we have to allow public comment at workshops and it his opinion that the Board allows public comment.

Mr. Conn is prepared to amend the Planning Commission Ordinance. As the Ordinance reads currently; there is no automatic appointment of an alternate if there is a vacancy on the Planning Commission Board. It was consensus of the Board that the alternates should be offered the open seat before it is filled by someone that is not an alternate. Further discussion ensued.

Mr. Conn commented that when a property goes into foreclosure, the mortgage take priority over whatever code enforcement lien is put on the property. There is a foreclosure registry that requires lenders who are putting a property in foreclosure to register with the County and placing responsibility on that lender to maintain the property. This would need to be done by Ordinance. Further explanation ensued. He will bring to the Board a proposed Ordinance in the near future. Further discussion ensued.

## **BOARD MEMBER COMMENTS**

Commissioner Langford commented this weekend is the Tidewell Hospice Ranch Rodeo. He enjoyed the County Fair and asked that everyone continue to pray for our Country.

Commissioner Mansfield commended Commissioner Langford for the work he does with Hospice. He enjoyed the County Fair. Keith Robins with the State FDOT will be in town and will be taking a look around the county.

Commissioner Selph thanked Commissioner Langford for the Tidewell Hospice Ranch Rodeo. He thanked Jody Sullivan for all her help with the Cattleman's Institute.

He questioned Mike Giardullo regarding the roads in Sunny Breeze and if there is a possibility of FDOT funding? Mr. Giardullo commented it would be highly likely those roads would be low priority.

Commissioner Selph congratulated all the participants in the Fair and they are all winners.

Commissioner Miller commented he will be making baked beans as part of the barbeque for the Ranch Rodeo on Saturday. He would like West Farms Road Extension prioritized.

Chairman Quave would like to see something done with Liverpool Rd. He worked the fair gate and there was a concern over two small dogs that somehow made it into the fairgrounds. He thanked Peggy Waters for letting DART live. He is hoping to make it to the Ranch Rodeo this weekend.

Mandy Hines commented there will be a February 10th evening Board meeting as well as a Planning Commission Board meeting. If the Planning meeting is not adjourned by 6:30pm, she would like to post large signs and make several announcements that the Public Meeting will be held in the Administrative Conference Room. Commissioner Mansfield suggested that if the Planning Board has not finished by 6:30; they can recess for 5 minutes and the BOCC can hold their meeting. Commissioner Selph will not be available for this meeting. There was consensus of the Board for the Planning Commission Board to recess for 5 minutes in order to allow for the BOCC meeting at 6:30pm.

## **RECESS UNTIL 6:30 PM PUBLIC HEARING PUBLIC HEARING**

### **21. Resolution/Plat Vacation 2014-01**

Tom Cookingham presented a request to approve an existing 3 lot plat that is commonly known as Arcadia Crossing. The owner has recently acquired additional property adjacent to the plat petitioned to vacate these three lots in order to combine them into one parcel. Lots owned by others will remain platted and access is maintained to all such lots. Bill Harvey was present on behalf of the property owner. A motion was made by Commissioner Selph to adopt a Resolution granting PV 2014-01, a request to vacate the described plat of Arcadia Crossings. Seconded by Commissioner Langford. Motion carried unanimously.

### **22. Resolution/Major Plat (MJP 2014-01)**

Tom Cookingham presented a request to sub-divide 18 acres into 8 tracts. A motion was made by Commissioner Mansfield to adopt a Resolution granting MJP 2014-01, a request to approve the Major Plat Application. Seconded by Commissioner Miller. Motion carried unanimously.

**Don Conn stated this is a Quasi-Judicial Hearing and proceedings to be followed.**

**All persons present to give testimony were sworn in.**

### **23. Resolution/Special Exception 2014-11**

No ex-parte communications were reported. Tom Cookingham presented a request to permit the phase development of a House of Worship, a multi-purpose building and a cemetery as an accessory

use. The Board approved a Special Exception on September 24, 2013 permitting the described project on a 6.24+ acre parcel. The Church has subsequently acquired a 5 acre parcel north of and adjacent to the original parcel and wants to incorporate the development on both parcels. The existing structure will continue to be used until the multi-use facility is built. The recommendation is for the BOCC to rescind the Special Exception that was originally approved for this site.

Jerrod Summers was present to answer any questions. A motion was made by Commissioner Langford to close the public hearing. Seconded by Commissioner Mansfield. Motion carried unanimously. A motion was made by Commissioner Langford to adopt a Resolution granting SE 2014-11 allowing the phased development of a House of Worship multi-purpose building and cemetery on property zoned Agricultural-5. Seconded by Commissioner Miller. Motion carried unanimously.

#### **24. Resolution/Future Land Use Map Amendment LS 2014-05**

Tom Cookingham stated this is a project sponsored by DeSoto County and is requesting transmittal to the Department of Economic Development for review and comment. The project location is at the former DJJ/GPW property. The proposed revision would re-designate 800+ acres from the Public Land/Institutional Land category to the Urban Center Mixed-Use land category. The purpose of the FLUM revision would be to facilitate the transfer/sale of state-owned land to private ownership and to provide a land use category that is compatible to the long-term growth in the SR 31 corridor.

Nan Exline spoke in opposition of the proposed development/racetrack and requested the Board to table the item until they have researched further.

John Moore spoke in opposition of the proposed development stating it will be disruptive to surrounding residents. Further discussion ensued. A motion was made by Commissioner Langford to adopt a Resolution transmitting to Department of Economic Opportunity a revision of the Comprehensive Plan Future Land Use Map from Public Land/Institutional to Urban Center Mixed-Use Land category. Seconded by Commissioner Miller. Motion carried unanimously.

#### **25. Resolution/Text Amendments to Comprehensive Plan LS 2014-04**

Tom Cookingham stated that Florida Statute requires local governments to periodically submit an Evaluation and Appraisal Letter identifying what elements of their Comprehensive Plan may need amending to be in statutory compliance with State Legislation. A motion was made by Commissioner Mansfield to adopt a Resolution transmitting to Department of Economic Opportunity EAR-based text amendments to bring the County's Comprehensive Plan into Statutory compliance with State regulations. Seconded by Commissioner Langford. Motion carried unanimously.

#### **26. Ordinance/Text Amendment Comprehensive Plan Amendments LS 2014-01**

Tom Cookingham stated earlier last year the Board looked at a series of text amendments proposed by Mosaic and the County came up with a series of changes. The purpose was to create an internal consistency between the policies proposed for the Generalized Phosphate Mining Overlay Designation and related policies in the Future Land Use and Conservation Element.

Geri Waksler concurred with Mr. Cookingham's comments. A motion was made by Commissioner Mansfield to adopt an Ordinance amending the Comprehensive Plan objectives and policies which create and revise definitions and revise policies in the Future Land Use and Conservation Elements as they relate to Phosphate Mining. Seconded by Commissioner Langford. Motion carried unanimously.

#### **27. Ordinance/Text Amendments to Comprehensive Plan LS 2014-02**

Tom Cookingham stated the purpose of the request is to bring the concurrency policy into

conformance with the Florida Department of Environmental Protection regulations in regards to timing, planning, designing and construction of waste water facilities. A motion was made by Commissioner Langford to adopt an Ordinance amending the concurrency policy as it relates to utility provision in the Future Land Use Element LS 2014-02. Seconded by Commissioner Mansfield. Motion carried unanimously.


Commissioner Miller commented regarding agenda item #24. He commented that the property is still governmental and cannot be changed from that until it is sold. This is contingent on the sale of the property. Mr. Cookingham commented there is no legal requirement regarding the time to present Planning issues to the BOCC.

**ADJOURNMENT**

There being no further business, Chairman Quave adjourned the meeting at 7:00 PM.

**ATTEST:**

  
\_\_\_\_\_  
**MANDY HINES**  
**COUNTY ADMINISTRATOR**

**BOARD OF COUNTY COMMISSION**  
**DESOFO COUNTY, FLORIDA**  
  
\_\_\_\_\_  
**GABRIEL QUAVE**  
**CHAIRMAN**