

**PUBLIC MEETING OF THE BOARD OF COUNTY COMMISSIONERS
HELD ON FEBRUARY 12, 2013 AT 9:00 AM
IN THE COUNTY COMMISSIONERS' MEETING ROOM
ROOM 103, ADMINISTRATION BUILDING
ARCADIA, FLORIDA**

The Board of County Commissioners held a Public Meeting on February 12, 2013 with the following persons present:

Commissioner, Buddy Mansfield, Dist#1	Code Enforcement Mgr., Jorge Hernandez
Chairman, Jim Selph, Dist#2	Utilities Director, Eddie Miller
Commissioner, Gabriel Quave, Dist#3	Social Services Manager, Peggy Waters
Commissioner, Elton Langford, Dist#4	Fire Chief, Glenn Prescott
Commissioner, Bob Miller, Dist#5	Building Dept. Manager, Lester Hornbake
County Administrator, C. Guy Maxcy	Admin. Services Director, Linda Nipper
County Attorney, Don Conn	HR Manager, Don Kesterson
Facilities Director, Richard Metzger	Purchasing Director, Cindy Talamantez
Office Manager, Lauri Jones	County Coordinator, Mandy Hines
Transcribing Secretary, Jill Thompson	DeSoto County Sheriff, Will Wise
Event Coordinator, Jody Sullivan	Parks & Recreations Director, Tara Anderson
County Engineer, Mike Giardullo	Road & Bridge Director, Shawn Edwards
County Planner, Tom Cookingham	Environmental Svs. Director, Billy Hines

CALL TO ORDER

9:00 AM

PRAYER- Rev. Jonathan Booher/Mt. Ephram Baptist Church

PLEDGE OF ALLEGIANCE

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

Taylor Chiszar addressed the Board regarding an incident he was involved in. Mr. Chiszar stated that he was traveling on Kings Highway when he saw a blinking stop sign on the ground at the intersection of Highway 72 and Kings Highway. He placed the stop sign in the back of his truck with the intention of going to the Sheriff's Department. Before he arrived at the Sheriff's Department, he was pulled over by a deputy. He explained the situation to the officer. Mr. Chiszar stated he was not arrested but a few weeks later he received a letter from the State Attorney's Office offering a diversion deal or he would be arrested and charged with a felony. Mr. Chiszar chose to take the diversion deal which consisted of 1 year probation, 100 community hours and payment of \$175.00 to DeSoto County Road & Bridge for putting the sign back in the ground. He apologized and stated that he now realizes he should have left the sign where it was and called 911. He never intended to put anyone's life in danger. Commissioner Langford commented that it takes a lot for someone to stand in front of the Board and thanked him for the apology. Commissioner Mansfield commented that maybe the only stop sign that had not been shot. Commissioner Quave questioned Don Conn if there was anything the Board could do to help Mr. Chiszar. Mr. Conn commented that this is an issue that is between the State Attorney and Mr. Chiszar but we can transmit Mr. Chiszar's statement to the State Attorney's office. It was consensus of the Board to follow through with Mr. Conn's recommendation.

Chairman Selph recognized Sheriff Wise.

CONSENT AGENDA-MOTION TO APPROVE

A motion was made by Commissioner Langford to approve the Accounts and Warrants drawn according to schedule of bills payable; Minutes of January 8, 2013 Public Meeting; Workshop on January 8, 2013; Workshop on January 22, 2013 and January 22, 2013 Public Meeting. Seconded by Commissioner Mansfield. Motion carried unanimously.

PRESENTATIONS

3. Award/Distinguished Citizen

Chairman Selph presented Dr. Calvin Martin with the Distinguished Citizens Award for 2013 First Quarter. Chairman Selph commented that Dr. Martin had worked in DeSoto County for 55 years. The Chairman told a brief story of how Dr. Martin helped save his wife's life many years ago. Dr. Martin thanked the Board.

Chairman Selph recognized Diana McGee with Senator Bill Nelson's office. Mr. Maxcy commented that Ms. McGee will be available in the Administrative Conference Room from 1:00-3:00pm to speak with constituents.

REGULAR BUSINESS

4. Resolution/Budget Amendments

Linda Nipper requested a budget amendment for a Structure Assessment of Fire Station 1 that was requested by the Board. Funds were moved back into Facilities to cover the cost of the assessment. The County assisted the Health Department in the sale of their surplus cars in 2012 and one several years ago; the funds were received by the County through our Surplus Auction Vendor. The payment was remitted to the Health Department in full. The AgFest expenses were taken from AgFest Reserves and returned to the current Turner Center Budget to pay this year's AgFest expenses. There were funds received for the sale of copper due to an ongoing RV site refurbishing under Turner Center Projects. The amount of \$980.00 was expensed to the Storm Water Modification Project at the Turner Center. The Sheriff's Department received GEO funds that were recognized as an expense to the budget. At the Sheriff's request, funds were transferred from the Court Fund to the General Fund Account for designated expenses. A motion was made by Commissioner Langford to adopt the Resolution amending the 2012/2013 Budget including attachments. Seconded by Commissioner Miller. Motion carried unanimously.

5. Resolution/Tourism Development Marketing Grant Guidelines and Application

Mandy Hines requested the adoption of a Resolution which would adopt a Tourism Development Marketing Grant Program. The program was established in coordination with the Tourist Development Council and staff. This would be funded by the Tourist Development Bed Tax Revenues. It provides for a maximum award of a \$1500.00 grant and a 50% match by the organization which it would apply. The purpose of the program is to provide marketing funding to new venues that would bring tourism into the County. Ms. Hines requested that there be a printed name for clarity and not only a signature. She also requested to strike a sentence from the maximum award that may create confusion. There were comments and questions from the Board. A motion was made by Commissioner Mansfield to adopt the Resolution approving a Tourism Development Marketing Grant Program. Seconded by Commissioner Langford. Motion carried unanimously.

6. Resolution/Regional Transportation Planning Organization

Mandy Hines requested adoption of a Resolution supporting the designation of a Regional Transportation Planning Organization (TPO). This is a transportation policy making organization that is made up of representatives of local government and transportation authorities. A motion was made by Commissioner Langford to adopt the Resolution supporting the creation of a Regional

Transportation Planning Organization and authorize the County Administrator or designee to represent DeSoto County in support of this initiative. Seconded by Commissioner Mansfield. Motion carried unanimously.

7. Resolution-Amendment/Florida Department of Transportation

Mike Giardullo stated this was an amendment to the Agreement with FDOT for the funding of Notts Dairy Rd. Mr. Giardullo gave a brief history of the road and stated changes were made to make improvements and will cost more money. FDOT agreed to cover the additional costs. A motion was made by Commissioner Quave to adopt the Resolution to approve the amendment with the Florida Department of Transportation to increase the grant amount to \$23,926.00 and extend the agreement completion date to May 31, 2013 for the construction improvements of S.E. Notts Dairy Rd. at SR 31. Seconded by Commissioner Langford. Motion carried unanimously.

8. Bid Award-Contract/Excavation Point

Mike Giardullo stated this was to approve the contract with Excavation Point for Notts Dairy Rd, improvements at the cost of \$23,925.32. Mr. Giardullo commented that Excavation Point has worked with the County numerous times in the past. A motion was made by Commissioner Langford to award the bid of S.E. Notts Dairy Rd. roadway improvements and authorize the Chairman to execute the contract with Excavation Point. Seconded by Commissioner Mansfield. Motion carried unanimously.

9. Bid Award/Small Cities Community Development Block Grant and State Housing Initiative Partnership Program

Peggy Waters presented a request of 3 bid awards for CDBG and SHIP projects. This was for rehabilitation of 3 homes to income qualified homeowners. Both contractors have proven their ability to work within program guidelines. Ms. Waters stated an estimate of the project is completed and 15% higher or 15% lower can be approved. Commissioner Miller commented he made a visit with Ms. Waters and they are very nice homes. A motion was made by Commissioner Mansfield to approve the bid award as presented and authorize the Administrator to execute all related documents and rehabilitation of the units. Seconded by Commissioner Miller. Motion carried unanimously. Mr. Maxcy thanked Peggy for her work with the County. He received a complement from a contractor that Ms. Waters is professional, prompt and polite.

10. Piggyback Contract/Directional Boring Services

Eddie Miller presented a piggyback contract with Sylvester Excavation. Mr. Miller commented that the company works frequently in Charlotte County. A motion was made by Commissioner Langford to approve the Piggyback Contract with Sylvester Excavation Inc. for Directional Boring Services and authorize the Chairman to execute the contract. Seconded by Commissioner Mansfield. Motion carried unanimously.

11. Letter of Credit Proceeds/Sandhill Mine

Don Conn gave a brief background on the issue. Mr. Conn commented in 2005-2006 the County issued mining permits for what became the Sandhill Mine. The mine was in operation for approximately 5 or 6 years. During that time there were a number of code violations, special master hearings, appeals and penalties. In 2011 the Board revoked the permits associated with the Sandhill Mine. As part of any permit that is issued for mining, the operators must post either a bond or letter of credit to ensure that reclamation activity is undertaken and successfully completed after the mining operation is concluded. The mine remained un-reclaimed. Proceeds in the amount of \$601,800.00 were received by the County and have been on deposit for the last two years. Those proceeds are specifically designated to be used to reclaim this particular mine. Anyone who purchases the property would be responsible for the reclamation. The proceeds that are currently on deposit could be used to reimburse that property owner for expenses incurred to reclaim the property. Mr. Conn commented he is aware that the adjoining

property owner has an interest in purchasing the mine property. One of the difficulties of reclaiming this property is that the excavation was undertaken up to the property line. As long as the new property owner agrees to undertake reclamation and gets all required approvals by the County, those proceeds can be used to reimburse the property owner. If the reclamation does not use all of the proceeds, the remainder could be given to the property owner that undertook the reclamation as an inducement to that person to go ahead and purchase the property, undertake the project and successfully complete the reclamation process. Mr. Conn commented that the condition of any such approval would be that at the time the reclamation is concluded; there are no other claims to that money. Mr. Conn stated these particular funds could not be put into the County's General Fund. Commissioner Quave verified with Mr. Conn that the funds cannot be used to pay outstanding liens or fines on the property. There was further discussion by the Board. A motion was made by Commissioner Langford to approve the transfer of any remaining proceeds from the Sandhill Letter of Credit to a party that reclaims the Sandhill Mine in accordance with all County regulations and requirements provided that there are no other claims against the remaining proceeds or adverse financial audit findings that would result from such transfer. Seconded by Commissioner Mansfield. Further discussion was had. Motion carried unanimously.

12. Status Report-Negotiations/Aqua Utilities-Lake Suzy Utilities

Don Conn reported that Aqua Utilities has agreed to a purchase price of \$150,000.00, no interest and payable over two years. Mr. Conn has asked the Utilities Department to complete due diligence on water lines. Mr. Conn will negotiate terms of the transfer. There will be a formal agreement with a formal closing. This will come back to the Board possibly within 60-90 days. Law requires that whenever a County purchases or sells a utility that there be a public hearing. Mr. Conn suggested holding a public hearing on March 26th, 2013 at 6:30pm on this matter and take final action at the first Board meeting in April. There were questions and comments from the Board.

13. Approval/Water ERU Pool Correction

Eddie Miller presented a request to approve the correction of the beginning balance of the Water ERU's from the ERU Pool. A motion was made by Commissioner Quave to approve the correction of the beginning balance of Water ERU's from the ERU Pool. Seconded by Commissioner Miller. Motion carried unanimously.

14. Approval/ERU Pool Usage

Eddie Miller presented a request to approve the distribution of 63.0 Water ERU's and 63.0 Wastewater ERU's for various proposed customers and businesses. A motion was made by Commissioner Mansfield to approve the distribution of the ERU Pool of 63.0 Water and 63.0 Wastewater ERU's for various proposed customers and businesses. Seconded by Commissioner Langford.

ADMINISTRATOR'S REPORT

Mr. Maxcy reported on his meeting with the owner of Allied Recycling to discuss refining their hours of operation or any other parts of their operation that may be deemed as more friendly to the surrounding neighbors. The owner would not agree to a change in the hours of operation. The owner of Allied did comment that he would be placing a cover over the trundle to protect the equipment and it should also aid in blocking some of the noise. Mr. Maxcy suggested for the Allied site or any other site, the Board should develop a more aggressive noise ordinance. Mr. Maxcy has instructed Tom Cookingham, County Planner, to draft a noise ordinance for Mr. Conn to review and present to the Board for review. Commissioner Miller played a recording from his cell phone of the noise he experienced from Allied Recycling on a Sunday afternoon. Commissioner Selph expressed his concerns on the matter.

Mr. Maxcy introduced Tara Puolton with Southwest Florida Water Management District (SWFWMD)

and stated she has rain gauges for all members of the Board.

Mr. Maxcy presented a request to post two Landfill Operator III positions. Mr. Henry Grimes has been chosen to take the position of Landfill Director once Billy Hines has retired. Mr. Maxcy also requested approval from the Board to post the position of Public Worker IV. It was consensus of the Board to fill the vacant positions.

COUNTY ATTORNEY'S REPORT

Mr. Conn addressed the Board regarding the PIE case and commented on the appeal of a judgment in the County's favor. A decision may be made on the matter by early fall.

Mr. Conn commented that the Braynen case has a motion for summary judgment that will be heard by Judge Hall next week. If the motion is granted, a foreclosure sale would be ordered to be held. We would then proceed to either acquire the property or someone else would acquire the property. Mr. Conn stated the County has a substantial lien on the property.

Mr. Conn commented on General Contracting Services. He stated it was an ongoing and very active litigation. Mr. Conn suggested the Board schedule an Attorney/Client briefing session so that he can discuss with the Board a potential settlement offer that the defendants would like for the plaintiffs to consider. Mr. Conn requested an Executive Session at 2:00pm on February 26th prior to the 3:00pm Board Meeting. The Board agreed to hold the Executive Meeting at the requested time. Mr. Conn also requested verification from the Board to hold the Public Hearing on the Lake Suzy Acquisition on March 26th at 6:30pm as previously requested.

BOARD MEMBER COMMENTS

Commissioner Quave commented he received a phone call regarding better notification to the public when a 6:30pm Board Meeting will not be held. Chairman Selph commented that it was advertised in the newspaper that there would be a 6:30pm meeting and the newspaper did not verify with the Commissioner's Office that there was an evening meeting.

Commissioner Langford commented on the issue of much needed jobs in DeSoto County. He stated that Allied Recycling has created quite a few jobs but as we all know, it has created issues regarding noise. Commissioner Langford wanted to remind the Board there are steps, as Commissioners, they can take to ensure quality businesses are brought to DeSoto County. He commented that Industrial Heavy Zoning is dynamite. The uses that are intense are allowed in IH property. Commissioner Langford stated we all need to work together as neighbors to ensure we are doing the best we can to be courteous. He suggested to Mr. Conn to check on reclassifying some of the properties that are zoned IH and are vacant. Commissioner Langford commented on the TPO with surrounding counties. Commissioner Langford suggested to the Board reinstating Fred Busak. He also suggested that Mr. Maxcy start attending the Peace River Manasota Water Supply Authority meetings again. Mr. Conn stated that in the past the PRMRWSA were not properly noticing their meetings. It was consensus of the Board to allow Mr. Maxcy to resume attending the PRMRWSA meetings as long as there were no violations of the Sunshine Law.

Chairman Selph questioned the Board if they wanted to discuss the matter of Fred Busak or bring back at a later date. Commissioner Langford stated he would like the Board to have time to think about and research the matter.

Commissioner Mansfield commented that he also received a phone call concerning the 6:30pm Board Meetings. He stated he was accused of cancelling the meeting. He feels staff sufficiently notifies the public of all Board Meetings. Commissioner Langford suggested the newspaper states that the Board Meeting are tentatively set and to call The Commissioner's Office to verify the meetings. Commissioner Mansfield requested an update on the vacant positions with the Road & Bridge Department. Shawn Edwards commented that not all applications have been received and the positions will run for another

week.

Commissioner Miller reminded everyone of the Chamber's Annual Business Expo. at the Turner Center from 3:00pm-6:00pm. He also commented on all of the training he has attended and getting to know other Commissioners in the State of Florida. He stated that he appreciates the fact that our Board receives agendas and supporting documents of items to be discussed at the Board Meetings.

Chairman Selph stated he reviewed the Board packet on-line but prefers to see it on paper. He commented he appreciates County Staff and wished Billy Hines the best of luck in retirement. Chairman Selph stated on February 23rd, our local National Guard will be deployed and encouraged all to join in sending our men off.


ADJOURNMENT

There being no further business, Chairman Selph adjourned the meeting at 10:32 AM.

ATTEST:



C. GUY MAXOY
COUNTY ADMINISTRATOR

BOARD OF COUNTY COMMISSION
DESOTO COUNTY, FLORIDA


JAMES F. SELPH
CHAIRMAN