

**PUBLIC MEETING OF THE BOARD OF COUNTY COMMISSIONERS  
HELD ON MAY 22, 2012 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 May 22, 2012 with the following persons present:

Chairman, Buddy Mansfield, Dist#1  
Commissioner, Jim Selph, Dist#2  
Commissioner, Judy Schaefer, Dist#3  
Commissioner, Elton A. Langford, Dist#4  
County Administrator, C. Guy Maxcy  
County Attorney, Don Conn  
Administrative Services Dir., Linda Nipper  
Office Manager, Lauri Jones  
Transcribing Secretary, Betty Phillips

Facilities Director, Richard Metzger  
Fire Chief, Glenn Prescott  
Utilities Director, Michael Crumpton  
Purchasing Agent, Jacque Daniels  
County Engineer, Mike Giardullo  
County Coordinator, Mandy Hines  
Human Resources Manager, Don Kesterson  
Emergency Mgmt. Manager, Doug Christ  
Social Services Manager, Peggy Waters

Commissioner, Ronald P. Neads, Dist#5 absent

**CALL TO ORDER-3:00 PM**

**PRAYER-Rosa Felton, Allied Church of God in Christ**

**PLEDGE OF ALLEGIANCE**

**INTRODUCTION OF ELECTED OFFICIALS**

**SET/AMEND**-Motion was made by Commissioner Langford to approve the agenda as submitted. Seconded by Commissioner Schaefer. Motion carried 4-0.

**PUBLIC FORUM FOR NON-AGENDA ITEMS**

Mr. Ron York, DeSoto County Veterans Association expressed his concern regarding individuals that are collecting monies for Veterans. He indicated that these people collect money and 93% of it runs their organization in Ohio and it does not stay in DeSoto County. Mr. York stated that he felt donors were being exploited because this does not help any DeSoto County veterans. Brief discussion followed regarding what could be done about this happening in the future. It was suggested that a letter be written to Winn Dixie Headquarters and asking the newspaper to make residents aware of the situation. Commissioner Schaefer also felt that other organizations such as Police and Firefighters should also be included in this issue. Mr. York indicated that if he goes out of the County, he must notify the local Veteran's Associations.

Mr. George Lempenau stated that individuals need to take some responsibility about whether to give or not and to ask a few questions before they do give.

Mr. Lempenau read an e-mail from his neighbor Beck Bragg regarding the "primitive camping" issue indicating that it has the potential to harm tourism. She requested that any decision regarding the LDRs and the "primitive camping" issue be either eliminated from the LDRs or postponed until she returns from a conference. Mr. Lempenau also asked that the issue be postponed and indicated that he would like the "roadside stands" issue to be discussed. Mr. Conn stated that there was a meeting regarding the LDRs tonight and that the proposed "primitive camping" issue allows for it if a fee is not charged.

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

Motion was made by Commissioner Schaefer to approve the Accounts and Warrants drawn according to schedule of bills payable, Minutes of May 8, 2012 Public Meeting, Agreement Extension Amendment with Public Risk Insurance Agency and the Grant Distribution Approval for 2012 Edward Byrne Memorial JAG Program. Seconded by Commissioner Selph. Motion carried 4-0.

## **PRESENTATION**

### **5. Presentation/State of Local Emergency Synopsis of the 2012 Hurricane Season Forecast**

Mr. Christ provided a sample copy of a Resolution declaring a "State of Local Emergency" and when/why it is usually requested. He further provided a report of the upcoming season indicating that it would be a near normal season with 10 named storms, 4 hurricanes and 2 major hurricanes predicted.

## **REGULAR BUSINESS**

### **6. Resolution/Budget Amendments**

Ms. Nipper requested to adopt a Resolution amending the 2011/12 Budget including attachment #2012-81 (Recognizing and disbursing grant funds) and #2012-82 (Redistributed Engineering funds to correct grants revenues and expenses and to update and correct accounts). Motion was made by Commissioner Schaefer to adopt the Resolution amending the 2011/12 Budget Amendment as presented. Seconded by Commissioner Selph. Motion carried 4-0.

### **7. Resolution/Local Fire Ordinance**

Mr. Conn stated that due to concerns and questions about the County's Fire Ordinance (Ordinance 2006-64) the Board suspended that ordinance by Resolution 2011-36 for one year in order to allow time to review and propose revisions to the local fire code. During the suspension, the state and federal fire codes have been enforced in the county. On May 8, 2012 the Board held a workshop on proposed revisions to the local fire code. The suspension under Resolution #2011-36 expires on June 1, 2012. In order to allow the Board additional time to hold a public hearing on proposed revisions to the local fire code, a continued suspension of Ordinance 2006-64 for up to four months is necessary. Motion was made by Commissioner Langford to adopt the Resolution that continues the suspension of the local Fire Ordinance. Seconded by Commissioner Selph. Motion carried 4-0.

### **8. Contract/Annual Paving Services**

Mr. Giardullo stated that the current fiscal year includes monies for the Annual Paving Program. The proposed roads include all or portions of NE Floridian Circle, NE Lee Street, NE Lincoln Street, NE Strickland Street, NE Citrus Avenue, NE Gill Street, NE Grapefruit Street, and NE Varnadore Street. Roadway Management, Inc. has an existing ongoing paving services Contract which is suitable for piggybacking. This will expedite the project as well as save additional cost of engineering the project. Motion was made by Commissioner Langford to approve the Piggyback Contract with Roadway Management, Inc. for Annual Paving Services and authorize the Chairman to execute the Contract. Seconded by Commissioner Selph. Motion carried 4-0.

### **9. Bid Award-Contract/All-Rite Fence Services, Inc**

Mr. Crumpton stated that the Desoto County Regional Water Reclamation Facility (DCR) was completed in 2007 with a 4 strand barb wire wooden post type cattle fence, not the typical 6 foot high security type perimeter fence. Section 57.1 (a) of the Recommended Standards for Wastewater Facilities (aka 10 States Standards) requires "Enclosure of the plant site with a fence and signs designed to discourage the entrance of unauthorized persons and animals. The installation of a 6 foot high perimeter security fence topped with 4 strands of barb wire would greatly improve the facility's security and reduce DCU's maintenance and repair exposure to potential vandalism, theft, and graffiti. The proposed fence will connect to the western portion of the existing 8 foot high

security fence that surrounds DCR's wet weather storage pond and an automatic access gate would permit controlled access to the site. Mr. Maxcy stated that they need to do all they can to secure the facility and recommended placing a sign at the bottom of the stairwell. Commissioner Langford pointed out that the cost was coming from the Utilities Enterprise Funds and is not being paid for by the taxpayers. Motion was made by Commissioner Langford to award the Bid and approve the contract with All-Rite Fence Services for the Regional Water Reclamation Facility Perimeter Security Fencing Installation. Seconded by Commissioner Schaefer. Motion carried 4-0.

#### **10. Bid Award-Contract/Odyssey Manufacturing Co.**

Mr. Crumpton stated that the South Water Booster Station was completed in 2005 using chlorine and ammonia gas. These gases are contained in cylinders and have to be changed regularly and are very dangerous to staff and the general public. Converting the South Water Booster Station from gas to bulk liquid disinfection components will improve personnel safety, reduce maintenance costs, improve the disinfection process in general and will be more cost efficient. Motion was made by Commissioner Selph to award the Bid and approve Contract with Odyssey Manufacturing Company for the South Water Booster Station conversion from gas to bulk liquid disinfection components. Seconded by Commissioner Langford. Motion carried 4-0.

#### **11. Resolution/ERU Pool**

Mr. Conn stated that as a result of the termination of Water and Wastewater Agreements that were in default, a significant number of ERUs have been recovered and can now be used to create a "pool". ERUs from the pool can be allocated to new customers without the necessity of their payment of capital charges since those charges have already been paid. This will serve as an incentive for businesses and commercial establishments to connect to the County Utility System and become paying customers. The proposed resolution establishes the Board's policy which will then be used by the Utilities Department in reviewing applications for allocation from the pool and presenting recommendations to the Board for its final approval. Brief discussion followed regarding residential/commercial businesses that want to get ERUs from the pool and not regular ERUs that would require capital charges. It was pointed out that there should be a time limited period required so that they do not end up with the same problem as they previously had. Mr. Crumpton will provide updates on the "pool". Further discussion followed regarding the timeframe for defaults and keeping a close watch on the capacity requirements. Chairman Mansfield inquired about the number of water and wastewater ERUs that were available. Motion was made by Commissioner Langford to adopt the Resolution and Policy governing the use and allocation of recovered water and wastewater ERUs. Seconded by Commissioner Schaefer. Motion carried 4-0.

#### **ADMINISTRATOR'S REPORT**

Mr. Maxcy stated that he would like to reclassify a Senior Accountant position to an Accountant position whereby reducing costs in the Utilities Department. He requested that they authorize the filling of the Accountant position. The Board consensus was to approve the reclassification and the filling of the position.

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

Mr. Conn provided a written report and indicated that there were now 52 counties involved in the law suit involving the Medicare Billing issue. Mr. Conn inquired about working on revisions and updates of the Phosphate Mining and Sludge Ordinances. The Board consensus was to authorize him to proceed with reviewing those ordinances. Mr. Conn also discussed regulation/moratorium for Internet Cafes. The Board suggested that he keep abreast of the issue. Mr. Conn stated that the Rodeo Association has indicated that they are prepared to close on the sale of property adjacent to the Turner Center. The deadline according to the Agreement should take place about the middle of July. Commissioner Langford

requested a copy of the Agreement with the Rodeo Association for the property.

### **BOARD MEMBER COMMENTS**

Commissioner Schaefer stated that we have a community that cares about people as witnessed by the Ball Tournament that was held for Jack Stafford who has Cancer. They collected about \$4,300.00 for him.

Commissioner Langford asked that everyone pray for their government with everything that is going on. He felt that a lot of the State and Federal Government was doing a lot of things they should not be doing.

Commissioner Selph stated that in regards to the Veterans issue, that it might be a good idea to write to the Attorney General in Ohio about the group that was collecting those monies. He also indicated that he was thankful for the recent rains. Commissioner Selph briefly reported on the "4-H Tropicana Speech Writing" contest that was held at the Turner Center. He indicated that he really appreciated the people who put on this event and that our kids did a great job. Commissioner Selph asked if maybe the Board could invite one or both winners to present their speeches at one of our meetings.

Chairman Mansfield stated that a good job was done on the Henry Barrow Bridge and invited everyone to attend the Memorial Day Service at the Courthouse on Monday.

**RECESSED AT 4:10 PM UNTIL 6:30 PM PUBLIC HEARING**

**PUBLIC HEARING 6:30 PM**

### **12. Ordinance/Land Development Regulations**

Mr. Conn stated that this is the 3<sup>rd</sup> Public Hearing for the proposed LDR Revisions. He indicated that Board members have been provided with all written comments from the public that have been received as well as comments from the Planning Commission Meeting held on May 9, 2012. Mr. Conn stated that Ms. Buenaventura would provide an update of any current revisions of the LDR's. Ms. Buenaventura stated that most of what the Board has been provided with they have seen before. She indicated that there have been a lot of meetings with staff and the public to receive input. Ms. Buenaventura briefly reviewed the previous changes. Mr. Conn stated that they did meet with the Planning Commission as indicated and they had a few concerns regarding provisions that would allow sale of agricultural products in A-5 & A-10 and buffering requirements that are more user friendly. They also briefly discussed "primitive camping" but had no suggested recommendations. "Primitive camping will be allowed with some guidelines. The Planning Commission did indicate that there was an issue with pet cemeteries that they would like to be addressed which he suggested that the Board take a look at in the future. They also discussed minor plats and minor subdivisions and setting the number of divisions that could be made. Mr. Conn stated that it will remain at 6 lots as originally set in the LDRs. Mr. Conn briefly reviewed the proposed edits and stated that the EDAC's recommendation of putting the section of "clustering of residential units" was placed back in the LDRs.

Mr. Ed Johnson asked that the Board not adopt the proposed LDR revisions. He expressed his concerns regarding Section 8400-Non Conforming Uses; Section 2318 Industrial Heavy; Section 7500 Landscaping; Section 14500 Improvement Plans and Section 14400 Sexually Oriented Entertainment Establishments. Mr. Johnson also suggested dropping the requirements set forth by other State and Federal Agencies as the County should not be enforcing those requirements. He asked that his letter be made part of the record. Mr. Conn disagreed with some of Mr. Johnson's recommendations and indicated that "Pervert Palace" has been addressed. Mr. Conn also discussed the landscaping issue and indicated that 60-foot trees are not required and any property owner can request a deviation from a plan.

He also indicated that the County would not be enforcing requirements of the Army Corp of Engineers or SWFWMD.

Mr. Larry Hudson read a Memorandum to the Board concerning the importance of the revisions to the LDRs from an economic standpoint. He also offered written recommendations made by the Economic Development Advisory Committee, as adopted by the Committee, regarding certain sections of the LDRs that they feel should be addressed. Mr. Hudson recommended that the Board not adopt the revisions until they are done right. Mr. Hudson reviewed some of the recommendations that were made by the Committee. Mr. Conn stated that some of the recommendations were used in the revisions however; some he felt required more public input and further review as well as other public comments that have been made. He stated that he would like to continue reviewing the public comments and possibly schedule some Workshops for more public review.

Mr. Maurice Brown also provided a handout of his concerns regarding revisions needed to the LDRs. He specifically asked that certain highlighted portions of Section 2319 Phosphate Mining-Industrial District be removed as it gives special privilege to the phosphate mining industry. It is a zoning issue and the public should be aware of all phosphate mining. Mr. Brown stated that it will allow them to do anything they want with their property and the regular taxpayer is not given that privilege. Mr. Brown asked that the Board please give some serious consideration to this section. Mr. Brown also discussed the public notice issue and that the Board adopted the 1500 foot requirement and felt that it should be left at that in order to protect the public. Mr. Brown also briefly discussed the purpose and intent as stated in the LDRs. He also indicated that he would like to see a Workshop for "Landscaping/Buffering" issues and that the Board should schedule more Workshops especially for land use issues. Mr. Brown stated he appreciated the Board and what they are trying to do.

Mr. Roy Kirkpatrick stated that the Board was headed in the right direction however; he would like the Development Director to be able to approve the minor subdivisions instead of having to wait another 30 days in order to get Board approval which he thinks is a waste of time. Mr. Conn stated that when you are not platting the subdivision of your property it does not go through a Director but comes directly to the Board for review and becomes part of the record. Mr. Conn suggested that if the Board wanted to change "approval" to "review" that would be alright to do. Commissioner Selph stated that he thought "review" would be more appropriate. Commissioner Langford stated that if everyone were honest it would not be a problem and Chairman Mansfield agreed. Brief discussion followed regarding whether the Board was going to micro-manage or look at the broad scope of things. Mr. Maxcy stated that the power of the Planning Commission was only to make recommendations to the Board. Mr. Brown pointed out that minor plats come without conditions. Mr. Steve Fussell stated that Ms. Nelson and staff were doing a good job and that they have come a long way. He felt that they should make the process as quick as possible. Commissioner Langford stated that he was happy with the process and felt it was the Board's duty to protect the public. Chairman Mansfield stated that he has looked at Hardee Counties minor plat issues and they have a time limit and a definition of what a family member includes. He indicated that we may want to take a better look at this issue in the future. Mr. Kirkpatrick stated that he was just trying to help by involving the Board as little as possible. Further discussion followed regarding the Hardee County process. Mr. Maxcy indicated that the process has been improved and shortened significantly. He

stated that even with the Board involvement that it will only take about two weeks to process and that he knew was a concern for everyone. Brief discussion followed regarding the 30 day process and Mr. Conn indicated that was only for a platted subdivision and not an unplatted subdivision. The main concern of everyone appeared to be that the process be as speedy as possible. Mr. Brown stated that he hoped that the Board would not place any conditions on minor plats as they should only be placed on Special Exceptions and that the LDRs should be very clear and concise.

Mr. Ed Johnson stated that the 90 day period for the non-conforming uses was too short and felt that the Board needed to give a little more for issues that cannot be helped. He suggested extending at least to 6 months and preferably to 1 year. Brief discussion followed about granting extensions and allowing non-conforming uses to extend too long. Mr. Conn suggested that they not change the 90 day period but include language that would allow the Board to give more time if "for good cause". Mr. Johnson stated that they have left "extenuating circumstances" undefined and this will most likely cause problems for future Boards. Mr. Johnson stated that he also only requested that you move "Pervert Palace" from permitted uses to special exceptions uses. It was pointed out that even under permitted uses that are requirements that have to be met. Further discussion followed regarding the Phosphate Mining Districts. Commissioner Langford indicated that if the property is rezoned to Phosphate from an Agricultural Zoning that as long as the Ag use is continuous it can be done. Mr. Brown stated that there cannot be two uses at the same time no matter what the use is. Commissioner Langford further pointed out that zoning can be changed but they can still have agriculture use and that the phosphate mines are not being treated any differently. Mr. Brown questioned what the definition of mining activities included and that the Board has the right to determine that. It was determined that when mining activities start other uses must be stopped. Brief discussion followed regarding the primitive camping issue and whether it would affect day to day operations. It was indicated that the primitive camping only involved commercial uses such as private property owners who want to charge for a campsite. They would then have to meet certain guidelines. Chairman Mansfield questioned the vegetable stand issue regarding individuals who use pick-up trucks to transport to a Farmers Market. Mr. Conn stated that the sale of agricultural products on agricultural property is allowed whether the product is grown on the property or not. He indicated that a member of the Planning Commission suggested only allowing products grown on the property to be sold from the property. Staff is not recommending that suggestion.


Motion was made by Commissioner Langford to adopt the Ordinance for the DeSoto County Land Development Regulations with proposed edits with the following revisions (1) Section-Minor Plat-changing Board "approval" to "review and (2) Section 8404(c)-After the 90 days reference add "except as otherwise determined by the Board for good cause shown". Seconded by Commissioner Schaefer. Motion carried 4-0. Workshops for further LDRs review will start in approximately 3 months.

**ADJOURNMENT**

There being no further business, Chairman Mansfield adjourned the meeting at 8:28 PM.

**ATTEST:**

  
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C. GUY MAXCY  
COUNTY ADMINISTRATOR

**BOARD OF COUNTY COMMISSION  
DESOTO COUNTY, FLORIDA**  
  
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JURIL O. MANSFIELD  
CHAIRMAN