

**PUBLIC MEETING OF THE BOARD OF COUNTY COMMISSIONERS
HELD ON OCTOBER 28, 2014 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 October 28, 2014 with the following persons present:

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

CALL TO ORDER 3:00 PM

PRAYER- Father Vincent Clemente/ St. Paul's Catholic Church

PLEDGE OF ALLEGIANCE

INTRODUCTION OF ELECTED OFFICIALS

Sheriff Will Wise, Karen Whaley with Rep. Ben Albritton's office, Retired County Commissioner Ronald Neads

SET/AMEND

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

PUBLIC FORUM FOR NON-AGENDA ITEMS

None

CONSENT AGENDA-MOTION TO APPROVE

A motion was made by Commissioner Quave to approve the Accounts and Warrants drawn according to schedule of bills payable; Minutes of September 23, 2014 BOCC Public Meeting; Minutes of September 30, 2014 BOCC Emergency Meeting; A Resolution assessing lien amounts for costs of demolition of dilapidated structures and Approval of Board Membership for the Transportation Disadvantaged Local Coordinating Board. Seconded by Commissioner Selph. Motion carried unanimously.

PROCLAMATIONS

5. Proclamation/Week of the Family

Mandy Hines read into record the Proclamation for Week of the Family. The idea of this Proclamation is to raise awareness that the quality of our community life begins within the homes of individual families. This provides a wonderful time to expand the awareness that strong families make strong communities. A motion was made by Commissioner Mansfield to approve and proclaim November 1 through November 8, 2014 as DeSoto County Week of the Family. Seconded by

Commissioner Quave. Motion carried unanimously. Commissioner Miller presented the Proclamation.

6. Proclamation/Food Day

Mandy Hines read into record the Proclamation for Food Day. The idea of this Proclamation is to promote safer, healthier diets that are a critical factor in improving citizens' overall health and wellbeing. A motion was made by Commissioner Quave to proclaim October 24, 2014 as Food Day in DeSoto County. Seconded by Commissioner Mansfield. Motion carried unanimously. Commissioner Quave presented the Proclamation to Penny Kurtz.

PRESENTATION

7. Presentation/VTS Scada Remote Monitoring

Eddie Miller commented the PO to purchase the VT Scada System was approved in June 2014. The system was installed in August and has exceeded expectations. It has saved time, money and effort. Mike Vuolo along with Robert Davies gave a presentation on the new system. Mike discussed information regarding the Wells, RO Facility, Flow Totals, Clear Well and GST. The Plant can be reset remotely from a laptop computer. Further discussion ensued.

REGULAR BUSINESS

8. Resolution/Budget Amendments

Linda Nipper presented requests for the 2013/14 fiscal year; SHIP Revenues and Waste Water Capital. A motion was made by Commissioner Mansfield to adopt a Resolution amending the 2013/14 Budget including attachments. Seconded by Commissioner Selph. Motion carried unanimously.

9. Resolution/Budget Amendments

Linda Nipper presented amendments #2015-01, #2015-02, #2015-03, #2015-04 and #2015-05. Commissioner Selph commented that regarding Attachment 1; the \$129,000 should go into Reserves and not Contingency. There was Board consensus to put the amount previously mentioned into Reserves. Commissioner Miller verified that \$128,000 is being moved from the Enterprise Fund for Thornton Creek Construction. A motion was made by Commissioner Quave to adopt a Resolution amending the 2014/15 budget including attachments. Seconded by Commissioner Miller. Motion carried unanimously.

10. Agreement/Use of County Equipment by WCA

Henry Grimes requested approval from the Board to allow WCA to use the County's leachate pump. WCA will rent the pump for a yearly fee. A motion was made by Commissioner Selph to approve the use of the County Landfill leachate pump by WCA of Florida, LLC and authorize the Chairman to execute the agreement. Seconded by Commissioner Miller. Motion carried unanimously.

11. Declaration of Surplus Property

Cindy Talamantez stated the County owns 60 acres on Reynolds Road; one is a 20 acre parcel and the other is a 40 acre parcel. They operated as a landfill until 1979-1980. The County has been approached with some interest on the property. Ms. Talamantez has completed research on the property and finds no reason not to sell the property with restrictions for development. The property will go out to public bid with restrictions. Mandy Hines commented that typically the restrictions are for passive use or recreation; it can never be developed since it is a former landfill. Don Conn stated the bid would require the successful bidder to acquire ownership of the two parcels in their entirety. This would be an "as is" sale with indemnification and release of liability coming back to the County. Commissioner Selph would like the Property Appraiser to re-evaluate the property so that an appropriate minimum bid can be determined. Ms. Talamantez commented the highest bid will be subject to agreement of all terms and will be presented to the Board to accept or reject the offer.

Commissioner Mansfield would like a minimum bid. Ms. Hines commented she would like to speak with the Property Appraiser, based on the numbers shown she is unsure of the appraisal. Further discussion ensued. A motion was made by Commissioner Mansfield to declare the property as surplus. Seconded by Commissioner Selph. Motion carried unanimously.

12. Declaration of Surplus

Cindy Talamantez commented that currently there is no interest in the property. The County owns Lettuce Lake Park, which is part of the parcel. The parcel would need to be divided due to a County Utilities Lift Station. Ms. Talamantez requested direction from the Board regarding keeping the property or prepare for a sale. Commissioner Selph would like more information and feels waterfront property has high value. Mandy Hines commented this is a great recreational opportunity but the County does not have the resources to develop the property at this point. If the Board envisions doing that at some point, we will not surplus the property. If the Board has no interest in doing so in the future, we would move forward in potential surplus. Commissioner Miller and Chairman Langford would like the County to keep the property. Commissioner Quave and Commissioner Mansfield would like to surplus. A motion by Commissioner Miller to deny the request to surplus County owned property located on Reese Street. Seconded by Commissioner Selph. Motion carried 3-2 with Commissioner Mansfield and Commissioner Quave dissenting.

13. Temporary Use Permit

Tom Cookingham submitted a request to approve Temporary Use Permit #2014-09. The applicants are Mr. & Mrs. Montalvo and the permit is to allow the temporary breeding and care of animals and temporary placement of agricultural structures on a residential property. This type of permit can be located in any zone district with no lot/parcel size minimum. Based on a review of the requirements of Section 8300 Temporary Uses, Subsection G and the materials submitted by the applicant; staff recommends approval of the requested Temporary Use Permit. This will be the third extension of the permit. The adjacent property owner has signed a letter of support. The applicant has requested a Temporary Use Permit for one year due to the year round shows. Further questions and comments ensued.

Elise Zarli read a letter to support her opposition of the Montalvos request.

David Williams spoke regarding his involvement in the 4-H Poultry Program and in favor of the Montalvos.

Chairman Langford stated he is in favor of granting the Temporary Use Permit for one more year. Commissioner Selph commented the extension should go through the end of the 4-H year. Commissioner Miller supported Chairman Langford's suggestion. A motion was made to approve TU 2014-09 Montalvo Ag Ed Opportunity with the stipulation that this temporary permit ends August 31, 2015 and the number of birds is limited to 25 total with 30 days to find homes for the extra birds. Seconded by Commissioner Miller. Motion carried unanimously.

14. Proposal/Seminole Gulf Railway L.P.

Mike Giardullo presented a request to accept the proposal for surface and track replacement for the Liverpool Seminole Gulf Railroad Crossing. In order for Seminole Gulf Railway to approve the utility occupancy within the railroad right-of-way, they have required improvements to the existing road crossing including replacement and widening of the track crossing and culvert replacement. The work will be performed by Seminole Gulf or their contractors. A motion was made by Commissioner Mansfield to approve the agreement with Seminole Gulf Railway for Liverpool Crossing replacement and improvement. Seconded by Commissioner Miller. Chairman Langford questioned Mr. Conn if information has been received regarding pending litigation with Thornton

Creek and the County? Mr. Conn replied no and by agreement, Thornton Creek is obligated to reimburse the County 50% of the cost; which leaves the County's portion in the amount of \$41,783.77. Motion carried unanimously.

15. License Agreements/Seminole Gulf Railway L.P.

Mike Giardullo presented a request to approve the license agreements for the occupancy of the utility pipes at the crossing on Liverpool Road. This is only to place the pipes within the railroad and does not include construction. The County is responsible for 50% which is \$66,457.50. Chairman Langford is not in favor of this request at this time due to pending litigation. Eddie Miller commented the gravity system has been started on site but the waterline has not reached the railroad crossing yet.

Geri Waksler commented the agreement does not have any disclaimers or conditions. She stated they are obligated, regardless of the outcome of the lawsuit, to pay either half or more if the total exceeds \$400,000. A motion was made by Commissioner Quave to approve two license agreements with Seminole Gulf Railway L.P for water and wastewater lines at the crossing on Liverpool Road. Seconded by Commissioner Miller. Motion carried 4-1 with Chairman Langford dissenting.

16. Thornton Creek Motor Coach Resort

Tom Cookingham presented a request of clarification by the applicant. The first being placement of motor coaches prior to recording of the plats. This will allow potential buyers to try out the lots. The lots cannot be sold until the plat is recorded; the second being to clarify that an opaque vinyl fence may be used instead of a concrete block wall. In the Site Development notes it indicates the proposed perimeter type be landscaped buffers and contain a 5 foot high screening comprised of structural elements, trees, plant materials or earth and berm. The question being is if a type of screening would be considered a wall? There is no definition of a wall in the LDRs. The condition approved by the Board does specify there is to be a wall. Commissioner Selph suggested limiting the time period to no more than 1 week to try out the lots. He feels that a wall and a fence are completely different and a definition is not needed. Commissioner Mansfield questioned if there will be any type of electric or hook ups provided for the trial periods? Geri Waksler responded she believes all the improvements will be in place with the exception of plat approval. The motor homes will not be moved around during the trial period. Further discussion ensued. Commissioner Quave commented this request makes him feel uneasy and gave reasons why. Chairman Langford question why the rush? Ms. Waksler commented it is getting colder up North and the residents are coming down. Chairman Langford commented he is not in favor of this project and does not agree with this request. Ms. Waksler commented the lots cannot be sold until the plat is recorded but there are contracts with deposits. George Lempenau does not see an issue with potential owners trying the lots before they are purchased.

Ms. Waksler commented there is a concept plan that approves screening and an Ordinance that approves a wall. She stated the preference is to move forward with an opaque vinyl fence and no chain link. In some places there will be a berm in addition to the fence. Ms. Waksler commented that both a wall and fence have been approved and requested clarification from the Board as to which one they are allowed to construct. Commissioner Miller does not envision a vinyl fence and believes a wall would be more attractive along with proper vegetation and possibly act as a noise barrier as well.

Ms. Waksler presented a layout of the berm and further discussion ensued.

A motion was made by Commissioner Quave to deny placement of motor coaches prior to recording of the plat. Motion died for lack of a second.

A motion was made by Commissioner Mansfield to approve "A" with only allowing those motor coaches that have a contract for purchase with all conditions set forth. Seconded by Commissioner Selph. Motion carried 3-2 with Commissioner Quave and Chairman Langford dissenting.

A motion was made by Commissioner Mansfield to require a concrete wall as not only a buffer but a sound barrier as well in the areas required to meet the 6 foot minimum. Seconded by Commissioner Selph. Motion carried unanimously.

ADMINISTRATOR'S REPORT

No report given due to time constraints.

COUNTY ATTORNEY'S REPORT

No report given due to time constraints.

BOARD MEMBER COMMENTS

Chairman Langford held Board comments due to time constraints.

RECESS UNTIL 6:30 PM PUBLIC HEARING

PUBLIC HEARING

17. Ordinance Levying an Additional 1% Tourist Development Tax

Mike Taber presented a request to increase the Tourist Development Tax by 1% which would bring it to 3%. Florida Statute allows this after the tax is in place for two years or longer. It is commonly referred to as the "bed tax". This would increase the income by approximately \$15,000 annually. A motion was made by Commissioner Mansfield to adopt an Ordinance levying an additional 1% Tourist Development Tax as authorized by Florida Statute 125.0104(3) (d) to go into effect as of January 1, 2015. Seconded by Commissioner Selph. Motion carried unanimously.

18. Resolution/Rezone-Sonoma Preserve

Chairman Langford informed all present that this agenda item will be a Quasi Judicial Hearing.

Don Conn informed those present that the Board will base their decision solely upon the testimony and evidence presented during the hearing. Anyone is welcome to address the Board and all testimonies will be under oath. The Clerk swore all that were present and giving testimony.

Mo Brown questioned the Board if the public would be allowed to ask questions of the staff, applicant and witnesses? Chairman Langford commented he will allow questioning but expects respect from and to all present. Ex-Parte communications was reported by all Board members.

Tom Cookingham presented a request for rezoning from A-10 to PUD to develop a mixed residential development of 999 units. The purpose of the rezoning is to provide for flexible development standards to allow construction of the units, active and passive recreational areas, 242 acres of preservation open space and private roads, sidewalks and pathways. There has been proper notice. Mr. Cookingham gave a history of the property. The project is located east of 769 east of Lake Suzy and abutting. Approval or denial of a zone is requested tonight and not a specific development. Staff recommends approval of RZPUD 2014-02 with conditions. Commissioner Quave questioned what is medium-high density since this development is considered low density? Mr. Cookingham replied that you take the entire site divided by the number of units and that equals the density. The amount of Preserve does affect the density. Further discussion ensued regarding density, traffic and safety.

Neal Montgomery questioned Mr. Cookingham regarding his testimony.

Len Anderson questioned Mr. Cookingham regarding single-family dwellings.

Ken Morey questioned Mr. Cookingham regarding lot size, compatibility, impact on traffic and lake/reservoir.

Susan Groh requested clarification on whether this rezone is being requested to accommodate a

specific developer. Mr. Cookingham responded that the rezone is being proposed by Sonoma Preserve and he has not seen development plans.

George Lempenau commented regarding townhomes.

Theodore Nickerson questioned the safety of a single lane road parallel to a canal. He also questioned the width of buffer zones.

Nancy Miller questioned the affect regarding the schools and bus routes.

Applicant Presentation

Neal Montgomery commented the lighting issue will be addressed; there will be no adverse impact with water drainage. Fire Codes are also required to be met.

Jennifer Zabin spoke as an expert witness in planning and zoning and discussed the site plan, buffers and density. The A-10 zoning is not consistent with the existing land use category. Further discussion ensued.

Commissioner Quave questioned at what point will the Board have the opportunity to determine if the buffer is sufficient? Ms. Montgomery commented this would be the time to address the conditions and issues.

Commissioner Miller is concerned with the traffic flow.

Carl Barraco, an expert in Civil Engineering, commented that water and waste water will be designed by the County and built to County standards. A right turn lane will be built during Phase 1 of the project and plans will be submitted in phases for approval. Mr. Cookingham commented there will be a traffic study conducted with each phase.

Ted Shurice spoke as an expert in Transportation Planning. Kings Highway currently has a "B" rating but could go to a "C" by the year 2020. Further discussion ensued.

Charles Caldwell questioned when the traffic survey was taken; summer or winter?

Phillip Newman questioned if the land is being brokered to sell?

Phil Groll questioned if anyone had considered the endangered species that will be affected by this development. Carl Barraco commented this has been researched already.

George Wojtkiewicz spoke in opposition of Sonoma Preserve and gave reasons why.

Joanna Drinkwater spoke in opposition of the development.

Charlene Hannon spoke regarding compatibility and feels this development will cause the value of the surrounding homes to decrease.

Al Hemingway stated his concern regarding Fire Rescue and Police.

Dr. P.J. Fisher spoke regarding traffic issues and suggested constructing a second exit on Glenadine Ave.

Gloria Cvelbar suggested installing a higher solid buffer or vegetative wall and relocating the main feeder road.

Judy Thompson feels the area will be adversely affected by this project.

Don Drinkwater feels the area will be adversely affected by the project and proposed a change in the County's language.

Ann Rylan commented she bought a home in Lake Suzy due to the peacefulness and beauty and suggested moving the exit to Courtly Manor.

Renee Martellini agrees with Commissioner Quave regarding the impact on county services and suggested reinstating impact fees.

John Manson is opposed to a ditch that would back up to Deep Creek. He feels there should be a

barrier, not shrubs, to block headlights.

Lee Dunn spoke regarding the adverse effects of the development.

Ms. Montgomery requested to table this item in order to gather more information.

A motion was made by Commissioner Mansfield to close the Public Hearing.

A motion was made by Commissioner Mansfield to table this agenda item. Seconded by Commissioner Selph. Motion carried unanimously. Commissioner Miller commented that tonight the residents of Lake Suzy have exemplified exactly how he has always felt about the community. They did their homework and brought pertinent information to the Board in an orderly manner.

5 Minute Recess

19. Land Development Regulations

Don Conn summarized what has taken place to date:

Notice

Quasi-Judicial Hearing Process

A-5 and A-10

Buffers

Imminent Domain

Overgrown Grass

Development with Code Violation Prohibited

Agricultural Buildings

Minor Plats

Parking/Storage of RVs and Trailers

Parking/Storage of Commercial Vehicles in Residential Districts

Culverts and Driveways

Issues were reviewed that were questioned during a previous LDR meeting:

Right-of-Way Permitting

Development Plan Review Wineries

Definition of Commercial Vehicle

Tom Cookingham questioned minimum lot size regarding A-5 and A-10 and the parking of commercial vehicles.

Further discussion ensued regarding agricultural properties.

David Chaloupka spoke regarding revenue from produce grown and packaged in DeSoto County.

Further discussion ensued.

George Lempenau feels the County should stay out of this issue.

Joanne Drinkwater commented she is very troubled by page 7 of the Development Plan Review. She believes development plans should not be approved unless they are very specific.

Don Conn commented the amendment states that the Board will review, in a public hearing, all development plans.

Mandy Hines commented that by default she is the Development Director and Mr. Cookingham is the Planning Manager. Ms. Hines is not comfortable with this situation or making determinations regarding what is important to the Board or constituents. Mr. Conn feels it is better from a legal stand point for the Board to review development plans in a Quasi-Judicial setting. Further discussion ensued.

It was consensus of the Board to review all Development Plans; revisit the issue in 2-3 months to decide if the same process will continue or changed.

Maurice Brown does not feel the Board should be bothered with the smaller issues regarding development.

A. A motion was made by Commissioner Mansfield to approve the amendment of Section 14000 to add a new Subsection C. Seconded by Commissioner Quave. Motion carried unanimously.

B. A motion was made by Commissioner Mansfield to approve amendment of Section 12005D(1) as set forth in Section 26 of the Proposed LDR Revisions. Seconded by Commissioner Quave. Motion carried unanimously. Commissioner Mansfield commented if this becomes a problem, it needs to be addressed at that time.

C. A motion was made by Commissioner Quave to approved the amendments in Sections 2304(A-10) and 2305(A-5) with said changes. Seconded by Commissioner Mansfield. Motion carried unanimously.

D. A motion was made by Commissioner Mansfield to approve a descriptive definition of a commercial vehicle rather than by tonnage. Seconded by Commissioner Quave. Motion carried unanimously.

E. 1. A motion was made by Commissioner Selph to strike the absolutely prohibited list of commercial vehicles in Sections 2202A and D(1) at pages 20 and 22. Seconded by Commissioner Quave. Motion carried unanimously.

2. A motion was made by Commissioner Mansfield to add a Special Exception allowing commercial vehicles on RM lots that do not meet minimum lot size under the same conditions as RM lots that do meet minimum lot size (Section 2202B(6) at page 21). Seconded by Commissioner Miller. Motion carried unanimously.

3. A motion was made by Commissioner Mansfield to accept a new Section 2204 that addresses parking or storage of commercial vehicles (non-Ag) on A-10 and on A-5 as modified by Mr. Conn in A, B and C. Seconded by Commissioner Selph. Motion carried unanimously.

A motion was made by Commissioner Mansfield to adopt the revisions of the Land Development Regulations as presented and as discussed. Seconded by Commissioner Quave. Motion carried unanimously.


ADJOURNMENT

There being no further business, Chairman Langford adjourned the meeting at 11:48p PM.

ATTEST:



MANDY HINES
COUNTY ADMINISTRATOR

BOARD OF COUNTY COMMISSION
DESOTO COUNTY, FLORIDA


ELTON A. LANGFORD
CHAIRMAN