

**AT A SPECIAL MEETING OF THE BOARD OF COUNTY  
COMMISSIONERS HELD IN AND FOR GADSDEN  
COUNTY, FLORIDA ON JULY 14, 2023 AT 1:30 P.M., THE  
FOLLOWING PROCEEDING WAS HAD, VIZ:**

**Present:**       **Kimblin NeSmith, Chair, District 3**  
                  **Eric Hinson, Vice-Chair, District 1**  
                  **Alonzetta Simpkins, District 2**  
                  **Brenda Holt, District 4**  
                  **Ronterious “Ron” Green, District 5-appeared by phone**  
                  **Edward J. Dixon, County Administrator**  
                  **Clayton Knowles, County Attorney**  
                  **Marcella Blocker, Deputy Clerk**

**CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE**

Chair NeSmith called the meeting to order at 1:33 pm, asked for moment of silence and led in the Pledge of Allegiance to the U. S. Flag.

**GENERAL BUSINESS**

Mr. Dixon turned the meeting over to the County Attorney, Clayton Knowles.

**1. Discussion and Possible Action Regarding Case No. 2022 CA 500**

Mr. Knowles said they scheduled this meeting to discuss possible settlement of the Figgers lawsuit. He explained in order to prevail, the Plaintiff would have to recover 125% of whatever offer they were inclined to make.

Commissioner NeSmith said one of Commissioners wanted to obtain follow-up information from the hearing that was held.

Mr. Knowles said two out of three issues were ruled on in the County’s favor, the verification documents were admitted, his deposition was not permitted and the County’s request for inspection of Mr. Figgers’ facility was not permitted. The Judge ruled they could not yet look at the website information, they requested to look at the back-end website that was created for this project and the Judge stated they first needed to depose the creators of that web site.

Commissioner Holt said the Judge ordered mediation and they had already had one and Mr. Knowles stated they were both Court ordered. She said it was stated by the Judge that all five Commissioners were to attend mediation. Mr. Knowles stated the Order issued did not require all five to attend, it would be a designated corporate representative there because of Sunshine issues if they were all in the room. She said his Order superseded that. Mr. Knowles explained the Order issued did not require all five to be present. She felt they needed to have a mediation and do what the Judge said to do because if he could not prove what he had, could not inspect what he had, he has not turned in what he had opposed to what he sold so how would they verify and know what they were paying for. Mr. Knowles advised, as their County Attorney, they not all attend, the Order that was issued did not require all five to attend and he was not comfortable because of the Sunshine Law. He stated he understood the Judge’s position, but did not recommend they all be together at mediation. It could be a potential lawsuit for an improper meeting.

There was further discussion regarding the issue.

Chair NeSmith said he was also listening in on the hearing and asked about discussion regarding the Sunshine issue. Chair NeSmith asked if the Judge required a second mediation and Mr. Knowles said there would be another mediation. Chair NeSmith asked the significance of making an offer and Mr. Knowles explained the proposal for settlement would start the clock ticking on their attorney's fees so if they do not recover whatever the County's proposal for settlement was. He gave an example that if it was \$100,000 and they do not recover \$125,000, they would have to pay the County's legal fees, win or lose, from the date of the service of proposal for settlement until the date of the verdict.

Commissioner Simpkins asked if mediation was open to the public and Mr. Knowles said no.

Mr. Knowles explained if one attended, it was fine, but if all attended it would need to be noticed as a special meeting.

She said when looking at the actual settlement, was there a bare minimum that was possibly owed for what was distributed and was told yes. She asked if they would be looking at legal fees for those? She asked if they were suggesting settlement because of legal fees they would possibly incur if Plaintiff prevailed and Mr. Knowles said correct. He said the jury may decide the County breached and there was no fraud and they could be looking at more legal fees. He said to look at the proposal for settlement as a tool to recover attorney's fees.

Chair NeSmith asked when opposing council made the statement he wanted all Commissioners to be at mediation, was he not thinking of the sunshine violation and what was their concern? Mr. Knowles said he thought their concern has been there could be a settlement and it would not be ratified by the Board.

Mr. Dixon asked if they have been ordered to mediation, what was the purpose of today's meeting? Mr. Knowles said it was about the proposal for settlement and not about the mediation.

Chair NeSmith asked what else could occur at mediation besides a proposal that is presented to them. Mr. Knowles said the proposal for settlement was a document sent to the other side stating if they wanted to resolve the case, attached was a number, if you do not get this number at trial, they would have to pay their attorney's fees.

Mr. Dixon said today's meeting was a strategy for trial and Mr. Knowles said exactly.

Commissioner Holt said their offer should be what they know they owe as today, everything else was hypothetical.

Chair NeSmith asked if they had proper documentation for the amount owed. Mr. Dixon said the amount is \$1,765.20.

Commissioner Holt said to offer \$20,000. Mr. Knowles said the point of proposal for settlement was for him to have a number big enough so if they did not get that amount, the attorney's fee

trigger kicks in. He said they did not have to accept it, it just needed to be big enough that they could not recover in trial.

Commissioner Holt asked what a reasonable proposal would be.

He felt if they were in the range of \$300,000, it would be sufficient because he did not believe they could meet that at trial, they could not recover that amount of damages at trial.

Commissioner Holt asked for clarification on what the attorney was attempting to explain to them.

Chair NeSmith said if they do not recover 125% of what the offer was, they would have to pay the County's attorney's fees from the date of service of the proposal. Chair NeSmith then said even if they prevailed and damages was not 125% of the offer, they would have to pick up the County's attorneys' fees and the County would not be responsible for the damages or their attorney's fees? Mr. Knowles said they would still be responsible for damages and would be offset by the attorney's fees. If they were the prevailing party, the County would be on the hook for theirs, but they would get the offset for what was paid for their own.

Commissioner Hinson said based on documents he received, the last figure was \$375,000, and he was ok with going with \$400,000. He said they were at zero percent chance at first and was now at 25% chance. He said he would prefer to close out at \$400,000 because of the possible breach of contract. He said he did not want to say too much at this meeting. He felt they should go with \$400,000 and cut their losses.

Commissioner Holt said no, they had people that did the work, evidence they did the work, he needs to produce the evidence and paying above what he was owed was wrong. She said she was sticking with \$100,000. She felt that was more than enough.

**COMMISSIONER HINSON MADE A MOTION TO PROPOSE TO SETTLE FOR \$400,000. MOTION DIED FOR LACK OF SECOND.**

**COMMISSIONER HOLT MADE A MOTION TO PROPOSE TO SETTLE FOR \$100,000. MOTION DIED FOR LACK OF SECOND.**

Commissioner Hinson said he was opposed because the Board agreed, for the record, of an amount of \$375,000.

Commissioner Simpkins asked Mr. Knowles the last amount they went to them with and he responded \$375,000. Commissioner Simpkins asked if they did not take it and he said no. She asked if they have gone back to them since then and Mr. Knowles said no, that was part of the reason for the meeting today. Commissioner Simpkins and said her stand was since they proposed \$375,000, did that still stand as an offer? Mr. Knowles explained this was a document, if they take it, their approval was needed for it. She said her only concern was they were saying there was \$1,725.20 based on what was verified. If they go to court, if they rule and say they were owed that amount and because they owe that amount, they were owed for their attorney fees and now their attorney trumps up his charges to an astronomical amount. She said she did not want to give the money but that was where she was at.

Commissioner Holt said you do not go into mediation with the best offer, they can trump up their charges any time they want to.

Mr. Dixon wanted to make clear, the \$375,000 that was offered, they did not take it.

Commissioner Hinson said from his understanding, they started at \$1.2 Million, the County asked for \$375,000, they came back with \$400,000 and then the attorney said additional information was found and they went from zero chance of winning to 25% chance of winning. He said he was trying to save the County. He said the attorney was also telling them they could be liable for up to \$1.1 Million. He said why not settle the case at \$400,000 and save the County money.

Chair NeSmith said they have two opportunities between the proposed offer and the mediation.

Commissioner Hinson said if they wait until next week, it would be too late.

Commissioner Simpkins made a clarification this was just for an offer they were giving so if they do not take and they prevail in Court and not prevail with 125%, this was just starting the clock and Mr. Knowles said yes.

**COMMISSIONER SIMPKINS MADE A MOTION TO PROPOSE SETTLEMENT AT \$200,000 AND CHAIR NESMITH MADE THE SECOND. COMMISSIONER HOLT HAD A QUESTION.**

Commissioner Holt said the other information that was requested by the County Attorney has not been received from the Plaintiff and she wanted them to know it has not been received and therefore they do not know what the percentage is.

Commissioner Hinson said the only reason he was clarifying himself, when you make the number, someone gives some information out, he had to make sure people knew why he was doing what he was doing. He said the County was at risk of breach of contract and was the issue for the \$1.7 Million.

Commissioner Holt said there was no proof the County breached the contract. There was also proof of them not delivering to the County. There was no evidence either way because they have not gone to court yet.

Commissioner Hinson said he was giving verbatim what was told by the County Attorney.

**CHAIR NESMITH CALLED FOR THE VOTE. THE BOARD VOTED 3-1 BY VOICE VOTE TO APPROVE SETTLEMENT OFFER OF \$200,000. COMMISSIONER HINSON OPPOSED. \*\*\***

**CITIZENS REQUESTING TO BE HEARD (3-Minute Limit)**

The Gadsden County Board of County Commissioners welcomes and encourages public participation at all meetings of the Board. Citizens are free to speak for up to three (3) minutes on non-agenda items. Public comments and participation are also encouraged for items on the agenda. Additionally, if you are unable to attend a meeting in person, comments from the Public can also be submitted via email to [CitizensToBeHeard@gadsdencountyfl.gov](mailto:CitizensToBeHeard@gadsdencountyfl.gov) until noon on the date of the meeting. Comments

Gadsden County Board of County Commissioners  
July 14, 2023 – Special Meeting

submitted after the deadline, but prior to the meeting, will be added to the official record, but the County cannot guarantee that Commissioners and staff will have adequate time to review comments prior to the meeting. Citizens are further encouraged to participate via Zoom using the credentials on the County's website. The Board's meetings are also broadcast live on the Board's Facebook page.

Chair NeSmith read the above statement aloud.

Commissioner Hinson said it was brought to his attention about a fire in Quincy and a shooting that happened simultaneously. It was reported to 911 and he asked why they had to call the County for something that happened in Quincy.

Mr. Dixon said a couple of years ago, the Board purchased approximately \$5 Million of upgrades to the dispatch system in an attempt to upgrade the E911 system. There was a lot of discussion regarding the cities coming onto the system. The County has been working with them to come onto the system and they were in conversation regarding same. The call comes into the E911 system and if they were not part of the E911 system, which Quincy is not, another call has to be made to the Quincy dispatcher. They were attempting to create a single dispatch system.

Commissioner Hinson said they need to have a meeting regarding this.

Commissioner Holt said the towns were supposed to join of onto the system.

\*\*\*At this time, **Leslie Steele**, Public Informations Officer, informed the Board that Commissioner Green was attending by phone and wanted to make sure his vote for the settlement offer registered as a yes vote. The County's Zoom system was down and he could not participate via Zoom but wanted to make sure his vote counted.

Attorney Knowles had stepped out and it was asked if the vote could be changed. Deputy Clerk, Marcella Blocker, stated as long as it was done in the same meeting, it could be changed.

**VOTE TAKEN EARLIER FOR SETTLEMENT OFFER OF \$200,000 WAS UPDATED TO SHOW COMMISSIONER GREEN'S VOTE AS AFFIRMATIVE MAKING THE VOTE 4-1 WITH COMMISSIONER HINSON OPPOSING.**

**MOTION TO ADJOURN**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, CHAIR NESMITH DECLARED THE MEETING ADJOURNED AT 2:32 P.M.**

**GADSDEN COUNTY, FLORIDA**

---

**KIMBLIN NESMITH, Chair  
Board of County Commissioners**

**ATTEST:**

---

**NICHOLAS THOMAS, Clerk**