

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY
FLORIDA ON JANUARY 16, 2001,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
NICHOLAS THOMAS, CLERK

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Commissioner Watson led in pledging allegiance to the U.S. Flag. County Manager Howard McKinnon offered words of condolences to Commissioner Dixon in the death his father. He then called for a moment of silence in his honor followed by a prayer.

Commissioner Roberson welcomed Commissioner McGill back to the Board meeting. (He had been absent due to illness.)

2. APPROVAL OF THE AGENDA

Mr. McKinnon noted for the record that the date on the agenda was incorrect. It read "December 28, 2000". He asked that it be changed to January 16, 2001.

The agenda was amended to move Growth Management Director's Agenda Item # 3 (Point Milligan Package - Alcohol Sales Permit - Zoning) to Item # 1.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED.

3. COUNTY ATTORNEY'S AGENDA

Corrective Deed to St. Joe Paper Company

Mr. Richmond stated that he became aware of a deed that needs to be prepared for St. Joe Paper Company. He explained that a

AT THE REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON DECEMBER 28, 2000,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. FLETCHER, CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: W. A. (BILL) MCGILL

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Commissioner Watson led in an opening prayer and Commissioner Roberson led in pledging allegiance to the U.S. Flag.

2. ADOPTION OF THE AGENDA

The agenda was amended as follows:

- 1) Move the Growth Management Director's agenda to Item No. 3 before the County Attorney's agenda.
- 2) Add the bid award for the electronic on-line services for the Library - recommendation of the Bid Committee
- 3) Public Official's Bond for Dale Summerford, Tax Collector
- 4) Removal of Budget Amendment # 01-12-28-00

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED ABOVE.

3. PLANNING AND ZONING (P & Z) ISSUES

**3.1 Ordinance 2000-006 to Adopt Comprehensive Plan Amendment
2000-02**

Growth Management Director Bruce Ballister addressed the

Board. He stated that the County can now move forward with the 22 quasi-judicial (private property) land use changes that were approved at previous meetings. He then stated that they have been approved by the Department of Community Affairs (DCA). He added that the text changes will be transmitted by a separate ordinance at a later date.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ORDINANCE AS PRESENTED.

3.2 Ebenezer Major Subdivision

Mr. Ballister reported that Maurice Evans is proposing an eleven lot subdivision for site built homes on a 16.48 acre tract located on McNair Road which was recently paved. The conceptual plat that was submitted to the Planning and Zoning Commission indicated nine 100 ft. wide lots along McNair Road and a 47 ft. access easement to two lots in the rear of the subdivision. Since the County requires 65 feet rights of way for roads, the 47 ft. easement would not meet the County Code. Therefore the lay-out was revised to indicate a 65 ft. right of way with 98.5' lot widths. Thus, Mr. Evans will need a variance from the County's lot width requirement of 100 ft. in order to allow adequate right of way for the road to the rear lots. To reduce the impact points along McNair Road, Mr. Evans agreed to combine some of the drive-ways. .

Mr. Ballister stated that the City of Tallahassee has a power utility easement and limits construction in its rights of way. They also take no liability for damage to pavements that are constructed in their rights of way. In an effort to limit the number of driveway accesses onto McNair Road, Mr. Ballister recommended that all the driveways be 16 ft. wide with dual hard pack road base on lots 1,2,5,6,7,8. Lots 3 and 4 however, must have individual drives due to the power line structure. He went on to say that Mr. Evans will need an access variance because the Code stipulates that residential developments with less than 25 lots shall have only one access to the existing road system.

The parcel lies on the east side of McNair Road and runs downhill to a stream that follows the east property line. A storm water system with swales and treatment areas will be designed to satisfy Florida Department of Environmental Protection (FDEP) and the County's storm water criteria. Further details of the project are in the attached documentation.

The P & Z staff recommended approval subject to the matters discussed above and in the attached documentation. Likewise, the

P & Z Commission recommended approval.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE EBENEZER MAJOR SUBDIVISION SUBJECT THE RECOMMENDATIONS DISCUSSED ABOVE AND IN THE ATTACHED DOCUMENTATION.

4. COUNTY ATTORNEY'S AGENDA

Engineering Services

Mr. Hal Richmond recalled that the Board had not approved a new contract with the existing engineers. He asked how he should proceed with engineering matters - modify the old contract to extend it or to seek new contract. He asked for directions.

Commissioner Dixon said that he was satisfied with the current contract and would like to continue it.

Commissioner Watson stated that he would like to go out for a RFP.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 1, TO GO OUT FOR RFP FOR ENGINEERING SERVICES. COMMISSIONER DIXON CAST THE LONE DISSENTING VOTE.

5. FIRE SERVICES AGENDA

Fire Services Director Oliver Sellars told the Board that when he submitted his original budget, he requested a used tanker truck for the Chattahoochee area. However, he said that since that time, he has learned that he can secure a new one for only a few dollars more. He asked for permission to take bids on a new truck.

A MOTION WAS MADE BY COMMISSIONER WATSON AND SECONDED BY COMMISSIONER ROBERSON, TO SEEK BIDS FOR NEW TANKER TRUCK.

Dixon: Oliver, what is the process? I have been trying to figure this out for about 2 years now. What is the process by which we go through to buy trucks, heavy equipment for fire services under your program? I know what it used to be when we have the chiefs.

Sellars: We just basically bid it out.

Dixon: No, no, no. Are you in a room just deciding who gets the next fire truck?

Sellars: No. I've got a plan.

Dixon: What is the plan? Could I see it sometime?

Sellars: Yeah, I've got it. I'll get you a copy of it. I've got it spelled out according to the age and the condition of the vehicles. This was an extra truck that was needed - out of the ordinary.

Dixon: Based on what?

Sellars: Need. There is no water in the Chattahoochee area near Sycamore.

Dixon: When you say no water, what do you mean?

Sellars: There are no water lines.

Dixon: No water lines.

Roberson: No place to fill the trucks.

Sellars: It is very, very sparse as far as water is concerned.

Dixon: I guess I should have posed this to the Manager. Is there a comprehensive, long range plan for fire?

Sellars: Yes, as far as pumper trucks is concerned. For the replacement of them.

Dixon: For replacement. I mean comprehensive - not just replacement of trucks.

McKinnon: We've got a plan for the replacement of trucks and for upgrading the waterlines county-wide where we can.

Dixon: You've done the hydrants county-wide?

McKinnon: Yes, sir. That's what we have in place.

Dixon: Let me ask you a question. Have we gotten with Talquin to basically change the type of line that they put down that, you know, basically moves them toward using hydrant ready lines? Is that all that they use now?

Sellars: That is basically what they are putting in. Anything

they put in now is basically big enough for hydrants.

Dixon: As they go through, are we putting hydrants in?

Sellars: Not as many as we should be. They are putting in some.
But not at the

Dixon: Why aren't we?

Sellars: Dollars.

Dixon: I haven't seen a plan asking for dollars.

Sellars: You are talking \$3,000 a piece.

Dixon: I didn't ask for that. I haven't seen plans asking for dollars.

McKinnon: We, you know, we've got the district-wide plan and we've got about, in the budget, in the fire budget, there is about \$20,000 - \$25,000 for hydrant upgrades based on - we have a plan. We have a plan for replacing a truck each year and then operating and so forth. Now, if you want to add some money to the fire plan, then we can increase that for hydrants.

Fletcher: Won't Talquin put these hydrants in if we give them the right-of-way for putting the lines down?

McKinnon: We can explore that possibility.

Fletcher: Absolutely. They ought to be putting them in when they build the lines.

Dixon: That's my point. We are defeating the purpose by having to go back and dig up water lines. Nobody wants to do that, especially if they just put them down. I mean that it seems like we are just shooting ourselves in the foot and going around in circles. Every time I look around, somebody says their house just burned down because the truck that came and the truck came after that and the third truck came and still didn't have enough water.

I mean, in Lake Yvette hadn't got no water, I am real concerned about what our long range plans. I would like to see that plan. For replacing not only capital items but what we intend this fire protection to look like in 5 years. We need to see where we are going with this because this stuff ain't working.

Thank you, Mr. Chairman.

I call the question.

THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE REQUEST TO GO OUT FOR BID FOR A NEW TANKER FOR THE CHATTAHOOCHEE AREA INSTEAD OF A USED ONE.

6. PUBLIC WORKS AGENDA

Purchase of New 2001 International 4700 4 X 2 with Flat Bed Dump from Tallahassee Mack Sales, Inc.

Public Works Director Robert Presnell told the Board that his budget included replacement of a six wheel dump truck. He stated that he had received quotes from the State of Florida Contract price list (International Truck and Engine Corp) and another from Tallahassee Mack Sales, Inc. He reported that the same truck was available from Tallahassee for less than the state contract price. He requested approval to purchase the truck from the dealership directly.

Chair Fletcher asked why it was cheaper from the dealership than it is from International Sales.

Mr. Presnell answered that he had found this scenario to be true a number of times but could not explain why.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PURCHASE OF THE FLAT BED DUMP TRUCK FROM TALLAHASSEE MACK SALES FOR \$38,568.13.

7. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Elected Officials Bond - Bill McGill, County Commissioner - for approval**
- 2) Elected Officials Bond - W. A. Woodham, Sheriff - for approval**
- 3) Public Official's Bond for Dale Summerford, Tax Collector**

- 4) Unpaved Road Maintenance Agreements with Chattahoochee; Midway and Gretna - for approval (Cost increase from \$62.66 pr. Hour to \$67.44 per hour)
- 5) Financing Purchase of Four 2001 Mack Dump Trucks - for Approval - Municipal Services Group, Inc. of Littleton, Co Total of \$318,000 for 48 Months at 5.27%. First Payment Due 1 Yr. From Date of Loan Closure.
- 6) WEB Page Development Agreement between Florida Chamber Foundation and the Gadsden County Board of County Commissioners for WEB Page Development. The County agrees to pay \$7,500.00 for the services to the Foundation.
- 7) Promissory Note - Centennial Healthcare. Original note matured August 2000 with a balance of \$145,027.22. This note begins September 1, 2000 and will extend the terms until March 2001.
- 8) Appointment of Bill McGill, and Evelyn Rollins to the Governing Board of the Apalachee Regional Planning Council
- 9) Reappointment of Bill McGill as the Chairperson of the Transportation Disadvantaged Coordinating Board.
- 10) Appointment of Bill McGill and Carolyn Roberson to the Small County Coalition and appointment of Howard McKinnon as the Staff Liaison.
- 11) Articles of Incorporation and Certificate of Incorporation of Gadsden County Development Council. (N00000008343)
- 12) Notice from FDOT that Gadsden County Will Receive Funding Through Small County Outreach Program (Scop) for Realignment of Cr 65 in Fy 2001. Fdot Will Provide Joint Participation Agreement (Jpa). Upon Execution, a Notice to Proceed Will Be Issued. Dot Share - \$727,734.00 Gadsden County Share - \$242,578.00.
- 13) Gadsden County Chamber of Commerce Activities Report for November 2000.
- 14) Notice of Intent to Cancel Lease from Metrocall (Lease of Space on Radio Tower Effective January 2001) for the Record.
- 15) Bid Award for the Electronic On-line Services for the Library - Recommendation of the Bid Committee to Award to EBSCO Information Services of Ispwich, Ma in the Amount

of \$19,186.00 - For Approval.

9. CLERK'S AGENDA

9.1 Budget Amendments 02-12-28-00 though 09-12-28-00 (01-12-28-00 was pulled from the agenda)

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

9.2 Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONERS REPORTS

10.1 Commissioner McGill

Commissioner McGill was not present.

10.2 Commissioner Watson

Cancellation of January 2, 2001 Meeting

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, TO CANCEL THE MEETING OF JANUARY 2, 2001.

10.3 Commissioner Roberson

Commissioner Roberson had no report.

10.4 Commissioner Fletcher

Chair Fletcher had no report.

10.5 Commissioner Dixon

Commissioner Dixon had no report.

AJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR
DECLARED THE MEETING ADJOURNED.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

mistake was made on a deed conveying property to St. Joe during the 1970's - for a right-of-way on a piece of property north of Quincy. He asked for the authority to prepare the deed for authority for the chairman to execute it.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AUTHORIZE THE CHAIRMAN'S SIGNATURE ON THE DEED DESCRIBED ABOVE.

Introduction of Anna Bell Clayborn, New Attorney

Mr. Richmond introduced Ms. Anna Bell Clayborn who is now working with him. He offered her services to the Board as needs should arise.

4. Dick Lee, Architect with Lee and Bridges - Plans for New Courtroom and Related Spaces

Mr. Richmond called attention to the fact that Lee & Bridges had submitted architectural plans for the new courtroom and related spaces several weeks ago for the Board's review. He then stated that Mr. Lee was present to answer any questions they might have in that regard.

Mr. Lee addressed the Board.

Commissioner Watson asked about the time frame for getting the work started and completed.

Mr. Lee answered "Pending approval tonight, we plan to take the drawings to the print shop. It will be a couple of days on that - getting them turned out. Meanwhile, I'll get a copy of a legal ad over to Arthur's office, have that approved, get it to the paper next week, advertise for two weeks by county requirements. That will put us right around the first of February to receive bids. Week to 10 days prior or after that, the paper work should be in from the contractor who is awarded the job. We should get started up about the middle of February."

The total budget for the project was \$500,000. The estimate at the last stage of drawing was in the range of \$485,000 to \$490,000.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PLANS AND THE CONTRACT WITH LEE & BRIDGES ARCHITECTURAL FIRM

FOR THE DESIGN OF THE NEW COURTROOM.

5. WILLARD RUDD AND DR. JOHN COOKSEY - AGRICULTURAL ZONING & QUINCY FARMS

Mr. Willard Rudd, 4272 Juniper Creek Road, addressed the Board. He submitted a letter to the Board that outlines his objections to the Agricultural Zoning Classification associated with the Quincy Farms, Inc. He argued that the mushroom compost storage and resale facility in the Providence Community is currently classified as Agriculture but in reality, its use is more like that of a transfer station and should be considered industrial. He pointed to the fact that the Department of Environmental Protection (DEP) has identified the compost as industrial waste.

Mr. Rudd stated that he had discussed it with Mr. Bob Weatherford of Quincy Farms, Bruce Ballister, Gadsden County Growth Management Director; Hal Richmond, County Attorney; and Howard McKinnon, County Manager. The initial reaction from the County Officials was that Quincy Farms was in violation of the Land Development Code. In turn, those officials met with Quincy Farms in December, 2000. The results of that meeting was that Quincy Farms would present a solution to the problem within 2 weeks.

On behalf of the community, he asked that the Board take necessary actions to prohibit the practice of the storage and transfer operation and implement an immediate cleanup of the site.

Dr. John Cooksey, 8317 Hosford Road, Quincy, FL addressed the Board. He stated that he was not before the Board to address the zoning. He recalled that in 1980 he attended a meeting at Union Chapel Church at which the matter of the working conditions of the proposed mushroom plant was discussed. Commissioner Davis assured them that the operation would be "as clean as a Saturday night bath with Dial soap." He went on to say that he understood that grant money was used to build the plant, road, culvert and to purchase the site. Ultimately the plant was located in the Providence community and the locals were left to deal with the foul smell.

Dr. Cooksey then expounded on the County's many successful environmental protection efforts over the recent years. They were successful in keeping out interstate liquid petroleum from building a pipe line and a tank farm, stopped the landfill transfer station, and limited location of cell towers, etc. He reminded them that they have the power to do something about the mushroom plant if

they choose to. He suggested that the owner of the mushroom plant has a right to do what he wants to with his property only to extent that it does not interfere with the rights of those around him. He asked the Board and the Clerk to look into what kind of agreements were made with the mushroom industry from the beginning. He urged them to visit the plant and see what the complaints were all about.

6. PLANNING AND ZONING ISSUES

6.1 Point Milligan Package Store - Alcohol Sales Permit - Zoning Approval

Mr. Ballister told the Board that Ms. Jo Ann Hart is seeking approval to open a drive-thru walk-up package liquor store at the intersection of State Road 12 (Havana Highway) and Ball Farm Road at the site of the former Hanna's Grocery. He then said that she already has a alcohol permit that she would like to transfer it to the location.

Mr. Ballister stated the following facts:

- 1) The property is already zoned commercial.
- 2) The proposed business would be a Class 2 General Commercial use that requires Planning Commission approval.
- 3) The owner is planning to renovate the existing building.
- 4) The impervious surfaces is not expected to exceed 1,000 square feet, therefore stormwater control will not be necessary.
- 5) Since the building is located on State Road 12, the owner will be required to meet the landscaping requirements as specified in the Corridor Road Landscaping Ordinance.
- 6) If the Board should the application with the proposed conceptual plan, it would not come back to the Board for further approval. There would not be another chance for the public to hear the matter again.
- 7) The proposed location is not within 1,000 ft. of a church, school or public playground or park.
- 8) The final site plan will be subject to DOT approval.

County Attorney Hal Richmond stated that the matter is a quasi-judicial issue and all witnesses would be required to take an oath prior to offering their testimony. He then said that the Code provides for this application to be an approved use in ordinary circumstances. In order for the Board to act contrary to that, the Board would have to make a finding (based on the testimonies and

the evidence presented at this hearing) that county justify a denial.

Mr. Richmond administered an oath to Mr. Ballister as to his prior testimony and any further testimony that he might give. It is noted here for the record that Mr. Richmond is a Notary Public licensed by the State of Florida and authorized to administer oaths.

Mr. Richmond then announced that they would hear from those people who were opposed to the application first. He stated that there would be a 3-minute time limit per presenter.

Mr. Ballister stated that there were many people who were present at the Planning Commission meeting on January 3, 2001 in opposition to the application but they were not heard because a Commission quorum was not achieved. (See the attached Record of Meeting.)

Chair Fletcher asked the presenters to not repeat their testimonies.

Commissioner Roberson asked if there was a church in the vicinity.

Mr. Ballister answered that there was a church across the street at one time but it is now being converted into a funeral home.

Commissioner Roberson then asked if a funeral home chapel was considered a church.

Mr. Ballister answered that he was told that services would not be conducted at the site. It will only be a sales and display office. He then stated that he had driven the area in all directions and could not find anything within the 1,000 ft. that appeared to be a church.

Mr. Richmond then instructed all presenters to state their names and addresses prior to giving testimony. He then told Ms. Hart that she had the right to question any presenter that has opposition.

Ms. Hart replied that she would withhold any questions or comments until all presenters had testified.

The following people were sworn an oath then spoke in

opposition to the project:

Margie Simms - 612 Havana Highway, Quincy, FL
Ashley McCall - 488 Havana Highway, Quincy, FL
Al Harvey - 198 Ball Farm Road, Quincy, FL
Rick Shiver - 736 Havana Highway, Quincy, FL
Linda Love - 83 Daniel Peters Road, Quincy, FL

Ms. Love asked all those in the audience who were present to oppose the location of the liquor store to stand. There were approximately 50 people.

Bertie Kinnard - 450 Havana Highway, Quincy, FL
Darrell Munore - 172 Cordova Road, Quincy, FL

The following list summarizes the arguments of the above listed presenters:

- 1) The proposed location is at a dangerous intersection where several accidents have occurred in the past.
- 24) The school bus stops to pick up and drop off children near the location.
- 3) The proposed business is sure to generate increased traffic on both the Havana Highway and Ball Farm Road.
- 4) The area is densely populated with homes in all directions.
- 5) It is not good planning practice to locate liquor stores in a heavily populated residential area.
- 6) There was strong objections made by all presenters.

Ms. Jo Ann Hart, 47 Hart Road, then spoke on her own behalf after having been sworn an oath by Mr. Richmond. She called attention to the fact that the property is already zoned commercial and the last tenant sold alcoholic beverages at the same location. She stated that the alcohol would be packaged to go. She said that she would not allow loitering and would run a clean and decent place.

There was discussion between Ms. Hart, Mr. Ballister and the Board that resulted in the following facts:

- 1) She would encourage patrons not to open or consume alcohol on the premises but could not make any assurances.
- 2) Ms. Hart would have to re-file for a different type of permit before she would be able to serve alcohol for on-site consumption. She would ultimately come before the

- Board again if she decides to serve the alcohol. Her license would allow her to serve on-site, however, from the County's perspective, it would be a change of use. There is a functional difference between a drive-up package store and an on-site consumption tavern. Ms. Hart would not rule out on-site consumption at this site.
- 3) Commissioner Dixon stated that he was very familiar with the location of the proposed business. He personally has known several people who were killed at or near the intersection. He stated that similar pieces
 - 4) Ms. Hart's application was for a straight commercial permit, a Class II permit. It is not a special exemption because alcohol sales are allowed in commercial zones by the Comp Plan. Had the property been zoned "neighborhood commercial", it would have require a special exception review.

Commissioner Dixon stated that this type business is a neighborhood's worst nightmare. He said that liquor stores are not a neighborhood commercial use by any stretch of the imagination. He also stated that this use is not compatible with the intent of the Comp Plan. He also said that he was concerned as to why construction at that location has already begun prior to a ruling by this Board.

Commissioner Dixon then told the Board that there have been a few people that he has known personally over the years who have been killed in accidents at or near this intersection. He determined that it has the greatest accident potential in the entire County. He said the following:

"This is almost a cross-at-your-own-risk type situation. I can't imagine a worse location, traffic-wise, for a liquor store. As I said, there had to have been some kind of oversight for this to have been zoned commercial. I understand that it has been zoned a "commercial" operation from way back when, but under our Comp Plan, in that type neighborhood, we would only consider neighborhood commercial type operations - not liquor stores. So, given that, I can't support this in that fashion."

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO DENY THE APPLICATION BASED ON THE OBJECTIONS AS OUTLINED ABOVE BY COMMISSIONER DIXON. CHAIR FLETCHER ABSTAINED FROM VOTING

BECAUSE HE SITS ON THE BOARD OF DIRECTORS OF THE QUINCY STATE BANK AND HAS A BANKING RELATIONSHIP WITH THE APPLICANT.

6.2 Resolution to Transmit Comprehensive Plan Amendment 2001-1

Mr. Ballister called attention to the attached resolution which authorizes the transmission of the Comprehensive (Comp) Plan Text Amendment to the Department of Community Affairs. He went on to say that the amendment came about as a result of the Evaluation and Appraisal Report of the Comp Plan which was completed last year. The amendment is the culmination of a year long process during which district public workshops were held throughout the County. He continued by saying that it also includes 3 land use amendments: St. Joe Land Co. (296 ac. From AG3 to Light Industrial), Oil-Dri Cooperation (153.5 ac. Of Mining to AG2) and the Gadsden County School Board (100 ac. To Public).

In addition to the above, Mr. Ballister said that the amendment creates the Silviculture land use category which affects 20,100 acres. That land use category will allow 1 dwelling unit per 80 acres. It also renamed numerous tracts of County, State and Federal property to Public use. Other changes are outlined in the attached memo.

Mr. Ballister went on to say that this amendment will get a full review by DCA and it could take several months to get a reply. At such time as it is approved, it will come back to the Board for formal adoption by County Ordinance.

Commissioner McGill made the statement that he could not recall having discussed Coastal Lumber Co. at any of the hearings.

Mr. Ballister stated that he had made concerted efforts to contact all of the lumber companies. He had responses from St. Joe and from Coastal. Throughout the process, both Coastal and St. Joe were involved in the policy development. On their behalf, he called attention to Page FLU 12, Policy 1.3.5 which deals with the transfer of development rights.

He said that the current wording is acceptable to all parties except for the last sentence which has to do with the "transfer of development rights at one unit to 40 acres out of wetland areas." He said that by removing that last sentence, it would allow development rights to be transferred out of wetland areas at whatever the background or parent parcel zoning is. (If there was an AG 2 zone, you would transfer the density out of the wetlands at

1 unit per 10 acres, etc.) He recommended that the Board remove the sentence as proposed above.

Commissioner Dixon asked how the County could keep it there for posterity purposes.

Mr. Ballister answered that the Comp Plan provides that areas used as donor sites for clustering purposes would be kept in a conservation trust for a period of at least 30 years. That would apply to all donor tracts including wetlands.

Public comments was taken from **Bob Deane** of St. Joe Land Company and **Chris Richards**.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO TRANSMIT THE RESOLUTION AND COMP PLAN AMENDMENT (EAR BASED AMENDMENT) AND FUTURE LAND USE MAP TO DCA FOR THEIR APPROVAL.

6.3 Pine Knoll Subdivisions - Type III Appeal to Minor Subdivision Denial

Mr. Ballister told the Board that he had administratively denied an application from Mr. William Manifold and Joann Smith, represented by Mr. Davis Smith, for 3 minor subdivisions on Selman Road. The site is located north of the large tract recently rezoned by Mr. Ray Sheline. The original parcel contained 40 acres that is split by Selman Road with approximately 6.7 acres on the west side of the road and the remaining 32 acres on the east. The property was conveyed to the applicants in three parcels. The 3 deeds were recorded simultaneously creating a de facto 3-lot subdivision.

Mr. Ballister explained that the applicants wish to create 3 minor subdivisions which proposes 15 total lots but without the required supporting infrastructure and amenities - paved road, open space and stormwater controls.

Discussion followed.

Mr. Davis Smith, 1403 McClay Commerce Drive, Tallahassee, FL, was administered an oath by Hal Richmond. He stated that he was appealing Mr. Ballister's administrative denial.

There was a consensus among the Board that if they approved these subdivisions, it would set a dangerous precedent.

Upon questioning by Hal Richmond, Mr. Smith testified to the fact that St. Joe owned the property as one parcel but split it into 3 parcels and conveyed it to the applicants in 3 deeds.

Commissioner Watson stated that it seemed to be an attempt to skirt the subdivision ordinance which would require paved roads. etc. He stated that he could not support the application.

Commissioner Dixon commended the staff for their work and research on the matter. He agreed that the Board must uphold the staff's denial.

A MOTION WAS MADE BY COMMISSIONER DIXON AND SECONDED BY COMMISSIONER WATSON, TO UPHOLD THE DIRECTOR'S DENIAL.

Bill Manifold was administered an oath by Hal Richmond.

Further discussion followed. It was clarified for the record that St. Joe was asked to split the parcel once - into two parcels, one parcel for each side of Selman Road - which under the subdivision rules, is not a subdivision.

THE BOARD VOTED 5 - 0 IN FAVOR OF THE MOTION TO UPHOLD THE DIRECTOR'S DENIAL.

6.4 Kirby Major Subdivision - Preliminary Plat Approval

Mr. Ballister recalled that the Board had given conceptual approval for the re-plat of Kirby Minor Subdivision to allow for the development of a Major Subdivision subject to certain stipulations.

The staff recommended approval subject to the final approval by the County Engineer of the stormwater plan and location on the Preliminary Plat of the relocated driveways.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PRELIMINARY PLAT SUBJECT TO THE SPECIAL CONDITIONS AS OUTLINED IN THE ATTACHED MEMO.

7. COUNTY MANAGER'S AGENDA

Mr. McKinnon told the Commissioners that Congressman Allen Boyd's office has requested that the Board submit to him a list of

5 projects (in priority order) for which they would like federal funding. He asked them to notify him of anything that they would like to be considered.

8. CONSENT AGENDA

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Development Agreement with Frank Clore - Havana Flea Market & Mini Storage - for approval
- 2) Bid Award for Bid No. 00-027 for road stripping machine to EZ Liner Industries in the amount of \$30,845.00
- 3) Wireless 911 Rural County Grant Program Application - for approval \$86,400.
- 4) Division of Forestry FY 990-00 Annual Report
- 5) Final Claim/Closeout Sheriff's Narcotic's Unit V Grant - 00-CJ-D8-02-30-01-164
- 6) Chamber of Commerce Economic Development Activities for December 2000

9. CLERK'S AGENDA

Interest Report for FY ending September 30, 2000
Cash Report as of January 11, 2001
Financial Statement for First Quarter

Clerk Nicholas Thomas called attention to the FY 2000 Interest Report. Total interest earned for last year was \$740,367. The current cash report as of 01/11/01 shows cash on hand to be \$12,424,000. The first quarter financial statement was presented for information purposes only.

9.4 Budget Amendments 01-01-16-01 through 01-01-16-04

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE BUDGET AMENDMENTS STATED ABOVE.

9.5 Ratification of Payment of County Bills

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONERS REPORT

DISTRICT 1 REPORT

Commissioner McGill had no report.

DISTRICT 2 REPORT

Commissioner Watson stated that he felt that it was time to address the garbage issue in the County. He asked the other commissioners to consider doing something within the revenues that the county now receives without additional taxes. He suggested that they go to a dumpster system. He said he had talked to Waste Management to see what the cost would be and was told that an 8 yard container with two pickups per week would cost \$485.00 per dumpster per month. In doing that the County would become a commercial customer of Waste Management.

He went on to say that the County could begin with 2 sites per district. That would cost \$58,000 per year to provide that. He went on to say that if the need arises additional containers could be placed. The additional cost would be \$6,000 per year for each additional dumpster.

He emphasized that he would like to begin small and let it evolve to wherever it will go. He suggested that it could be handled through the Public Works Department with some limited monitoring.

Commissioner Watson pointed out that Waste Management had some concerns about handling of hazardous materials. However, through conversations with the Herb Chancey, Recycling Director, it was learned that the County has a grant in place whereby the hazardous materials could be handled by the County.

Commissioner Watson closed his remarks by asking the other commissioners to begin thinking about it for the next budget year.

Commissioner Dixon stated that the County Manager could be asked to come back to the Board with a proposal. He then asked if there was a minimum in the contract with Waste Management.

Mr. Richmond answered that there was no minimum in the contract agreement.

Commissioner Watson said that Waste Management expects to lose

some curb side business. However, they will be picking up a lot more garbage that they are currently getting.

Further discussion followed.

Commissioner Dixon made the statement that what Commissioner Watson proposed amounts to a reversal of policy. He went on to say that he is aware of the severity of the garbage problem but he was trying to see the whole picture. With this proposal, the County, in essence, will be funding a garbage program.

Commissioner Watson stated that the County is already paying tipping fees for the collections that the Public Works Department is picking up now.

Commissioner Dixon asked that when the manager looks into this matter, to also look and see it for what it is going to be. He said that Waste Management will surely loose a lot of privately paying customers when the dumpsters are put into place. At some point, Waste Management might take the position that they will no longer do private pick-ups and the County will become their primary source of money for Gadsden County.

Commissioner Roberson contended that there are ways that the County can have both services and both could work well together. She sited other counties where it is being done.

County Jail Overcrowding

Commissioner Watson reported that there is an overcrowding problem at the jail. He said that he would like to move forward with getting a plan in place to expand the jail to at least see what it will cost.

Discussion followed.

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 1, TO DIRECT THE COUNTY MANAGER TO BRING A PROPOSAL BACK TO THE BOARD FOR ADDING AN ADDITIONAL POD TO THE CURRENT JAIL. COMMISSIONER DIXON CAST THE LONE DISSENTING VOTE.

DISTRICT 3 REPORT

Commissioner Roberson had no report.

DISTRICT 5 REPORT

Commissioner Dixon stated that it is ludicrous to say that building jails is the answer to the jail programs. He insisted that the Board look toward funding programs so that a judge will have alternatives at his disposal rather than incarceration.

DISTRICT 4 REPORT

Chair Fletcher asked that the Public Works Director be allowed to seek funds from the State to pave Williams St., Cantey Lane and Jackson Lane. He said it will not interfere with the County's road paving priority plan.

COMMISSIONER MCGILL MADE A MOTION TO APPROVE THE ABOVE REQUEST.

Commissioner Dixon asked from where those State funds would come. Robert Presnell responded that he knew of 3 State Programs to assist small counties but could not be certain that those streets could qualify for those.

Commissioner Dixon was opposed to paving streets in a municipality prior to accomplishing the paving of county roads. The roads that the County submits for paving dollars through the existing road assistance programs are based on the greatest need. He said what the Chair was proposing would effectively override those roads with a greater need.

Commissioner Watson asked for clarification as to the location of the roads. It was determined that the roads were in the City of Gretna but had been maintained by the County for many years.

Chair Fletcher withdrew his request in light of the confusion on the issue.

11. ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

Gadsden County Board of County Commissioners
January 16, 2001 Regular Meeting

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON FEBRUARY 20, 2001,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY MANAGER
HOWARD MCKINNON, COUNTY MANAGER

ABSENT: CAROLYN ROBERSON
EDWARD J. DIXON

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Hal Richmond led in pledging allegiance to the U. S. Flag and Commissioner Watson led in a prayer.

2. ADOPTION OF AGENDA

The agenda was amended by removing Item No. 5 - Jo Ann Hart & Attorney Jack Harnett - Appeal of Decision Denying Point Milliken Package Store. Mr. Richmond stated that in order for the Board to act on the matter, there must be at least three voting members of the Board present and voting. He went on to explain that Chair Fletcher has a conflict of interest on the issue and could not vote leaving only two voting members. He advised that the matter be passed for two weeks or until the other commissioners could be present.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED AND STATED ABOVE.

3. APPROVAL OF MINUTES

September 11, 2000 Special Meeting
January 16, 2001 Regular Meeting

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

Mr. Richmond had nothing to report.

5. JO ANN HART AND ATTORNEY JACK HARNETT

Appeal of Decision Denying Point Milliken Package Store

This matter was removed from the agenda. See above.

6. MR. WILLARD RUDD - REQUEST FOR STOP WORK ORDER [QUINCY FARMS](#)

Mr. Rudd addressed the Board on behalf of the residents of the Providence and Sawdust Communities. He stated that they objected to the construction project that is ongoing at Quincy Farms on Juniper Creek Road (65A). He cited the foul smell that is emitted from the stock piling and storage of the spent mushroom compost on the property. He stated that the area residents believe that their water and air quality are being compromised. On their behalf, Mr. Rudd asked the Board to issue a stop work order on the construction project until the Department of Environmental Protection can make a thorough investigation.

Mr. Richmond responded that based on the evidence and testimony presented, he could not see that there had been any violations to county codes, ordinances or policies. He did suggest however, that the County could request an investigation from DEP and or Northwest Florida Water Management Division.

Lengthy discussion followed.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO AUTHORIZE THE COUNTY ATTORNEY TO SEND A LETTER TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OUTLINING THE CONCERNS EXPRESSED BY THE PROVIDENCE/SAWDUST CITIZENS REGARDING THE SPENT MUSHROOM COMPOST STORAGE FACILITY AND REQUEST THAT THEY ISSUE A STOP WORK ORDER OF THE CONSTRUCTION AND LAUNCH A COMPREHENSIVE INVESTIGATION TO INSURE THAT ALL APPLICABLE STATUTES ARE BEING COMPLIED WITH. THE MOTION FURTHER INSTRUCTED THE ATTORNEY TO FORWARD THE PETITIONS AND SUPPORTING DATA WITH HIS LETTER.

There was a consensus that the county staff should hand deliver the letter as expeditiously as possible.

7. GROWTH MANAGEMENT AGENDA

7.1 [Sign Ordinance Revision](#)

Mr. Ballister called attention to the proposed sign ordinance which the citizens committee has developed. He asked them to review it and evaluate it. He said that he would advertise a public hearing on the matter for March.

7.2 Planning Commissioner Appointments

Mr. Ballister reminded the Board that according to a County Ordinance, the Planning Commissioners are supposed to be appointed in April after an election. He pointed out that many of the seated commissioners have passed or are at the end of the maximum term of service - based on the specified terms in the ordinance. He suggested that the ordinance could be revised to change the maximum terms of service.

Commissioner Watson stated that this matter should be discussed at a later time when all commissioners are present.

8. PUBLIC WORKS AGENDA

8.1 Trade-in of Two Dump Trucks and Purchase of Two Dump Trucks

Public Works Director Robert Presnell told the Board that he had previously received authorization from the Board to purchase four new dump trucks. He reported that two of the four had been sold at an auction and have already been replaced. He went on to say that the other two did not sell at a desirable price and he would like to trade them in with the Mack dealership in Tallahassee. He explained that they had 70,000 miles on them and they are valued at \$70,000.

Mr. Presnell stated that he could purchase new trucks for \$79,500 by piggy-backing on the Holmes County Board of County Commissioners bid. Then he said that he would need \$4,500 additional funding per truck but the money is in his budget. He asked for permission to trade-in the two 2000 Mack trucks and replace them with two new 2001 Mack dump trucks.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE TRADE-IN AND PURCHASE OF TWO MACK DUMP TRUCKS.

8.2 Bid #01-03 - Heavy Equipment for Public Works Department

Mr. Presnell stated that he had 12 pieces of heavy equipment that are coming up under the original five-year buy-back agreement.

He said that they decided to keep one scrapper and trail king trailer. He said that the 12 pieces have already been bid out and the Bid Committee recommended the following awards:

- 1) Ring Power Corporation of Jacksonville - 5 motor graders w/o slopes for \$729,520.00 + \$12,589 maintenance less \$600,000 buy back = \$142,102; 2 motor graders with sloper \$313,436.00 + \$5,036 maintenance less \$240,000 buy back

= \$78,472; 1 hydraulic excavator \$174,820 + \$16,200 maintenance less \$105,000 buy back; 4.0 CU YD wheel loader - \$150,412 + \$18,900 maintenance less \$100,000 buy back = \$69,312; and one crawler tractor - \$136,343.00 + maintenance of \$ 18,000. Less \$80,000 buy back = \$74,343

- 2) Flint Equipment Company of Tallahassee, FL - 3 CU YD wheel loader - \$99,500 + \$6,650 less \$55,000 buy back = \$51,150 and the 4 wheel drive backhoe/loader - \$67,965 + maintenance \$6,415 less \$33,500 buy back = \$40,880.

Mr. Presnell stated that the new payments will be substantially less than in the past years.

Mr. McKinnon stated that he had been notified that they will protest the award of the bid.

Chair Fletcher stated that he does not feel that the equipment should be traded because the existing equipment was in good shape.

Commissioner Watson asked General Services Director Arthur Lawson if every thing was in order with the way the bid was awarded.

Mr. Lawson assured the commissioners that everything was done correctly.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE PURCHASE OF THE 12 NEW PIECES OF EQUIPMENT AS OUTLINED ABOVE AND AUTHORIZE MR. PRESNELL TO SEEK FINANCING FOR THE EQUIPMENT.

9. COUNTY MANAGER'S AGENDA

9.1 Code Enforcement - Erma Jean Lurry Re: Dangerous Building on Conyers St. Havana, FL 32333 Tax ID # 2-34-3N-2W-0290-0000A-0230

Ms. Lurry was present and addressed the Board in response to the attached certified letter which notified her of a violation to the Dangerous Building Ordinance.

Mr. McKinnon told the Board that Ms. Lurry had responded to the Notice Of Violations and has made it known that she is willing to correct the violations. He recommended that there be no further action against Ms. Lurry. He also stated that he would bring the matter back to the Board at the second meeting in March to make a progress report on the status of the abatement.

**9.2 Juanita and Gus Daniels - Dangerous Buildings on Walters St.
In Havana, FL 32333**

Mr. McKinnon called for Juanita or Gus Daniels. There was no response. Mr McKinnon then told the Board of the violations of the Dangerous Building Ordinance. He said that the Building Inspector has determined that the building is not safe and meets the definition of the code for an "unsafe building."

Mr. McKinnon reported that the staff has followed the proper notification procedure as outlined in the ordinance (notice was sent via certified mail to 1701 N.W. 15th St. Fort Lauderdale, FL 33311.) The notice was also posted on the property. There has been no response from the owners of the property. He recommended that the Board authorize the staff to seek bids for the demolition of the structure and bring the information back to the Board for further consideration.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO AUTHORIZE THE STAFF TO SEEK BIDS FOR THE DEMOLITION OF THE ABOVE STATED BUILDING AND TO BRING THAT INFORMATION BACK TO THE BOARD FOR FURTHER CONSIDERATION.

10. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Gretna Police Department Shutter Project - FEMA Project 1249-0064 - Retrofit of the Gretna City Hall/Police Department with storm shutters to make it suitable for a hurricane shelter. The low bid was submitted by Blackfoot Construction, Inc. of Quincy in the amount of \$12,980. The funds for the project are provided by the Emergency Management Grant.
- 2) Signing of Contract # 5960 and FDAC Second Contract Amendment of # 4629 (Renovations and Construction at the The Gadsden County Agricultural Multi-Purpose Center General Appropriations Act for fiscal Year 2000-2001 Item 1329L)
- 3) Travel Request to FAC Conference for Commissioners Dixon, McGill, Roberson and County Manager and County Attorney for June 26 - 29, 2001 in Duval County
- 4) Fire Alarm System Upgrades - Gadsden Community Hospital - Bid Award to Strickland Electric of Tallahassee for \$32,532.00
- 5) Projects submitted to U.S. Representative Allen Boyd for

funding consideration, (Ag Center expansion; new library; courtroom restoration; soil survey update; resurfacing and widening of 3 main county roads

6) Escambia County Housing Finance Authority - Notice of Interest Rate for 2001 first-time homebuyer - 5.8%

7) Chamber of Commerce January 2001 Economic Development Report

11. CLERK'S AGENDA

Budget Amendments 01-02-220-01 through 01-20-20-05

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

Ratification of Approval of Payment of County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

12. COMMISSIONERS REPORTS

District 1 Report

Recreation Committee

Commissioner McGill asked the commissioners for the names of their appointees for the newly formed Recreation Committee.

Jail Expansion

Commissioner McGill asked that the County Manager be directed to obtain information on programs that might be implemented that could offer alternatives to incarceration for criminal offenders who would otherwise be placed in the county jail.

Garbage Issues

Commissioner McGill stated that he had received a number of complaints about trash along Atlanta Street and Rittman Lane. He asked that the Public Works Department to look into getting it cleaned up. He also asked that the attorney research the garbage ordinance for possible changes that would lend itself to prosecution of violations.

District 2 Report

Commissioner Watson had no report.

District 3 Report

Commissioner Roberson was not present.

District 4 Report

Chair Fletcher had no report.

District 5 Report

Commissioner Dixon was not present.

13. ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER
DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON MARCH 6, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Mr. Richmond led in pledging allegiance to the US Flag and Mr. McKinnon led in a prayer.

2. APPROVAL OF THE AGENDA

The agenda was amended to move Item # 7 to Item # 4.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER ROBERSON THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED. (Commissioner Dixon was not present for this vote.)

3. APPROVAL OF MINUTES

February 6, 2001 Regular Meeting
February 20, 2001 Regular Meeting

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTE 4 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETINGS. (Commissioner Dixon was not present for this vote.)

4. PURVIS, GRAY & COMPANY - FY 2000-2001 AUDIT

Mr. Troy Krause, CPA from Purvis, Gray & Company was present to present the FY 2000-2001 Independent Auditor's Report. He stated that the revenues for the year were approximately \$20

million. There was an overall increase in fund balances of \$.5 million. (Including restricted grant fund balances.) In addition, he noted that \$600,000 in general fund debt was paid off; \$700,000 debt paid on hospital. He closed by saying that the County received an unqualified opinion and the County was in strong financial position.

Mr. McKinnon clarified for the record that Mr. Krause had met with the commissioners individually throughout the day and reviewed the audit with them.

Commissioner Dixon arrived at this juncture.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED AUDIT REPORT.

5. COUNTY ATTORNEY'S AGENDA

Mr. Richmond reported that he has been requested to draft an ordinance for a speed limit for the areas that surround boat ramps giving the Fish Commission the authority to enforce them. He said there have been problems with boats exceeding reasonable speeds that create wakes that harm property owners. It also permits a dangerous atmosphere around the boat ramps. He asked for authority to advertise a notice of intent to enact an ordinance to that effect.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AUTHORIZE THE COUNTY ATTORNEY TO ADVERTISE A NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE LIMITING BOAT SPEED AROUND BOAT RAMPS.

Litter Ordinance

Commissioner McGill asked Mr. Richmond for a progress report on the revision of the litter ordinance.

Mr. Richmond reported that he is looking at Leon County's ordinance and will try to have it ready in time to be included in the codification with the other county ordinances.

6. JO ANN HART & JACK HARNETT - APPEAL OF DECISION DENYING POINT MILLIKEN PACKAGE STORE ON JANUARY 16, 2001

Attorney Jack Harnett was present before the Board representing Ms. Hart in an appeal of the Board's denial of her application to open a drive-thru walk-up package liquor store at the intersection of State Road 12 (Havana Highway) and Ball Farm Road at the site of the former Hanna's Grocery. He then said that she already has an alcohol permit that she would like to transfer to the location. He cited the following facts which he feels justify a reversal of the denial:

1. The property is already zoned commercial.
2. The proposed business would be a Class 2 General Commercial use which is allowed by the County's Comprehensive Plan - Chapter 4 Section 4200 - Land Uses Paragraph G - Class 2
3. The County previously issued a building permit and the building and repairs have already begun. Many thousands of dollars were expended based on the law of Gadsden County for the commercial use of the property.

Mr. Harnett contended that the County has not made a legal showing of why the property should not and cannot be used for the purpose Ms. Hart intended.

He went on to state the following to refute the objections raised at the first hearing.

- 1) The speed limit is 45 mph - a safe speed.
- 2) There is already a turn lane at the intersection.
- 3) There is another commercial business in operation in the vicinity - a funeral home is directly across the street.
- 4) There is also a convenience store within sight of this location.
- 5) A FL Highway Patrol representative had disclosed to him that the accident figures reported at the first hearing might not be correct. That person told Mr. Harnett at a private function that he could only recall one death at that location and it had been on a Sunday morning when a preacher turned into the path of an oncoming truck.
- 6) The County Commission took an oath to uphold the laws of the County and this request is in keeping with that law.
- 7) The previous owner of the business at this location sold wine and beer. They also operated in a lawful manner without incident.
- 8) The mere fact that there could be an accident is not sufficient reason to deny the request.

- 9) The Board may have been under the impression at the first hearing that the location was zoned "Neighborhood Commercial" when in fact it is not. It is zoned "Commercial".
- 10) The proposed business is a legal use of the land.

He summarized his remarks by asking that the Board reconsider and reverse the denial.

Commissioner Watson clarified for the record that the Planning and Zoning Commission did not make a recommendation for approval. As a matter of fact, they did not convene the meeting since there was not a quorum.

Mr. Richmond stated that it was the Planning and Zoning staff's recommendation for approval but only because it is zoned commercial already and there was a legal right to the use by Ms. Hart.

Commissioner Watson asked Mr. Harnett which FHP representative told him that they knew of no accidents at the intersection in question.

Mr. Harnett replied that he was attending a private function and was told informally by someone else who was in attendance that he could only recall one accident at that intersection that resulted in a death. He asked for a copy of any statistical information in the possession of the County which states anything to the contrary.

Commissioner McGill said that he had seen a report that stated that at least seventy accidents had occurred within ½ mile of the intersection in question over the last 4 years.

Mr. Harnett contended that only statistics at that intersection would be germane to the issue.

Mr. Richmond clarified the issue before the Board. He said that it was in the nature of an appeal of a decision from a ruling that the Board made earlier on January 16, 2001. He said that it was not a question of presentation of new evidence or testimony. He then said that the appellant contends that the Board erred in making its decision by relying on the information presented on January 16 to be factual. He went on to say that the Board will

have to justify the position that it took in not allowing the zoning to control the use of the property. He also said that if the information at this hearing is sufficient to allow the Board to overturn the previous decision it can be done. The appellant's argument is: the staff recommended approval based on the fact that the land is already zoned commercial and it is a commercial use that is proposed. However, arguments were presented by the public on January 16 that brought safety issues, etc. to the Board's attention. Those arguments were deemed sufficient by the Board to substantiate the denial.

Commissioner McGill stated that his concern for safety at that intersection had a far greater impact on his decision than the legal use of the land. He stated that there was not a misunderstanding on his part about the zoning of the property. He reasoned that perhaps the County had erred in allowing the property to be zoned commercial in the beginning. He disclosed that he had received a number of calls from people - some urging him to vote for it and some urging him to vote against it.

Commissioner Watson agreed that there had been no misunderstanding about the zoning of the property. The information before the Board at the last hearing clearly described the property as "Commercial" and not "Neighborhood Commercial." He argued that just because it is already zoned "commercial" is not sufficient reason to approve it in light of the safety issues and public outcry surrounding the issue. The fact that such use requires a review by the Board of County Commissioners indicates that under some circumstances it is appropriate to consider intangible arguments.

Watson: A store selling liquor in the middle of such a densely populated residential community is not appropriate. It is not unreasonable for this Board to consider the neighbors concerns out there and the traffic problem when you're talking about a business of this kind - alcohol. And, we all know the kind of problems that that brings.

Harnett: I don't understand. What kinds of problems does it bring?

Watson: Drinking and driving.

Harnett: They just recently fussed at a place down in Perry for a man that stopped in to get a drink while he was driving.

This is not going to be a place like that.

Watson: But, it can be. You were not here, but we did make that point. The point was made two meetings ago that the license that this business would be operating under can become a lounge.

Harnett: That's true.

Watson: So, we've got to assume "Where can this go?" And that is where it can go. And I think that we would be wrong in assuming that it is never going to be there. That there will never be a lounge there. It would be wrong of us to assume that. We have to assume that it will be used at it's maximum capacity, which will be a lounge, which will mean early morning hours, which will mean people leaving there drunk. I mean, we know that happens. And, my point is why put something there when you know there is going to be a problem.

Fletcher: Commissioners, we have a motion on the floor, let's vote on it. The motion is for denial.

Richmond: It's to affirm the decision of the Board previously. If I, in case anybody had any questions about this, this is not a question (at this point) of taking public input or testimony. We have to base everything on the record that was created at the prior meeting, so nobody is trying to head anybody off. Go ahead.

Fletcher: So, what is the pleasure.

Watson: Call the vote.

Fletcher: All in favor?

ALL: Aye.

Fletcher: Opposed?

No response.

Fletcher: Motion passes.

Richmond: The vote was to affirm the action of the Board which is

to deny Ms. Hart the use of the property.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AFFIRM THE PREVIOUS DECISION OF THE BOARD TO DENY THE PT. MILLIKEN PACKAGE STORE.

**6. RICHARD THOMPSON - GADSDEN COUNTY LAND DEVELOPMENT CODE
ENFORCEMENT**

Mr. Richard Thompson, 137 Wayside Farm Road, Havana, FL 32333 addressed the Board. He stated that he sent a letter dated February 20, 2001 to each of the Commissioners regarding the electronic billboard sign by the Tallahassee Community College (TCC) on the north side of US 90 across from the entrance to the Pat Thomas Law Enforcement Academy. He went on to say that the sign is not in conformance with the County ordinances and Comprehensive Plan. He asked that the Board enforce its own laws and make a written response to him with ten (10) days. He also asked that if they could not respond within the 10 days, he would like a written response stating why they could not respond - within 10 days.

Commissioner McGill asked why TCC did not approach the Commission before they put the sign up. He asked "Do they have some authority to not come to us?"

Mr. Ballister responded:

I wrote a letter, I guess, to the county attorney, between Mr. Thompson's first letter on the sign and the second letter outlining some of the ah - You made some wonderful findings in the Statutes. When the sign was constructed, it was constructed with no forward to the county government at all. Nobody approached me, nobody approached the building official about building it.

When we made inquiries to TCC, their site supervisor, their director of facilities, came forward and very happily produced a Statute that says that all of their building activities are governed by the Department of Education building code. And, that they have supremacy over it and that I didn't have any jurisdiction and that they had leased it and they considered it part of their campus. I was (inaudible) because I personally didn't like the sign.

The Statutes that Mr. Thompson cited in his letter give us some pause that there are other Statutes that may apply that contradict that. The section that TCC quoted appears to be taken out of a section that applies solely toward building codes. You know, how can structure can be built, rebar, sizes and those kinds of things within a site. But, not site planning issues and nothing that will supercede our Comp Plan or Land Development Codes.

There is another set of phrasings in the Statutes that says that construction of public education facilities is subject to and subordinate to the Comprehensive Plan and their Land Development Regulations or the enabling Land Development Regulations. Having found that phrasing, not being a scholar in the Statutes, but, it seemed very hopeful. So, I wrote a letter to Mr. Richmond to investigate whether that phrasing "public education facilities" and it's context refers to and includes the community college system. The community college system is neither a K-12 system or the Board of Regents. They are their own animal more like a state government. And so, that is one of the questions I had asked him to look into. He may have further response.

Richmond:

The response is this. There is not a specific exemption for community college system on these issues. What I thought, in studying this, would be that we request of TCC that they provide us with their position as to why they did not come in and request it. The sign, first, is not located on their property and it is a question of land use as opposed to building codes. The distinction, I think, is pretty clear that there are some areas that we maintain control over and that is one of them. I believe we do. But, I would like to see if they've got any specific interpretation from an attorney general or from someone that gives them the authority in these areas to proceed as they have. Because, my interpretation is that the Statute does not specifically exempt from the land use requirements that we can impose. It does the building codes. They've got their own building codes set up by the Department of Education.

Dixon:

I thought that if we had exempted them from the land use, we would not have had to go through the debacle about the high school. I mean, you go and claim a piece of property and then

go do what you want to with it. Concurrency to me, would say to me that they would at least write us a letter. What would deal with concurrency these days anyway?

Ballister:

Concurrency is usually applied to "can the carrying capacity of the system support what is there?" There is no traffic, sewer or water issue at the sign.

The sign is in violation of the current sign code which we will discuss later. It would be considered a billboard and it would be considered animated. A billboard requires a Class II approval. This Board should have seen it and approved it. And it is animated which is outlawed anyway. It would have needed a second waiver for it to be a flashing message sign. And I guess that all occurred early in my tenure and I don't make apologies for myself, but I was fairly convinced at the time that they showed me that I didn't have jurisdiction. They seemed knowledgeable and I accepted it at that point. In hindsight, I probably should possibly should have stayed construction - put a stop work order on it.

Dixon:

What is your recommended course of action, Mr. Attorney?

Richmond:

I don't think there was a deliberate attempt on their part necessarily to by-pass us. They just didn't think they had to. But I would like to see their legal position. I would like to write them a letter saying "Please document your position. Otherwise, take down the sign." Then bring it back and figure what we need to do.

I think we do have the authority. I do think the sign violates our sign ordinance.

Dixon:

Why don't you do more than ask them because all they are going to do is stand behind what they have already shown him. Why don't you write to them the language that Mr. Thompson has found and asked them to show why this does not apply?

Fletcher:

Do you want to make that in the form of a motion?

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Dixon:

I so move.

Watson:

Second. I would like for them to start tearing it down while they are doing all that.

McGill:

I was hoping that we would get a motion to

Dixon:

You wanted a motion to cease and desist? Do you want it to go dark?

Richmond:

Turn it off.

Watson:

They need to turn it off.

Fletcher:

We've got a motion on the floor.

McGill:

Can we have some more discussion on it before we vote on that?

How would it be if this Commission would put up a sign on TCC property that said anything? What would be their response then? Because that is what they did to us. We could say that the Land Development Code says so. You see, the property is in Gadsden County. Do you think they understand that?

Ballister:

Yes.

McGill:

Then I think we ought to do the same thing to them. I don't know whether we could get away with it. But, I think that it is a complete disrespect for a small county government, and looking at Big TCC would, I think, that is what they used. We ought to retaliate in kind.

Watson:

I assumed that they were exempt and I appreciate you showing us, Mr. Thompson, that they weren't.

Fletcher:
Absolutely.

McGill:
Let's give him a vote of confidence, Mr. Chairman.
Fletcher: Can we vote on this thing?

McGill: Call for the vote, call for the vote.

Fletcher:
All in favor say "aye."

ALL: Aye.

Fletcher: All opposed?

No response.

Fletcher:
Motion passes.

Watson:
Thank you, Mr. Thompson.

8. ARTHUR LAWSON, SR. GENERAL SERVICES DIRECTOR

Engineering Services Evaluation/Selection

Mr. Lawson addressed the Board with the evaluation of engineering proposals submitted to the selection committee. He stated that it was done in response to the Board's directions to him to do an RFP for engineering services. He reported that the RFP has been concluded and the selection committee has ranked the proposals as shown in the agenda packets. He pointed out that two of the firms ended up with a "Number 1" ranking. Therefore, the committee chose to submit the results without a recommendation.

Commissioner Dixon stated that he was glad to see that at least Big Bend Technologies has a relationship with minority firms. He said that he continues to be disappointed that the County does not do business with at least some minority firms. Also that those firms with which it does business do not have minority employees nor are associated with firms that have minority employees.

THERE WAS A MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON TO AUTHORIZE NEGOTIATIONS WITH PREBLE-RISH FOR ENGINEERING SERVICES.

Commissioner Roberson stated that her reason for choosing Preble-Rish is because of their relationship with other small counties and they likely understand the problems with which small counties struggle.

Commissioner Dixon pointed out the Big Bend Technologies did not have any really big projects "under their belt."

Mr. Lawson explained that they are a small firm. Then he said that the other firms have offices in Tallahassee but also have offices in other cities from which to pull help as needed. He pointed out that Preble-Rish has offices in Santa Rosa Beach, Port St. Joe, Tallahassee and Panama City. Corrandino Group have offices in Tampa, Miami, Tallahassee and Ft. Lauderdale in Florida with 147 employees.

Commissioner Dixon asked what was located in their Tallahassee office.

Mr. Lawson answered that they have 8 employees in the Tallahassee office.

Mr. David Hutchinson, of Corrandino Group, addressed the Board. He said that he has been working in the consulting business since he was 18 years old. He was once employed with Bishop Engineers and worked on projects in Gadsden County. He also said that he had been in business for himself when he merged with the Corrandino Group in an effort to broaden his base.

Mr. Hutchinson turned to Commissioner Dixon and stated that the Corrandino Group has many minority employees. He pointed out that the only sub-consultant they have is an association which is a state certified disadvantaged business - an environmental geo-technical specialist group.

Mr. Hutchinson closed his remarks by asking for their consideration.

THE BOARD VOTED 4 - 1, BY VOICE VOTE, TO AUTHORIZE THE NEGOTIATIONS WITH PREBLE-RISH FOR AN AGREEMENT FOR ENGINEERING

SERVICES.

Commissioner Dixon stated that he would like to know how many minority employees or associates they have.

9. PLANNING AND ZONING ISSUES - GROWTH MANAGEMENT

Sign Ordinance

Growth Management Director Bruce Ballister called attention to the proposed Sign Ordinance. He stated that he had advertised a public hearing for this evening. He asked for comments and questions.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO HAVE A WORKSHOP WITH THE PLANNING COMMISSION AND THE SIGN COMMITTEE ON MARCH 20, 2001 AT 5:00 P.M.

Planning and Zoning Commission Appointments

Mr. Ballister pointed out that the ordinance that enabled the formation of the Planning and Zoning Commission (P & Z)/Local Planning Agency calls for terms of office for the appointees. They are supposed to serve for three (3) two-year (2) terms. He pointed out that some of the appointees have been serving for far longer than that and the terms of several others are about to expire. He recommended that the ordinance be amended in such a way as to allow for longer terms of office and to change the terms of office to correspond with the terms of office of the appointing county commissioners.

In addition, Mr. Ballister called attention to the alternate commissioner. There was some discussion as to the appropriateness of an alternate.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO REMOVE THE ALTERNATE COMMISSIONER AND DIRECT THAT THE ORDINANCE BE AMENDED TO CHANGE THE TERMS OF OFFICE OF THE PLANNING COMMISSIONERS TO COINCIDE WITH THE TERMS OF OFFICE OF THE APPOINTING COUNTY COMMISSIONER.

10. COUNTY MANGER'S AGENDA

GRIT - Plan of Liquidation

Mr. McKinnon recalled that Craig McMillan of Pat Thomas Insurance Agency had been before the Board several weeks ago to apprise the Board of matters dealing with the Governmental Risk Insurance Trust Fund and the bankruptcy that was likely to follow.

He said that members of the trust fund have met and proposed a liquidation plan. (Attached) He asked the Board to approve the agreement.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO ACCEPT THE TERMS IN THE LIQUIDATION PLAN FOR GRIT.

CHP Providers

Mr. McKinnon stated that he will bring to the next meeting a proposed resolution to present to Capital Health Plan (CHP) requesting that they add some additional coverages and doctors at the local hospital.

Chester Brown Funeral

Mr. McKinnon acknowledged the passing of Veteran Services Director Chester Brown. He stated that the funeral services would be on Saturday, March 10 at 10:00 a.m. at St. Mary's in Mt. Pleasant.

11. CONSENT AGENDA

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Fire Truck/2500 Gallon Tanker, Bid # 01-01 - Request for approval of Bid Committee Recommendation to award the bid to Deep South Truck and Equipment Company of Seminary, MS for \$81,577.46 plus \$467.50 for one tool box, minus \$2,400 for the trade in, resulting in a final bid of \$79,644.96. It is noted here that Heintzelmanns Truck Center had the lowest base bid but left off \$3,913.00 worth of items that was included in the Deep South Bid.
- 2) Award of Bid #00-029 for tires for the Public Works

- Department to NE-RO Tire and Brake Services of Tallahassee.
- 3) Award of Bid # 01-06 for Road Side Seeding to Coastal Land Management of Quincy, Fl in the Amount of \$693.98 per Acre.
 - 4) Notice from DOT of Their Intent to Address Safety Concerns at Jamieson Road Railroad Crossing
 - 5) US 90 Corridor Planning Study Contract with Patrick Hodges in conjunction with Post Buckley, Shue & Jernigan for \$12,500.
 - 6) Library - PLAN Online Computer Library Center (OCLC) - Panhandle Library Access Network, Inc. Database Maintenance Agreement.
 - 7) CDBG Rehabilitation Specialist Agreement with William H. Robinson
 - 8) Contract for Rehab work between Margie Johnson and Sandra Atkins Construction Inc.
 - 9) Satisfaction of Liens for Mariette Gray and Tella Cotton
 - 10) One year renewal of Simon Scott Building Lease with Gadsden County Senior Citizens
 - 11) Corrective Warranty Deed - St. Joe timberland Company of Delaware, LIC

12. CLERK'S AGENDA

Budget Amendments 2001-03-06-01 through 2001-03-06-06

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE NAMED BUDGET AMENDMENTS.

Ratification of the Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

13. COMMISSIONERS REPORTS

District 1 Report

Commissioner McGill reminded the commissioners that he would like to have their appointments to the Recreation Committee as soon as possible.

District 2 Report

Commissioner Watson had no report.

District 3 Report

Commissioner Roberson reported that she attended a CDBG Workshop and found it to be very informative. She encouraged all commissioners to attend one if the opportunity presents itself.

District 5 Report

Commissioner Dixon acknowledged the service and dedication that Mr. Brown brought to Gadsden County . He stated that "He provided the kind of lift that we all needed. He was always smiling and always had a joke for you. He was a fine department head and good friend to a lot of employees and certainly to the public that he served."

District 4 Report

Chair Fletcher had no report.

14. ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR
DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON MARCH 20,
2001, THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

ABSENT: E. H. (HENTZ) FLETCHER

1. CALL TO ORDER

Vice-chair McGill called the meeting to order. Commissioner Dixon led in pledging allegiance to the U.S. Flag and Commissioner Watson led in a prayer.

2. ADOPTION OF THE AGENDA

Vice-chair McGill announced to the public that the Paradise Garden West Issue (Item 7.2) would not be heard at this meeting. He noted that the petitioner requested that the matter be removed from the agenda. (See attached memo.) There were many people present who attended the meeting because they had received a notice. Bill Hoatson questioned whether or not the petitioner had the right to withdraw without prior notice. It was determined that it was within the petitioner's purview to do so.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE AGENDA AS AMENDED.

3. APPROVAL OF MINUTES

March 6, 2001

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. INTRODUCTION OF NEW COUNTY ENGINEERING FIRM OF PREBLE-RICH, INC.

General Services Director Arthur Lawson introduced Greg Preble and Joe Miller, engineers of the Preble-Rich Engineers, Inc., who were recently hired as the County's consulting engineers for the next year.

Mr. Preble and Mr. Miller were both present and addressed the Board briefly. No business was discussed.

5. NORTH FLORIDA MEDICAL CENTER, INC. - DR. JESSE FURLOW & JO GOLSON

Dr. Furlow and Ms. Golson were not present at this juncture of the meeting. However, it was noted that Dr. Furlow was present earlier. The matter was passed to the end of the meeting.

6. COUNTY ATTORNEY'S AGENDA

Mr. Richmond had nothing to report.

7. PLANNING AND ZONING ISSUES

7.1 Sadberry Road Easement Public Hearing

Growth Management Director Bruce Ballister told the Board that there is a long history between the Board of County Commissioners(BCC) and various mining companies regarding Sadberry Road. He explained that the road is paved to a point where several access roads split off to the west and southwest.

Mr. Ballister stated that in 1992, a new mining operation by Jimmy Crowder was begun on one of the parcels which involved access of numerous dump trucks along Sadberry Road. This access was challenged by the Sadberry family and others and was brought before the BCC for intervention. He said that the BCC minutes of January 19, 1993 bears evidence that the mining parcel had an alternate access route available to them. There was no action taken other than directing the Growth Management Director to instruct the mining company to work it out. The Roberts Sand Company was thus told to find and use an alternate route. Later, the Crowder Company purchased the route, improved it and has been using it since that time.

Residents Larry and Sandra Rudd sued for access across Sadberry land to their property in 1996. Thus they acquired a 30 ft. easement that was limited to access for residential purposes only. That easement now is on property owned by Charles Boutwell. The Boutwell deed describes the 30 ft. easement as well as another 60 ft. easement that runs parallel to it. That 60 ft. easement provides access from the tract to a right-of-way along the southern boundary of the Sadberry tract. (Although the legal description describes that access as being a 60 ft. right-of-way, it has been surveyed as variable width ranging from about 55 to 70 ft. in width and includes the present passageway and is maintained by the County.)

There is also a northwestern branch of Sadberry Road which is unpaved and is a prescribed easement. (A prescribed easement is defined in the Florida Statutes to be a road which has been maintained by the county continuously for more than 4 years. The easement is for the width of the maintenance.) The parcel of land which lies to the west of Sadberry Road has the right to mine the land. However, the issue has become a matter of safe and appropriate access to it.

Crowder Sand Company constructed a new road for their access some years ago. Mr. Ballister stated that he has talked with Mr. Crowder and he indicated that he would be willing to work with Sandco to grant an easement or some kind of access so that they can mine their property also. He then said that his recommendation was for the Sandco to seek remedy from Crowder rather than utilize the public road. Otherwise, the issue becomes whether or not this kind of traffic is appropriate through the residential community.

Dixon:

Are the representatives from Sandco amenable to the Crowder alternative?

Ballister:

To my knowledge, yes, sir. They have been in discussion. I spoke with the representative from Jimmie Crowder Excavating this afternoon. He said that they were working that way and as far as they knew, it was in Sandco's court. I guess that was pending this evening's outcome.

McGill:

Are you saying that it is up to Sandco to buy what Crowder is offering?

Ballister:

Or agree to. I'm not sure if they were looking at a purchase or an agreement for access. The nuts and bolts of that are left up to those two companies. It is my recommendation that- I think that the Crowder Road, access road runs to the lot line between section 59 and Section 60 in the Little River Survey which is the same line that the mining property currently has 60 ft. access along. That 60 ft. access could be continued southerly to intersect the pit access road that Crowder has constructed.

What we found in the field out there were roadways in excess of 45 ft. wide with ditches etc. that the sand trucks use. That is a far cry from the 15 - 20 ft. road that is out there now. There are other actions on that property now that are in an enforcement nature that are not applicable to this access issue. I don't know that they need to be brought up tonight.

Dixon:

So, the question is not whether they can mine. That is not a question?

Ballister:

It has been my, I have given a bunch of papers to review last summer when Mr. Boutwell owned the property. And it looked like a fair assessment that previous companies who had bought mining tracts out there had been allowed to mine.

What is at issue is that none of this property was zoned mining in 1991 for some reason - oversight or what - because the original permit existed at the time. Since it is not zoned mining, I have an interest in protecting the wetlands line etc. and the other natural features out there and I am requesting some limited comfort level that it is o.k. to mine out there without doing damage to the ecology of Bear Creek. And, I wanted to have them demonstrate access and that is where we hit the procedural wall - at this access point.

McGill:

Any further questions?

I understand that Mr. Richard Gardner, Sandco's attorney is in the audience. Is that right?

Richmond:

Charles Gardner.

McGill:

Would you state your name for the record, please?

Gardner:

Yes, sir. My name is Charles Gardner and I am the lawyer for Sandco. Just got into this history the last few days. Essentially, what happened is that my client had a contract to buy this property. Did all the due diligence to make sure that they could use this property for excavating sand off of it like Roberts does and like Crowder does. And essentially, they were told they could do that. So, they, all the requisite permits were in place by DEP. So, they went ahead and they closed. They spent quite a bit of money for over a hundred acres of land.

They understand that they can't mine in the wetlands. We have talked to DEP and we're going to delineate that wetlands line so that there is no doubt, there won't be any mining in the wetlands area.

The problem becomes, yeah, so we, it's what, like I told Mr. Richmond, it's what the law refers to as equitable estoppel. You know, when somebody does something in good faith and relies on what the government tells them. Then they spend money to their detriment, the County is equitably estopped from saying "No, you can't do it."

I understand the issues relating to the road and some - those are legal issues and there are practical issues. I understand the people who live along the road not wanting this heavy equipment. I understand that. But, it is a public road and Sandco is a member of the public. So, then it becomes a question "Do you disenfranchise somebody from being a member of the public and say "Everybody else can use the road, but you can't use the road." It is a complicated problem. Sandco is willing to maintain that road. It is willing to do whatever the County asks them to do, essentially, to make sure it is a safe roadway. In your agenda, the issue of Chapter 95 is addressed about the implied dedication of the roadway. There is some question as to the extent of the maintenance, in terms of width, by the County over the years.

Tommy Skipper, who I met with today, indicated that for the most part, it's about a 40 ft. wide, 45 ft. wide area. But, only in the last year has it become constricted by a lack of

maintenance because some people asked the County not to maintain it. So, there is a question of fact, there is a question of law. Really, the question of fact is "How wide that maintained right-of-way is" but I think that Tommy Skipper's records can show us the width of the maintained right-of-way because he has done quite a bit of surveying out there over the last 20 years.

I think it's something, honestly, that can be worked out if representatives of the petitioners (I'll refer to them as that). I didn't realize there were that many Sadberrys in Gadsden County. They have multiplied. They have multiplied since I was over here. But, I feel like we probably can sit down and work something out. We have been talking to Crowder but, we don't have an agreement yet. And really, the ball is in Crowder's court to tell us that we can get an easement.

We don't want to be left without access to the property that we bought. Maybe the better part of wisdom is to keep the issue open. Let the members of the petitioners designate one or two people that we could meet with and see if there is a solution that can be worked out. I think that is what happened in 1993 when the issue came up before. Just from my review of the minutes back from those meetings. There the solution was an alternate access route.

Here, it may be an alternate access route or it may be some road improvements and we won't know until we sit down and talk. And, I haven't sat down with Mr. Sadberry at all.

Richmond:

What about Crowder. What is their attitude? I mean, are they - What is their attitude? This is the first.

Gardner:

It's ah, right now, there is nothing in it for them. So, it's a function of money.

Richmond:

I mean, cause the road is paved up to Crowder's property and then it seems like size wise the right-of-way reason, you are entitled to it, by access through that way possibly.

Gardener:

I don't know that that road is a public road. The problem

Richmond:

Let me ask you this. Has there been, Is it foreclosed that you cannot talk to Crowder anymore? That they are being so unreasonable that ya'll can't reach them.

Gardener:

No. No. No. No. No. They were going to get back with us. But they are going to move at the speed that they want to move and do it in accordance with the terms that they want to do it.

Richmond:

It's not like ya'll are in competition with them or anything is it?

Laughter.

I apologize for just jumping in like that.

This portion was not audible. Mr. Gardener was demonstrating the location of the road on a map.

Gardener:

The other option that we want to explore is the improvement of Sadberry Road over to this section here. And I think that if we explore both of them and come back and tell you where we are, ah, but I don't know, I just haven't had time to speak with Mr. Sadberry.

Richmond:

Is there a committee out there on Sadberry Road or spokesperson that would be willing to meet with him? Do ya'll want to meet with him to try and work something out?

McGill:

While he is coming up, let me say that I introduced you as Richard Gardner, but I understand that you are Charles Gardner. Which one are you?

Gardner:

I am Charles Gardner.

McGill:

Charles Gardner. Good. O.K.

Coon:

My name is Clayton Coon. I think we are overlooking the main

issue here. The easement, the right-of-way that was in there was for residential use only. I think that's all been over looked. I think that needs to be took into consideration.

McGill:

Well, when did others - the residents start using it.

Coon:

There's been a residential easement through there for 20 something years, I know.

Dixon:

Does the easement say residential use only?

Coon:

Yes, sir. It sure does. And nobody brought that up and I thought that was the main issue.

Ballister:

As a point of fact, there is a 30 ft. easement that runs from the end of Sadberry Road northerly which is restricted to residential use only. The line or the roadway that runs along the southern edge of the Sadberry properties, I do not believe is so encumbered legally but was restricted by motion and approval of this body previously with respect to Crowder Sand Company. There was a directive from this Board to use it for residential purposes only. And, I think Chairman Peacock directed Staff to work it out. That was in the minutes.

McGill:

My notes say there was no vote taken by the Commission.

Ballister:

The directive at the time was from Chairman Peacock. I think the quote was "to work it out." And I think there was a consensus opinion to do that. And, at that point, Mike Sherman began working individually with Crowder Excavating and they got the other easement and created the roadway.

McGill:

So, there have been trucks going, I guess illegally, down Sadberry Road?

Ballister:

Yes, sir. They have been using that roadway, I guess, for about the last month, I suppose, as they have, the Sandco

vehicles have been accessing that property in commencing preparation of activities at that site.

Coon:

I've got some pictures that I want ya'll to see. About 3 weeks ago - Sandco didn't do this, this is how it looks (inaudible)

Ballister:

This is the one that is restricted.

Coon:

It was not supposed to be altered. Now, Sandco didn't do that. I know who done that and we are going to court on that. See them red flags in the middle of the road right there? Alright, there was plenty of room to go around that flag, but he came over and graded it. He took a 4-wheel drive tractor and modified the road. He was not even a resident down there at that time. (Inaudible)

This is Sandco's trucks going in. One of them. And all the others are about the same. This was about 3 weeks ago. See this building right there? That is mine and my wife's property right there at that building.

McGill:

O.K. Would anybody like to talk for or against this issue?

Inaudible

Gardner:

They settled that law suit and that 30 ft. is for residential use only. At the end of Sadberry Road is a 60 ft. easement that goes back. And I think this Commission wound up naming that road Boutwell and then Sadberry Road about a year ago.

It was named Boutwell Road and then changed to Sadberry Road.

McKinnon:

The discussion there was on that 30 ft.

Roberson:

That is what I thought. It was on the 30 ft.

McKinnon:

Not the 60 ft.

Yeah. It was on that.

Gardner:

Sadberry Road came to here and then the 30 ft.

McKinnon:

Right. That was the current user. That was being used and that is what was discussed to be named. And then we found out that we just had a misunderstanding. The Board's policy is whoever owns the property on either side of the road have input into naming it. That is why it was changed. But, it was not the 60 ft.

Gardner:

Inaudible.
Sandco has been using (inaudible)

This is the 30 ft. right here. Here is the 60 ft. that runs parallel to it.

McGill:

What portion is Sandco currently using?

Gardner:

This 60 ft. right here. That is what they want to use.

McGill:

And that's the one the residents don't want them to use?

Gardner:

I am not sure.

Richmond:

They don't want them to use Sadberry Road.

Gardner:

Inaudible

Richmond:

And, they don't want them to use Sadberry Road.

Gardner:

And they don't want them to use Sadberry Road.

Roberson:

Are the conditions on Sadberry Road?

Watson:

They probably paid for it. I mean, I don't think they have a problem with them using it.

Richmond:

No, not the paved portion. But, the narrow portion. It is a county roadway.

Gardner:

(Inaudible)

McGill:

Are there any more questions for Mr. Gardner before we hear from other residents?

Roberson:

I have a question.

McGill:

How many of you now want to speak on this issue?

I don't want to restrict that time but,

Roberson:

I was talking. Laughter.

I was just wondering about the unpaved section of that road. Is it safe for the type vehicles that are going on it? For the size of vehicle. I understand that he was talking about improving it, but if they don't have the right-of-way on the road, how can they improve it?

Sadberry:

The Sadberrys own both sides of the road.

McGill:

State your name for the record.

Richmond:

What's your name?

Sadberry:

Oh. David Sadberry.

The Sadberrys own both sides of the road. The road is only 15 to 17 ft. wide and this is a very unstable road for heavy

equipment to be going through.

Dixon:

Has heavy equipment ever gone up and down that road?

Sadberry:

No, sir. No, sir. No, sir. Not until they started about 3 weeks ago. I mean, they are tearing the road up as it is now.

McGill:

Your name is Sadberry and it is a private road?

Sadberry:

It's a private road. On the last 1500 ft., it is a privately owned road. It is roughly 1500 to 1700 ft. Mr. Ballister measured it. He measured it 1700 and I measured it at 1516. So, this is a very unstable road plus all, like Mr. Ballister said, all the houses are really close to the road and this would be a very unsafe way for sand trucks to be running.

McGill:

Do you know of an alternative road that could be used?

Sadberry:

Sir?

McGill:

Do you know of an alternate road that could be used?

Sadberry:

Yes, sir. I talked to Jimmie Crowder about a month ago and he said he would be more than willing to work something out with them. To give them an easement across his land or to sell them an easement across his land. You are only looking at about under 1,000 ft. that he would have to sell them. He said that he would be more than willing because there is roughly 20 small children under the age of 10 that is on this little residential section of road. It would be very unsafe. In other words, they would be a life lost if these trucks are allowed to go through there.

Dixon:

Mr. Chairman.

McGill:

Yes.

Dixon:

If I am in order, why don't we give Bruce the opportunity to go and work this thing out and in 2 weeks bring it back before this Board?

Richmond:

Will 2 weeks be sufficient or do you think 4?

Gardner:

Two weeks.

Roberson:

But, in the mean time, are they going to be allowed to use the road?

Sadberry:

No, I don't think they should be allowed to come back.

Dixon:

This is a private road.

Richmond:

That is a separate issue.

Dixon:

Mr. Gardner wants to say something.

Gardner:

We want to prove to these people that we're good citizens and good neighbors. We are not going to use that road. We are not going to put any of those children in danger. We want to solve the problem. It may take 2 weeks or it may take 3 weeks. I think. I guess you have to continue an item to a date certain. Two weeks will be fine. If we get , if two weeks comes on us and we're getting close, we will just report to you where we are. But, in the mean time, we are not going to run trucks up and down there.

Dixon:

Thank you, Mr. Gardner.

McGill:

Let me raise this question with you. Since you are not able to negotiate easement with the Crowder Co. and the Sadberrys don't give you any easement, how will you get back to your

property?

Gardner:

I guess we'll fly it in and out. I don't know.

Laughter.

I don't know. I haven't gotten that far down the road to know. I think we can try to work it out.

McGill:

Those who came from the Sadberry Community, would 2 weeks be sufficient for you to come back or do you want more time than that?

Inaudible.

Unidentified
person:

If we can work it out in 2 weeks, we will. If not we'll report.

McGill:

Sounds good. Is that o.k. with you, Mr. Gardner?

Ballister:

I believe that will be April 3.

McGill:

April 3rd.

Mr. Lawson.

8. BID PROTEST - FILED BY DON FLOWERS FROM L. B. SMITH, INC.

McGill:

Mr. Lawson.

Will somebody let me know if Dr. Furlow comes in?

Arthur

Lawson:

Mr. Chairman and members of the Board, on February 20, 2001, the Board awarded 12 pieces of heavy equipment to two vendors. 10 pieces were awarded to Ring Power and 2 pieces were awarded to Flint Equipment. 6 of those 12 pieces of equipment

were awarded at the last meeting are the nature of this bid protest. A representative of L. B. Smith, in their protest indicated that they were the low bid on 5 of the motor graders which were motor graders without slopers. And the hydraulic excavator.

Ring Power was awarded the 5 motor graders in question. The only issue with the 5 graders was an issue of a service contract. Once I got clarification and clarification was given to Mr. Presnell on the service contract, the service contract when it was calculated out, Ring Power was the clear low bidder on the graders. So, the only issue left here is the issue of the hydraulic excavator.

If you will note in your bid package, the L.C. Smith bid on the excavator, they took exception to that in their bid. Almost two-thirds down the page, where it says exception to bid specification, L. B. Smith took exceptions on the requirement for the heavy duty hand rail and the heavy duty cat walk that was required on both sides of the machine. Due to the fact that they indicated that they would not supply that part of what the bid required, then the next low bid meeting the specifications was Ring Power. Therefore, the bid committee recommended that the bid be awarded to the vendor who met the specifications as printed. And that is why the hydraulic excavator was awarded also to Ring Power.

So, as a result of them taking an exception, the bid, as is required by the County's procurement procedure, was awarded to the low bid which meets the specifications of the bid. The low bid met the specifications was Ring Power. Therefore, it is the County's position that the bid as awarded in accordance with the County's procurement policy, on February 20, that the bids be approved as they were awarded at that particular time.

Mr. Flowers from L. B. Smith is here to present his side of the protest.

That is our position.

Dixon:

I will reserve my questions until after we hear from Mr. Flowers.

McGill:

Mr. Flowers.

Flowers:

Thank you for your time.

McGill:

State your name for the record please.

Flowers:

My name is Don Flowers. I am general manager of L. B. Smith.

Our company is located in the ah, we are in Midway, Gadsden County 10/90 Industrial Park. We have been there for 2 weeks short of 2 years.

We operate in 12 states. We have 1300 employees. (Inaudible)

I appreciate Mr. Lawson's introduction. Unfortunately, I don't quite agree with it. But, that is neither here nor there.

In your package I just gave you is some brief information on our company locally and our company nationally. I want to back up just a little bit here.

There was a pre-bid meeting on February 1st. There were 4 bidders that went to that meeting. We were included. At the meeting, Robert Presnell indicated that he wanted a component included in the bid that would provide full service of all the equipment purchased, regardless of who sold it. In other words, you come out and change the oil, you change the filters on a regular schedule. It was clearly understood that was to be included in the total price of your equipment. We did that according to the addendum that was put out to the bid specs on February 2nd which said include a component in your price for servicing for the life of the contract.

The life of the contract is shown as item C in your attachments. The life of the contract is 7500 hours and 5 years use. Three of the bidders complied exactly to that request. We all included a price to service the machines, change the oil, put on new filters, see that the machine was running within its specifications. One of the bidders who Mr. Lawson already mentioned, chose their own version of calculating service repair cost. For example, on the motor graders that we were low bid on, at the time of the bid, they submitted a price of \$2.35 an hour to do the servicing. At the bid opening, they were asked "What's the \$2.35? Well,

\$2.35 per every hour that you use the machine. So, at the end of, let's say 4,000 hours of use, we would bill you for \$9,400. If you used it 5,000 hours, we would take that times \$2.35.

Everybody else put in a total price for 7500 hours. That is what we were told to do and that's what we did. Flint did that, Tallahassee New Holland did that, L.B. Smith did that. So, after the bids were opened, it was apparent that if you take \$2.35 times 7500 hours of use, which is the life of the contract, servicing 1 motor grader would be \$17,625.00. That is pretty steep.

In addition to that, they included service costs for each individual product that they also quoted. Those are attached as Item F. \$2.52 for a 4 yard wheel loader; \$1.61 for 2 yard wheel loader and right on down the line. After the bids were opened on February 9, on or about February 12th or 13th, the bidder went back to the County and said you misunderstood our quote. What we meant was that we would service all 7 motor graders for the \$17,625.00. Yet, if you will look at Item f, which is their explanation of the service costs, they are going to charge you \$18,900 to service one wheel loader. Course, they are going to charge you \$17,000 to service 7 motor graders. I really question who misunderstood what.

It is very clear to me that by coming back after the bid and adjusting their position, it will save the county \$105,750 which I think is a real windfall. I guess my comment about that would be that if you can save \$105,750 between breakfast and lunch, it might be something you want to look at.

Be that as it is, it doesn't meet the intention of the bid. But, that's the position that Mr. Lawson has said that they want to take. I would suggest that if you can drop that much money in the course of a day or so, in order to get your bid honored, the possibility exists in my mind, that you certainly may have been overcharged in the past.

So, we went from being low bid to being second bid, New Holland, Tallahassee New Holland, who was second bid was passed right over also.

So, at this point, we are down to talking about the excavator which we also were low bidder on. We were low by \$11,262.00.

We took an exception that we didn't have a catwalk on the

side of the machine. Subsequent to bid opening, Mr. McKinnon, Mr. Presnell and Mr. Lawson were invited to our office or shop. We had the exact machine in inventory that we quoted. They said it was necessary that a cat walk (I use that word in quotations) be provided.

I said "That's not a problem. We'll put it on there." To put a cat walk, it's going to cost our company about \$1500. So, if I put the catwalk on, I'm still \$10,000 lower than the recommended bidder. That, at the time they came down to our shop, was agreeable. That was certainly my understanding.

I am still a little bit surprised that we are still in this position. I can't see any reason that we still can't be awarded the excavator. We are a Gadsden County business. We are located in Midway. We have \$1.5 million investment in our property. We have a substantial inventory. We have mechanics and parts people and we would recommend that our excavator be purchased.

I know that there is no decision forthcoming tonight but you have up to seven days. I appreciate any questions you might have regarding the process. I certainly think that if our competitor was allowed to go back and alter his service price to the tune of \$105,750, I would certainly be allowed the opportunity to put a \$1500 catwalk on the side of my machine.

Which I said wasn't exactly necessary previously. But, if others have the right to go back, I can see no reason why Mr. McKinnon, Mr. Lawson and Mr. Presnell when they were at our shop, it was agreeable at that time. Now, it appears that possibly, that is not agreeable. If you have any question, I would be glad to answer them.

McGill:

Are there any questions for Mr. Flowers from the Commissioners?

Dixon:

I have a couple of questions for Mr. Lawson, Mr. Chairman.

Lawson:

Yes, sir.

Dixon:

Those were pretty hefty allegations.

Lawson:

Let me explain a couple of things. Mr. Flowers told you his position.

- 1) When we went to visit Mr. Flowers facility and he indicated to us and showed us the machine and indicated to us - unless I am mistaken, we didn't agree to anything. He said he could put the cat walk on the machine. Mr. McKinnon was there, Mr. Presnell was there. We didn't agree to anything. He said he could put the cat walk on the machine and we said "Well good."

The point is, if he could put the cat walk on the machine, why didn't he include that in the bid initially.

The second thing, he's insinuating that we allowed Ring Power to change their bid. We did not do that. Ring Power bid \$2.35 per hour of labor.

We asked them how was that \$2.35 going to be allocated based upon the machines. They gave us a written explanation. They did not change it. It is the same \$2.35. It is to the County's benefit as to the way the machines are going to be serviced. We will save a lot of money on the servicing of those machines. It is the same bid. They just gave us clarification and once they clarified the bid, they were obviously the low bidder. They did not change their bid. I want to make that perfectly clear.

We don't allow anybody to change their bid.

McGill:

Have you read Mr. Flowers letter?

Lawson:

Pardon?

McGill:

Mr. Flowers letter? What about Mr. Flower's letter?

Lawson:

What letter?

McGill:

The one he wrote to

McKinnon:

Yes, Arthur has seen the letter. The one he wrote to me about

Lawson:

Yes, I have seen that.

McKinnon:

It's in the package.

McGill:

He makes a strong accusation there on page two, first paragraph.

Lawson:

About Ring Power approaching the County? No, Ring Power did not approach the County. We called and asked Mr. Johnny Haire for an explanation about the \$2.35. How that was going to be allocated for the services for the graders. He provided us a written explanation of how the - which is exhibit C of what Mr. Flowers provided you - how the services were going to be broken down. Which is no problem.

Dixon:

He said something else that went a bit further. He said "It's unheard to charge that kind of money to service one of these pieces of equipment in the industry."

Flowers:

That's not exactly what I said.

Dixon:

I am sorry, I don't mean to take what you said out of context.

Lawson:

Well, we've got the gentleman here who is going to be saddled with the responsibility of servicing this machine.

We have had - Let me just indicate that we've had excellent service out of Ring Power.

Dixon:

I'm not worried about whether we are going to get service or not. I am concerned about the integrity of the process.

Lawson:

There is nothing, there was nothing wrong, there has not been anything wrong. The process was followed according to County Procurement Policy to the letter.

Dixon:

I got no problem with the County saving \$105,000.

Lawson:

So, I mean, the integrity of the County's Procurement Policy is in tact. There is no question about that. We did not allow anybody to change anything once the bids were in.

Dixon:

Now, I have less questioning concern about that particular piece and more about the fact that if we got a cat walk, I am going to pay \$10,000 for the fact that I don't have a cat walk. That's what you are telling me on the excavator.

Lawson:

No. What I am telling you on the excavator is that Mr. Flowers took exception to the bid. He did not bid the bid according to the specifications. He came back after the fact and said "I can put that cat walk on there."

Flowers:

But, you gave them (inaudible) after the fact.

Lawson:

No, in your bid, you took an exception. They did not take an exception in their bid.

Dixon:

But, aren't we spitting hairs?

Lawson:

We are not splitting hairs. I am going by what the policy says.

Dixon:

I understand that.

Lawson:

If you don't bid according to the set of specifications that have been issued, then it is not a valid bid.

Dixon:

From what I read, he didn't bid according to the specifications in the first one.

Lawson:

Yes, he did.

Dixon:

You asked him for the life of the contract. (Inaudible) You shouldn't have had to ask him for an explanation. You told him what you wanted.

Lawson:

We asked for

Dixon:

Per piece of equipment. He didn't give you that. You asked for an explanation of what it was that he sent you.

McGill:

I understood him to say that he asked for clarification. But nothing changed the bid.

Lawson:

We asked them to include a component to provide service for each machine for the life of the contract.

Dixon:

An operative word in that is "each."

Lawson:

An he bid.

Dixon:

And that is what you asked for clarification on. How he planned to do it. Right?

Lawson:

Right. But all of the motor graders, Mr. Dixon, if you will look at the bid packet, they were all bid on the same form. And his service on that form was \$2.35. So, if you've got seven graders on the same form, my question was "Well, how is this \$2.35 going to be allocated for the service?"

Dixon:

I think you are making my point for me.

Lawson:
Right.

Dixon:
My concern is, if we asked for clarification on that and it results in a savings of \$105,000, but, we don't ask for clarification on an excavator that could result in a \$10,000 savings.

Lawson:
I don't see where there was clarification to be asked for. He took an exception to the bid. He did not bid the specs. Now, if you want to go back and say "Because he did not bid the specs and he comes back after the fact; and if we are going to allow him to come back after the fact and say "Well, I didn't bid the specs, but, I can put this on." If that is your choice, then that is fine. But, I am saying that is not in keeping with the procurement policy.

Dixon:
Let me, and the procurement policy is thrown out the window every now and then, too, so - Let's not go down those lines. Are we paying \$86,000 for the excavator?

Lawson:
After the buy-back, the excavator will be \$86,020.00. Right.

Dixon:
When I could have gotten one for \$74,000 and put on the thing myself, if I wanted to.

Roberson:
May I ask a question on Mr. L. B. Smith? Mr. Flowers, I am sorry. I don't see where his maintenance is broken out. Is it included in the purchase price?

Lawson:
He included his in the purchase price. But, there is still, We don't know how much he is going to charge per machine to service the machine. It's just in the price.

Dixon:
But you asked for it in an inclusive and total price.

Lawson:
Well, he, what - Let me tell you this. He indicated that

everybody else included theirs in the price. If you're going to get technical about it, he included a total price for the machine. If we wanted to know what that machine was going to cost us for service, we couldn't tell.

Dixon:

Well, why would we care?

Lawson:

Well, that's what you are saying now. You are questioning the \$2.35.

Dixon:

But you asked for clarification, I didn't.

Lawson:

Yes, but the reason I asked for clarification is because that had to be added in.

Dixon:

Right.

Lawson:

If we are going to talk about service, and then we would know exactly how much it cost us to purchase and to service the machine.

Dixon:

Let me back up. Let me back up. What did you ask for in your bid?

Include a component to provide service on each machine for the life of the contract.

Lawson:

Right.

Dixon:

That is what you asked for. No more, no less.

Lawson:

Right. It is right there.

Dixon:

O.K. If I had gave you a total number, and said this is my bid, and it's the low bid, why do you care how I am going to break it out?

Lawson:

It depends on whether or not the department wants to know what it is going to cost to service that machine.

Dixon:

You can ask for that in a bid if that is what you want. But, you didn't want that.

Lawson:

We asked for a service component. Everybody bid a separate service component except for L. B. Smith. They included theirs. I mean, any way, you can beat it up one side or beat it down the other.

Dixon:

No. No. I think there is some clear - there is a clear problem here to me.

And I don't know why I am going to get very technical and it saves me \$105,000. But I am not going to get technical and it cost me \$10,000. I mean that

Lawson:

I don't understand what you are saying.

Dixon:

What I am saying is, I always thought, even when we asked for things that are bid, one thing I understand is this Board's right to not give or to give to someone else, the bid. That is a \$10,000 swing for a \$1500 piece of equipment.

Now I do not know of any business in the world that would eat \$10,000 for what turns out to be a minor, almost insignificant part of a contract.

Lawson:

Mr. Dixon, I am charged with following the policies and procedures that are established for me to follow. Now, if you want to do something different, that is why it is here before this Board. I followed the procedures.

Dixon:

Thank you, Mr. Lawson.

Mr. Chairman, I am through.

McGill:

Any questions of Mr. Lawson?

Any questions of Mr. Smith? I am sorry, Mr. Flowers?

Flowers:

Regarding the cat walk, what they are describing as a cat walk is not a cat walk. It is a bumper on each side of the machine so that when the machine swings, if you happen to hit a tree, you will not damage the super structure on the machine. That is normally called a rub rail. What they have on their current machine is a rub rail which you are able to walk on. It's got a surface on it that if your feet are small enough, you can stand on it. In the definition of cat walk, what they asked for is not a cat walk.

I am sorry that this issue has come to what it has. Obviously, there is disagreement between Mr. Lawson and myself. I didn't know it was quite as serious as it is. I apologize to Mr. Lawson if I have created any undue stress for him. But we certainly feel like when we took an exception to the word cat walk that we certainly knew the definition of what a cat walk is. What you are asking for is a rub rail that you happen to be able to stand on which is not a problem. As a result, we would still ask the commission that we be awarded, as the low bidder, the 53,500 pound excavator. I thank you for your time.

McGill:

Is there anybody here from Ring Power here?

Yes, sir, Mr. Haire.

Johnny Haire:

I am Johnny Haire and I represent Ring Power. I guess I should start off with the excavator to address what cat walks are. Cat walks are not named from Caterpillar, they are named because cats used to use them for cat walks. And, they are for a number of reasons. We do have them on our machines. Most everybody can put them on there.

I think at issue here is the fact that this was discussed in pre-bid what we wanted to do about cat walks. What Mr. Presnell wanted and what the bidders were supposed to do. I think it was agreed upon that we were all to quote cat walks.

And for whatever reason, he wrote an exception in there. That is his prerogative. I am not low on the excavator, but if you do take the exception to the cat walks, then certainly, I am the next low bidder.

To explain the motor grader situation, we did bid seven motor grader on one bid sheet. Our bids says CSA for \$2.35 an hour.

CSA is a customer service agreement which is a service agreement - service, change oil and all that. All it says is \$2.35 an hour. And in preparing the bids, which I don't prepare them, they are prepared in our home office. They are signed by our general sales manager and vice-president of our company. When we quoted the bid, we had different prices for different machines. Now, the seven motor graders were on one page as I stated. Mr. Presnell asked for clarification about the \$2.35 an hour. We went after this bid really hard because it is a lot of machines just on this one page alone. So, we got special pricing to do the CSA - the maintenance agreements at a special price. So, 7500 hours time \$2.35 is \$17,625 for all 7 machines. So, that makes us the apparent low bidder. Do ya'll have any questions?

McGill:

Mr. Haire, what do you say about the statement that Mr. Flowers said that "It is apparent (inaudible) was made by our competitor (meaning you, I guess) after the fact."

Haire:

I don't know what he means about "after the fact." It is plainly written on the bid here that it doesn't say for one machine or seven machines. When they asked for clarification, our general sales manager and vice-president wrote them a letter outlining the clarification that it is for all seven machines for 7500 hours.

McGill:

Any more questions?

Thank you, Mr. Haire.

Haire:

Thank you.

McGill:

I guess now it is time for the Commission to decide on whether we will stay with the bid as previously voted or change the

motion and award the bid to somebody else. It is up to the County Commission.

Dixon:

Mr. Chairman.

McGill:

Yes, Commissioner.

Dixon:

Who are you recognizing?

McGill:

I was recognizing you.

Dixon:

Oh, o.k. I don't like it. I don't like it at all. I don't have a problem awarding everything Mr. Lawson has brought before us to our respective low bidders. **But, I do feel , not that it is right for L. B. Smith or anything like that. But, gee, that is \$10,000 it will save the County. And that we should give the low bidder on the excavator to L. B. Smith.**

That is my motion.

McGill:

Do I have a second?

Is there a second to the motion?

It dies for lack of a second.

Watson:

I would like to move for approval of the bid as awarded on February 20th but I would say that, Mr. Flowers, is he still here? We are tickled that you are in Gadsden County. We appreciate you being here. I just can't agree with you tonight.

Roberson:

I second it.

McGill:

We have a motion and second to remain stay the bid we did on

February 20th. I guess that is the motion.

Watson:
That's it.

McGill:
Any questions or discussion on the motion?

No response.

Hearing none, all in favor, say "aye".

Waston, Roberson, McGill: Aye

McGill:
Opposes?

Dixon:
No.

McGill:
Three to one.

We want to thank Mr. Flowers, Mr. Haire and Mr. Lawson.

9. COUNTY MANAGERS AGENDA

Erma Jean Lurry - Dangerous Building Abatement

Mr. McKinnon reported that Ms. Erma Jean Lurry was making progress on the abatement of the dangerous building which she owns on Conyers St. in Havana. He recommended that the County give her additional time to continue working on the property. He said he will stay abreast of the abatement and report back to the Board as necessary.

10. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Engineering Services Contract with Preble-Rish Engineers, Inc.
- 2) Financing Proposal for 2 Mack 2001 Dump Trucks with Quincy State Bank
- 3) Lanier Recorder Contract

- 4) Resolution to CHP Supporting Addition of Gadsden Community Hospital and Local Physicians as Service Providers
- 5) Statewide Emergency Management Mutual Aid Agreement
- 6) Amended Interlocal Agreement with Town of Greensboro - Pumper Truck Purchase
- 7) Interlocal Agreements with City of Chattahoochee and City of Gretna - SHIP Funds for CDBG
- 8) Satisfaction of Housing Rehabilitation Leins for: Gracie Woodard; Joylyn P. Salters; Albert and Frances Reed; Elnora Dantley; Mary Lee Jackson; Annie Bivins; Larry and Idella Kirkland; Laurenny Hawkins; Kate Henry; Willie Taylor; Rosa Sweet; Celia Brown; Meady and Frances Davis; Patricia Johnson; Florine Thomas; Mary Johnson; and Searl Louis and Ethel Mims
- 9) Gadsden Emergency Medical Services County Award Grant Funds
- 10) Gulf Coast Community College Student Agreement

11. INFORMATION CONSENT AGENDA

- 1) Letter to TCC - Electronic Billboard Sign at Pat Thomas Law Enforcement Academy
- 2) Grant Adjustment Notice - Gadsden County Sheriff's Narcotics Unit Grant 01-CJ-J1-02-30-01-175
- 3) Gadsden County Sheriff's Narcotics Grant 00-CJ-D8-02-30-01-01-164 -Notice of Active Administration Conclusion
- 4) Chamber of Commerce - February 2001 Report

12. CLERK'S AGENDA

Budget Amendments 2001-03-20-01 through 2001-03-20-06

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4- 0, BY VOICE VOTE, TO APPROVE THE ABOVE MENTIONED BUDGET AMENDMENTS.

Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

NORTH FLORIDA MEDICAL CENTER

This matter was passed until the next meeting.

13. COMMISSIONERS REPORTS

District 2 Report

Commissioner Watson made no report.

District 3 Report

Commissioner Roberson made no report.

District 5 Report

Commissioner Dixon recognized Dr. Holleyman who was in attendance. He welcomed her back to Gadsden County. (Dr. Holleyman was a high school class mate of Commissioner Dixon.)

District 1 Report

Vice-chair McGill called for the Commissioners to make their appointments to the Recreation Committee known to the County Manager.

**THERE BEING NO OTHER BUSINESS BEFORE THE BOARD VICE-CHAIR
MCGILL DECLARED THE MEETING ADJOURNED.**

W. A. (BILL) MCGILL, VICE-CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON APRIL 3, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Commissioner Roberson led in pledging allegiance to the U.S. Flag and Commissioner Dixon led in a prayer.

2. APPROVAL OF THE AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS PRESENTED.

3. APPROVAL OF MINUTES - MARCH 20, 2001 - Regular Meeting

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

Mr. Richmond introduced his new associate, Grant Dearborn. He then reported that he and Mr. McKinnon have scheduled a tentative meeting with Tallahassee Community College (TCC) regarding their entrance sign. He said that he should have a formal written report by the next meeting.

5. BIG BEND JOBS AND EDUCATION WORKFORCE AGREEMENTS

Local Elected Officials/Jobs and Education Partnership
Regional Board Agreement (Amended 2/21/01)
Interlocal Agreement - Affirming the Region 5 Workforce

Development Consortium (Amended 2/21/01)

Mr. Robert Barkley addressed the Board with the above mentioned agreements. He stated that they are the renewal agreements. He pointed out that the major change from previous years is that the Workforce Board is now the fiscal agent and administrator for the program instead of Tallahassee Community College.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED AGREEMENTS.

Commissioner McGill called attention to an error on page 9. The Chairpersons listed for Gadsden County and Leon County were incorrect. They should be changed to E.H. Fletcher for Gadsden County and Dan Winchester for Leon County.

Commissioner Dixon asked former Wakulla County Commission Pope what benefits Gadsden County has received in proportion to the area of the Big Bend in which they operate.

Mr. Pope answered that Gadsden County has received about \$3 million of the \$7 million for Gadsden, Leon and Wakulla Counties. He also said that the Council intends to increase that amount in the next year.

7. STATE EMPLOYEE ISSUES IN LEGISLATURE - RESOLUTION

Mr. Richard Myrick addressed the Board on behalf of the AFSCME Union. He stated that the purpose in coming before the Board was to request that the Commission adopt a resolution to send to Governor Jeb Bush objecting to his proposals to reduce the state workforce by 25% in five years. He said that Gadsden County will be adversely affected by the elimination of 722 jobs and \$29 million in payroll. He said that the Governor's proposal will be especially devastating to Gadsden County which is striving so hard to overcome poverty through its search for more economic development and quality of life improvements.

A MOTION WAS MADE BY COMMISSIONER ROBERSON AND SECONDED BY COMMISSIONER DIXON TO ADOPT A RESOLUTION AS DESCRIBED ABOVE.

Commissioner Dixon stated that he is particularly bewildered by the Governor's Plan. He said that being one member of the minority, he understands what "at will" generally means. He said

that the minority employees are usually the first "out the door" and it doesn't have anything to do with job performance or the quality of work. He summarized his remarks by saying that the governor's plan was "ludicrous."

Commissioner McGill asked how many other counties will be contacted regarding such a resolution.

Mr. Myrick stated that they would be going throughout the state requesting supporting resolutions.

Commissioner McGill asked if there is sufficient time left during this legislative session to make an impact.

Mr. Myrick replied "We believe so. Frankly, what we are really trying to do is to present it to the Senate because we have given up on the Governor. We just had today, the Governor had put many of his legislative proposals into his bargaining proposals that we were negotiating in the state contract. We brought it to an impasse. Then they brought in an impartial special master. The special master just came out today and said that he thought the governor's proposals would reek havoc and destroy the integrity of state government as we knew it."

THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE MOTION TO ADOPT A RESOLUTION TO SEND TO GOVERNOR BUSH AS DESCRIBED ABOVE.

7. RON DOYLE - JUVENILE JUSTICE (DJJ) TRAINING ACADEMY DIRECTOR

Mr. Ron Doyle addressed the Board. He stated that the Juvenile Justice Training Academy has been housed on the third floor of the W A Woodham Justice Center providing training for Juvenile Justice workers throughout North Florida. He went on to say that as of June 30, the training will be provided by the Pat Thomas Law Enforcement Academy.

Mr. Doyle stated that DJJ is caught in a funding dispute between DJJ and TCC with the result that \$25,000 of his budget has been withdrawn. That shortfall has left him in a funding crisis that will prevent them from completing their mission to provide training through the end of June and their employees will be put out of work prematurely.

Mr. Doyle asked the Board to allow DJJ to remain in the building through June 30 and forgive the rent for the last three months. With that concession, he said that they could complete the

year in an orderly fashion.

Commissioner Watson asked Mr. Doyle to be more specific on the funding dispute.

Mr. Doyle replied "To make it as simple as possible, basically, we were instructed by the Department of Juvenile Justice to count on unexpended funds from last year's contract in order to complete this year's budget and assured us that those funds would be available to us. Now, the college which administers our program, initially permitted us to make our budget based on that funding, but, now they are telling us that those funds do not belong to us and are not available to us. So, we've got two agencies here disputing who those funds belong to but in the mean time they have been withdrawn from us and we have no recourse."

Commissioner Watson then asked him what would happen if they should wind up with the money.

Mr. Doyle said that they would complete their year and any money that was left after that would be returned to the college.

Commissioner McGill asked "If they grant your request and you do get the money later on, don't you think you ought to come back to us and give it back to us?"

Mr. Doyle replied "If we get the money later on, we would certainly come back and pay the rent."

Commissioner Watson asked Mr. Doyle when he would know.

Mr. Doyle replied "What we are told right now is that the money is not available. That is the last word we have been given and we have appealed that decision and been denied the appeal."

Commissioner Dixon asked "First, why is that our concern and secondly, what happens if you don't get the money? If you don't get this forgiveness that you have asked for?"

Mr. Doyle answered "If we don't get the forgiveness that we are asking for, basically, we will close at the beginning of June instead of the end of it. We will have to cancel that training. As far as how it will affect you, certainly, there is no cost benefit for you. You are not going to get that money returned by having us stay open. It would mean that those six weeks of training that would be cancelled, those people would not be coming

here spending money. Obviously, it is not going to make up the \$10,000 in rent that we would have paid. I guess what we are asking is that the 12 years of good will that we have established in this community be counted on for something and that you allow us to finish our run in dignity."

It was determined that the rent money was budgeted in Gadsden County's general fund revenue and it is used toward the maintenance of the building.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 1, TO FORGIVE THE RENT FOR JUVENILE JUSTICE ACADEMY THROUGH THE END OF THEIR FISCAL YEAR. COMMISSIONER DIXON CAST THE LONE DISSENTING VOTE.

8. INDUSTRIAL DEVELOPMENT AUTHORITY - TAX ISSUES

Mrs. Sherry VanLandingham addressed the Board. She stated that as the Director of the Chamber of Commerce, she has experienced some major issues that have come up when dealing with new industries that would like to move to Gadsden County. She said that one of the companies she is presently working with is a service zone center. (That is a center that would receive phone calls for technical questions about computers.) They have asked for free land, tax abatement and a local airport that would land a small jet.

Mrs. VanLandingham said that the company would employ 300 people in the first year and by the end of the fourth year, they would employ 800 people.

She went on to say that Enterprise Florida have some incentives to offer them but there remains the tax abatement issue to overcome.

She then told of another company which is looking for a large tract of land on which to place a warehouse distribution center. She said they are talking to St. Joe Company at this time about the land needs. That company will employ 500 people. However, she said that the only way Gadsden County can land this company is with a tax abatement.

Mrs. VanLandingham went on to say that, in working with Enterprise Florida and Opportunity Florida, the Industrial Development Authority has accomplished some research into how to offer an incentive through a local ordinance. She gave each

commissioner a sample ordinance and asked the Board set a workshop to explore the possibilities.

A workshop was scheduled for Monday, April 9, 2001 at 5:00 p.m.

New Shopping Center in Quincy

Mrs. VanLandingham asked that she be allowed to go over one additional matter which was not on the agenda. She said that it has to do with the new McDaniels Shopping Center that will go out on West US 90 across from Stone's. She said that the land has already been purchased and it will come about within 2 years. She said there will be a transportation grant through Enterprise Florida that will be utilized for the project's infrastructure. She said there would have to be 3 turning lanes associated with the project. Two of them will have to be designed to meet FDOT specifications due to being located off US 90. The grants for this infrastructure must be submitted by the end of April. The grant would have to go through the County because the right of way belongs to the County.

David H. Melvin, Inc. will be the engineer for the project. Evan McAlister of McDaniels was present in the audience.

Mr. Richmond advised that the Board could take no action on this matter because it had not been on the agenda.

The consensus of the Board was to place it on the agenda for the next meeting.

Mr. McKinnon said that it would be a grant that would flow through the County similar to the one at the Gadsden 10/90 Park.

9. GROWTH MANAGEMENT DIRECTOR - PLANNING AND ZONING ISSUESB

9.1 Winters Veterinary Clinic - Waiver

Growth Management Director Bruce Ballister addressed the Board. He said that the Winters Veterinary Clinic is a new construction on US 27 just north of the bridge. He said that it is a beautiful site and the property was developed in conformance with the Corridor Landscaping Ordinance. However, he went on to say that when he made his final inspection of the site, he noticed that the required connection to Talquin water was not installed. Instead, a water well was installed. He said that this is a

Comprehensive Plan violation and not a Building Code violation. Therefore, the applicant has requested a waiver from the requirement that all developments within a quarter mile of an existing water system connect to it as opposed to having their own wells constructed.

Mr. Ballister explained that the Water Management District has no connection with Gadsden County whenever they write a permit for a well so it was permitted and installed before the County knew it.

The Final Site Plan for the clinic was approved in November of 2000 with a connection shown to an 8" PVC water main on the opposite side of US 27. (See attachment)

Mr. Ballister recommended that the Board deny the waiver request and require the Talquin connection to be made as was shown on the final site plans. He then stated that the applicant's representative was present in the audience for questions.

A MOTION WAS MADE BY COMMISSIONER WATSON TO FOLLOW THE STAFF'S RECOMMENDATION. COMMISSIONER ROBERSON SECONDED THE MOTION. CHAIR FLETCHER CALLED FOR DISCUSSION FROM THE BOARD.

Commissioner McGill referenced Item No. 3 in the attached memorandum: "the well in this location is in violation of the development order and the comp plan." He asked for an explanation.

Mr. Ballister replied that the "well house" was located in the set-back area and is a minor violation. However, the fact that it (the well house) exists is a Comp Plan violation.

CHAIR FLETCHER CALLED FOR A VOTE. THE BOARD VOTED 5 - 0, BY VOICE VOTE, IN FAVOR OF THE MOTION TO DENY THE WAIVER REQUEST.

Mr. Dallas Lambert, general contractor for the project, asked to speak. He said "When we took out our permits and turned in our plans, we did show a Talquin hook-up. We are on the east side of US 27. The water line for Talquin is on the west side. Through my ignorance, I did not realize that there was a, I assume in your comp plan, that if you were within a quarter mile of the water line that you had to hook up to it. We did inquire with Talquin about how much it would cost for us to hook up to their water line. As a contractor and as representing the owner, we had a budget that we had to or try to maintain. To run the water from the west side to the east side, where we were going to run them, including the water line and the meter, it was going to run about \$9,000. O.K. That

is for a 3/4" water meter. It was going to run us \$9,000 to get water. O.K.

I made the decision, through ignorance, O.K., that ya'll had a comp plan that said that you had to be hooked up to water that was within a quarter of a mile. We made the decision to put the well in. We permitted the well. We also during that time called the County, called the Health Department to find out if there were any set-backs that we had to meet for the well. We originally were going to put the well in the middle of the property. Due to the septic tank system we had to put in and the type of well we had to put in, we had to go from a 75 ft. set-back to a 200 ft. set-back which put the well in the 50 ft. buffer.

We put the well in. The well cost us \$3,400 which is quite a bit of difference between \$9,000. I find it, well, I would like to ask you - I know you have already voted, but, that is the reason we did it. It was a dollar we tried, you know, there is a whole stretch of property in there that is going to be built up. All right. There is no rebate from Talquin. If I spend \$9,000 or the owner spends \$9,000 to run a line across under 27, we get no rebates and nothing back from Talquin. We have spent that money and then everybody else that is along side the road, has a right to come in and hook up to that line.

It was strictly done for budget reasons. It was not to circumvent the County. Any money that would come to the County, we felt like it was a justifiable reason to put the well in. Everybody that's along the east side, as far as I know, or in that area, that specific area, is on well. Like I said, we did not do it to circumvent the County. We did it through ignorance and trying to save some money for our client. I would ask you to re-consider requiring us to hook up to the water at this time. If the Talquin or a larger land owner comes in and hooks up to water, I think, you know, that we would definitely look at, he would definitely look at hooking up to the water. But, at this time, it's makes it very difficult if you've got to spend more than \$6,000 more than what you have budgeted to run water to your single site that will later on take care of all the sites on that side of the road. Like I said, I would like for you to reconsider. Thank you."

Further discussion followed. The chair called for a motion to re-consider. There was no response.

9.2 Tallahassee Redi-Mix Rail Road Siding

Mr. Ballister told the Commission that Anderson Materials d/b/a Tallahassee Redi-Mix is located in the Development of Regional Impact (DRI) near the Gadsden 10/90 Industrial Park. The business is a concrete batch facility. He explained that they can substantially reduce their overhead by having raw materials delivered to them in bulk by rail car. Therefore, the owners are seeking to construct a railroad siding on the CSX Railroad main line on the property. President Jim Maples and their attorney, Nancy Linnan, were both present and answered questions from the Board.

Mr. Ballister then stated that the Department of Community Affairs (DCA) determined that the addition to the DRI proposal for the proposed siding access to the CSX line does not rise to the level of Substantial Deviation per Section 380(19),a, F.S.

Mr. Ballister pointed out that this matter was not heard by the Planning and Zoning Commission because the applicant asked that the P & Z hearing be waived due to construction time constraints. That request was granted by Chair Fletcher.

He then went on to say that the application is considered an infrastructure improvement. Infrastructure improvements are allowed in all land use zones in the County. The siding will be for private use and access will only be afforded to the property in question. The siding (as designed) will not block traffic at the road crossing of Brickyard Road although there may be minor delays due to slower train speeds for deliveries and departures from the siding on the western end.

Since the siding was not a part of the original DRI, it requires a Class II review by the Board of County Commissioners.

The staff recommended approval.

Mr. Maples addressed the Board. He stated that the company will be utilizing private trains that will make deliveries about once a week. The trains will originate in northern Georgia and will only come when a shipment is requested. He said that he does not schedule the deliveries and he would have no way of knowing a delivery time in advance. However, he emphasized that they will simply drop off the loaded cars then return (without cars) to pick up the empty cars. They will not be making drops and pick-ups at the same time. He stated that he did not anticipate blocked traffic on the streets resulting from the deliveries and pick-ups.

The engineer stated that the spurs are 3,000 ft. long each. The train will never be any longer than the spur itself. So, the train will never stick out onto the track from the spur. She also said that there will not be any blockage of Brickyard Road. She pointed to the two spurs on the attached map. The two spurs have the capacity to hold 50 cars. The train will never drop off more than 50 cars. The engine will pull off onto the spur to unload. From the end of the spur to the railroad crossing at Brickyard Road it measures 4,000 ft.

Some discussion followed as to some type conditional approval that would allow the County to intervene in some way in the event that travelers on Brickyard Road are impacted by lengthy delays due to the dropping off and picking up of the rail cars.

Ms. Linnan made the representation for the record that they would agree not to block the intersection at Brickyard Road for more than 10 minutes at a time.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, TO APPROVE THE SIDE RAIL CONSTRUCTION SUBJECT TO A SPECIAL CONDITION THAT TALLAHASSEE REDI-MIX WILL NOT ALLOW THE CROSSING AT BRICKYARD ROAD TO BE BLOCKED FOR MORE THAN 10 MINUTES BETWEEN 7 - 8 A.M. AND 5 - 6 P.M.

9.3 P & Z Commission Nominations

Mr. Ballister reminded the Board that he needs for them to nominate new members to the P & Z Commission.

9.4 US 90 Corridor Charette

The design charette for the US 90 Corridor will convene on Thursday April 12 at 3:00 at the Northwest Florida Water Management District.

Bert Ridge Subdivision

Commissioner Watson asked about the Bert Ridge Subdivision Replat that was on the Consent Agenda.

Mr. Ballister answered that it was approved as a minor subdivision with a condition that it be formally platted. It is on the consent agenda for signatures on the plat.

10. COUNTY MANAGER'S AGENDA

10.1 Disaster Recovery Services Agreement

The Grubbs Emergency Services is a contractual services company which provides debris removal and damage assessment to many counties throughout the country. This is accomplished through a standby contract which, until activated, is of no cost to the County. Due to their close working relationship with FEMA, their expertise is a great benefit during and after an emergency.

The Division of Emergency Management recommended the execution of the attached agreement with Grubbs.

Mr. Don Madio and Mr. Cecil Whitlock of Grubbs Construction were present. Mr. Madio addressed the Board giving an overview of what the services would entail. Those services are described in the attached documentation.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE DISASTER RECOVERY SERVICES AGREEMENT WITH GRUBBS EMERGENCY SERVICES.

10.2 Award of Contract for Renovation of Old Barnett Bank Building

Mr. McKinnon called attention to the recommendation from Lee and Bridges Architectural Firm to award the bid for the renovation of the old Barnett Bank Building to Southern Triad from Bainbridge, Ga. For \$507,000. Bill Bridges was present for questions.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AWARD THE BID FOR THE ABOVE DESCRIBED PROJECT TO SOUTHERN TRIAD FOR \$507,000.

10.3 Furnishings for Renovated Circuit Court Courtroom

Mr. McKinnon explained that the grant money for the courtroom renovation is not sufficient to furnish it. He asked for an additional \$17,000 to purchase the furnishings. He also asked that it be funded from the general fund contingency.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE \$17,000 FOR COURTROOM FURNISHINGS AND TO TAKE THE MONEY FROM

THE GENERAL FUND CONTINGENCY.

10.4 Security Devices for Renovated Circuit Court Space and Courthouse

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE \$63,500 FOR SECURITY CAMERAS AND MONITORING DEVICES FOR THE RENOVATED CIRCUIT COURT AND FOR THE COURTHOUSE.

10.5 State Road Assistance Grants

There was a consensus that the Board would like for Robert Presnell to make a recommendation for which roads should be submitted for the grant application.

10.6 Florida Fish and Wildlife Conservation Commission Public Hearing Notice

Mr. McKinnon announced that the Florida Fish and Wildlife Conservation Commission will conduct a public hearing in coordination with the Joe Budd Wildlife Management Area Advisory Group on Thursday, April 12, 2001 at 7:00 p.m. The purpose of the meeting will be to present to the public management priorities and intent for the Joe Budd Wildlife Management Area located south of Quincy in Gadsden County. The meeting will be held at the Edward J. Butler Building in the Gadsden County Governmental Complex at 9 East Jefferson St., Room 101. They will be presenting the 5-year plan at that meeting. He then asked to be appointed to the committee.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE APPOINTMENT OF THE COUNTY MANAGER TO THE JOE BUDD WILDLIFE MANAGEMENT AREA ADVISORY GROUP.

11. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) FDOT County Incentive Grant Program Agreements Resolution 2001-004 - 2001-007; Financial Project 41040115401; Howell Road - resurfacing Howell Road from SR 10 (US90)

- to Shadefarm Road; Bear Creek Road - paving Bear Creek Road from CR 65B to CR 65C; Brickyard Road - resurfacing Brickyard Road from CR 268 to R/R tracks; County Road 65C McCall Bridge Road - construction on Road 65C McCall Bridge Road from SR 267 to the end of the pavement.
- 2) Re-plat of a portion of Burt Ridge East by Steve Glawson
 - 3) Ambulance Remounts Bid # 01-008 - 2 ambulances. Award to Peach State Sales & Service in the amount of \$87,960.00
 - 4) Award of Bid for Kennels for the Animal Shelter to Decatur Fence Company of Bainbridge, Ga for \$13,350.00.
 - 5) 2002 Federal Drug Control and System Improvement Program (Edward Byrne) - Certification of Participation
 - 6) Approval of E 911 road naming of Perkins Drive - SW off Cable Road, South off Kemp Road
 - 7) Contract for Rehabilitation Work for Inez Manual by Edward Clark Construction Support S.E.

12. CLERK'S AGENDA

12.1 Purchase of County Property

Clerk Thomas informed the Board of a request from Ms. Estelle Forehand to purchase a county-owned lot which is adjacent to her in the Hillside Subdivision. It was acquired by the County for non-payment of taxes in 1999 after it was on the List of Lands Available for Taxes for 3 years.

He reported that before a direct sale can be made to Ms. Forehand, the other adjacent property owners must be notified by certified mail of the sale and be given an opportunity to respond. He then asked for authorization to proceed with the direct/private sale pursuant to the Florida Statutes.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, TO AUTHORIZE THE CLERK TO PROCEED WITH THE PRIVATE SALE OF THE DESCRIBED LOT TO MS. ESTELLE FOREHAND.

12.2 Budget Amendments 2001-04-03-01 through 2001-04-03-04

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE NAMED BUDGET AMENDMENTS.

12.3 Ratification of the Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

13. COMMISSIONERS REPORT

District 1 Report

Legislative Funding Issues

Commissioner McGill stated that he attended the Legislature for several days and in doing so he spoke with Representative Richardson. He said he obtained a copy of the 2000 Projected Community Projects Funding List. He said that there were three items on the list pertaining to Gadsden County. One was for Chattahoochee Waste Water treatment facility for \$250,000; one with Redeemed, Inc. dealing with the criminal justice system for \$50,000; the other was for the Havana Library building project - \$400,000. He said that he contacted the legislative delegation and requested that they move forward on those issues. He then asked the other board members to contact the legislative delegation and push for that funding.

Recreation Committee

Commissioner McGill then reported that he met with people with Rural Development to see if they knew of any funds that could be utilized for recreation. He was told there was some funding available. He then urged the commissioners to make their appointments to the Recreation Committee so they could get started in the efforts to enhance recreation in the County.

Conflict Attorney Committee

Commissioner McGill stated that he and Mr. Richmond had been meeting with the Conflict Attorney Committee for more than a year. He said that in that time, the amount that can be charged for those conflict services have changed back and forth. However, he thought they might bring the matter to some resolution in the next couple of months.

Districts 2, 3, 4, 5

Commissioners Watson, Roberson, Fletcher and Dixon had no reports.

ADJOURNMENT

Gadsden County Board of County Commissioners
April 3, 2001 Regular Meeting

THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, CHAIR
FLETCHER ADJOURNED THE MEETING.

E. H. (Hentz) Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

AT A JOINT WORKSHOP OF THE BOARD OF
COUNTY COMMISSIONERS, THE PLANNING
AND ZONING COMMISSION AND THE SIGN
ORDINANCE COMMITTEE, HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON APRIL 3,
2001, THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. FLETCHER, BOARD OF COUNTY COMMISSION (BCC) CHAIR
W. A. (BILL) MCGILL, BCC
STERLING L. WATSON, BCC
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

JOHN YERKES, PLANNING AND ZONING COMMISSIONER (P & Z)
BRUCE BALLISTER, GROWTH MANAGEMENT DIRECTOR
CARLY HARE, PLANNER

JOHN YERKES, SIGN ORDINANCE COMMITTEE MEMBER
RICHARD THOMPSON, SIGN ORDINANCE COMMITTEE MEMBER
MARION LASLIE, SIGN ORDINANCE COMMITTEE MEMBER
CURTIS MOTT, SIGN ORDINANCE COMMITTEE MEMBER
MICHAEL DORIAN, SIGN ORDINANCE COMMITTEE MEMBER

CALL TO ORDER

Chair Fletcher called the meeting to order stating for the record that the purpose of the meeting was to review and recommend changes to the proposed Sign Ordinance. He then turned the meeting over to Growth Management Director Bruce Ballister.

The changes that were recommended as a result of this workshop are noted in the attachment.

No action was taken but Mr. Ballister was given direction to set the ordinance for a public hearing.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A SPECIAL MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON APRIL 9, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
CAROLYN ROBERSON
STERLING L. WATSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: EDWARD J. DIXON

CALL TO ORDER

Chair Fletcher called the meeting to order stating that the purpose of the meeting was to discuss economic development and the possibility of granting a tax abatement to incoming business. He then turned the meeting over to Ms. Sherry VanLandinham, Executive Director of the Gadsden/Quincy Chamber of Commerce.

Ms. VanLandinham stated that she wanted the County to consider some kind of an incentive to offer new businesses that are considering coming into the County but are asking for a tax abatement. She said that, because the County does not have a tax abatement, it needs to be more aggressive in the efforts to entice companies that are looking to locate here. She stated that Gadsden County is losing some businesses to Georgia and Alabama counties who have tax abatements in addition to giving land to them.

Ms. VanLandinham then reported that, if the County could be successful in getting the call center to locate here, it would bring 300 full time jobs with an annual payroll of \$973,000 which would bring approximately \$93,000 in additional household spending to the County.

As to the prospective distribution center, the indirect benefits would be \$7,469,292 with 500 jobs and an additional \$143,000 to the county in household spending.

Ms. VanLandinham then spoke about a new shopping center that would bring 50 full time jobs and \$550,000 annual income.

Mr. Larry Arrington stated that the Board was being asked to consider doing the following things:

- 1) approve the concept of a job based economic development incentive fund;
- 2) create an economic development fund (part of the general fund but within the general fund);
- 3) appoint a committee that would develop policies and procedures to administer the program.

He explained that these things can be done either by moving toward the adoption of the ordinance or just giving a general consent that you want to move forward by appointing an advisory committee.

Most counties that are competitive with economic development are doing creative things to distinguish themselves. A job based incentive program is one such tool. It is not a panacea.

A job based incentive program is a way to reward companies, businesses who either locate here or expand here by essentially giving them a cash incentive that is linked to indices that create a level playing field for everyone. It is a cash incentive program. Several counties around the state have these in place. Many don't, probably most don't. But, the ones that are doing well have distinguished themselves in this way.

Several questions have to be answered:

How would you come up with the amount per job?

Would you link that in some way to the taxes to the County that person would otherwise pay, or would you not?

How would you do this in terms of creating a set of procedures that you are comfortable with from an accountability standpoint so that whenever a company signs an agreement that says they will create 50 jobs that you are sure before you pay them or as you pay them that the incentive program money, that they actually produced in the manner that they say they are going to produce?

The best way to work those details out is to customize it for

this Cuntty by relying on hopefully the committee that is referenced in the ordinance or some advisory committee that you are comfortable with.

That committee should go about doing its diligence by looking at what other programs around the state are structured, then come back to you with a series of recommendations and choices for you to make. That's what we would kick off assuming that the Commission wanting to approve this in concept tonight. It would take 30 - 60 days to come back and say "O.K. here is the way that we think the program should best be put together." Then let the Commission make the choices that it wants to make.

There are several key things that have to be put into place. One is - you have to be sure that this is a program that you can afford. In every event, this ordinance contemplates that you control how much money is involved every year and all during the year - It is a part of your budget, so you are not agreeing to a blank check in any way, shape or form.

Secondly, it's got to be a program where there is plenty of accountability that the records are kept properly and everyone can see that it is all done in a proper fashion.

Third, it's got to be a level playing field so that similarly situated people are treated the same so you are not paying favorites in any way, shape or form.

And, it's also got to be a program that is strong enough to give you that value added - that edge above what others are doing out there in the economic world. There are lots of different ways to do this. There are lots of formulas you can come up with.

What you cannot do is, under your current setup, is tax abatement itself. Many counties have tax abatement. Many cities have tax abatement, but, the way the law works is that if you as a county commission adopt a county abatement program, it would be applicable only in the unincorporated areas. And, then, any city that has a tax abatement program would control its destiny by its own ordinances. Either they would or they wouldn't.

So, from a countywide prospective, tax abatement programs, per se, would be a little sketchy and a little difficult. A tax abatement program is pretty straight forward. You abate the amount of taxes that are paid, usually to the jurisdiction that imposed

the program. In the case of the county, it would be general county taxes for a number of years based on some formula that you feel is linked back to jobs created and salary ranges that are acceptable, and so on.

This is not tax abatement. You have to have a referendum in order to have tax abatement. What we are talking about here is an incentive program that is funded by your general fund, but, that is tied to some indices or criteria that is acceptable to you. That is what we are talking about.

Now, I know that I have raised a whole lot more questions than I have answered because with these programs, there is not one size that fits all. You have to grow your own and customize it to meet your own needs.

In some ways, that is good. Because that way you can control the exact way that the program is put together to insure that it meets your approval as elected officials. I can tell you, having seen a number of jurisdictions struggle with these programs, they can work very, very well and they do attract companies. No question about it. But, they also can attract a lot of questions from citizenry, from existing businesses and others. A lot of bases have to be covered to do this correctly.

What we will certainly want to do is to bring together the best that we can bring to bear to work with your committee and ultimately review to get a program that you can live with.

So, what we are asking, again, is for you to give us your basic conceptual approval for the creation (for exploring) of such a program, the creation of such a fund, and go ahead and appoint the committee.

Now, in the draft ordinance that is in front of you, there are some people that are named to be on the committee. You can see that for yourself. That group right there are the ones that will ultimately be administering this thing for you. It probably would be a good group to put together the program to bring back to you. But, I would invite you to do that any way that you want to do it. But, that would be our recommendation. (On Page 3)

You would have the County Manager, the chairman of The Industrial Development Authority, president of the Chamber of Commerce, Gadsden County Finance Director, Director of the Gadsden

County Department of Planning and Zoning or their designees.

Incidentally, this ordinance that you have before you is modeled by a similar ordinance in Putnam County which is a grant of broad authority to set up a fund and administer the program.

But, as we all know, the devil is always in the details. What we are talking about is having this committee confront those details and bring the choices back to you so that you can get a set of policies and procedures that you are comfortable with to administer this program.

Any questions? I am sure there are.

Richmond:

Is this similar to Jackson County's program.

Arrington:

Jackson has a tax abatement program, itself. They had a referendum. It is different.

I can give you one example. The county that I am most familiar with is Volusia County, where I was a county manager up until about a year ago, had a program like this. Several of the cities had tax abatement, but, the county itself did not. An it was a job based incentive program where there was a fund set up and there was a maximum amount that any one company could get. It was linked to some extent to the salaries that were paid to people, so, you were rewarding the higher salaried companies. There were some other criteria in there and it had to do with the way the funds were kept and the accounting was done. All those details.

I know Marion County, according to Bridgett, has a program like this. Escambia County, we understand, has one and I am sure that there are several others around Florida that have them. Putnam County being probably the closest in size to Gadsden, I would think.

McGill:

What if we chose not to do a referendum?

Arrington:

Well, by Florida Law, you have to have a referendum. But, sometimes, Bill, the tax abatement does not give you as much

flexibility in some ways as the creation of your own program.

Now, what you can do with your own program, if you want to link it is some way to the amount of taxes that the company either would pay if they relocated here or the additional taxes that a company would pay if they expanded here, you could do that under existing authority without going to referendum. But, to absolutely waive the ad valorem taxes, which is what tax abatement is, for a period of years (if certain criteria are met) requires a referendum. This does not.

There are two downfalls, in addition to flexibility, with tax abatement. One is, as I said, you can have kinda have a hodge-podge. Because, if the county commission said "We want to do tax abatement." If you had a referendum, it would only do the unincorporated area. Then each municipality would have to buy in.

Is that your understanding, Bridgett?

Merrill:
inaudible

Arrington:
I understand that, but it would not be city taxes. It would be just be county.

Richmond:
And this would be strictly from the general fund?

Arrington:
I guess so, Yes.

McGill:
If you don't call it tax abatement, what do you call it?

Arrington:
This would be a job based incentive program.

VanLandingham:
This is what we would offer in lieu of a tax abatement.

Watson:
So, they would pay their property taxes to us and we would

reimburse them? Is that what you are saying?

Arrington:

Well, what you would do is that you would agree to pay them a certain amount of money for jobs created and/or for value added to the tax base. One of the indices that you could use to arrive at that number and to control that number, would be the amount of taxes that they would otherwise be paying.

In other words, you could have a program where you say "You can receive "x" amount of money per job created. But, the grand total cannot exceed the amount of money that you would otherwise be paying in general funds to the County." There is a relationship established there.

Or, you could ignore the amount of taxes paid to your county in your formula. You get to make that choice.

The key thing, I think, that you would want to do is to have the committee go out and say "O.K. In Putnam County, this is the way they do it. "X" County - this is the way they do it.

And, here are the pros and cons. Then by going through that analysis, you could say "O.K. What we think is right for Gadsden County is this." Either it would or would not be linked to the general county taxes.

Watson:

There are places that link it to the number of jobs created?

Arrington:

Yes. In most cases, there is some linkage to that number. In fact, if there is one universal index, it is jobs created. And, within that it can be also jobs created that are full-time or full-time equivalent, that are permanent and jobs that are non-managerial. You can do that. You can even have a threshold in terms of hourly wages that are paid or you can use an aggregate or an average for the amount paid. You see, there are a lot of different variables that you can look to.

Watson:

Is there a minimal number of jobs that they have to get to - at least to before any of this kicks in.

Arrington:

If you choose to create a floor that says this won't work

below 50 jobs, you can do that. Now, that gets to be a political or policy issue for you. And, your county attorney would have to weigh in as to whether he saw a legal question in that. But, I think you could do that. In my experience, you could do it that way if you so chose.

McGill:

What happens if we (inaudible)

Vanlandingham:

What this does is it actually gives our county the flexibility to say how many jobs we want to plug in there for this, the company, to be able to be in the incentive program. Whether it is 35 jobs and that was part of the formula that we were using, they would be. But, if you said, you know, that if your formula is that we are going to have, this is going to start with 50 jobs, 50 full time jobs, and the company is going to have, you know, "x" number of wages or whatever we put in there, then that means that the company that comes in with only 35 jobs, they would not be able to use the incentive.

Arrington:

The formula that I am familiar with don't have that floor number of jobs. The thing that they link it to is a new job that is created. Many times there is a minimum average hourly wage that they have to meet. They don't want to give jobs created at \$3.00 per hour wage or minimum wage job necessarily. There are some times, a linkage back to the fact that the company has to provide a certain type of benefit like health insurance. You don't want this going for temporary employment that are just going to be there a month or two during the year. They have to be full-time, permanent and sustained jobs.

In other words, you can customize it to the type of job that you really value. And, in exchange for creation of that type of job, you are willing to pay an incentive.

Roberson:

Can we stipulate in there that the people who are employed there have to live in Gadsden County in order to get that incentive?

Arrington:

We talked about that earlier and I don't know how to answer that question. I can tell you that most of the jurisdictions that I am familiar with do not do that. There are probably, and your attorney would have to advise you on this, there may be some legal issues that you would have to address in that. I know the question is a relevant one and an important one, but, it is one that I cannot answer.

McGill:

I certainly would not want to use tax payers money to create jobs for people who live in Leon County or Jackson County or any other county, quite frankly. Our primary responsibility is for the people of Gadsden County.

VanLandingham:

This is true, but, if we can't even get the companies to come here, that say they will employ people from Gadsden County, then, you know, we are pretty much closing our eyes to jobs. What the companies are doing is they are saying "You want jobs. We will employ people from Gadsden County. If they are employable, they will employ them." But, in order for us to even get them here for the employment, we have to come up with some incentives.

Arrington:

I think that I can tell you this, Bill. I think it would be awkward to administer that kind of requirement - that being that all the new jobs being created have to be given to people who live in Gadsden County. It would be awkward because, when you create a new job and you fill it with someone, that someone could change. I mean, someone from Gadsden County could be hired and then they leave to get a better paying job, and somebody from Tallahassee comes in and takes the job and they decide that they are going to move to Gadsden County. You get a real difficult thing to administer if you say that the only jobs that we are going to honor in this program are residents from Gadsden County. I can tell you that it would be very difficult to administer.

Watson:

Well, you could....

Arrington:

And, Mr. Richmond has already given you his opinion. So,

Watson:

There is no way you could....

Richmond:

The validity of the program and the integrity of the program comes from a criteria that the Board establishes when it gives the grants. That is sort of fluid and it changes from year to year based upon how it has worked and what have you. It seems ...

Arrington:

You have to tweak it. Most counties tweak these programs all the time as they find different ways.

The other thing that I would say to you, is, I am in central Florida where there are a lot of counties that are all in one metropolitan region. And, if Seminole County tried to restrict their program, just to Seminole County residents, it would create a war. The other counties would say "Wait a minute! We are going to do the same thing." Then all of a sudden, Bill, your resident who, in Gadsden County, might find a good paying job with a new industry who happens to locate in Leon County gets blocked out and vice versa. So, there is that reciprocity that could go on that could be a negative energy approach for a program like this. So, I would advise you to be very, very cautious about that problem.

McGill:

Look at provision number 1 where it says (inaudible.) You might want to change that, then.

Arrington:

I think you could. You certainly want to create, not only for your residents, but, you want people who might live somewhere else to move here, too. That is another part of doing this. You would hope that as your job base gets more attractive, your tax base will get more attractive, your economic base will get more attractive. You will be able to attract new residents with good jobs.

McGill:

So, you are not talking about current county residents now?

Arrington:

Not necessarily. I think this does talk about trying to serve current residents, but, it doesn't restrict it to current

residents.

Watson:

I think if somebody was going to bring in 500 jobs, you could count on a lot of them not living in Gadsden County.

McGill:

That's right. That is what bothers me.

Watson:

Well.

VanLandinham:

But, then again, you may attract. They may move to Gadsden County.

Watson:

Some will and some won't.

VanLandingham:

But, they will spend their money here.

McKinnon:

I was the finance director when the State had a tax abatement program for 10 years when the Printing House came in. I know at that time, the County at that time, the County had an agreement with the Printing House that they would provide so many jobs and so many of them had to be from Gadsden County.

I mean, I won't say a minimum amount, but, it wasn't half, but there was a stipulation for some of that to be local labor.

VanLandingham:

But, the thing about that, did anybody ever follow up on that?

McKinnon:

They must have because when they hired, they tried to meet that goal. That was when they were hiring, if you were a Gadsden County resident, that was a plus for you because it would help them meet that goal. And, there must have been somebody looking at it.

VanLandingham:

I mean, we are actually, I mean, when we are talking to these companies, when I am talking to these companies, one of my big

things is that we don't just get companies that pay minimum wage, but, that they offer benefits because our people need hospital insurance. They need care. They need other things other than a pay check that is not going to last very long.

Watson:

They need dental insurance.

Laughter.

VanLandingham:

Actually, one of the first questions that we ask them is "Will you employ people from Gadsden County?" So, that is not something that we are not talking to them about. Of course, we have made any

McKinnon:

Commissioner McGill, I guess the Board can instruct the committee that is going to look into this to bring back different ideas and recommendations on this. That is an interest that you have.

Vanlandingham:

That is what the ordinance says.

Watson:

So, ya'll want to start with just a committee?

Arrington:

I think so. And the reason is, as you can see, there are a lot of moving parts and I think it would be good to have a committee go through it and present choices to you and options to you in a clear way that is documented in a way that other people do it. And, give you some recommendations. I think it will help the Commission to have a committee.

Watson:

Well, I can make that step.

McGill:

Inaudible.

Richmond:

We need to do a notice of intent on this.

McKinnon:

Yes, all this has been advertised as a workshop. So, we can't take any action.

Richmond:

I was trying to recall if at the last meeting whether or not we set it for a notice of intent. We can do that next Tuesday and we can bring it up.

McKinnon:

Do we need an ordinance to create this?

Richmond:

Yeah. That is what you are talking about. To pass the ordinance to have the committee in place in case something comes up.

Arrington:

I think, you can certainly go that way and go ahead and get the ordinance in place, recognizing that you are not going to administer it until you approve the policies and so on.

The positive side of doing that, quite frankly, is that you, the County Commission, takes the position that says "This is the direction that we want to move." And, it gives some credibility to the effort of that committee and it gets everybody serious about this.

If, for whatever reason, you didn't feel comfortable with an ordinance until you had the policies and procedures, you can wait. But, if you want to send a strong progressive message that says "We are moving forward with this." Adoption of the ordinance is certainly one way to do it. I don't see any harm that is done by the adoption of an ordinance.

Richmond:

You don't have to accept it. But you can tell people that you've this in place and they can make an application.

Arrington:

Absolutely.

Watson:

But we are getting the cart before the horse here.

Arrington:

You don't need to be telling people that we've got something in place. This isn't in place.

VanLandingham:

No. No. But, I think, what I was saying was, that we can definitely say that we are working with our Commission to try to come up with an incentive program so that they don't just walk away. I don't think we can tell them anything because we really don't have anything in place.

Watson:

It's not going to carry any weight to say "We've passed an ordinance." I don't see where we need to do that, personally.

Arrington:

It is really up to you. I can tell you this. If I were considering my company into Gadsden County and I knew that you had taken a strong position in favor of working towards the creation of an incentive program like this, that would make me feel better than not. And, I think it is a little stronger statement to just adopt the ordinance.

You can argue that either way. It is really a matter of preference on the part of the Commission. The important thing is to indicate that you are interested in this program and that you are appointing a committee for the purpose of bringing back policies and procedures that you can embrace and that you fully intend to come to a consensus on those policies and procedures and make an incentive program work in this county. If you can send that message, then I think you will have done what you need to do.

McGill:

How much money does Puttnam County put up? What kind of tax incentive did they offer?

VanLandingham:

Two thousand dollars per job.

McGill:

50 jobs would be \$10,000.

Watson:

A 300 job company?

VanLandingham:

They have a structure that they use and they gave us that structure.

McGill:

That (50) would be \$100,000.

McKinnon:

Yeah. I was going to say that it is \$100,000.

VanLandingham:

A lot of it is based on capital investment, also.

Richmond:

Those are all factors that have to be worked out by the committee.

VanLandingham:

There is a lot of research to be done. We need to find a state of the art way to do it. The best way so that our county does not loose. That we are not losing money. That is why it is so important to have this committee to begin that.

McGill:

Let me ask this question of the attorney. In paragraph 2, where it says "create new county jobs", Could we say to create paid salaries that are greater than minimum wage?

Richmond:

Sure, you can put in anything that you want. This document, once you put that in there, limits it to that. Where you want to make your changes and how you want to develop the criteria are in the grant itself and in the committee's recommendations. I would say that this is very broadly written. The purpose of that is to give ya'll the authority to adopt rules and regulations and criteria later to determine whether or not you are going to give the grant or not. Ultimately, there may be a recommendation by the committee that the grant be given and it comes here before ya'll and you chose. You may say "No, we are not going to do it that way." Ultimately, this is where it winds up.

McGill:

So, it should not be cumbersome.

Arrington:

That is right. The less detail you can keep out of the ordinance, the better off you are going to be.

Richmond:

You want it broad enough that you can include whatever comes up in the criteria that the committee brings back to you.

If somebody comes in here for a plan for a new business that offers 1,000 jobs at minimum wage, you might want to do that.

That is 1,000 young people that may have an opportunity that they don't have somewhere else. But, if you've got in here some regulation saying that it's got to be greater than minimum wage, it scares everybody off and you lose it. I mean, you want it broad so you can take every case that comes up individually.

McGill:

Inaudible.

Arrington:

I think the thing tonight, Mr. Chairman is A) Are you interested in moving this thing forward? If the answer to that is "yes", then do you want to go ahead with the ordinance now or do you want to do the ordinance at a later point? Those are the key decisions that are before you.

Richmond:

Next week is when you will make those decisions. This is just a workshop.

Watson:

I will have to think about the ordinance.

Lasley:

My name is Marion Lasley. I am sorry that I missed the beginning. Is this a one-time fee that is paid to - like for example, if it were per job, per each new job that is created, it would be a \$2,000 fee that would be given? Or is this an annual thing?

Arrington:

I have seen it done both ways. Where there is a set period of time up front during which the job has to be sustained and

you get paid for that and you get paid up front or you get paid at the tail end. I have also seen it where every year that you qualify up to a number of years - say 5 years or 10 years where you get the payment. That is part of what has to be sorted out when you put this thing together.

Lasley:

And the other thing is - Would these be, if we did this, would this be a package that would be available on a case by case basis? Just because we have this policy or this ordinance doesn't mean that everybody that comes into the county would get this package. I mean, would they have to ask for it? Or

Arrington:

Normally, there is an application process that a company goes through. There is, in addition to the consideration of that application by a review committee to make sure that it meets the criteria of the ordinance and the policies and procedures - then there is a recommendation made to the Board of County Commissioners as to whether or not to award the incentive to that company or not. So, there are several steps to that point. You are making sure that by the time you award the incentive that all of the "is" are dotted and the "ts" are crossed. The committee has reviewed it and it has all been open and it is done in a public meeting and all of that.

McGill:

But they would still pay the taxes, regardless. Is that the correct understanding?

Arrington:

Yes.

McGill:

Can we set aside a sum of money that we could allocate - like \$1 million or \$500,000? An when it is all gone, then we don't take any more applications?

Arrington:

You can certainly do it that way. In the county where I last served, that is the way we did it. We had a certain amount a year and if it ran out, it ran out. Or the County Commission had the option to put more into it if it wanted to. As it happened, it never ran out. So, we didn't have to face that. But, the point being, as I said earlier, you control the

amount of money that is in the program. You don't want to get into a position that you've got an open ended deal here. You absolutely can control what you've got each year.

Watson:

How much did Puttnam have?

Arrington:

I don't know. We can find that out.

Watson:

That is important.

Arrington:

That can be a part of the diligence we have to do.

VanLandingham:

Are there any other questions?

Watson:

Do you think the ordinance should be passed, in your opinion?

Arrington:

I'll tell you a question, and I raised this earlier with Sherry, I will give you on one hand but then on the other hand kind of response.

On one hand, it would certainly send a strong message that you really want to do this. I think that is healthy. But, on the other hand, if you have a public hearing, and a whole bunch of folks show up in this room and they start asking you - "O.K. If you adopt this ordinance, how much money will there be per job?" You say "We don't know yet, the committee is going to have to tell us." Or if they ask "Why are you adopting the ordinance now as opposed to later?" You are going to have to give them that answer. So, it could be awkward for you.

I don't know enough about how your county reacts to things politically, to give you a really good recommendation. But, I know that those would be the down side for doing it and the up side for doing it.

It may not make any difference. If it doesn't make any difference, I would just do it. If you are predisposed to moving in this direction, get it done, get it out there and

get it moving. Every day that goes by is potentially a missed opportunity. But, you are going to have to make that decision and we'll respect that and work equally as hard no matter which way you go.

Watson:

I just don't know how much stronger a message would be sent by passing an ordinance versus forming the committee first. I really wouldn't want to pass something until I knew we were going to do this. If we are going to do this, we are going to do this.

Arrington:

Well, I think what you would want to do, if the majority of the Commission agrees with you, at a minimum, I hope you can get to the point that you can say "We want to have a job based incentive program in this County, if we can all agree on the procedures and the policies. And we are going to appoint this committee now - not pursuant to the ordinance - but, as an advisory committee to us, to come back with these recommendations. And, keep the process moving forward. The worse thing that you can do at this juncture, unless you don't like the idea and don't want to consider it any further, is just to leave it hanging out there without any forward momentum.

Watson:

How do ya'll feel about this?

Roberson:

But, even if we adopt the ordinance, we do have the right to accept or not accept what the committee brings. Even though the ordinance is out there, it doesn't mean that we have to give the incentives.

Arrington:

Right. That is right. And you don't have to appropriate any money or anything like that. What you are doing with the ordinance is you are really sending that signal and you are setting those wheels in motion. And you are also agreeing to set up a program in the anticipation that you are going to find policies and procedures that you can run with.

VanLandingham:

The worst thing that could happen is for us to do all this and

we are not even interested. You know what I mean - to go out and do all the work and spend the time and money it is going to take for us to come before you with a program or various types of programs that will work as job incentives and then the Commission really not be interested.

Watson:

Well, we are interested. I don't think any of us would be here if we weren't. None of us.

Vanlandingham:

That is why - that is our push.

Watson:

But, I don't want, because I have passed an ordinance, that I have said "Yes, this is definitely something I want to do." And that sounds like, to me, that's what you think that ordinance passage is saying.

Arrington:

I think it would. I think the ordinance would say "We want to establish a job based incentive program in this county."

Now, we know that we are going to have to come up with procedures that we can all agree to, we know we are going to have to come up with an amount of money we can all agree to and if we can't do those two things, then this ordinance doesn't mean much.

But, by adopting this ordinance, we are making a statement that moving in that direction is where we want to head. That is what you would be saying.

McGill:

But, if we don't like what we are doing, we can always come back and repeal the ordinance, can't we?

Arrington:

Certainly.

Fletcher:

Commissioner Watson, what is wrong with that?

Watson:

By adopting the ordinance, you are saying "Yes, I want to do

this in some form or fashion." And, I am not there yet. I am not sure if this is something I want to do yet. But, I am willing to go with a committee and let them come back to me and say "This is how we can do this."

Fletcher:

Well, isn't that what he was talking about us doing?

McGill:

What is wrong with letting the committee come back with a recommendation before we adopt the ordinance?

Arrington:

Nothing in this world. If that is the way the majority of the Commission wants to do it that way, it is certainly is something that can be done. The only thing is what Sherry said, we are trying to gauge and be sure that there is enough interest in a program like this to pursue it.

Watson:

Sure.

Roberson:

I think there is enough interest as long as it is beneficial to the County and to the company.

McKinnon:

What if we brought back a resolution? I am just trying to get a consensus and we can have wording in there that would give Sherry something to say that the County has made a resolution to this effect.

Roberson:

And, that we are going to adopt this ordinance if we can work out all the details.

McKinnon:

That we are very much interested in pursuing it.

Roberson:

And they will know we are working along those lines. But, I know we are going to have back lash from a lot of companies that are already here.

Watson:

But, we (inaudible)

McKinnon:

We will bring a resolution to you.

Watson:

Nobody is going to do a thing with us just because we are just in the process of doing this.

Arrington:

A resolution is a great consensus point and that is where we want to be.

I would also say this. These programs are not easy. And, I don't want to stand here and suggest that they are. It is going to take a lot of work to get it to the point where ya'll are comfortable. And it should because it is an important program. It is going to take a lot of diligence and a lot of work. But, if the will is there, there will be a way that is right for this county.

Fletcher:

We thank ya'll. This workshop is adjourned.

E.H. (Hentz) Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON APRIL 17, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Commissioner Roberson led in pledging allegiance to the U.S. Flag and Commissioner Watson led in a prayer.

2. APPROVAL OF THE AGENDA

A MOTION WAS MADE BY COMMISSIONER WATSON TO APPROVE THE AGENDA AS WRITTEN. COMMISSIONER MCGILL SECONDED THE MOTION.

Growth Management Director Bruce Ballister asked that Item No. 1 on the Growth Management Agenda be removed. (Clayton Construction and Demolition Landfill - Special Exemption)

COMMISSIONER WATSON AMENDED HIS MOTION TO APPROVE THE AGENDA AS AMENDED ABOVE. COMMISSIONER MCGILL SECONDED THE AMENDMENT.

THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED.

3. APPROVAL OF MINUTES

April 03, 2001 - Workshop Meeting

April 03, 2001- Regular Meeting

The minutes of the April 3, 2001 Workshop was amended to reflect that Commissioner Roberson was present at the workshop meeting.

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO

APPROVE THE MINUTES OF THE ABOVE STATED MEETINGS AS AMENDED.

4. COUNTY ATTORNEY'S AGENDA

Request for Confidential Meeting - Pt. Milliken Package Store

Mr. Richmond reported that a law suit has been filed against the County by Mrs. JoAnn Hart. However, he said there has not been an "Order to Show Cause" issued at this time. He asked to set a litigation meeting with the Board to discuss the issue. He then asked for authority to advertise the meeting. It was the consensus of the Board to meet at 5:00 p.m. on May 1, 2001.

Resolution/Ordinance - Economic Development and Incentives

Mr. McKinnon stated that the above stated resolution had been discussed in detail at a workshop. It was decided at that workshop to prepare for adoption a resolution directing that the County would appoint a committee to study alternatives that could enhance economic development growth in Gadsden County. The resolution is discussed in greater detail later in these minutes. (See Resolution attached.)

Speed Limit at Lake Talquin
Litter Ordinance

Mr. Richmond stated that the above referenced ordinances have been advertised for a public hearing on May 1, 2001.

Kappa Luau - Emergency Meeting

Mr. Richmond called attention to several articles that have appeared in the Tallahassee Democrat regarding two outdoor music festivals which are scheduled to take place in Gadsden County. He reminded the Board that there has been an outdoor event at Sheffield's ranch for the last four years and another one is planned for Saturday, April 17. He said that Mr. Sheffield has worked with the planning and zoning staff and the local law enforcement offices for several weeks to ensure that traffic control, medical services, sanitation and security will be adequate for the event. He said that Mr. Sheffield has demonstrated through contractual agreements with the Florida Highway Patrol, City of Quincy Police Department, Sheriff's office, Emergency Services, and Barkley Security that there are adequate provisions in place for the health, welfare and safety of the patrons. The Luau

traditionally attracts more than 10,000 people and it is expected to double in size for this year.

Mr. Richmond said that according to newspaper accounts, another event has been organized and they expect it to be held on the Devoe property on Brickyard Road in Midway - just a few miles from Sheffield's Ranch. He advised that another such large event could pose serious safety concerns not only for patrons and citizens of Midway, but it could have far reaching impacts on the surrounding areas.

He said that there was some question as to whether the current ordinances that are in place would allow the County to prohibit the second event from occurring. He suggested that the overload on the law enforcement is such that the second event would be an unprotected event because there are no more law enforcement people available to cover the second event.

Mr. Richmond suggested that the County convene an emergency meeting to enact an emergency ordinance to handle special events.

Commissioner Dixon stated that there is an injunction hearing scheduled before Judge Davey on Thursday at 10:00 a.m.

After further discussion, it was the consensus of the Board to meet in an emergency session on Wednesday, April 18, at 6:00 p.m. to consider an emergency ordinance to provide for the protection of the health and safety of its citizens by placing certain restrictions on outdoor events.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO SET AN EMERGENCY MEETING TO CONSIDER AN EMERGENCY ORDINANCE ON APRIL 18, 2001 AT 6:00 P.M.

5. NORTH FLORIDA MEDICAL CENTER, INC. - DR. JESSE FURLOW

Dr. Furlow, Chief Medical Officer for the North Florida Medical Center, Inc., addressed the Board. She reminded the Board that they are a federally funded community health center. She said that their mission is to provide quality health care to the citizens of Gadsden County with the focus on the unserved, uninsured and under-insured families.

Dr. Furlow requested that the county reduce their lease payments from \$2,207 per month to \$10.00 per year.

Commissioner Watson disclosed that Dr. Furlow had talked with

him about the lease and at one time he was agreeable to reduce the rent. However, he said that he had learned that North Florida Medical Center had conducted a weekend retreat at Panama City. He said that when he learned of the expensive retreat, he could no longer support the drastic reduction in the lease.

Commissioner McGill asked Dr. Furlow who paid for the retreat.

Dr. Furlow stated that all of the grant money is used for indigent care. The cost of the retreat did not come from grant money. She then stated that the center does receive money from private insurance, medicare and medicaid.

Commissioner Dixon asked Mr. McKinnon what costs the County incurs from the maintenance of the building.

Mr. McKinnon replied that the lease calls for North Florida Medical Center to provide for regular routine maintenance. However, major capital improvements would be the County's responsibility.

Commissioner Dixon then asked if the staff had an evaluation as to how well the building has been maintained.

Mr. McKinnon replied "No, sir, we don't."

Commissioner Dixon stated that he would like to see the County maintain some kind of capital fund with which to ensure long term maintenance of the building. He then reminded the Board that the revenue is used in balancing the budget.

Chair Fletcher stated that he would like for Mr. McKinnon to prepare an analysis of what kind of maintenance fund should be allocated for the building for long term purposes. He asked that the matter be deferred to a later meeting.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO TABLE THE ABOVE STATED MATTER UNTIL SUCH TIME AS THE COUNTY MANAGER CAN PREPARE THE REQUESTED ANALYSIS.

6. EVAN MCALLISTER, MELVIN ENGINEERS - GRANT APPLICATION

Mr. Evan McCallister addressed the Board. He stated that he was the grant administrator for Melvin Engineering from Marianna, FL. He said that he was representing Kevin McDaniel who is a

developer who is planning to build a shopping center at the intersection of Bostick Road and U.S. 90.

Mr. McCallister told the Board that, in the effort to fund the project through both private and public funds, he was requesting assistance from the County to help defer some of the infrastructure costs associated with the development. He said that it can be done through Economic Development Infrastructure grants through Enterprise Florida and/or the EDA in Washington, D.C.

Mr. McCallister explained that the grant would offset the costs for design, permitting, inspection and construction for: stormwater management facility, turn lanes into the development from US 90 and Bostick Road, sewage hook up and water hook up.

He then stated that there would be no cost to the County. The developer will pay the 25% match required by the grant agreement. It would be done with a Joint Participation Agreement between Mr. McDaniel and Gadsden County.

The shopping center is projected to add 50 - 55 jobs and 28 - 35 of them will be full time.

Mr. McKinnon pointed out that the County would be requested to maintain ownership of the stormwater management facility.

Mr. McKenzie explained that in order for the County to do the stormwater facility as part of the project, it would be necessary for the County to own the property. He then said that Mr. McDaniel would deed the land where the retention pond would be placed to the County so that it could be built as an infrastructure project. He further explained that the Department of Environmental Protection requires that the County own the retention pond.

Commissioner Dixon could not recall that this project had come to the Board for approval of the project. Mr. McKinnon concurred that the project had not been previously approved by the Board.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO TABLE THE PROJECT PENDING MORE INFORMATION.

7. PLANNING AND ZONING ISSUES

7.1 Clayton Construction and Demolition Landfill on Selman Road

Mr. Ballister announced once again to the public that the C & D Landfill had been removed from the agenda and would not be heard at this meeting.

7.2 Public Hearing - Sign Ordinance - First Reading

This matter was passed temporarily.

7.3 Road Closing Request, Norther Terminus of Jamieson Road

Mr. Ballister reported that Johnnie Blue Craig has requested the closure of the portion of Jamieson Road that lies between the Florida - Georgia boundary line and the Old Georgia Survey Line. The distance of the road is approximately 1937 feet. The roadway separates the Craig property on the east from the Jerry Carver property on the west. The tax plat indicates that the roadway is in an easement on the Carver parcel. It currently serves two additional property owners in Georgia - Englehard and another large tract owner who will be granted access easement to the land.

The primary reason for the closure is to allow for the placement of a gate that will serve to limit the excessive illegal dumping of trash on the roadway.

Mr. Ballister asked for a motion to advertise the road closing.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AUTHORIZE THE COUNTY ATTORNEY TO ADVERTISE A NOTICE OF INTENT TO CLOSE THE DESCRIBED PORTION OF JAMIESON ROAD.

8. STATE ROAD ASSISTANCE GRANT PROGRAMS

Public Works Director Robert Presnell told the Board that his department has completed the grant applications for the State Road Assistance Grants. He said that there is a total of 11 projects in the three different grant programs. They total approximately \$450,000. He explained that there are three dirt roads to be paved and the other eight are resurfacing and widening.

UPON MOTION BY WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE SUBMISSION OF THE GRANTS DESCRIBED ABOVE.

9. COUNTY MANAGER'S AGENDA

9.1 Animal Control for Cities Except Quincy

Mr. McKinnon stated that it had been his previous understanding that if the municipalities within the County wanted to participate in the animal control program, they must fund a position, appropriate equipment (including a truck) and a portion of the operating cost of the shelter.

Mr. McKinnon reported that the shelter is almost ready to open and he wanted to confirm that this is still the wish of the Board. He noted that there is already an agreement in place with the City of Quincy.

Commissioner McGill pointed out that the City of Midway is financially strapped and could not likely provide funding or resources. He asked if there was some way for the County to "bring Midway into the loop."

There was no motion made nor directions given to the staff regarding Midway and the animal control program.

9.2 Economic Development Fund Resolution No. 2001-009

Mr. McKinnon explained that at the recent workshop, the Board agreed to bring forward a resolution creating the Economic Development Fund Program and Committee for the purpose of bringing a recommendation and/or proposal back to the Board for consideration. They are to be instructed to bring back a detailed plan of how the fund will operate. It was emphasized that this committee will only bring back information on which the Board will make a decision. (See attached resolution.)

Discussion followed.

Commissioner Dixon commented that he did not want to give any authority to any groups over which the Board would have no control. He said that this was a great concern to him.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 1, BY VOICE VOTE, TO APPROVE THE ABOVE REFERENCED RESOLUTION. COMMISSIONER DIXON CAST THE LONE DISSENTING MOTION.

7.2 Public Hearing - Sign Ordinance

Mr. Richmond announced the opening of a public hearing to take input on the proposed Sign Ordinance noting that it had been duly advertised. He read the title of the ordinance into the record. He noted that public comments have been taken at numerous workshops prior to this meeting.

Mr. Richmond then called for public comments.

Mr. Richard Thompson addressed the Board. He explained that his comments would be based on the version of the ordinance that was made available during the workshops.

His comments began by addressing "Off-premise" signs. He pointed out that the ordinance had been changed to allow up to 32 sq. feet. He stated that it is not reconciled with the State DOT Statute.

Thompson:

"The way that State DOT exempts signs by definition, it would have to be a sign that pertains to whatever services, goods, etc. on that property. They only permit signs on commercial and industrial property. The way we have written the code, anything that is off-premise is not pertaining to whatever it is that is on that site - that business or whatever.

We were talking in terms of directional type things primarily.

The directional signs carry a name or a logo and according to DOT, they would be in essence an outdoor advertisement. DOT puts a maximum size on billboards but no minimum size. Therefore, all the way down to two ft. square is going to be an outdoor advertisement. So anything like that on DOT land, we are permitting something that the State does not permit."

He later stated "The bottom line is that there are parts of the code that still need to be reconciled to with DOT State Statute."

Watson:

I don't remember us talking about 32 Sq. ft.

Thompson:

Off-premises signs. The last thing that I saw was they jumped it up to 32 sq. ft.

Watson:

When did they jump. I don't remember jumping it up to 32 sq. Ft.

Thompson:

Ballister:

Inaudible.

Watson:

No. No. That's not what I wanted.

Dixon:

Yes, you did. Yes, you did.

Watson:

No. To get this from what I said, no. That's not what I meant. I mean, this is a surprise to me.

Dixon:

Just like a Republican. (Laughter)

Watson:

I remember that Curtis was sitting over there and we were talking about regular real estate signs. Whatever the size. I thought it was 5 sq. ft. we were talking about.

Where 32 came in was the size of the sign, anything less than that did not require a permit. They had to follow the rules, but they didn't have to get a permit for it. That's where the 32 square feet came from - that I was talking about.

Thompson:

The size of the sign is immaterial. It is still reconciling the difference between what DOT is permitting to go in the form of advertising along their highways and what we are saying.

Let's move on. I am not going to say everything that I have problems with the sign thing. I'm going to point out a couple of them.

Let's go on to the section on flags. Basically, our Code is permitting flags on commercial, industrial and light industrial which is saying that if you have public lands out there, historic site, etc., you can't fly a flag.

The other question with the flag is that what's also not

addressed on the flags are such things as banners, pennants, buntings, etc.

Ballister:

Banners are covered under animated signs.

Thompson:

I would try to enforce them.

The next thing that is omitted from the plan is consideration of vegetative management around signs that are in the County.

Certainly after all the effort that the County put into the landscape code, this is something that at least needs to be looked at and find out what we may or may not be able to do in terms of managing vegetation around signs or what people with signs would want.

The last thing that I want to speak to a little bit is - we essentially agreed that billboards would be prohibited. Commissioner Dixon pointed out the fact that we needed to be cognizant of some actions that the State Legislature is considering. I didn't go into too much except for what was in the Tallahassee Democrat. Essentially, what is being considered before the Legislature is, apparently now, and it's something that we did not address in our billboard sign and this is , we just sorta grandfathered all the existing billboards. Apparently there is in State Statutes a provision that Counties can terminate billboards giving the billboard owner various periods of time - 5 - 6 - 10 years.

Dixon:

It is not in the Statutes, but it is under home rule.

Thompson:

And this is what they're attempting to take away. It is something that before we enact a billboard or sign ordinance, you know, that needs to be considered on it. So, to just kinda quickly summarize it, I feel like there are some inconsistencies, some contradictions, some omissions in the sign code. The way we have it now , I think it will make it unenforceable.

I would like to perhaps recommend to this august body or suggest to you that you would consider postponing the enactment of this ordinance until after the State Legislature decides what it is going to do with the billboard aspect of

this. During that time, take an opportunity to refine and review the ordinance the way we have it now.

Thank you.

Watson:

All they are trying to take away is existing billboards. Preventing counties from moving existing billboards.

Dixon:

Not just preventing them, but making them pay.

Thompson:

What they are suggesting is that if the County, right now, you can tell people with existing signs to amortize their sign over a given period of time. At the end of that, right now, you are asking the sign owner to remove the sign. What they are asking for is that the County pick up the cost for it.

Watson:

No. I mean my intent for old billboards was to grandfather the ones that are here. I had no intention of making people with existing billboards to remove them. It's just not to allow new billboards. That is what I meant.

Thompson:

Right, but, there is that option to do it that we didn't include that. Some of the billboards, as you ride around and look at them are getting pretty close to that part where you would say - I don't know what figure we have used, but I think DOT uses some percentage of the actual cost or the replacement value of the sign in maintenance. If it exceeds that, it goes. There will be a lot of them out there along the interstate that will fall into that.

Dixon:

Second reading isn't until May?

McKinnon:

First meeting in May. It will be May 1st.

Dixon:

I think Session will be over by then.

So, it will be the second meeting of May for the enactment.

Session should be over by then.

Ballister:

Two weeks. That will be the adoption meeting, though. If you want. Well, what is your pleasure?

Watson:

It would be wise to postpone it because Mr. Thompson has found some inconsistencies and if we can clear them up, it's best we do it before we adopt it.

Dixon:

Postpone it until the second meeting in May.

McKinnon:

Yeah. That's o.k.

Fletcher:

You want to motion to that effect?

Dixon:

I so move.

Roberson:

Second.

Fletcher:

We have a motion and a second to postpone this until the second meeting of May. All in favor, say "aye".

All:

Aye.

Fletcher:

Motion passes.

Ballister:

Thank you, Commissioners.

10. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA, TO WIT:

1. Employee Assistance Program Agreement with Eileen McCann, L.C.S.W., C.E.A.P.
2. Lead-Base Paint Agreement between Gadsden County and American Management Resource Corporation to provide services for the Gadsden County Community Development Administration's Community Development Block Grant (CDBG) program activities.
3. Retrofitting Gretna City Hall for an Emergency Shelter - Change order with Blackfoot Construction, Inc. Total of the change order - \$1,152.00 bringing the total contract price to \$14, 130.00
4. Commissioner Dixon's travel to NACO Annual Conference in Philadelphia, Pa on July 13 - 18, 2001. Total cost \$2,476.00
5. EMS Write-off of Bad Debts totaling \$99,357.51 Resolution no. 2001-010.
6. Wrecker Ordinance - Notification and Informational Purposes - The county is required to set maximum charges for wrecker companies. Also to be considered will be a section for towing of vehicles illegally parked on county right-of-way.
7. Notification of Large Item Waste Pickup beginning April 30 through May 18. Joint effort with Waste Management, Gadsden County and Public Works Department.
8. Letter to Eric Kitchen of the Department of Environmental Protection Regarding Order regarding the stormwater runoff at the mulch site owned by Quincy Farms.
9. Letter to Department of Transportation regarding Asphalt Millings. The City of Gretna requested stabilization for two roads in Gretna that were previously maintained by the County prior to their incorporation. Letter requested 200 twenty-ton dump truck loads of asphalt millings. The letter stated that the County is agreeable to haul and spread it.

11. CLERK'S AGENDA

11.1 Budget Amendments 2001-04-17-01 through 2001-0417-04

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

11.2 Ratification of the Approval to Pay County Bills

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER

MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO RATIFY THE APPROVAL OF THE PAYMENT OF THE COUNTY'S BILLS.

12. COMMISSIONERS REPORTS

12.1 District 1 Report

Commissioner McGill said that he has a great concern about the Luau activity on Brickyard Road. However, this was addressed earlier in the meeting. He said "I hope you will be very cognizant of the fact that that particular activity could lead to a complete halt of any other activity of Brickyard Road. It will really bottle it up. In as much as there is no law enforcement to speak of, or at least that is the way it is at this point, what happens if somebody gets hurt between 90 and the church out there, for example - and the Luau has it blocked up? I think it is a very dangerous situation that we need to be cognizant of when we reconvene tomorrow. That is the end of my report."

12.2 District 2 Report

Commissioner Watson had no report.

12.3 District 3 Report

Commissioner Roberson had no report.

12.4 District 4 Report

Chair Fletcher had no report.

12.5 District 5 Report

Commissioner Dixon reported that he and Mr. Richmond had met with the hospital and they will be making a report soon.

13. ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

Gadsden County Board of County Commissioners
April 17, 2001 Regular Meeting

ATTEST:

NICHOLAS THOMAS, CLERK

AT A SPECIAL CALLED MEETING
HELD OF THE BOARD OF COUNTY
COMMISSIONERS HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON
WEDNESDAY, APRIL 18, 2001 AT
6:00 P.M., THE FOLLOWING
PROCEEDINGS WERE HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

CALL TO ORDER

Chair Fletcher called the meeting to order. He then turned the meeting over to County Attorney Hal Richmond.

Mr. Richmond stated the following facts:

- 1) It has become apparent that there are two music festivals which are scheduled to take place in Gadsden County on Saturday, April 21, 2001.
- 2) The events are expected to attract as many as 40,000 people total.
- 3) The events are scheduled to take place within 6 miles of each other.
- 4) It is incumbent of the County to protect the health, safety and welfare of the people.
- 5) There is no ordinance in place to adequately provide protection for it's citizens or the people attending an outdoor music festival.

Richmond:

This ordinance can only be enacted by a supra majority vote. In other words, 4 members of the Commission must vote for it for it to have effect.

It is possible to enact this at a specially called meeting under an emergency basis.

The special finding that you would need to make is that there is an emergency in effect with regard to large gatherings without insurances of proper traffic control, proper security, proper medical control, and proper sewage control. All of

which is prescribed in the ordinance as being those matters which must be contained in the application before the permit can be given.

I have provided that the only one that can issue the permit for a festival in Gadsden County is the Board of County Commissioners of Gadsden County. The application process can go through your designated representative, but the permit must be issued by this Board.

I have provided you with copies of that if you want to consider it. There is the possibility of lawsuits. Both, ah, there are two parties out there that we know that are going to be held this weekend. If they fail to obtain the necessary permit, ah, it is possible that they could bring lawsuits with regard to this because this is an emergency.

All I can say is that we will fight it. I think there is a right for the County to control these matters.

There is also an emergency petition for injunction that has been filed between the parties. Both parties have filed injunctions against the other. Ms. Boyce represents Mr. Seniors which is Square Bids Productions, I believe, who is here. They have been in contact, as I understand it, with the County for a substantial period of time and they have provided the County with the particulars of the safety and security and health requirements that they have in place. I don't know from Mr. Ballister, perhaps he can enlighten us on Titan Productions - what their situation is and what assurances they have given.

In the ordinance, I have provided that a bond would be given based upon the feeling that the Board has for the necessity of a bond, based upon the application presented. The bond can be based upon factors such as "Have there been prior parties of this type by the individuals involved and has there been any difficulties?" If this person has a clean record and there has not been any difficulties and they have cooperated fully with the governmental bodies, then there would not be the necessity of a bond. If it is a new organization, you might want to have a bond to make sure that all things are properly covered.

Specifically for the record, this is an ordinance providing for the permitting of outdoor festivals requiring a special permit, establishing a permit procedure, establishing criteria for the issuance of the permit, covering sanitation - medical facility, parking facility and security concerns of the County, providing for criminal penalties for failure to obtain

a permit, providing for injunctive relief, and providing for an effective date.

It should be pointed out that under this ordinance, if there is a violation, it is only a misdemeanor punishable by up to a \$500 fine and/or 60 days in the County jail. It does provide for the County going to court for injunctive relief if necessary.

It is open for discussion.

McGill:

I have one question in the preamble to the ordinance, should we provide for a permitting fee? Not necessarily spelling things out, but, just say

Richmond:

The permitting fee is to be established by separate resolution. I did not put an amount in there because I didn't know what the preference of the Board was. It can be done by resolution. What I would suggest is that this ordinance I drafted based upon 2 or 3 ordinances I stole off the internet this morning. I would like to come back later with one that provides for - for instance 90 days prior to the gathering that the application should be presented to give staff sufficient time to make recommendations to this Board as to whether it should be issued or not.

We don't have that luxury at this time. I know Ms. Boyce's people would need to come up with an application but they are pretty well aware, and I think the staff could present evidence tonight, that they are familiar with what is going on out there.

Fletcher:

In other words, what you are suggesting is that we don't require a fee for this particular instance.

Richmond:

Not at this time. But I think you can set it by resolution and adopt a fee tonight if you want to.

Watson:

Is this penalty the most we can do?

Richmond:

It is a misdemeanor. Under the ordinance, that is the most we can do at this point in time.

Watson:

Cause the \$500 fine is a

Richmond:

It means nothing in light of the money that they are talking about from one of these things.

Watson:

Precisely. I mean, there is nothing here.

Richmond:

We can apply for injunctive relief if you instruct me to. To insure the safety and the well being of the community.

Watson:

I mean, we need to do something other than a \$500 fine if they go ahead and

Richmond:

Well, this is what it is providing for in the bond. If you will read, there is a provision that prior to the application being put in, they would have to post a bond. If they fail to do so, it would be possible to get injunctive relief or make arrest at the time this happens and, in effect, shut them down.

Fletcher:

There is a provision in here to shut them down?

Richmond:

No, it is up to the Sheriff to enforce the ordinance. But, that is part of the problem. I think the Sheriff's Department is pretty well strapped this weekend already to a prior commitment.

Watson:

If he enforces the ordinance, the only penalty that will be suffered is a \$500.

Richmond:

Or 60 days in the county jail.

Fletcher:

A violator will be shut down, Commissioner. Isn't that correct?

Richmond:

Well.

Fletcher:

Will that be up to the Sheriff?

Richmond:

That's right. That's where we get injunctive relief through the courts. That will have to be - either go to court tomorrow with the other parties - or not.

Watson:

I don't see this discouraging the second event.

Richmond:

That is the best we can do.

Watson:

Is there an additional step that we can take to discourage the second one?

Richmond:

We can go to court and get an injunction.

Fletcher:

After we (inaudible) vote on this and issue the permits, is that correct?

Dixon:

Mr. Chairman, did we invite the parties here to hear from them? Do we intend to hear from them? I am just asking.

Fletcher:

Yeah, we intend to hear from them.

McGill:

For once, I tend to agree with the commissioner to my right. It seems to be non-penalizing. I was hoping that it could be more severe than that. But, you say, that under these conditions, that is all you can do - or most you can do.

Fletcher:

He is saying that we can go to court tomorrow and ask the judge for an injunction.

Richmond:

An injunction.

Watson:

Can you do that without this ordinance?

Richmond:

Right now, there is not in place a clear cut definition of what a festival is or what the nature of the County's interest is under it's police powers. This ordinance does set that out.

McGill:
O.K.

Fletcher:
I am going to invite the public's comments of this ordinance.
Is there any one who would like to speak for or against this ordinance?

Come to the podium and state your name.

Walker:
First name inaudible - Walker

Ya'll called it the second event when actually, it is the first event. The reason that it is the first event is because Kappa Alpha PSI Fraternity is who is saying this event should take place. OK? They have been doing it for 16 years. All of a sudden, you allow an imposter to come, get a venue in which they had been denied, but they had been using for the last 4 years. Now, all of a sudden, that is the first event. No, that wasn't even the first place it was done. O.K.? It is sad because they are going to pocket this money because they will even tell you that Kappa Alpha PSI has nothing to do with the event. OK? But, it has to do with Titan. Titan was given

Unknown:
Just one correction on that - It is not Kappa Alpha PSI Fraternity. Ours is the Alumni Foundation.

Fletcher:
State your name.

Adams:
Delane Adams from Titan Productions. Our company was granted the right to put on the Kappa Luau for 2001.

McGill:
But not in Gadsden County.

Adams:
No, we were - it's not a situation where when we got the contract they said where we can have this event. Gadsden County wasn't in that contract.

Walker:

What we were saying is Gadsden County is where it had been held. They still would have been held here if Sheffield had said to us "It will be O.K. to go ahead and do it." But, he said he was not going to have a luau at all. Period. Then, a young man went back to him and talked to him and got him to do it.

Roberson:

Could I ask you a question? Does the national organization sanction this event?

Adams:

No, the national organization has never sanctioned this event. The reason why they never sanctioned this event in the past 16 years is because of the liability that comes with an event like this. That's why they make sure that whoever is putting on this event - at least they are covered with their \$1 million liability policy.

Walker:

The alumni chapter decides.

Adams:

The Alpha PSI Alumni Foundation has sanctioned us to hold the Kappa Luau. That is known as the Alpha PSI Chapter of Kappa Alpha PSI.

Richmond:

Can I ask a question and I apologize for this? It appears, at least from my own understanding from the Board, that no one was aware of a second event, and we call it a second event only because Mr. Sheffield has been having the event there - there is a history - Well, it is his property. I'm sorry, that's all - I don't know who staged it, but, the cooperation has been there in getting the traffic and the controls in place. And, it appears that ya'll have just come forward here in the last couple of days without working with the local staff. And, yet a lease was obtained back in December on the property. When was the first contact you had with staff here in Gadsden County about it?

Walker:

Well, it wasn't a situation of staff. The problem became this - We did not have any idea that Sheffield was going to even allow an event to happen on his property. Therefore, we had no way of knowing that it was going to be necessary to work with Gadsden County.

We had a new venue. And with that new venue, the other side found a way to - in it's own way - get rid of that venue. We had somebody that was nice enough to give us an opportunity to come to his property - Devoe Moore, I know you all know the name, to hold the event there. At that point, I mean, we're all citizens of the United States, period. And, I understand that Gadsden County only has 40 officers to work the event. Well, my way of thinking is to make it fair for both, if you are going to make it fair for both, take 20 officers and put at one (event) and the other 20 officers at the other one. Tell the people who is holding it in your county to hire more security. Hire more security and there shouldn't be a problem.

McGill:

How can we do that if we are already committed to Mr. Sheffield in this situation?

Walker:

Well, my understanding is that you can do it. You are voting on something now, you can change anything you want, can't you?

Watson:

But, why would we change it? Why would we want to do that if we had been working with the other organization?

Walker:

Because the fair thing is, this organization is the organization that started this Luau and we should not be denied the opportunity to continue it.

Watson:

But, you are asking us to get involved in something that we shouldn't get involved in.

Walker:

That is what we are going to court for tomorrow - to decide.

Watson:

It is of no concern to me, personally.

Walker:

Oh, no. I am not saying that it is. I am saying to you, when we go to court tomorrow, we had planned on letting the judge decide who was right and who was wrong. And once the judge makes that decision, we were hoping from there that there would be clarity and there wouldn't be another problem. And I would think that that is what everybody should wait on. If this meeting was held tomorrow, there is a possibility that

there would not need to be a meeting. Because if the judge decides that the alumni chapter has the right to do this and its part is being blatantly stolen from up under them.

He (the judge) is liable to hold an injunction up and say Sheffield can't have this party. Are you all saying to me that ya'll wouldn't move those officers down the road. Cause, it is like this gentleman here was saying, if you commit to them, so, you can't move them?

McGill:

I have some problems with it other than just the officers.

Walker:

The judge can say "Here's an injunction against them?"

Watson:

That's the judge. This is us. Why would we? Why would we?

Walker:

Cause you would be looking out still for the County. Aren't you looking out for all residents in the County?

McGill:

That is exactly what I am trying to do now. That is why I don't want it held on Brickyard Road. It's too narrow, because it could block people off from getting to Tallahassee or getting from Tallahassee back home on Brickyard Road.

Walker:

I have been every year. I don't know, have you ever gone to the Luau?

McGill:

Yeah.

Walker:

O.K. Going to the Luau, I have been in traffic for an hour and a half coming from Tallahassee because people are on both sides stopping their cars running from side to side, talking to their friends, jumping in and out of traffic. So, there is this thing about "All of sudden, this is going to make a big difference." That is not true.

McGill:

Highway 90 is a four lane highway. It is much, much wider than Brickyard Road. It's a two lane road.

Walker:

Well, we are not going to ask people to stop on it. We are

doing a better job of securing the situation than they are by doing it on 90. At least people will be off the main fairway. (Inaudible) walk up the highway. They are having people walk up Highway 90 - 5 miles up Highway 90, O.K. There is the opportunity to get run over. We are taking them off the main fairway and putting them in an area in which they can't be run over. And you are saying that is bad? I understand that. That makes real sense.

Watson:

You understand - my position is - and I call it the second event because we didn't know about your event until I read about it in the newspaper and I don't think I should having to find out about something that is going to impact the County that large - finding out about it in the newspaper.

Now, the Sheffield situation, from my understanding, has been going on for several weeks.

Walker:

Several weeks?

Watson:

Yes, as far as the planning of it goes. And you are asking us to split what has already been planned. When we think we have one covered. You're saying "Well, take away your coverage over there and put it somewhere else."

Walker:

I apologize. As Americans, we, that is one beautiful thing about this Country. We have always been good about adversity and making a difference. Also, you are telling someone that, you know, you're going to get to choose who is right because you have had a couple of weeks to work with them. That's makes them the better person to have this. What about the idea of somebody taking something from someone? That doesn't matter, right? Is that what you are saying?

Watson:

I don't know that. You are asking me to get into your personal little politics with whatever is going on. My concern here is the safety of the citizens of Gadsden County. We have already planned for one large event and you are coming in now - at the last week.

Walker:

Well, we were at a meeting and this is what was said to us verbatim. Now, I am not sure if Woodham was here.

Watson:

The meeting was here?

Richmond:

Could you get, ah, yes, sir Bruce.

Fletcher:

You will get your chance to talk.

Here is what I want to do. I want you to let the commissioner talk without interrupting him and then we will let you talk without interruption. O.K.?

Walker:

Sure.

Fletcher:

Without interruption.

Walker:

Now, Sheriff Woodham - when we were in this meeting - said "If we prevail, he was actually the first person to say that he would be in favor of an injunction until the matter could be decided in court. He said it would not be a problem. He said this verbatim that for him to move the officers down the street to our event if we prevail. So, for some reason, you are telling me that you don't do anything with the Sheriff's Department? You are not over the Sheriff's Department, but, he is. But, he's not having a problem with doing the officers. He said he had nothing (inaudible)

Watson:

But, what you are asking us to do is to split the officers.

Walker:

No.

Watson:

That's what you just said. Twenty over here and twenty over here. Isn't that what you just said?

Walker:

No, what I said originally was if you all could wait, we could see if there is any reason to do it.

You said "Well, we need to do something now."

I am saying "Well, O.K., lets look at another option." The

other option was - You can always go ahead and split the officers 20/20 and tell the people who are actually running the event "Hey, we have to serve the whole county, not just one part. What ya'll need to do is to provide more security, pay for more people to come from a private sector to make sure that everything is checked out because there needs to be law enforcement that can enforce the law at each event."

That's what you could do if you want. You just

Watson:

What **should** have happened and what **you** could is to have gotten to us a whole lot quicker than you did.

Walker:

I apologize.

Watson:

O.K. I mean, I think that is where the problem came in. That is what I am having a problem with it.

Roberson:

Was this event always scheduled to be here in Gadsden County?

I mean, was that plan from the very beginning - that it would be here in Gadsden County?

Adams:

I guess I can, Excuse me, Ma'am. I guess I can take this from the beginning on what really happened with this event. We had scheduled it again to be at Sheffield's ranch. And we were told by Mr. Sheffield that we could not have it there. He didn't want it there anymore because there is a permit process that he had to look at. Ah, for some stuff that happened over the summer when they were throwing events. So, we thought Sheffield's was not an option and we were still looking at different options. So, we looked in Leon County. We signed a contract with Bradley's Farm. Then we went, even before we went to Wakulla County to do this event, I was contacted by Mr. Robert Seniors, who said he had a contract with Mr. Sheffield to go ahead and throw the event at Sheffield's Ranch.

I was also contacted by Commissioner, well, we also had the Alpha PSI Alumni Foundation contact Commissioner Dixon to see exactly what the permit process was to throw an event like this in Gadsden County. I didn't find out until the meeting with Sheriff Woodham that there wasn't even a permit process needed in order to throw this event. I was really confused at that point. And also, we tried to make a situation where we could merge both events at Sheffield's Ranch. And we made a

deal with Mr. Robert Seniors, we offered him \$25,000 and 21% of the net. We verbally agreed on that deal. The next day, they came back and wanted more. The deal was off. So, you know, they wanted upwards over and excess of \$35,000 plus they wanted 50% of the net.

You know, as a business man, we just thought that was ridiculous.

So, we went on and tried to move it to Wakulla County. Wakulla County received many calls every day saying that this event was going to be in excess of 50,000 people or more. So, then, what happened we were able with the help of Az Walker and Mike Jones to find some land in Gadsden County that Mr. Devoe Moore owns. Mr. Moore thinks the land is perfect for a situation, ah, event that we are throwing. It takes the traffic off 90 West. It has enough acreage for parking and it has enough acreage so people can enjoy themselves. Not only that, this is also the event - the original Luau. This is the original Luau that has been granted to us by Alpha PSI Alumni Foundation. I guess, our whole big problem is we do have a problem with being labeled the second Luau. Maybe we can be labeled as another Luau or actually we should be really classified as the original Luau.

Roberson:

Were all of ya'll combined at one time and there was a spit that took place? Is that what happened?

Adams:

No, there has never been a split. It is just a situation where a couple of individuals who just happened to be a member of our organization, they split off and they decided to, you know, since everybody knows that Sheffield's Ranch has been the place,

Ever since, you know, the people know that the Luau has been held at Sheffield's Ranch, you know, they decided to go ahead and decided to throw this event as the Luau. But, one thing that we don't enjoy is that people are just considering them the original Luau and they are not. We have issues with that.

Watson:

So, what is happening at Sheffield's is not affiliated whatsoever with the organization?

Richmond:

Could I focus this a little bit more on where we are coming

from and what this is about from a county standpoint?

Obviously, there is a dispute between Mr. Seniors and ya'll about who did what and where it is at. Our concern is solely this. We have two events. One we knew about only because we have dealt with it for 3 or 4 years at Mr. Sheffield's. Regardless of who was running it, who had it, we know that they have provided for law enforcement, they have cleaned up, they have done the things they were supposed to do.

Alright. We are hearing now that there is another organization. We find out about it in the newspaper for whatever reason. What we want to hear now and ultimately what is going to have to be decided is what assurances is there that 1) traffic control will be taken care of - you are saying that you've got space on site for parking. You know, that you've got a way to get them off 90 without causing a back up or whatever. But, we need to see the procedures on it.

We need to know what sanitation you have on site, what medical provisions you have on site and what kind of security you have. These are the issues that the County is concerned about. What ya'll are doing in court between who has the rights to call it the Kappa Luau and what have you, those are legal issues that I would like to stay away from here because our issue is solely under the police powers of the County and the safety and general welfare of the people. Those are the issues - security, safety and traffic on the roads, medical protection for the people at the site and

Adams:

And this is all part of the permit process.

Richmond;

That's what this is about. It really doesn't , you say that you're offended with being called the second. It's just because it's just because you came up second. In the sense of the time wise, we knew what was going on with this other one.

Walker:

We were going to bring all that to you all when we first had a - they had a meeting that they called us to. We went and Sheriff Woodham did. Before we could even get to the meeting, they expressed to us that basically they were going sanction (and they stopped using that word because they realized it was the wrong thing to sanction that event) And so at that point, we decided no matter what was going to happen, you all were going to go with that event. It made no sense for us to spend countless time trying to sit down and show you just what we

have planned. If you weren't going to give us an opportunity to show you. But, you are willing to do it now.

Fletcher:

You didn't give us time. You didn't give us time. We read about it in the paper yesterday.

Walker:

Not to be facetious, but, God built the world in how many days?

Fletcher:

I don't care, that doesn't matter.

Walker:

It is not a problem. There is not a problem. Time, in this situation is very simple. If there is anything anybody wants to do, they can get it achieved if they are willing to work and do it. If you all wanted to work with us and get it done, you could. But, if you don't want to work with us, then you won't. That is the bottom line.

Fletcher:

We don't have the facilities. We don't have the personnel to handle two of these parties at one time.

Walker:

Well, we paid, we've paid all this money out and we have all these things did and now the progress, I mean, we have no choice but to, I mean, people have bought many, many tickets, we have the site paid for, I mean we have everything. At the time that we did this, ah, my understanding is that you don't go back and re-invent the wheel. I understand what you all are doing right now, I guess, is for the future. We are trying not to cause a problem. But, legally, and I am not speaking in terms of attorney-wise, but legally, based on my understanding, you can't go back and charge somebody with something that they did in the past that you know that it ain't right. You can't re-invent a law and you can't

Fletcher:

You have not formally come to us. We read about this in the newspaper yesterday.

Walker:

Sheriff Woodham never told us that we had to come to you. Once we sat down with him, he told us a permit was not necessary. His exact words was "Actually, we can't do anything to stop you from having this event." That is exactly

what he said to us. So, that being the point, what would be the point of coming to you? We just don't understand.

Richmond:

Where someone is commercially using the land and making a profit off of it, I personally believe -

Walker:

We are a non-profit organization.

Richmond:

Somebody is making over the rental of the land. It becomes a question of whether it is a commercial use and therefore, it is a question of whether or not you have the right to do it.

Walker:

It is not commercial use. (Inaudible)

Richmond:

Well, this is the dispute we got into with Mr. Sheffield last year and that is why he became concerned. Because we felt like it was.

Fletcher:

Just a minute now. We are going to give you a chance to talk.

Walker:

As to the question, I would like to answer that.

Harris:

As far as this situation is concerned,

Fletcher:

State your full name.

Harris:

Rev. Richard Harris. And as far as this situation is concerned, personally, I don't care about who is right. It's about what is right. I want to address something here tonight that you seem to be very concerned about. It is so simple and right now, I am putting on my Solomon suit. This baby that you are trying to cut in half and give whatever or take one and give to the other or whatever you are trying to do. This is a solution, but, let me give you a little history here, first of all.

This gentleman has asked both of them, this particular gentleman is absolutely correct about the time line and what have you. You are saying that you are concerned about safety

issues, now, you are concerned right now about crowd control, traffic control. Well, were you concerned last year when this event that I attended? That I personally thought was one of the best attended events - no fights, no fussing, I mean, it was unbelievable. It was like a calmness came over the entire event. Well, they were responsible for that. So, you are saying that somehow, because they moved the location to another location, in spite of all of this craziness that is going on, now, they are not going to do the same thing at another site.

Now, let's address the safety issue and the officers. I am sitting here saying to myself, "If you only have 40 officers available for whatever this type of event is, it doesn't matter." Seriously, we do events all over the country. Sometimes we involve hundreds of police officers, cause you are talking 50,000 to 60,000 people sometimes. It is very simple. Hire off-duty sworn law enforcement officers. And they are available. There is a pool available. I know because I checked.

So, it would seem to me that the issues that you are raising right now are fallacious issues. And something that they haven't brought up, unless they did before I got here, that I want to bring up.

There is a secret, dirty hand at work here. That is why I am here. Because what is happening right now is not right. It is unfair. It is unfair to these gentlemen because I know the entire story from start to finish. We were asked to intervene. I work with a lot of NFL players and if you come to Goby High School on Friday night you will see them playing in the charity basketball game. So, when he says charity, that is exactly what it is. It is not a profit making venture.

But, let me share this with you. It is wrong when a person can make a statement to my face, as a witness, that they have so much money and they can say that an event is not going to happen, he's talking about the Wakulla County event, I was told before and I looked at him and said "Wait a minute. He didn't mean that." He was sitting in the room with me and I said "He can't be that powerful and that rich." But, apparently he was because it stopped the event. Now, if you sit here tonight, there are rumors flying, mind you, there are rumors. Because until something is factual, it is a rumor. There are rumors flying right now that money has been spent in this County among this body, this Sheriff and others in this County to stop this event down the road.

Now, I am telling you tonight, if that bears out to be true, ya'll have a real serious problem. Not just from law enforcement, from good citizens in this County, from Leon County and throughout this State who are watching every move you make. Now, to sit here and say that these gentlemen should be under some kind of superficial notion that they should come before you for an audit, and I was told the same thing by your County Manager.

Do you remember that Mr. McKinnon? You told me the same exact thing. No permit was required because there is no process in place.

Now, for you to come up at the 12th hour, 11:45, we got a 12:00 show going on and for you to tell these gentlemen that they got to jump through these kind of hoops, it is ludicrous. It is absolutely ludicrous.

The question that you have, the concerns that you have, most of them have already been addressed. Like you said, if you asked them to bring a plan in here tonight, I am sure he could have done that. But, I am like him, why bring it if you already know that the deck is stacked against you and you are going to get voted down anyway.

Also, and I am not an attorney either, and as I told you, it is not about who is right with me, it is about what's right. But, I suggest to Mr. Richmond, your county attorney, do some serious research. Because the research that attorney has done, and we had nothing to do with this from a financial standpoint whatsoever, but the research that my attorney has done, ya'll have no legal grounds to stand on anyway. And they are really showing you a courtesy to come in here before you tonight as an elected body. As a courtesy. And that should prove to you that they are trying to do the right thing. They have jumped through every hoop that they have been asked to do. They have had rumors spread, bomb threats, they tried to put white against black down in Wakulla County.

I am not telling you what I heard, I am telling you what I know. They said that if that many black folks showed up down there, it's going to be. It is a black man in America. It is an insult because I was there last year. None of that foolishness happened. And these gentlemen were responsible for that because they were in control.

Now, as the fraternity goes, no, nobody wants to see, and you are absolutely wrong, Mr. Richmond. There was not a separation. You got a few clandestine - if you know what I

mean - you got a few clandestine people - Do you understand where I am coming from? Go off and do their own thing - that is not a split. Do you understand where I am coming from, Brother? Yes, you understand. Clandestine. They go off and do their own thing. So, that is what has happened in this case, Mr. Richmond. A few clandestine individuals and, mind you now, they are not going to tell it, so, I will tell it. The individual who is the most responsible for the most chaos in this whole situation and confusion is the same individual, who, for whatever reason, is not in charge in terms of dealing with the fraternity issue. Now, you can read whatever you want to in that. O.K.

So, what I am saying to you tonight is - Don't do these kids like this. And they are not, they are kids to me because I am older than all of them. Don't do them this way, O.K.? Do not do this to them. Don't let them leave here tonight feeling like they have been underhanded, undermined, money has been spent, folks have been bought, and whatever and you do something that you are going to regret later on. Whether it is legally or ethically wrong - it is wrong. And I am not saying which way because I am not a lawyer. But, I know, in my gut, I know what happened. I fought this entire sequence.

The only reason I came here tonight, I dropped a previous engagement to come here and say that to you. Because some voice of reason and somebody has to come here and try to mediate this. It makes us, as a race, look bad. It makes us, as an organization, look bad. It makes us, as people trying to do the right thing, look bad.

And I was there last year. None of you were there? Mr. McGill says he was there. I have known him and I have trusted his judgement for a long time. I have known him for a long time. He knows my mother. That's how long he has known me. So, I am saying to you now, listen very carefully. Don't form an opinion until you get all the facts in. Now, I am sure that, and I am speaking without having conducted any kind of conversation with them, but, I am sure that if you reasonably say to those fellows, "Can you at least give us some idea about how you can control the traffic or how you can control whatever it is that you are concerned with?" Then given them a chance to respond.

You are talking about an event that is two or three days away now. So, we understand that time is of the essence. If you call this emergency meeting - give me one more minute - You called this emergency meeting tonight. That means you got to be really concerned. So, are you concerned about doing what's right? Or, are you concerned about who is right? Stop being

concerned about who is right and do what is right.

Any questions?

Fletcher:
Sir?

Harris:
Yes, sir.

Fletcher:
We have not had the time to look into your situation - to make these decisions. We only found out about it by reading it in the Democrat yesterday.

Harris:
I heard you. And I heard you the first time and I will say this to you. I heard you outline your concerns, Mr. Fletcher, Commissioner Fletcher. I heard you outline your concerns. Now, let's start from top to bottom with your concerns.

We have already addressed the safety issue - in terms of security. That can be addressed in a heart beat. Hire some officers, sworn officers. That will satisfy you correct? Correct? 50 sworn officers, which will be more than what they've got or 60 or whatever -will satisfy you. Is that correct?

Fletcher:
We don't know where those 50 extras sworn

Harris:
I said "sworn". It won't matter if they come from China, if they are sworn in the State of Florida to enforce the law, is that correct?

Fletcher:
We've got a - hold on just a minute. Let's let a representative from the Sheriff's office come

Harris:
No, no. From which department, from which department?

Fletcher:
From the Sheriff's Department.

Harris:
No, no, no, no, no. From Gadsden County? No, no, I didn't say 50 sworn officers from Gadsden County, now. I said the State of Florida. Certified - hold on a second. O.K.,

throughout the State of Florida, officers had the same certification. Now, let's don't put apples and oranges in here. Let's keep it all oranges and apples, now.

Fletcher:

(Inaudible - several people were speaking at the same time.)

Watson:

This is getting out of hand, now.

Harris:

No, it's not. It's just getting on target, now. Go ahead.

Fletcher:

I am asking you to let the officer make his remarks.

Harris:

O.K. Let me ask a question.

Fletcher:

No, now let him talk.

Harris:

O.K. Go ahead, go ahead.

Spooner:

What is it that you want me to tell you?

Fletcher:

I want you to tell me whether there are 50 sworn officers that can be brought into this county from the outside that would be.

Spooner:

All I can speak for is the Gadsden County Sheriff's office and I can tell you that we do not have 40 officers left. I cannot speak for other agencies, other Highway Patrols, FDLE, FDOT. There are a variety of other agencies. Now, the Highway Patrol has told us that if they had to bring in anybody else in, they would come from other regions of the State. This particular troop which covers, I believe, a six or seven county area, has extended itself as far as it can go. They have approximately 20 - 25 officers assigned to the event Saturday and we have 30.

Harris:

Can I tell you about the resource pool, Mr. Fletcher?

Mr. Fletcher, let me tell you about the resource pool that we have reference to. Is that permissible, Mr. Richmond? To

tell you where the resource pool comes from? The where

If you are concerned about safety, let's deal with the issue, now and stop struggling.

Richmond:

Mr. Spooner?

Spooner:

Yes, sir.

Richmond:

Major, you will always be the chief to me.

You have had discussions with Mr. Walker and his party about Brickyard Road. Are there any concerns about security there?

Spooner:

The only issue we have raised with them is that they came and met with us, it must have been Monday.

Harris:

It was yesterday.

Spooner:

Tuesday morning. They expressed an interest in putting on an event. We asked at that time for traffic plans, security plans and advised them that we did not have additional officers to provide security. That we had agreed, because of earlier requests from the event being held at Sheffield's to provide security for them and that our resources were strapped.

Richmond:

Did they show you contracts or a plan?

Spooner:

No, we haven't seen contracts or plans from anyone.

Harris:

Mr. Fletcher, can we go back to the issue of the resource pool for these officers, these sworn officers? Can we deal with that? Because I think you need to know that they are available. And you can have the county attorney check or you can have Mr. Spooner check.

Richmond:

Let's, Ms. Boyce, you have been mighty patient. Why don't we hear from the other side for just a few minutes. Give them a chance.

Walker:

May I say just one thing to clear up something. This gentleman who is sitting here, Mr. Ballister, is the reason we didn't bring the plans that they, to the gentleman who just went and sat down, and the Sheriff. Because he had already expressed to us over the phone that he was going to sanction the other event. That is why we didn't bring it. That is what I wanted you to understand. So, it wasn't that we didn't have something to bring. We didn't bring the EMT and all the stuff that we had we could have showed him that we had in place. Because, we were told basically, it didn't matter what we brought, it was already being sanctioned somewhere else and they had no way to help us.

Fletcher:

Thank you. We are going to hear from the other side, now.

Harris:

Mr. Fletcher, I want to correct something before, because I don't, I want to correct something. I said Mr. McKinnon was the one that told me that, you weren't. Who told me that? Who made those comments to me? I talked to both of you. Anyway, I just want to make sure that is clear.

Fletcher:

Reverend, we are going to hear from the other side.

Harris:

O.K. You are going to hear from the other side now and then we can come back and do a rebuttal?

Fletcher:

Yeah.

Boyce:

Good afternoon, I am Faye Boyce and I am legal counsel for Robert Seniors. At the outset, just let me briefly state that this event known as the Luau is not sanctioned by the National Kappa organization and in fact, the Alpha PSI Chapter of the Kappa organization has been suspended from any organized activities whatsoever by it's governing body at Florida A & M University via the Department of Student Affairs. In light of that, for the last 3 years - Let me back up just a moment. That Division of the Kappa organization was suspended for alleged hazing activities. In light of that, for the last 3 or more years, Robert Seniors has taken the helm of promoting the Luau event in Gadsden County, Florida.

The Chair hammered the gavel for order.

Under his promotion and participation, this event has grown and become recognized as an event that is expected annually in the springtime at the Sheffield's Ranch in Gadsden County, Florida.

This year, as in past years, Mr. Seniors has done everything feasible to ensure the safety and well being of participants, the attending public, the traveling public along the Highway 90 corridor west, as well as the safety of Gadsden County. To this end, he has worked diligently with the governmental entity of the County Commission here in Gadsden County as he felt that it would be.

Dixon:

Mr. Chairman.

Fletcher:

Excuse me, let's don't interrupt her. Let her finish talking.

Dixon:

If I, Mr. Chairman, but if,

Gentlemen, you had your turn to speak. If you will, show the same kind of respect that she showed you. And please. Thank you, Mr. Chairman.

Fletcher:

Thank you, Commissioner.

Boyce:

It has always been Mr. Seniors' concern that the event be sanctioned or supported by the infrastructure of Gadsden County which is why he has made every effort to go through whatever process was required or even if the process was not required, to insure that Gadsden County officials are aware of the event and aware of what measures he has taken to insure that the event is safe for everyone involved.

So, here again, he has contacted the County Administrative officers and specifically the Planning Office. He has tried to comply whatever expectations there are with regard to safety, from a law enforcement standpoint. He has communicated with Sheriff Woodham. He has communicated with the Florida Highway Patrol and contracted with them based upon their requirements of an event of this magnitude. He has also contracted with private security companies to provide

additional safety or insure that there is a provision of additional safety for the participants in this event. And just so that the members of the Commission know, this event attracts well over 10,000 people. Or has attracted well over 10,000 people for the last few years.

Titan Productions, which you have already heard from, have not, to our knowledge, undertaken the same measures that Mr. Seniors has done. Instead, at the last hour, they have sought to domicile their event just a few miles up the road. Just a few miles up the road. Both events could feasibly attract into the thousands of individuals which connotes to thousands of cars or other vehicles driving along the Highway 90 West Corridor. Far be it from me to try to explain to anybody what kind of danger that could impose. I think the Commission, itself, has already recognized the danger to public health and safety and that is why we are here tonight.

But, I would just remind the Commission that Mr. Seniors has provided for and proven that he has provided for safety and welfare where traffic is concerned. With his provision of more sworn law enforcement officers as well as private law enforcement or private security companies, I should say.

It appears that the County is really concerned about the impact that the 2 events could have on Gadsden County. Just for your information and based upon what Titan Productions' representative just stated, they made an attempt to have their event domiciled in Leon County. They made an attempt to have their event domiciled in Wakulla County. Those attempts failed. Why have they then attempted to domicile their event just a few miles up the road from the event at Sheffield's Ranch. Ask yourself that question while you are considering the other pieces of information that they have provided to you. In fact, this group, Mr. Seniors along with my help, has filed a petition for an injunction to have a circuit judge address the impact, both economic and to the public health, safety and welfare of the citizens and public of having both events on the same day at the same time in the same County along the same major highway.

We are inviting Gadsden County to join us that endeavor. As evidence that was attributed to Delane Adams of Titan Productions in the Tallahassee Democrat Article on April 17, Tuesday, April 17, he was specifically quoted in that article as stating "Titan Productions did not need the approval of Gadsden County." Based on that, it is our position that

Chair Fletcher sounded the gavel to restore a point of order.

Fletcher:

Hold it down, now. I will have the bailiff remove you.

Unidentified

person: Inaudible

Boyce:

The article speaks for itself. It is in writing, preserved for perpetuity.

Based upon the impact of that article, or the statement that was made in that article, it was Mr. Seniors' position that we had no choice but to file for an injunction. Because, if the County, were to speak the other side, Titan Productions has already stated that they don't feel it necessary to listen.

Everyone who is concerned about the public health, safety and welfare recognizes the potential disaster that could happen with trying to house 2 major large scale events on the same day at the same time except for Titan Productions.

Therefore, we are in support of the County's attempt to enact an ordinance previously introduced by County Attorney Hal Richmond. We also, again, request the support, if the County so desires, of enjoining with Robert Seniors in his request for injunctive relief.

To the extent that I can, I will entertain any questions that the commission members may have.

Watson:

I would like to hear from Commissioner Dixon, myself. I mean, you know more about this than I do. And, I have heard you chastised me or criticized me for knowing things that you don't know. Enlighten me, sir. Where are you in this.

Dixon:

Well, let me just state, first of all, that I am not going to vote on this because I do have an intimate kind of relationship with both groups.

In my day job, part of what I do is large crowd contingency planning. And so, I am very familiar at least with the Seniors group. I have not yet had the pleasure of working with Titan Productions. I have spoken with Mr. Adams a time or two from that particular prospective.

From that prospective, when we work with these large crowd

events, for the simple reason that if they are not properly planned, things tend to happen when you get 35,000 people together. It's inevitable.

We work with groups like Daytona Beach, like college reunions, spring break, bike week, and the Luau for a number of years. There was a time when it did not attract, it only attracted 5,000 people who went in and went out - no adverse kind of impacts on the County.

We got involved when Freaknik in Atlanta was happening. And they had all kinds of blow-ups. And we were concerned about this particular grouping. So, we started watching it ourselves, along with the Department of Justice. The next year, Freaknik did not happen. Well, it happened but people did not go. They came down to Sheffield Ranch. And so that year, it grew by leaps and bounds in terms of ah, probably a 50% increase in the number of people that showed up.

As you know, Commissioner, last year, it grew again overnight.

In the planning process, and for the past 3 years, I am sure, it has been a planning process that we have gone through along with the Sheriff's Department, City of Quincy Police Department, Department of Transportation and anyone else that we thought needed to be a part of the deal.

This year, we started over a month ago planning this particular event. We didn't know where it was going. It didn't matter to us who was having it. We needed to have a plan in place in case it happened. It did not matter which group had it and it still doesn't matter which group had it. The fact is that it is right there and to allow 35,000 cars or people along with numerous amounts of cars to just come would be irresponsible on all of our parts.

In the planning process this year, we took those, what was it Chief, 8 FHP Officers and uploaded it to 25 because traffic tends to be the main ingredient to these situations. You know, in Daytona, traffic is the main ingredient. It is not lodging, it is not concerts, it is traffic. This venue is the same. Traffic. Getting people in and getting them back out again. Then allowing opportunity for citizens to get from Point A to Point B with a most minimal amount of interruption. So, that is why we take that planning process.

The Chief, I think, uploaded the number of officers they have. Barkley Security uploaded, I think, from 30 to 40 officers. And so, what you are talking about is not 40 sworn officers.

Chief, how many do you have? 30? I think there is 30.

Spooner:

There is 55-60 sworn officers and 40 private security officers.

Dixon:

40 private security along with 25 FHP. And so, you are looking at almost 100 officers/security officers who are involved. The Department of Transportation who has put out how many signs, Chief?

Spooner:

Inaudible

Dixon:

8. O.K. The City of Quincy has an additional 2 or 3. The whole route has been scripted, planned ingress and egress, who is going in where, what happens when it fills up Sheffield Ranch, mandatory parking at (I can never remember that farm's name) Violetta. At Violetta Farms to keep that same traffic we experienced blocking both sides of the street that we experienced last year.

Just the whole planning panorama that we are very concerned about. I spoke to Mr. Adams, I think, on Monday morning. First think Monday morning. When I also got it. Thinking that it was going to be in Wakulla, I had spoken to the Sheriff in Wakulla and their local government. Thinking that it was going to Wakulla, then finding out that it was coming to Gadsden County. And, you know, informed him that what you need to do, while you don't need a permit, what you do need to do is to show the Sheriff where you can pull this off. Your traffic, your safety measures, your security measures, all of this kind of stuff. Because the location is a tricky location, it is not like Sheffield Ranch that is on a straight away that is a private piece of property directly off the straight away. It is right here. I don't know how many of you can see this from that far away. But, that is right at the mouth of the entrances to I-10. And, to block that coming and going is a great concern because you block all the traffic going east and west from 90 as well as east and west from ah, entering and exiting I-10. Not to mention the fact that Brickyard Road is just a two-lane Road and not a very good one at that. And so, you have to consider how many cars you are going to put on that street, how you get them in there, how you get them out. All of that kind of stuff has to be considered and should be mapped out, scaled out. Because those things go directly to health, safety and welfare but they also go to what we call "flash points". Where citizens

who are coming for a party, get tired of waiting and things start happening. People trying to get to a venue. People trying to get out of a venue. Things happen. And so, the planning process is an attempt to minimize to the lowest degree possible, those kinds of things happening.

Watson:

Have you got any personal interest in this?

Dixon:

Uh huh. Just my job.

Watson:

I mean, it is strictly state interest, nothing personal.

Dixon:

None whatsoever.

Watson:

O.K.

Boyce:

Any questions?

Richmond:

Ya'll have coordinated with staff and provided them with the information concerning the traffic flow, security?

Boyce:

That is my understanding. That everything has been coordinated. I did speak directly with Sheriff Woodham last evening and he didn't state any concerns about what coordination or planning that had been done between he and Mr. Seniors. I didn't personally coordinate it. It's not part of what I do in my representation of Mr. Seniors. But, the assurances have been made to me that Mr. Seniors has done everything that Sheriff Woodham, FHP, and Gadsden County has asked him to do.

Maybe, I think it was in 1999, in year 2000, he had a certain amount of police assistance available and that was requested to be increased this year. Sheriff Woodham indicated to me that Mr. Seniors had no problem and that he liked working with him because whatever recommendations for safety were made, Mr. Seniors tried to make every attempt to comply.

McGill:

I do have one question, Mr. Chairman.

What prompted you to file for an injunction?

Boyce:

I beg your pardon.

McGill:

What prompted you to file for an injunction on behalf of Square Biz?

Boyce:

We had discussed, as legal counsel for Mr. Seniors, I can only go so far in what I can say, but, we had discussed the potential for filing an injunction over the week end because we had heard that the Wakulla venue wasn't going to happen. We discussed it, I think it was Sunday or Saturday evening after I returned from Daytona Beach. I told him that we would wait and see what need to be done. Then the article that I read in the newspaper on Tuesday where I, in my statement, my original statement to you, I read that Mr. DeLane Adams said that he did not have to comply with anything Gadsden County said. We felt that if Gadsden County - at that point, we did not know what Gadsden County's position was. But, we knew that Gadsden County was concerned about health, safety and welfare based on a conversations with Sheriff Woodham's office.

But, I just felt that if they were not going to comply with a recommendation or order or request or whatever you want to call it from the Board of Commissioners from Gadsden County, that we had no choice but to file an injunction and maybe they would hear what the Circuit Judge would have to say. That is literally what prompted it, although it had been discussed before reading that article.

Just to say that I am legal counsel for Robert Seniors and I have worked for Mr. Seniors in the past on this event. As far as I know, all contracts and other documentation relating to the putting on of this event at Sheffield's Ranch for the last three years, have been done in Mr. Seniors' name.

I don't really want to make an attempt to address all the rumors that were stated to you by the other side, but I can assure you that there are contracts with the artists, rental agreements, agreements with law enforcement that Mr. Seniors had entered into for the last couple of years- at a minimum, possibly the last 3 years to ensure that this event went off without a hitch at Sheffield's Ranch.

Fletcher:

Any further questions, Commissioners?

Watson:

Mr. Attorney, are you of the opinion that the Judge is going to rule for one or the other?

Richmond:

I think the judge will rule one way or the other. I think there are cross petitions on this matter.

Boyce:

That is correct. A petition was filed, I think a petition was filed by Titan Productions this afternoon. I was served with it, so I am pretty sure they filed it properly.

Watson:

Is there a chance that he will allow both?

Richmond:

There is a chance. He could walk away and say, that's it.

Watson:

It matters not what we do today?

Richmond:

No, it does matter what we do today. There are separate issues here. These are business interests and competing business interests.

The interest that we've got are the safety and police powers of the County. The concerns that we have are just that and not the personalities. I call it that and I don't mean to demean it by saying that or what has gone on between parties.

What we have to do is make a decision. There is a valid interest in the County protecting the citizens and providing and because of the traffic problems and security problems, health problems, medical problems, sanitation problems in a large event like this. We have heard specifics and unfortunately, Mr. Walker, you may have been in charge of it last year, but we sorta always felt like it was Mr. Sheffield's place and so we are familiar with that. That is not meaning to put you into a secondary position at all. But, we have not heard specifics and don't know specifics as far as whether you have the contracts with law enforcement, you have the contracts for sewage, whether you have the contracts for traffic and the department - I am just telling you that these are the concerns that we have. These are the reasons we are trying to function tonight.

We are not passing an ordinance against anybody. But, what we

are doing is providing for the very valid concerns that I think you recognize, Ms. Boyce's client recognize and the citizens need to be protected on that.

Fletcher:

No, sit down. She has the floor. She has the floor.

Richmond:

You will get your chance in just a second. O.K. Anyway, that's where we are.

McGill:

I just wonder if there are any other questions from the Commission tonight.

Richmond:

Thank you Ms. Boyce.

Fletcher:

Are there any further questions for Ms. Boyce?

Thank you ma'am.

Boyce:

Thank you.

Fletcher:

Now, wait a minute before you start.

Harris:

I was just raising my hand, teacher.

Fletcher:

Just wait a minute, before you start. Let me get something straight.

Harris:

Yes, sir.

Fletcher:

This is not a debate.

Harris:

Yes, sir.

Fletcher:

Now, I am going to let you speak for 5 minutes.

Harris:

Yes, sir. Put me on the clock. I'm a preacher, I can do it in two.

Fletcher:

You can have the floor for 5 minutes.

Harris:

I can do it in two. I have done 1 minute sermons, do you want to hear one? Here we go. Glad you asked me.

On the serious side, I thought I would inject a little humor in here because it is getting a little tense.

The concerns that you have are legitimate concerns and I want to say that. So, I don't want you to misunderstand me. They are legitimate concerns. You got information at the last minute. That is understood. Why you got it is not even an issue at this point. You did get it at the last minute. So, that is not really the issue.

The issue is how we resolve this. Put on our Solomon suits. How do we resolve this? I need to ask Commissioner Dixon a question and I won't be taking a long time. The numbers you gave and I trust your judgement, you do this every day for a living. You know, so tell me, is it better to have, and you said there are 35,000 people that you are expecting for this event? 35,000 people trying to get to Sheffield's. Is it better to have that or flip the script and have 35,000 between the two? Because the only 35,000, if that is your number estimated to come, and that is your number again, then that suggests to me that it might be better to have two separate venues because you won't overload or overcrowd one. Because Sheffield's won't house 35,000 people. So, you are going to have a bunch of people sitting there that can't get in.

Now, this is just my little simple, country-preacher mind at work here. It would just seem to me that it would just be better if there were two.

Can you answer that, Commissioner. Is that O.K. Mr. Chairman?

Dixon:

Well, Sheffield's can handle and have as you said. Just last year, Chief, I don't know if you were there or if David told the numbers, but the numbers were up there. The numbers were at 25,000 to 30,000 and not even half of that lot - that fenced area was filled with people.

Harris:

Let me rephrase the question. I didn't mean in terms of actually on his property, because, you probably could get more than that on there. And, I was there and you are absolutely right about the numbers.

What I am concerned about is that traffic flow that stems from say, the Midway City limits down all the way into Sheffield's property there. Because people were walking 8 - 10 miles, all the way actually from Midway. Walking down.

Dixon:
Yeah.

Harris:
So, what I am saying to you is, that problem has not been solved. It would seem to me,

Dixon:
No, it has been remedied.

Harris:
Well, I don't know. We won't know until it happens.

Dixon:
It has been remedied.

Harris:
O.K. I am saying that we won't know until that day because you may have 100,000 people. But, There was a lot of simultaneous talking by more than one person at this juncture and some of the conversation could not be clearly understood here.

Dixon:
No, we know today. Off site parking has been allowed for.

Harris:
Yes, sir, I know all about the off site parking. I understand that.

Dixon:
They have rented a 200 acre parcel and so that

The chair sounded the gavel and asked for a point of order here.

Fletcher:
You both can't talk at the same time.

Harris:
I know, but he has answered my question and I want to move on.

You gave me 5 minutes and I'm trying to get him to speed this thing up. You know, don't dialogue me to death.

And I understand that.

Dixon:

If I can just answer your question.

Harris:

You have already done that. You have already told me. You said it has been done.

Dixon:

Let me answer it completely.

Harris:

You said it has been done.

Fletcher:

No, let him answer.

Harris:

That's not going to taken out of my time, right?

Dixon:

Reverend, the point being, and I don't think you really want an answer.

Harris:

Yes, I do.

Dixon:

But, the answer is it can and it has been done.

Harris:

Good. You have answered my question. Now, since you addressed the issue of the traffic flow coming in and you've got that under control, so, we've got 35,000 people that are going to be at Sheffield's, in your estimation, right? So, that means now, that leaves a thousand or two or whatever is left to go down the road? Is that correct?

Dixon:

I don't know.

Harris:

Well, by your own estimation, you just said that you are looking at a totality of 35,000 folk coming to town for a Luau. So, 35,000 people. I mean, if you can do the math, I

am not a mathematician, but, you've got 35,000 people that are going to Sheffield's - How many people do you estimate that will actually be going down the road? That is my question.

Dixon:

In our plan, we had one objective, Sheffield Ranch.

Harris:

But, I am asking you this question.

Dixon:

Therefore, it was feasible to address one venue only.

Harris:

O.K. You have answered that question. Now, then let me say this. So, the answer really is - You don't know how many people. Say Sheffield has one down the road and say there is another one on this property that Titan's is trying to put there. You really don't know how many will show up at Titans, do you?

Dixon:

But, we would have to plan for two. Now, this is not a courtroom and I am a commissioner and I will speak. You will not stop me.

Harris:

Yes, sir. But. But I want.

Dixon:

Let me make my point.

Harris:

You are on my dime, though.

Dixon:

That's all right.

Harris:

O.K.

Dixon:

We'll cash it in and give you a nickle.

Harris:

Yes, sir. Thank you. Go ahead.

Dixon:

The point being is that what we would have to do then is plan

for two venues that could conceivably hold 35,000 people.

Harris:
Split or double?

Dixon:
No, you would have to double it because you wouldn't know where the crowd was going and therefore, you have to be planned as if the worst case would happen at both venues.

Harris:
So, what you are saying, let me make sure that I am understanding you. I told you that my mind is a little slow. That you are expecting 35,000 at Sheffield and you expect us to stand here tonight and understand and believe that there is a possibility that another 35,000 people are going to show up down the road.

Dixon:
No.

Harris:
Well, what are you saying, that is what I am trying to figure out.

Dixon:
I am sure you understand that I am not saying that.

Harris:
Yes, sir. O.K. What are you saying?

Dixon:
What I am saying, if people have a choice, I cannot tell you, and maybe you can, whether they will choose A or B.

Harris:
Yes, sir. Oh, I see what you are saying. You are talking

Dixon:
We have to plan as if they may choose A or B.

Harris:
So, we are talking 35,000 totally.

Dixon:
Yes. Exactly.

Harris:
O.K. Good. Here we go again, back to my original premis. You have 35,000 folk showing up, your estimation, chief's

estimation, Sheriff Woodham or whoever estimation that 35,000 folks showing up - I pose the question again, hypothetically, Is it better to have all those folks going to one venue or have those folks split between the two?

Watson:

All going to one if you have planned for one.

Dixon:

If you've planned.

Harris:

We're not smart, if you've planned, this is hypothetical now, remember that, not factual.

Dixon:

Well, we deal with facts. Because, the fact is that

Roberson:

I think what

Dixon:

The fact is

Roberson:

I think

Harris:

What where you going to say, Ms. Roberson? Commissioner?

Roberson:

I think what he's trying to say is that he doesn't know, all 35,000 may go to your event or all 35,000 may go to the other event.

Harris:

Oh. O.K. So, now

Roberson:

You have to plan for 35,000.

Harris:

O.K. Yes, ma'am. I understand that. So, that is the issue of point, sir?

No, no, no. I limited. Mr. Chairman, it is my turn.

(Gavel sounded)

Fletcher:

Wait a minute now.

Harris:

Mr. Chairman, it's my turn. Mr. Chairman.

Fletcher:

Reverend.

Harris:

It is my turn. You took my 5 minutes and gave them to him.

Fletcher:

Reverend.

Harris:

Yes, sir. (Laughter)

Fletcher:

Now, I can have you removed.

Harris:

You can do anything you want to. It is your county. And it's your room.

Fletcher:

That is exactly right. And your time is up.

Harris:

But, you took my time with him. You told me I would get it back. Commissioner Dixon promised me my time back.

Dixon:

No, I didn't.

Harris:

Yes, you did.

Dixon:

I lied.

Fletcher:

Reverend.

Harris:

You made me, Oh, he lied. O. K.

Fletcher:

Reverend, your time is up.

Harris:

O.K., he's a liar now. We know that. He admitted it in open court. No.

Fletcher:

Your time is up.

Harris:

Yes, sir and I am going to sit down, yes, sir.

Fletcher:

Your time is up.

Harris:

Yes, sir. Can I say yes, sir and thank you, sir for your time and your consideration?

Fletcher:

We have heard you.

Harris:

Yes, sir. Would you do that for me, sir? Would you accept that thank you from me, sir? I really appreciate the time ya'll have taken, you know, to listen to a good ole country boy like me.

Fletcher:

Your time is up. Your time is up.

Harris:

Now, is it somebody else's time?

Fletcher:

No, sir. We are not going to entertain anybody else from this side. Now, you had your chance to talk. She had hers. This is not a debate.

Walker:

But, he said I could have another turn when I was sitting there.

Adams:

He sure did.

Walker:

He said, you can, you promised me.

Fletcher:

I told you people that you had 5 more minutes.

Harris:

You people! You people!

Walker:

You people! You people!

Harris:

That's just like calling us a "nigger", sir.

That's just like calling us a "nigger."

You might as well just go ahead and say it.

Go ahead and say it. You people. You people.

Dixon:

Mr. Chairman, don't allow that.

Fletcher:

(Sounding the gavel.)

Order. Let's have order.

Bailiff.

Richmond: (to news media)

I hope you got that for your show tonight. Cause that is all they are playing to - you guys. Amusement.

Boyce:

Mr. Chairman, May I

Watson:

I move that we pass this ordinance.

Fletcher:

Do I hear a second to that motion?

Roberson & McGill:

I second it.

Fletcher:

We have a motion and a second that this ordinance be passed. All in favor, say "aye."

Watson, McGill, Roberson, Fletcher: Aye.

Dixon:

I am abstaining.

Fletcher:

Mr. Dixon abstains.

Watson:

Do we have a clerk?

McGill:

Mr. Chairman. I knew that we were going to pass the ordinance because that was on the agenda. But, let me express some concern that I have.

Richmond:

There needs to be, excuse me if I can, for housekeeping purposes, before we go further.

There needs to be a specific finding that this is passed on an emergency basis, based upon the presentation of the two events going off at the same and the inability to presently deal with it.

If that would be apart of the motion, then that is fine.

Watson:

Yes, I will move that due to the fact that this County is not prepared to police two of these large events, that we pass this ordinance on an emergency basis.

Roberson and McGill:

I so second that.

Fletcher:

We have a motion and a second. All in favor, say "aye."

Fletcher, Watson, McGill, Roberson: Aye

Dixon:

I abstain.

Fletcher:

Let the record show that Commissioner Dixon abstained. Motion passes.

Dixon:

Mr. Chairman, let me also state for the record, that none of us who were sitting here who are African American understood that to mean what he said.

McGill:

I don't think so either.

Dixon:

None of us took it to mean that.

McGill:

No, not at all.

Dixon:

I just want to say that for the record.

Fletcher:

We understand that Commissioner and thank you.

McGill:

While we are talking, Commissioners, let me suggest a couple of things. Even if it gets down to a vote between Sheffield's and Brickyard Road, I have had so many calls from my constituents, and I live in that district, against Brickyard Road for the same reasons that we were talking about here. There would be no way on God's earth that I could approve to put it on Brickyard Road. I just couldn't do that.

Watson:

It all boils down to - one has been planned, one has not and that is where it sits with me.

McGill:

Even if it has been planned, Commissioner, I still couldn't vote to put it on Brickyard Road. I have too many people complaining about the Brickyard Road for the same reasons we talked about.

Richmond:

If I may address one further issue just as a matter of procedure for the Board. At this point, it will be necessary for applications to be received pursuant to this ordinance and this Board must pass on it. The information that has been presented by Ms. Boyce and by the Chief with regard to Seniors or what we called the Sheffield Luau. I think it would be appropriate if you granted them the permit because they have presented things to staff subject to it being properly followed up by a letter of application from Ms. Boyce tomorrow. Then you would not have to meet to consider the application again from Mr. Sheffield.

If Titan Productions presents an application, then that would have to be dealt with by the Board. Because, specifically,

the Board must pass the permits.

I'm trying to save you another meeting because I think you are familiar with the information. It has been presented to you through staff, if Mr. Ballister wants to address it. I think that can be addressed at this time. It will save you from having to meet again.

And that is not taking sides. I mean, we've just been familiar and been working with them for a period of time.

Fletcher:

Well, what are you asking now for? Is it for us to have a motion to issue a permit to either organization?

Richmond:

Permits, right. No. Just for , ah, I assume Ms. Boyce, because of her cooperation we have had before, you can get us some kind of letter application tomorrow.

Boyce:

I can get a letter of application tomorrow.

Richmond:

Subject to receiving that, with the information you have presented tonight, I think that the Board could go ahead and issue it.

Watson:

The right thing for us to do, I am sorry to say, is to let it get here, then we act on it. What we are about to do is not right.

Fletcher:

So, what you are suggesting is that we reconvene?

Watson:

Exactly. That is the right thing to make this look proper.

Fletcher:

O.K.

Watson:

I mean for us to act on something that is not here before us is wrong.

Fletcher:

So, the thing for us to do now is adjourn.

Watson:
Exactly.

Dixon:
Let me state before we adjourn, Mr. Chairman, that the chief and I

Fletcher:
Chief, can you ask them to hold it down out there, please, sir.?

Watson:
Just don't say "you folks."

Dixon:
Let me clarify because there seems to be some dis connect about what my role in all of this is. Have I clearly answered that for everybody?

Watson:
You've answered.

Dixon:
Have I answered it clearly for everybody?

Watson:
You have.

Dixon:
And, it didn't matter to me whether they, I followed code. Because my job is to make sure that events like this

Watson:
I just wanted to make sure there was no personal involvement and the any involvement you had

Dixon:
I can prove who I am.

Watson:
Well, that is fine. But I do think, I mean, I hate to meet again, but I do think that it is the proper thing to do.

Richmond:
If that is your decision, I was just trying to offer an opportunity.

McGill:
I couldn't meet again before 3:00.

Richmond:

I think Mr. Yerkes wants to say something.

Fletcher:

All right, Mr. Yerkes. Please be brief.

Yerkes:

I will take less than 20 seconds.

John Yerkes.

One thing that I wanted to point out since we live right in the middle of this, the whole subdivision, I think that what all is going is going to have such advertisement, please consider the fact that I think there are going to be a lot more people that what people are estimating. The advertisement that this is getting in the newspaper. And, all the things that are going to be said, I think you are going to end up with a tremendous more number of people there than what you are estimating.

Don't you think so, Commissioner Dixon.

Dixon:

Either that or significantly less.

Yerkes:

Well, just a point to keep in mind, please.

Fletcher:

Yes, sir. We are.

McGill:

Tomorrow at 3:00, will be the most convenient time. I have a meeting at 11:00 o'clock, 5:30, 6:30. I could meet at 3:00p.m.

Fletcher:

Commissioner Watson, can you meet at 3:00?

Watson:

N O

Dixon:

He can't meet til six, period.

Watson:

I can be here at 5:00.

Dixon:

I can't be here at 5:00.

Fletcher:

How about earlier in the day?

Watson:

What's wrong with Friday? Or is that too late?

Fletcher:

I think we ought to get it settled.

Richmond:

I won't be gone until noon on Friday.

Watson:

What about the morning?

Roberson:

I'll make it easy. I will meet whenever you say.

Fletcher:

I have a meeting at 11:00 in Tallahassee but I can meet at

Dixon:

Can we meet at 9:00?

Fletcher:

I can meet at 9:00, yes.

Richmond:

The question is, Ms. Boyce, Can you give us an outline of your plan?

Watson:

Actually, I am going on a field trip with my daughter in the morning.

Richmond:

I've got a copy for you.

Fletcher:

Is a quarter til 9?

Is that all right with you, Carolyn?

Roberson:

yes.

Fletcher:

All right. I am going to set this meeting to reconvene at - I am going to recess this meeting to reconvene in the morning at a quarter til nine.

Richmond:

To consider the applications.

Fletcher:

To consider the applications presented.

We are recessed.

E.H. Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

AT A SPECIAL MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON APRIL 19, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: EDWARD J. DIXON

CALL TO ORDER

Chair Fletcher reconvened the meeting of April 18 at 8:45 a.m. on the following morning. He announced that he would maintain order during the proceedings and would not tolerate any outbursts. He then turned the meeting over to Mr. Richmond.

Mr. Richmond announced that the Board would receive applications under the provisions of the ordinance passed at the meeting on April 18, 2001. He advised the Board that the ordinance was in the process of being filed at this time. He said that the Board could issue permits as soon as the ordinance has been filed with the Secretary of State.

Mr. Richmond stated that, in the absence of a set of forms for the application process, the Board must limit its concerns to the main issues of health, welfare and safety, (dealing mainly with traffic pattern, security, medical provisions, sanitation.) He then stated that notice had been given at the meeting on April 18 that this meeting was a continuation of that meeting.

Ms. Faye Boyce, legal council for Robert T. Seniors d/b/a Square Biz Productions, spoke to the Board on behalf of her client. She submitted an application to hold the Kappa Luau at Sheffield's Ranch on April 21, 2001 pursuant to the emergency ordinance passed on April 18th regarding outdoor festivals. Sheffield's Ranch is located on Highway 90 East and is owned by Carlton Sheffield.

Ms. Boyce gave a narrative of the application and provided copies of supporting contracts for the following ordinance requirements:

- 1) Contract with Big Bend Port-a-let Co. to provide 20 port-a-lets on site.
- 2) Contract with FDOT for Trash pick up along US 90 after the event.

- 3) One EMS vehicle as well several other emergency response vehicles to be provided by local law enforcement.
- 4) One Sheriff's mobile station to be on site.
- 5) Lease for additional parking at Violetta Farm - 200 acres.
- 6) Commitment of Florida Highway Patrol off duty patrol officers who will work the area to guide the traffic into the parking area.
- 7) Contract for traffic message signs - to be supplied by FDOT
- 8) Security agreements - local law enforcement agencies plus private security with Barkley Security.
- 9) Budwiser Corporation is the major corporate sponsor for the event.
- 10) \$1 Million Liability Insurance Policy

Ms. Boyce requested that the Performance Bond required by the ordinance be waived in light of Mr. Seniors previous history at the location.

Commissioner Watson asked if alcohol will be sold on the premises. Ms. Boyce answered that it is given away as part of the promotion by Budweiser. She was uncertain if it will be sold.

He then asked if there will be a charge to get in. Ms. Boyce answered that there is an entrance fee.

Commissioner McGill asked if they had attempted to get the sponsorship of Pepsi or Coke. Ms. Boyce could not answer that question.

Mr. Richmond interjected that food and other beverages will be available but the only corporate sponsor is Budweiser.

Commissioner Watson asked if the County could be held liable for anything above the \$1 Million liability insurance provided by Mr. Seniors.

Mr. Richmond answered that the County has sovereign immunity from most issues arising from the festival.

Mr. Ballister asked that the festival be held to the 8 hour provision of the ordinance as well as the provision for a life guard at the site.

Mr. Richmond indicated that the application must also meet those requirements of the ordinance.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE APPLICATION OF ROBERT SENIORS D/B/A SHOW BIZ PRODUCTIONS TO HOLD THE FLORIDA KAPPA LUAU AT SHEFFIELD RANCH SUBJECT TO ALL THE PROVISIONS OF THE OUTDOOR FESTIVAL ORDINANCE AS DISCUSSED AT THIS MEETING.

No other applicants were present.

Commissioner Watson asked if there were any measures that could be taken to prevent a second Luau from taking place simultaneously.

Mr. Richmond answered that it would be unlawful for another event to go forward without first complying with the provisions of the new ordinance.

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER DECLARED THE MEETING ADJOURNED.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A SPECIAL MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON APRIL 20,2001 AT
3:00 P.M., THE FOLLOWING
PROCEEDINGS WERE HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: EDWARD J. DIXON

CALL TO ORDER

The meeting was called to order by Chair Fletcher. He stated for the record that he would maintain order for the meeting and that any outbursts from anyone would be dealt with by the bailiff and they would be escorted from the room.

He then turned the meeting over to Hal Richmond.

APPLICATION FROM TITAN PRODUCTIONS TO HOLD OUTDOOR EVENT

Mr. Richmond called attention to the application submitted by Titan Productions to hold an outdoor event for the Florida Kappa Luau in Midway at a location on Brickyard Road. This event would be in addition to the one held on the same day at Sheffield's Ranch located on US 90.

He then introduced Mr. Paul D. Srygley, an attorney representing Titan Productions.

Mr. Srygley presented the application and answered questions from the Board.

Commissioner Watson asked Mr. Srygley why Titan was not present at the special meeting held on Thursday morning when they received the other application.

Mr. Srygley stated that he had not received notice of that meeting explaining that no one from Titan was present in the room when the Board announced the meeting.

Chair Fletcher clarified that the meeting on Wednesday was recessed until Thursday Morning. He argued that if Titan had stayed for the entire meeting, they would have known that it was continued.

Commissioner Watson asked Mr. Walker if he had been informed of the meeting or the continuance.

Mr. Walker yielded to his attorney, Mr. Srygley.

Mr. Srygley answered that he nor his clients were in the room when the meeting was announced. He then questioned whether there was proper notice of the meeting.

Commissioner Watson stated that Mr. Ballister had told him that he gave notice to Mr. Walker. He asked Mr. Walker once again if he had received notice of the meeting.

Mr. Walker again yielded to his attorney.

Mr. Srygley evaded the question by saying that he was not contesting the propriety of the meeting on April 19. He said that he was present for today's meeting because he was responding to communication from Mr. Richmond saying that the Board had scheduled this meeting.

Commissioner McGill stated that he was not in total agreement to have this meeting.

Mr. Richmond clarified the issue of the meeting as follows:

The emergency meeting of Wednesday night, April 18 was continued to 8:45 a.m. on April 19 for the purpose of taking applications pursuant to the outdoor festival ordinance.

At the meeting on April 19, one applicant - Show Biz Productions showed up and a permit was granted.

At an injunction hearing scheduled before Judge Davey, Mr. Richmond testified that one application had been received at the 8:45 a.m. meeting and a permit was issued. After that testimony, Judge Davey asked if the Board would meet again to consider another application. He responded to the judge by saying he could not speak for the Board, but he felt that every effort would be made to address the issues of the ordinance. He also testified that he believed that both

parties had full knowledge of the meeting that would take place at 8:45 on April 19 for the purpose of receiving applications. (It was his understanding that Mr. Ballister had communicated such to Titan Productions.)

Mr. Srygley's representatives came to Richmond's office at 1:00 p.m. on April 19 and inquired about a formal application form.

At 4:45 p.m. on April 19, Mr. Richmond called Mr. Srygley and asked him if they intended to make an application for an event. Mr. Srygley responded to him by saying that they were working on it. In turn, Mr. Richmond contacted Mr. McKinnon to discern the proper procedure and the will of the Board concerning another application. (There was no intent to preempt the Board as to whether to call another meeting.)

After several communications between Mr. Richmond and the County Manager's office, it was determined that the Board could not meet to consider the Titan Productions application until 3:00 p.m. on April 20 - this meeting.

Mr. Srygley filed an application via FAX to the County Manager's office after 5:00 p.m. on April 19.

Mr. Richmond stated for the record that he did not make a statement to the Tallahassee Democrat to the effect that the Titan Production's application would be favorably received even though it was reported as such in the newspaper.

Mr. Richmond asked Titan to explain how the traffic flow to the proposed site would be addressed.

Captain McIntyre of the Florida Highway Patrol was questioned as to the number of FHP officers that would be available for traffic assistance for this event. He said that he did not have any officers available to assist Titan because he was extended for the Sheffield Ranch event.

After lengthy question and answer period, it was determined that Titan Productions had not adequately provided for traffic safety concerns for their event. It was further determined that the Florida Department of Transportation had not been contracted to do trash clean-up along US 90 even though a contract was in place with a private trash collector for trash pickup of the event site.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4- 0, BY VOICE VOTE, TO DENY TITAN PRODUCTIONS A PERMIT TO HOLD THE KAPPA LUAU BASED ON THE FACT THAT TITAN HAD NOT ADEQUATELY PROVIDED FOR THE HEALTH, WELFARE AND SAFETY ISSUES AS REQUIRED BY THE OUTDOOR FESTIVAL ORDINANCE.

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER ADJOURNED THE MEETING.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON MAY 1, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order.

2. ADOPTION OF THE AGENDA

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS PRESENTED.

3. APPROVAL OF MINUTES - APRIL 17, 2001

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

Mr. Richmond called attention to the proposed ordinances on the agenda. He reported that both ordinances had been duly noticed as authorized at a previous meeting.

4.1. Lake Talquin Speed Limit 2001-003

Mr. Richmond announced a public hearing on the above stated ordinance. He read the title of the ordinance into the record as follows:

"An ordinance providing for the creation of idle speed zones; providing for legislative findings; providing for the establishment of prohibitions in idle speed zones; providing

for fines and punishments applicable for violations of idle speed zones; providing for exemptions; providing for severability; and providing for an effective date."

He then explained that the ordinance provides that around county landing ramps that there is a speed zone to prevent wash and other problems at the shore line. In the absence of a speed limit, there is no authority by which the Marine Patrol and Wildlife Commission can enforce lower speeds that will safeguard the public and property. He also stated that the ordinance pertains to all waterways in Gadsden County that are designated by appropriate signs.

There were no public comments.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED ORDINANCE.

4.2 Litter Ordinance 2001-004

Mr. Richmond read the findings of fact and purpose of the proposed Litter Ordinance explaining that the new ordinance will repeal the former litter ordinance.

Discussion followed.

No public comments were made.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE LITTER ORDINANCE.

4.3 Kappa Luau

Richmond:

One thing to consider now is that the Luau has taken place this year. We did have an emergency ordinance in place. If you want, I will develop more fully that ordinance. I had to restrict it somewhat to cover the emergency situation we found ourselves in. And, if you want, I will come back with a model ordinance from Jacksonville or Wakulla County at the next meeting and do a notice of intent.

Watson:

I would like one that will make it very difficult for them to

have a luau in Gadsden County.

Dixon:

I wouldn't.

Watson:

I know you wouldn't.

Richmond:

Well, I think that the only provision that we can provide for is the health, safety and welfare. And, just, ah, the notice that is required - we had 90 days in there. That obviously didn't fit. That seems to be what the other counties that have enacted these things have.

Watson:

Even with all the planning that they had done, there were still a lot of problems along highway 90.

McGill:

Could we find, say, on a (inaudible) on a tract someplace off public highways for parking and that kind of thing?

Richmond:

Yeah, I mean,

Watson:

They need to take care of their own parking on site. There just needs to be a lot of restrictions put on it so that the public is not put out. Because we are always put out every year.

Dixon:

I certainly disagree with the commissioner. Ah, you know, first of all, you can't unreasonably restrict assembly for people. If anybody here wanted to have a party and 3,000 people showed up, I mean, there is nothing you can do. I certainly want to caution the Board against going to the point where you, in essence, you rule out any kind of gathering just by the strictness of the measure that you put into place.

Those things are good or bad based on planning. That is all.

Good, bad, based on planning. Ah, I don't know how many of you have ever attended the gathering - that particular gathering. Ah, things, I take, things got bad in terms of traffic. Things that caused it - were there were plenty of

cars on the road. At eight o'clock - somewhere between 8 and 9:30 or 10:00, with all the cars. Cars were backed up, as I understand it, from Courtesy Cars all the way back.

You know, in terms of seeking restrictions that stop any kind of gathering, I think that is counter productive. That is totally counter productive. There is just no reason because if folks - there was ample opportunity and certainly ample signage that said "Congested Area" or "Please Go Around", "Please Take Another Route".

There were 30 FHP officers out there. Things were properly planned. The event went off. Were there hitches? There always is anytime you get 20,000 - 30,000 people together. But, I want us to refrain from doing what some other counties have done and really got hit because of it.

The rush to make things prohibitive is basically why you have something in place. What you end up doing is preparing an ordinance which basically makes it impossible. It was wrong back in its day and it is wrong now.

You should have some realistic things in place that speak to health, safety and welfare. If people manage those things, then they can get a permit to do something of that sort. Just to sit here and say based on nothing other than what someone heard is really uncalled for.

Watson:

When you testified as to all the planning that went into it and there was still a problem. It is going to be impossible along the busiest highway in Gadsden County not to have a problem with that number of people. It is something that we should avoid in the future. It is just that, sooner or later, somebody is going to get hurt.

Dixon:

Well, you can say that about anything - traffic out there - sooner or later somebody is going to get hurt.

Watson:

You have 25,000

Dixon:

I don't see you trying to lower speed limit to "0".

Watson:

When you have 25 - 30,000 people, you really have increased your chances and add the factor of alcohol to it, you have really increased your chances.

Dixon:

Commissioner, is your only option zero? Do nothing? You could have at least been decent and said "Here are some problems, let's see if we can work on them." That ain't your attitude I take it.

Watson:

You said you had them worked out, Bud.

Dixon:

Hey, I took the best people Gadsden County had to offer - some of your very good friends.

Watson:

And there were still some problems.

Dixon:

And there are always going to be some problems.

Watson:

Well, it didn't have to be.

Dixon:

Does every tooth come out just like it should and supposed to? No, it doesn't.

Fletcher:

Let's not have an argument.

Dixon:

This is the time and place for having an argument.

Watson:

Sooner or later we are going to have it.

McGill:

I am not opposed to the Luau. I do have a problem with the way it was conducted. Even this last time, it was worse than before. I thought we ought to find a place big enough to accommodate the crowd off the road - off the road. That be a better push to it. I've got a whole lot of calls about the

congestion on Highway 90 and the loud noise, the boom box noise. I got some of that. So, I am going to talk to some people dealing with the Luau and see if they could stagger their instruments in more than one location so that one would not have to go so loud and that would be less disturbing, I believe.

I think if we sit down and plan it properly with the right frame of reference, I think we can do it and do it well. And if it's not highway congested.

Fletcher:

Mr. Montgomery of North Florida Medical Center.

5. NORTH FLORIDA MEDICAL CENTER, INC.

Mr. Joel Montgomery, Executive Director of North Florida Medical Center, Inc. addressed the Board asking them to reduce the rent of the Medical Center Building to \$10.00 per year. (They are currently paying \$26, 490 per year.) He said that a reduction in rent would further their medical services by allowing them to recruit a new physician to the community.

Watson:

Mr. Montgomery, what did that retreat cost, that ya'll went on?

Montgomery:

I believe that cost about \$12,000 to \$13,000.

Watson:

Do you feel like that money could have been used to expand your services, too?

Do you see the inconsistency that I am hearing from you?

Montgomery:

Well, I guess it is a matter of an opinion as to where you get the biggest bang for the buck. The Board of Directors that was on that retreat spent Friday evening working, all day Saturday working, and half a day on Sunday working. They did not have the opportunity to "play on the beach" if you will. In fact, the location that we had, the nearest water was a marsh and the bay was accessible through a waterway.

Our board members worked. We had 11 members on the Board.

They come to Tallahassee each month. The farther members drive from Wewahitchka and Cross City. They take a day out of their life every month. They work without compensation.

The purpose of a retreat, I think as one of you mentioned that it is a good thing, is to do the work of the corporation and it is necessary that members, such as yourself on the County Commission get together as a group, and conduct business. So, yes, in terms of the future of the organization, the direction that we take, we value those meetings. We value what comes out of those meetings. And, we believe that it is very cost effective to spend a moderate amount of money to assemble together and conduct business.

Watson:

Why could you not meet in Gadsden County?

Montgomery:

I presume that we could if you have facilities that will accommodate such a meeting.

Watson:

Why can't you just have a meeting place and everybody go home and spend the night in their own bed, then come back and meet the Friday and Saturday.

Montgomery:

I would suspect that there is several ways that you could accomplish that.

Watson:

It sounded like to me that the atmosphere that you were in was not a resort. You made a point to say that "No, we were not down playing on the beach." O. K. I don't care if you are down there playing on the beach or not. It's just that you are in here asking us to forgive some rent so that you can provide more care - indigent care. Yet, you spent \$12,000 on a beach trip that a lot of those indigent people in this county will never, ever see.

Now, to me, it is grossly inconsistent of the Board to do that.

Montgomery:

Well, we are encouraged by our grantor, the federal government, to have board retreats. This is not unusual in

the community health center scenario.

Watson:

But, the tax payers of this county are going to have to make up the difference in whatever you are paying now and what you want to pay. And, those people are going to have to pay. And, a lot of these people will never ever see a beach. Never, ever go on a retreat. I just, I just, It's just seems to me to be wrong. To be asking them to pay for your rent, basically, while you think you've got enough money to do - go on this retreat when you can accomplish the same thing in a much cheaper setting. A much less expensive setting.

Well, we had one. We had it out at the Livestock Pavilion. And I don't think it cost the County anything.

Montgomery:

Well, I don't tell my Board where to have their retreats or when. We make recommendations. In fact, we've had about 3 possibilities within driving distance. One of them fell - they cost about the same. Some of them were more. Aquafema a fishing camp, is not what you would call a resort, they were unable to accommodate the size of our group.

Watson:

Well, where do you meet in the County. Don't ya'll meet somewhere?

Montgomery:

We meet routinely out at our central office in Tallahassee.

Watson:

Why couldn't, why is that a problem?

Montgomery:

Well, logistically, if you ask people to drive in and meet and then go home, some of them - Cross City is about a 3 hr drive, a 2 or 3 hour drive.

Watson:

Well, for people who live a long way away, you could put them up for the night and it would be a whole lot cheaper than \$12,000.

Montgomery:

I am sure that there are plenty of options at which to conduct a retreat or an annual meeting. Certainly, if the members are

willing to do that and they want to do that, then that is certainly would be something that the Board would want to consider and do.

I would like to refer back to the fact that if this rent is forgiven that the County tax payers would be required to cough up the difference. I would like to submit that the rent that is currently being paid is coming from the patients that we serve because we are limiting service to the patients because of the rent we pay.

Watson:

Why is the rent that you are having to pay limiting services but your retreat is not?

Montgomery:

I think that the retreat is certainly improving services.

Watson:

All right, hold on now. You are saying that your rent that you are having to pay is limiting the services because you are having to pay money out, correct?

Montgomery:

Uh-huh.

Watson:

Why is it that \$12,000 that you pay for paid for the retreat not limiting services? What is special about the rent money that was paid out that is different than the retreat money? Why, why, why are the services not limited by the retreat money that you spent?

Montgomery:

Well, the retreat money is used to assemble the Board of Directors to do planning.

Watson:

You are not answering my question.

Montgomery:

Well, I'm not sure I understand your question.

Watson:

You are having to pay money out and it is limiting services because of the rent. You are having to pay money out for

rent, so, your services are being limited because you are paying money out for rent.

You paid money out for a retreat. Why are the services not being limited because you are paying money out for the retreat? Why is that?

Montgomery:

I think my answer is still the same as I attempted to answer it, but, you said I wasn't answering the question.

Watson:

Well, you are not.

Montgomery:

Well, you haven't heard my answer.

Watson:

Well, I know what you are going to say.

Montgomery:

You know what I am going to say? O.K. So, I won't answer it.

McGill:

I can understand the need for the retreat. I think it allows people sometimes to get together in a non-working environment per se, in a neutral zone, if you will, to look at some things that didn't go over quite well in the past - when things weren't thought out too well and they give you an opportunity to put those things on the table and strengthen them so they will run more smoothly in the future. I understand that. And, I don't have a problem with it. But, if it was that, was it designed to improve the quality of health services provided? Was part of that retreat designed to improve health services - the delivery system?

Montgomery?

Yes.

McGill:

I can understand that. I am not totally in sync with the commission to my right on this issue. I do think that every so often, it is time, particularly when people are doing different kinds of things, they come together and see if they have met their philosophy and oneness in their approach to providing those services in an expeditious manner. I can

appreciate that. But, I still wonder why it would cost quite \$12,000 to do that.

Watson:

Oh, I don't have a problem with them doing that, it's just don't come to me and ask me to forgive the rent so that they can provide more services.

McGill:

Well, those things do cost money. If next month, the Florida Association of Counties is going to have an annual meeting at the end of next month in Jacksonville, I think the 27th - 29th and if we participate in that, we are going to have to pay our own way. But, we are paid a share toward it already because we pay annual dues to the Florida Association of Counties. And that is kind of similar as this thing. So, I can understand that. For 25 years, where I worked, we used to have retreats - not quite that expensive cause we didn't have that kind of money. But, the concept was the same. Get together, get a oneness of thought, look at the things you didn't too well in the past, present a plan to go forward in the future and present it in a way that you can stay with it. Some people call it an MBO (Management By Objectives). But you have to have some time away from your normal day to put those things in place and make them effective. I can understand that.

Montgomery:

It allows for creative interchange in a different environment. Also, this is the first time that the Board has gotten together since 1995.

Fletcher:

If I may, the county manager has listed the annual costs of maintenance on this building on the second page. The total comes to \$15,180.00. The County Health Department occupies half of that building. So, I will entertain a motion that we reduce the rent from \$26,000 per year to the \$7,590 that it takes to maintain half of the building if somebody will make that motion.

McGill:

Now, before we act on that, is that going to do you any good at all? I hope that it would. From \$26,000 to \$7,590. Will that help you achieve your goal?

Montgomery:

It will certainly help.

McGill:

I move.

Roberson:

I'll second it.

Dixon:

Discussion, Mr. Chairman?

Fletcher:

We have a motion and a second.

Dixon:

Just for discussion, I think, Mr. Montgomery, your answer to the Commissioner who is concerned about the retreat is that the reason you did not attribute loss to it is because you attribute value to it. There is value in meeting and discussing. That is something that we don't do nearly often enough actually. So that you can find some synergies and some common ground on some issues. And you do have to get out of the atmosphere. You really do. Not to mention people who volunteer their time, their efforts and their energies, should be given an opportunity to sit and talk about the issues that they obviously find important to them - in a neutral setting.

However, I am not totally sold on your rationale - that because you paid \$800,000 into the system for rent, that we, all of a sudden, owe you something. Any private building owner or private property owner who owns a building considers that part after which the mortgage is paid to be profit revenue to help him or her do other things. One of which is to maintain the facility. So, I am not at all sold on your rationale that it is now time that we owe you.

Because if we allow that rationale, then we must allow that same rationale for everybody else who leases buildings from the County even if they provide a county service. So, I am certainly not following that rationale. And even though I understand that there are folks who do have zero rents from the County.

Montgomery:

That was my next question.

Dixon:

Yeah, I am not saying that they don't. I am saying that there are.

McGill:

I call the question, Mr. Chairman.

Dixon:

I didn't interrupt you when you talked.

McGill:

I thought you were through. You were holding your head down like you were finished.

Dixon:

Can I think?

McGill:

Yes, sure.

Dixon:

So, I am not at all caught up on that rationale. It is not working for me in this instance. Don't get me wrong, in other instances, I may entertain that kind - that particular kind of rationale, but not now.

We've got \$7,500. What - How old is that roof now.

McKinnon:

The building was built, I think, in the late 80's.

Roberson:

So, this roof already has age on it.

McKinnon:

Yes. Yes, that is correct.

Dixon:

See, we didn't amortize those costs.

McKinnon:

That is true. This will be an annual amount. The building must be 13 - 14 years old now.

Dixon:

So, we already need to replace the air and do major upkeep.

McKinnon:

Well, we have already replaced some of the air-conditioning.
I know that has already been done.

Fletcher:

The question has been called for.

Dixon:

Mr. Chairman, may I finish? Now, you let Watson take up all the time.

Commissioner Watson, I am sorry.

But, we are 10 years or 13 years into the roof. As long as that is up front.

Roberson:

I didn't realize that. That the roof was that old.

McKinnon:

That is correct.

Dixon:

That is up front and real now.

Roberson:

So, you are saying that it is about 13?

Dixon:

You said 80's - mid 80's? How old is the building?

Furlow:

I think it was built in 84. Gadsden Medical Center began in the early 80's.

Dixon:

O. K. So, we are looking at 15 to 16 years.

Roberson:

So, actually, this is not a true figure annually.

McKinnon:

Well, that would be the annual contribution to - I guess that the building - I guess that 2/3 of the \$65,000 has already gone by.

Fletcher:

Commissioner, they have already paid a good deal more than this in rent over the years. So.

Dixon:

Like I said, I'm not buying that argument.

I am through, Commissioner. Thank you.

Fletcher:

All right. The question has been called. All in favor of the motion say "aye."

Dixon, Roberson, McGill, Fletcher: Aye.

Fletcher:

Opposed?

Watson:

No.

Fletcher:

The motion passes.

Montgomery:

Thank you.

6. DISC VILLAGE, INC. GRANT PROPOSAL

Community Development Director Edward Butler addressed the Board. He told the Board about a grant proposal that has been written that will enhance or expand a comprehensive, integrated, creative and community-based response to a targeted, well documented substance abuse treatment capacity problem. He stated that the grant is only available to a local government entity. The amount of the grant is between \$100,000 and \$500,000. He then introduced Ms. Jan Hendricks who wrote the grant proposal.

For greater details of the grant, see the attached summary.

Ms. Hendricks stated that there would be no match requirement of the County as it will be 100% federal funding. She went on to say that the grant proposes to expand outpatient services that the Gadsden County Human Services Center by adding a clinical supervisor and reduce the case load sizes by adding another full time person. She explained that the center will serve 300 people

on out-patient basis.

Ms. Hendricks explained that a needs assessment was done for Gadsden County and the results show that the County is currently serving well under anticipated needs - 700 per year. The residential treatment program will be expanded from 3 beds to 8 beds.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE GRANT PROPOSAL FOR DISC VILLAGE AS PROPOSED.

7. GROWTH MANAGEMENT ISSUES - BRUCE BALLISTER, DIRECTOR

7.1 Recreation Vehicles as Accessory Uses - Policy Guidance

Mr. Ballister stated that the County Land Development Regulations defines a recreational vehicle park as "Any site or tract of land upon which are located two (2) or more recreational spaces,...., regardless of whether or not a charge is made for rental service." "RV Parks are permitted only in Commercial Land use category." "Subsection 4201 (A) 1. The category of residential usesspecifically excludes recreational vehicles (RVS)."

Mr. Ballister explained that he had received a complaint about a property owner who had 2 RV sites with permanent hook-ups to a septic system and a third RV on site at the present. Upon investigation of the complaint, he said he found that scenario to be fairly wide spread along the lake shore and other isolated places throughout the County.

He stated that he did not want to single out one person to prosecute just because there was a complaint when it is so wide spread. He asked for procedural guidance from the Board as to whether to revise the ordinance or abide by the ordinance. He recommended compliance to the ordinance.

Commissioner Dixon asked how he would attempt to enforce it.

Mr. Ballister replied "To find some of them, it would probably take a boat cruise on the lake shore side. But, the ones that we can readily see, as a code enforcement officer, we have free access from a drive way to a front door - whatever we can see in the path. Sometimes neighbors will give you right of access to look in their neighbor's yard. We don't normally trespass beyond the front wall

of the building. A lot of these are readily visible.

The intention, if we are going to prosecute them, is not to pick on one person because we got a complaint. But, to systematically go after it as an issue. I know that or imagine that a lot of people who have the property, they must be getting some substantial income from it."

It was the consensus of the Board to enforce the ordinance.

8. PUBLIC WORKS - PAVING CONTRACT

Public Works Director Robert Presnell addressed the Board. He said that Public Works has several paving projects on which they are prepared to proceed. He called attention to a letter from C. W. Roberts Contracting, Inc. stating that they will continue to utilize the same unit prices on any additional work that the County may wish to add to the 1998 Contract. He then asked the Board for guidance - whether to go out for new bid or simply do a change order for the new paving projects.

COMMISSIONER WATSON MADE A MOTION TO PROCEED WITH C. W. ROBERTS WITH A CHANGE ORDER. COMMISSIONER ROBERSON SECONDED THE MOTION.

Dixon:

Mr. Chairman, for discussion, let me say what I have always said - that, you know, this is down right un-American. You know, you get, you have basically given this guy a monopoly on the County's road paving contracts. A monopoly. There is no competition. There is no competitive bidding. There is just no opportunity, you know.

Back in another day, we would call this discrimination. Because nobody else came, had an opportunity to bid. Nobody else even had an opportunity to write a letter saying "We are willing to give it to you at that same price, too."

Then what would you do if somebody else had an opportunity to write a letter and say "We'll do whatever they are doing."
I mean, this is ..., this is..., I've...,

Visa ain't got a better monopoly on the credit card industry than this. This is absolutely, un-categorically, a monopoly that we have given to one guy.

I have nothing against Mr. Roberts. Obviously, he is a very shrewd businessman. But, this continually, once again, locks out anybody who would have an inkling of doing business with Gadsden County. And that is absolutely untenable.

Why wouldn't we do it in every other field? How much is this contract worth? Can you tell me?

Presnell:

The projects that we were wanting to proceed with?

Dixon:

Yes, these projects.

Presnell:

Ah, probably \$400,000.

Dixon:

\$400,000. In a depressed economy, we don't give everybody the opportunity to compete. Now, that is.

Thank you Mr. Chairman.

Fletcher:

We have a motion and a second to accept this offer. All in favor say "aye".

Watson, Roberson, McGill, Fletcher:

Aye.

Fletcher:

Opposed?

Dixon:

No.

Fletcher:

The motion passes.

THE BOARD VOTED 4 - 1, BY VOICE VOTE, TO APPROVE THE CHANGE ORDER AS PROPOSED BY C. W. ROBERTS CONTRACTING, INC.

9. COUNTY MANAGER'S AGENDA

Mr. McKinnon had nothing to report.

10. CONSENT AGENDA

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA - FOR APPROVAL, TO WIT:

- 1) Pat Thomas Park Policies
- 2) DOT Agreement for Replacement of CR 65D Bridge over Telogia Creek
- 3) Proclamation and Pledge of Civility in the Month of May

CONSENT AGENDA - FOR THE RECORD, TO WIT:

- 1) Notice from DCA - Issuance of Notice of Intent to Find Plan Amendment in Compliance (Gadsden County Ordinance No. 2000-006, DCA No. 00-2ER)
- 2) Agreement with Lee & Bridges - Gadsden County Judicial Complex - Courtroom and related spaces.
- 3) Chamber of Commerce - Economic Activities Report for March 2001.

12. CLERK'S AGENDA

12.1 Cash Report

Clerk Thomas called attention to the attached cash report which shows \$13.3 million in the Board's accounts.

12.2 Financial Statements

He then called attention to the financial statements which shows that 70% of the general fund revenues have been collected and 51% overall collected. He also stated that 25% of the expenditures have been made. He concluded by saying there are no major problems.

12.3 County Deed to Estelle Forehand

Clerk Thomas reminded the Board of the request from Ms. Estelle Forehand to purchase a county owned lot in the Hillside Subdivision that is adjacent to her. He reported that he had notified all other adjacent property owners of the impending sale and received no objections to the direct sale to Ms. Forehand. He then asked for permission for the Chairman to execute the deed to Ms. Forehand upon her payment.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER

MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AUTHORIZE THE CHAIRMAN'S SIGNATURE AND SALE OF THE PROPERTY AS DESCRIBED BY THE CLERK.

12.4 Budget Amendments 2001-05-01-01 through 2001-05-01-02

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

12.5 Ratification of the Approval to Pay the County Bills

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

13. COMMISSIONERS REPORTS

13.1 District 1 Report

Commissioner McGill stated that he had recently come upon a terrible accident on US 90 in front of Flying J Travel Center. He said that he can recall that the Board has written to DOT at least 3 times requesting that they put a traffic light at the intersection and they have refused saying that traffic did not warrant a light. He then asked that the Board again send a resolution requesting a light.

Commissioner Roberson reported that Ms. Sherry Vanlandingham, Chamber of Commerce Executive Director, had contacted appropriate officials at DOT and had been given assurances that they would install a light at the intersection.

Mr. McKinnon stated that information appeared in one of the reports from the Chamber of Commerce. However, he said that the County has not received official notification. He volunteered to follow up on the matter with DOT.

13.2 District 2 Report

Commissioner Watson had no report.

13.3 District 3 Report

Commissioner Roberson had no report.

13.5 District 5 Report

Commissioner Dixon had no report.

13.5 District 4 Report

Chair Fletcher had no report.

LITIGATION MEETING - RECESS

Chair Fletcher announced that the litigation portion- the Attorney/Client closed door session - was recessed until Thursday afternoon, May 3.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER
ADJOURNED THE MEETING.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A CONFIDENTIAL ATTORNEY/
CLIENT MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN
AND FOR GADSDEN COUNTY, FLORIDA
ON MAY 1, 2001, THE FOLLOWING
PROCEEDINGS WERE HAD, VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
GRANT DEARBORN, ASSISTANT COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK
CAROLYN RANKINE, CERTIFIED COURT REPORTER

ABSENT: E. H. FLETCHER, CHAIR

CALL TO ORDER

Vice-Chair McGill, presiding in the absence of the Chair, opened the meeting. Following the pledge of allegiance to the US Flag and a prayer, Vice-chair McGill turned the meeting over to County Attorney Hal Richmond.

Mr. Richmond announced "Pursuant to a notice of an Attorney/Client session duly published in the Gadsden County Times, the Board of County Commissioners will now meet in a private session to discuss the published lawsuit of JoAnn Hart vs. Gadsden County, Florida. I will ask all parties to leave if they are not so named in the announcement in the newspaper."

Muriel Straughn turned the recording machine off and left the meeting at this juncture.

At 6:00 p.m. the Board recessed the private attorney/client session until Thursday, May 3 at 6:00 p.m.

Note: A transcription of this meeting will be made by the court reporter and filed with the Clerk of Court but will not be made public until the conclusion of the law suit.

Gadsden County Board of County Commissioners
May 1, 2001 Attorney/Client Session

W. A. (Bill) McGill, Vice-chair

ATTEST:

Nicholas Thomas, Clerk

AT A SPECIAL MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON MAY 8,
2001, THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: E. H. (HENTZ) FLETCHER, CHAIR

CALL TO ORDER

Vice-Chair Bill McGill called the meeting to order. He stated for the record that the purpose of the meeting was to hire an attorney with expertise to represent the County in the lawsuit filed by Jo Ann Hart Case NO. 01-538 - CAA. (Ms. Hart was denied a package alcohol sales permit by the Board.)

Mr. Richmond stated for the record that this meeting was not a closed door session and the minutes of the meeting will be made available to the public immediately.

Mr. Richmond then recommended that the Board hire David Theriaque to represent them in Circuit Court on the above stated case. He said that Mr. Theriaque would proceed first with a strategy to get the record in a proper posture.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTE 4 - 0, BY VOICE VOTE, TO HIRE MR. THERIAQUE AT THE RATE OF \$150.00 PER HOUR PLUS ACTUAL EXPENSES.

Mr. Theriaque stated that he would send a retainer agreement outlining the charges for his services. He then told the Board that he had read the case file and the transcript provided by Mr. Richmond. He then requested a copy of the tapes of both meetings at which the matter was addressed. He then asked if there were any specific instructions from the Board.

Commissioner Dixon answered by saying "Win. I don't need to know the prescriptive detail of how you plan to do it. I just want

you to win."

Commissioner McGill stated that he would like to know enough details about the defense of the case to feel confident that the Board would prevail.

Commissioner Watson asked for another closed session to hear some details of the case.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO AUTHORIZE THE ATTORNEY TO PUBLISH A NOTICE OF A LITIGATION MEETING OF THE BOARD FOR MAY 22, 2001 AT 6:00 P.M. WITH MR. THE BOARD, COUNTY MANAGER, DAVID THERIAQUE, AND COUNTY STAFF TO DISCUSS THE JO ANN HART LAWSUIT.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD VICE-CHAIR MCGILL DECLARED THE MEETING ADJOURNED.

W.A. (BILL) MCGILL, VICE-CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT THE REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON MAY 15, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

ABSENT: EDWARD J. DIXON

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Clerk Thomas led in pledging allegiance to the U.S. Flag and Mr. McKinnon led in a prayer.

2. ADOPTION OF THE AGENDA

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS PRESENTED.

3. APPROVAL OF MINUTES - May 1, 2001 Regular Meeting

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

Mr. Richmond had nothing to report. He reminded the Board of the closed session litigation meeting on May 22, 2001 at 6:00 p.m.

5. TRUDIE PERKINS - ROAD INFORMATION REQUEST

Ms. Trudie Perkins addressed the Board. She told them that she had recently tried to get a telephone installed at her new home and was required to have a street address before they would install a

phone. Upon calling Mr. DeVane Mason, she was given the address 47 Cable Road. However, she said that the road she actually lives on is not really Cable Road but a road that runs parallel to it. She then said that the road had really never been named. She suggested that it could be named Perkins Drive.

Ms. Perkins then told the Board that she was not certain if the road was private or public. She said that she has paid to have the road scraped believing that it was private. However, when she called the Sheriff's office recently (to complain about some youngsters who were riding four-wheelers on the road and doing damage to it) she was told that the road was a public road and they had no authority to prevent the young men from using it. Then, believing that the road was a public road, she contacted the Gadsden County Public Works Department to get maintenance on the road, and they told her that they had not been maintaining the road (at least since 1990) and they believed that it was a private road.

Ms. Perkins again told the Board that she had been paying to have the road scraped but could not continue to pay for the maintenance if the public is going to be allowed to abuse it. She asked them to make a determination as to whether the road was public or private and give her something in writing to that effect. She also asked them to give the road another name since it was not really Cable Road.

After some discussion, the Board determined that the described road was a private road and that it should be named Perkins Drive. The Board gave Mr. McKinnon instructions to give Ms. Perkins something in writing to prove that the road is private and to instruct Mr. Mason at the E-911 Office to name the road Perkins Drive.

6. GROWTH MANAGEMENT AGENDA

6.1 Ebenezer Gardens Major Subdivision - Preliminary Plat Approval

Growth Management Director Bruce Ballister reminded the Board that the Ebenezer Subdivision was given conceptual approval for 11 lots on December 6, 2000 subject to several special conditions. However, extensive wetlands were found along the rear boundary line that will prevent two of the lots from being developed. The wetlands will now become common area. He recommended approval of the preliminary plat with 9 lots subject to special conditions as

outlined in the agenda packet.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE PRELIMINARY PLAT SUBJECT TO THE SPECIAL CONDITIONS LISTED IN THE AGENDA. (CHAIR FLETCHER WAS NOT PRESENT FOR THIS VOTE.)

6.2 Public Hearing - Ordinance 2001-005 Revision of Ordinance 88-003 - Terms of Office for the Planning Commission Members

Mr. Ballister reminded that Board that he discussed with them in February the need to amend Ordinance 88-003 to allow the terms of the Planning Commissioners to coincide with the appointing County Commissioner's term of office. He was given instructions at that time to proceed.

The proposed amendment (attached) includes the change described above. In addition, it calls for the Planning Commissioners to be appointed or re-appointed in April following the election of the appointing commissioner. Other changes were also made such as to include the scheduling of regular meetings, membership, removal of commissioners and vacancies of planning commissioners.

Discussion followed. It was determined that the appointment date should be changed from April to January.

Chair Fletcher called for public comments. There was no response.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE ORDINANCE AS AMENDED AND STATED ABOVE.

6.3 Sign Ordinance - 2001-001 - Second Public Hearing - Section 5700 of the Land Development Code

Mr. Ballister stated that the Board held the first public hearing on the proposed sign ordinance on April 17, 2001. At that hearing, Mr. Richard Thompson raised several issues - one of which was that there was a lack of coordination with the DOT Sign Program.

Ballister:

DOT sign program is especially concerned with off-site signage

or a site - a sign that occurs on a business's property. That is pretty much up to the local permitting. Where a control area is anywhere within 650 ft. of a right of way or visible and they are limiting their signs to commercial industrial areas or areas that can be used as commercial property.

Then they have some specified signs that are allowed within the control portions of interstates in the primary highway system. They also have Chapter 479.15 that says "No Zoning Board or Commission shall permit a sign which is prohibited under this chapter."

That pretty much says that, you know, we've got a quote permit with DOT and that is what we intend to do for signs that have any application to their roadway system. Otherwise, there is not a lot in conflict. We have lowered our maximum height to 50 ft. to correspond with DOT maximum height.

Since we don't have billboards in this ordinance, most of the other signs that would conflict won't conflict for us because we don't have them. If they allow them, we don't. So, they won't be there.

I guess, let's see,

We've, I think, satisfactorily addressed most of the other comments that Mr. Thompson had. A lot of them were book-keeping errors - changing triangle to zone and coordinating within the ordinance.

My recommendation is that we pass the ordinance tonight and with that I know that there is an applicant who is intending to submit an application to the County for two billboards. If we intend that be the effect of this ordinance, we should pass this ordinance tonight and get it recorded as soon as we can.

McGill:
Inaudible

Ballister:
Well, I think we had a second hearing two weeks ago or three weeks ago and we postponed it. So, is there a problem with that wording "Second"?

Fletcher:

At this time I need to ask for public comment. Either pro or con, for or against this ordinance?

Watson:

I would just like to state that there are a few little problems that I have with it but I do think that we need to pass it to prevent the billboards. It's just things that we can amend at a future date.

Fletcher:

All right. Hearing no comment, all in favor of this ordinance,

Richmond:

We need a motion.

Watson:

So moved approval.

McGill:

Second.

Fletcher:

We've got a motion and second to approve this ordinance. All in favor, say "aye."

All:

Aye

Fletcher:

The motion passes.

Ballister:

That is all of my business.

Fletcher:

Thank you, Mr. Ballister.

McGill:

Now, what when the amendments that relate to improving the language, will that require another public notice and all that?

Ballister:

Yep.

7. COUNTY MANAGER'S AGENDA

Mr. McKinnon reminded the Board of the joint meeting with the Gadsden County School Board to discuss the plans for the new high school in the western part of the County. He stated that it is a workshop to be held Wednesday, May 23, 2001 at 6:00 p.m. at the School Board office on Martin Luther King Blvd.

8. CONSENT AGENDA

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Resolution Proclaiming May 14 - 20 as "Emergency Medical Services Week"
- 2) DOT Small County Road Assistance Agreements for CR 270 (from SR 12 to SR 63) and CR 159 (from Conrad Hills Road to Ga. State Line) DOT Financial Project No. 40879315801 and 40879215801
- 3) Change Order No. 9 - C.W. Roberts Construction for Roadway Resurfacing (Reduce the contract amount by \$77,684.33 bringing total to date to \$3,229,458.59.)
- 4) Change Order No. 10 - C. W. Roberts Construction for Roadway Resurfacing (Increase of \$88,974.30 bringing the total contract price to \$3,318.432.89)
- 5) Financing of Heavy Equipment - authority to seek up to \$640,000.00 line of credit for financing of heavy equipment for Public Works Department.
- 6) Approval to pay Ms. Susan Lazur for work completed to make changes to the Gadsden County Public Library web site. \$15,000.
- 7) Equal Employment Opportunity Plan for period June 1, 2001 through May 31, 2002.
- 8) Lease Agreement with North Florida Medical Centers, Inc. d/b/a Gadsden Medical Center. \$7,590.00 which is payable in equal monthly installments of \$632.50 in advance. July 1, 2001 through June 30, 2002.
- 9) Innovative Recycling Grant IG1-07 - \$280,500. This grant will allow for purchase of additional equipment to process drywall, glass and paper for use in manufacturing a commercial product by a local company, CDS Manufacturing, Inc. of Quincy.

9. CLERK'S AGENDA

9.1 Revenue Sharing Application

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO AUTHORIZE THE CHAIR TO SIGN THE FLORIDA REVENUE SHARING APPLICATION AS PRESENTED BY CLERK THOMAS.

9.2 Deed of County Property to Bertha Robinson

Clerk Thomas told the Board of a situation that came to his attention through Mr. Edward Butler, Gadsden County Community Development Director. He explained that the County acquired a 20-acre tract of land located on Iron Bridge Road in 1944 for non payment of taxes. He went on to say that in the early 1970's Willie and Bertha Robinson built a modest wood frame house on the parcel believing that it belonged to Dr. Herbert Anderson who had promised to deed an acre to them. While Dr. Anderson may have believed that he owned the property, in fact, he did not. However, he did own approximately 300 acres adjoining the property in question. He died unexpectedly soon after Mr. Robinson had completed his house.

Mr. Thomas continued by saying that once the Robinsons realized that the County actually owned the property, the matter was brought to the Board's attention. (During the mid 1970's) There was some discussion by the Board and they voted for the County to deed one acre where the house stood to the Robinsons. However, no survey was ever done and a deed was never prepared.

Clerk Thomas continued by saying that Mr. Robinson recently died at age 88 leaving his 74 year old widow with a dilapidated house. He explained that she can get assistance through the Community Development Block Grant Program (CDBG) except for the fact that the land that the house sits on belongs to the County.

Because of the uniqueness of this situation, Clerk Thomas requested permission to deed out one acre of the 20-acre tract to Bertha Robinson. (CDBG funds can be used to pay for the survey.)

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO AUTHORIZE THE CLERK TO DEED ONE ACRE OF THE COUNTY PROPERTY LOCATED ON IRON BRIDGE ROAD TO MS. BERTHA ROBINSON. HE WAS FURTHER AUTHORIZED TO HAVE THE SURVEY DONE (TO BE PAID WITH CDBG FUNDS) AND PREPARE A DEED FOR EXECUTION BY THE CHAIR.

9.3 Budget Amendments - 2001-05-15-01 through 2001-05-15-06

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

9.4 Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO RATIFY THE APPROVAL TO PAY THE COUNTY BILLS.

10. COMMISSIONERS REPORT

10.1 District 1

Commissioner McGill had no report.

10.2 District 2

Commissioner Watson re-appointed Wilson Hinson to the Industrial Development Authority.

10.3 District 3

Commissioner Roberson had no report.

10.4 District 4

Chair Fletcher had no report.

10.5 District 5

Commissioner Dixon was not present.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER
DECLARED THE MEETING ADJOURNED.

E.H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A CONFIDENTIAL ATTORNEY/
CLIENT MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN
AND FOR GADSDEN COUNTY, FLORIDA
ON MAY 22, 2001, THE FOLLOWING
PROCEEDINGS WERE HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
DAVID THERIAQUE, ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK
CAROLYN RANKINE, CERTIFIED COURT REPORTER

ABSENT: EDWARD J. DIXON

Mr. Richmond announced "Pursuant to a notice of an Attorney/Client session duly published in the Gadsden County Times, the Board of County Commissioners will now meet in a private session to discuss the published lawsuit of JoAnn Hart vs. Gadsden County, Florida. I will ask all parties to leave if they are not so named in the announcement in the newspaper."

Muriel Straughn turned the recording machine off and left the meeting at this juncture.

A transcription of this meeting will not be made public until the conclusion of the law suit.

At the conclusion of the meeting, Chair Fletcher re-opened the meeting, announced that the business had been concluded. He then adjourned the meeting.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON JUNE 5, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Hal Richmond led in pledging allegiance to the U. S. Flag and County Manager Howard McKinnon led in a prayer.

2. APPROVAL OF THE AGENDA

The agenda was amended to add a Resolution to the County Attorney's Agenda. (Capital Area Community Action Agency, Inc. in support of renovations to housing units occupied by low and moderate income families.) It was further amended by removing the Clayton C & D Landfill from the Growth Management Director's Agenda at the request of the applicant. (7.1)

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED ABOVE.

3. APPROVAL OF MINUTES

April 18, 2001 Special Meeting

April 19, 2001 Special Meeting

April 20, 2001 Special Meeting

May 8, 2001, Special Meeting

May 15, 2001 Regular Meeting

May 22, 2001 Confidential Attorney/Client Meeting

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED MINUTES.

4. COUNTY ATTORNEY'S AGENDA

Hospital Lease - Ashford Healthcare Systems, Inc.

Mr. Richmond reported that Ashford Healthcare Systems has made it known that they will exercise their option to utilize a five-year extension of the lease agreement. That lease expires on June 21. A new lease will be necessary. Additionally, Ashford has requested two additional five-year options and right of first refusal if the property is ever sold.

There were some issues under the old lease with regard to ambulance services in that EMS was not being paid for transfers by the former lessee. When patients had to be transferred to and from Tallahassee for testing. He stated that the matters have been addressed with a payment schedule by the hospital to EMS.

Under the old lease, Ashford was to provide up to \$200,000 in indigent care annually as a condition of the lease. Last year they actually furnished \$323,000 in indigent care. They have not asked for reimbursement from the County for the amount over the required \$200,000.

Mr. Richmond reported also that the bonds on the hospital will be paid off next fiscal year and at that point, the rent can possibly be raised to \$10,000.00 per month.

He recalled for the Board that Centennial was a nursing home when they first came to Gadsden County. They had a management contract with Ashford to operate the hospital. He reported that Ashford has recently hired a new administrator.

Chair Fletcher commented that he has heard nothing but good reports as to their operation of the hospital.

Commissioner Dixon stated that he felt the Board should have some statistical bottom line that the Board can agree on that basically gives a way to monitor their effectiveness. He spoke briefly about a survey.

Commissioner Roberson stated that she has had a lot of good comments but also a few that were not good. However, she felt that the circumstances surrounding the experience could have impacted on those comments. She acknowledged that a survey would probably serve the public and the Board's need for feed back.

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Commissioner McGill stated that he felt like the hospital needs to do a publicity campaign once or twice a year to make the public aware of the services that are rendered locally.

Commissioner Watson asked Mr. Richmond to explain the rent situation.

Mr. Richmond said that because of the way that the bonds are worded, the County could not charge more than a fixed amount (\$5,600.) In researching what other hospitals are paid in rent, it seems that an increase in the rent would be appropriate. He suggested \$10,000 per month. He said that there are factors to be considered that are a condition of the lease - such as the indigent care that Ashford supplies. Otherwise, the County would be responsible for indigent care.

Mr. Mike Lake of Ashford was present and answered questions from the Board.

Discussion followed. A verbatim transcription of this discussion is on file in the Clerk's office but not made a part of these summary minutes.

Commissioner Dixon opposed even one additional five year extension until survey results can be analyzed.

Mr. Lake argued that the corporation needs the additional 5 year options so that they can make long range business plans.

Commissioner Watson stated that he had been concerned about past due bills in the past. However, he said that the concerns have since been resolved. He added that he has observed a marked improvement in the operation. He supported the additional 5 year option.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE ONE ADDITIONAL FIVE-YEAR OPTION AND THE RIGHT OF FIRST REFUSAL TO PURCHASE THE HOSPITAL IF IT WERE TO BE SOLD. THE MOTION FOR APPROVAL ALSO CALLED FOR A YEARLY SURVEY OF THE PEOPLE WHO RECEIVE SERVICES AT THE HOSPITAL. THE SURVEY SHOULD BE MADE BY A THIRD PARTY BUT PAID FOR BY ASHFORD.

4.2 Request to advertise Notice of Intent Regarding Code Adoption Cancellation of July 3, 2001 Meeting

Mr. Richmond reported that the County has received the codification of the ordinances of Gadsden County. He asked for authority to advertise a notice of intent to adopt the Code at the meeting on July 17, 2001.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO CANCEL THE JULY 3, 2001 REGULAR MEETING AND TO AUTHORIZE THE COUNTY ATTORNEY TO PUBLISH A NOTICE OF INTENT TO ADOPT THE CODIFICATION OF THE COUNTY ORDINANCES.

4.3 Resolution for Capital Area Community Action Agency, Inc. in Support of Renovations to Housing Units Occupied by Low and Moderate Income Families

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE RESOLUTION DESCRIBED ABOVE.

5. PURVIS, GRAY & COMPANY
[Audit Engagement Letter](#)

Mr. Chris Moran, partner with Purvis, Gray & Company appeared before the Board. He referenced the new engagement letter that was in the agenda packets. He explained that it is a three year engagement letter. He said that the fee is basically the same as it was last year. He stated that it has a consumer price index (CPI) built into it for fee increases. The CPI has averaged from 2.9 to 3 percent a year.

A MOTION WAS MADE BY COMMISSIONER WATSON AND SECONDED BY COMMISSIONER ROBERSON TO APPROVE THE THREE YEAR LETTER OF ENGAGEMENT.

Commissioner McGill asked why the proposal was for 3 years.

Mr. Moran answered that the proposal is the same as previous letters of engagement. He did note, however, that most counties are typically locking in for 5 year engagements. He then stated that there are some implementation issues regarding GADSBY 34 which will change the entire way that the financial statements look. During that transition, a 3 year engagement would get the County through all of that.

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Dixon: Mr. Chairman, I continue to not be in favor of this. How long have you all had the County's business?

Moran: Since 1977.

Dixon: 1977. I don't know what that says about our books. I remember Commissioner - I can never think of his name - down at the City of Quincy when, you know, we ran into this same thing where Commissioner Dooner - a lot of years ago. He said to never let anybody do your numbers continuously forever because there are things that they get used to in relationships that are built. And, you need your numbers to be honest and above board and you need them to be unquestioned. And, I continue to be against these long term contracts that our auditors continue to bring forth.

Because I really have a concern that they don't know who they work for. You know. They think they work for the Clerk. They think they work for the Sheriff and they seem to think that they work for everybody but the Board of County Commissioners. So, I have a real question and concern about our auditors continually.

End of statement.

McGill: Mr. Chairman, is it possible that at the end of this period here, is it possible that we can put it for - out on the block as you were and request a proposal at the end of this third year?

Watson: If you've got 3 votes to do so.

McGill: If there are 3 votes to do so. It would only take 3 votes to do it now wouldn't it?

Watson: Well, what I am saying is sure, it's definitely an option.

McGill: I would really like to see us put it on the block for the next time after this 3 years goes through. I mean to advertise for qualifications. Because we cannot contract with anybody until we do a qualifications study. Then after you go through contract negotiations, you negotiate the price at that point. They don't give you

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an audit fee up front when you're looking at auditors. I understand all that. But since 1977 seems to me - that's 24 years. I'm through, Mr. Chairman.

Fletcher: Is there any further discussion?

Hearing none, all in favor of the motion, say "aye."

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 1, BY VOICE VOTE, TO APPROVE THE NEW THREE YEAR ENGAGEMENT LETTER FOR AUDITING SERVICES WITH PURVIS, GRAY & COMPANY.

6. JIM HRUSKA - PROPERTY ZONING REQUEST
Parcel No. 2-24-321-4W-0000-00211-0100

Mr. Jim Hruska addressed the Board. (Old Philadelphia Church Road State Route 272.) He presented the commissioners with hand-out.

He told the Board that he has approximately 13 acres and he has been told that the density on the land is being changed from 2 houses per acre to 1 house per acre with the adoption of the Comp Plan amendment. He stated that he wants to retain the current zoning after the Comp Plan amendment.

Mr. Hruska argued that he bought the land with that zoning and bought it specifically for that purpose. The land has city water and paved roads. He asked the Commissioners to grant him an exception and keep the current density.

Discussion followed.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO TABLE THE ABOVE REQUEST.

7. GROWTH MANAGEMENT - PLANNING AND ZONING AGENDA

7.1 Clayton C & D Landfill

This item was removed from the agenda at the request of the applicant.

7.2 Land Use Map Errata - @ Poly-Steel (formerly Round Trampoline)

Growth Management Director Bruce Ballister told the Board that he recently determined that the original land use map that was adopted in 1991 depicted an industrial land use designation to a grouping of residential lots immediately to the west of Armstead Road. He believes that it was the intent of the framers of the map to have made the designation to the Poly Steel site instead. He explained that the error is easily understood considering the lack of sufficient detail of the 1991 map.

The industrial use designation is an inappropriate designation for the properties and can be corrected. Chapter 163 would allow the County to easily change the error on the map by having a public hearing for that purpose.

Mr. Ballister explained that an application for a tower on the site is what brought focus to the mistake on the map. The Code allows a great deal of freedom for towers to locate in the industrial zones. The applicant discovered this "loop-hole" in the tower siting ordinance and a tower can be placed on the Poly-Steel site as a use by right.

Mr. Ballister said that the ordinance repeatedly refers to the location requirements for cell towers. In each reference, the ordinance exempts industrial property.

Mr. Ballister summarized his remarks by asking for two things:

- 1) Fix the error in the map to what was intended in 1991;
- 2) Authorize him to amend the tower-siting ordinance to remove the loop-holes that presently allows towers in all industrial zones.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTE 5 - 0, BY VOICE VOTE, TO INSTRUCT THE STAFF TO FIX THE SCRIVENER'S ERROR ON THE LAND USE MAP.

THERE WAS A CONSENSUS OF THE BOARD TO AUTHORIZE THE STAFF TO AMEND THE TOWER CITING ORDINANCE SO AS TO REMOVE THE LOOP HOLES THAT ALLOW TOWERS IN ALL INDUSTRIAL ZONES.

7.3 CORRIDOR ROAD PLANNING STUDY PRESENTATION

Mr. Ballister briefed the Board about the workshops of April 11 - 13, 2001 that took place at the Northwest Florida Water Management District Office with regard to growth and planning for

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the US 90 East Corridor. He referenced the report that was prepared by the consultants. (Attached)

Mr. Ballister told the Board that there were representatives from the large property owners in the area as well as Lake Yvette Homeowners Association and Lanier Road Alliance. He reported that the workshops were very productive.

David Haight of PBS & J made a power point presentation which was a culmination of information resulting from the workshop. He presented a Strategic Development Plan for the US 90 - Lanier Road - Little River area. The plan was designed to promote desired economic growth while protecting the natural resources and rural character.

Mr. Haight outlined the issues and pointed out potential methods of mitigation. These are explained in greater detail in the attached report. He also proposed new types of zoning that would guide the growth in the area.

Mr. Bob Dean of St. Joe Company addressed the Board. He told them that he had attended the workshops and thought the turn out of people was good and the work was productive. He said that he thought the process had been good and the resulting report was a good guideline to follow.

A verbatim transcription of this portion of the meeting is on file in the Clerk's office but not made a part of these minutes. No formal action was taken on this report.

8. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Notice of Grant Award #C0020 - Emergency Medical Services County Grant for \$14,342.60 - for the Record
- 2) Notice of Grant Award - Wireless 911 Rural County Grant for \$18,000 - for the Record.
- 3) Agreement for Services - David A. Theriaque, Pa - Case No. 01-538-CAA for Approval
- 4) Extension of Groundwater Sampling and Analysis Contract with Ackurit Labs - for Approval
- 5) Financing of Heavy Equipment for Public Works, Rft #01-12 - for Approval Capital City Bank with an Interest Rate of

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- 4.27% Line of Credit for \$640,000
- 6) Approval of \$32,000 from Contingency to Insurance Claims Account - Worker Comp Claim
 - 7) Housing Rehabilitation Contract for Frank Robinson, Jr.
 - 8) Housing Rehabilitation Contract For **Annie Mae West****
 - 9) Sfy 2002 Edward Byrne Memorial State & Local Law Enforcement Assistance Formula Grant Application
 - 10) Roadway Resurfacing Change Order # 11- CW. Roberts Contracting, Inc. - to Add Resurfacing of Cr 270 from Sr 12 to Us 27 - Increase \$771,101.30 Total Contract-\$4,089,534.19
 - 11) Cops in School Grant Award #2001shwx0297 for \$438,436.00
 - 12) Economic Development Report for Month of April 2001 by Chamber of Commerce
 - 13) DCA Housing Conditions Survey Grant - \$10,000
 - 14) Department of Corrections Interagency/public Works Agreements (4)
 - 15) Application for Drug-Free Workplace Premium Credit (FMIT 874)

9. CLERK'S AGENDA

9.1 County Property Deed to Bertha Mae Robinson

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AUTHORIZE THE CHAIRMAN'S SIGNATURE ON THE ABOVE STATED COUNTY DEED.

9.2 Budget Amendments 01-06-05-01 through 01-06-05-11

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVED THE ABOVE STATED BUDGET AMENDMENTS.

9.3 Ratification of the Approval to Pay County Bills

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONERS REPORTS

District 1 Report

Commissioner McGill asked Mr. McKinnon as to the status of the TCC sign.

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Mr. McKinnon replied that there would be a written report sent to them in the following week.

Commissioner McGill reported that he had a number of people to call him about paving and/or maintenance of private roads. He asked the other commissioners to begin thinking about a way to deal with unpaved roads. No action was taken.

District 2 Report

Commissioner Watson had no report.

District 3 Report

Commissioner Roberson had no report.

District 5 Report

Commissioner Dixon reported that he had learned that there was no summer school for students in Gadsden County this year. He also learned that there were only 80 summer jobs for students in the County. He asked Mr. McKinnon to look into work programs in the area and bring back some kind of option that the Board can look at that will yield student jobs.

District 4 Report

Chair Fletcher had no report.

11. ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR
DECLARED THE MEETING ADJOURNED.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT THE REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON JUNE 19, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON (ARRIVED LATE)
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: E. H. (HENTZ) FLETCHER, CHAIR

1. CALL TO ORDER

Vice-chair McGill called the meeting to order in the absence of Chair Fletcher. Commissioner Roberson led in pledging allegiance to the U.S. Flag and Commissioner Watson led in a prayer.

2. ADOPTION OF THE AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO ADOPT THE AGENDA AS PRESENTED. (Commissioner Dixon was not present for this vote)

3. APPROVAL OF MINUTES - June 5, 2001 Regular Meeting

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

4.1 Schedule of a Joint Workshop to Discuss Legal Planning Issues

Mr. Richmond reminded the Board that several months ago, there was a discussion where it was decided that he would advise them via written report or letter regarding private property rights versus public property rights as they relate to the Board of County Commissioners. However, he said that he had decided that a letter

or report could possibly give a legal basis to subsequent lawsuits or arguments. He went on to say that since that time, Attorney David Theriaque had agreed to conduct a workshop for the Board dealing with land planning issues. He said that he would like to take advantage of that workshop setting to also discuss those property rights issues.

There was a consensus to conduct the joint workshop on August 14 at 6:00 p.m.

4.2 Idle Speed Zone Ordinance

Mr. Wes Greenwald, 292 Lois Lane, Quincy, FL 32351, addressed the Board. He stated that he had not seen the legal notification in the newspaper about the County's intent to adopt an ordinance dealing with speed on waterways and therefore did not attend the public hearing at which it was ultimately adopted. He then said that rumors had spread among the Lake Talquin residents about the ordinance and he became concerned about what some people had said was contained in the ordinance. However, he said he had recently obtained a copy of the ordinance and after reviewing it, he is no longer concerned about the contents.

Mr. Greenwald stated, however, that he would like to see an exemption added to the ordinance for lake front homeowners who travel to and from their private docks with skiers or other devices in tow. He explained "If you are at your water front and you pull someone away from it - like you do a shallow water start like I am sure you are familiar with, you are within that 50 ft. barrier. But, you're going out from the main body of the lake. So, in a matter of seconds, you are out beyond that 50 ft. barrier."

Mr. Richmond stated that in order to amend the ordinance to add that exemption, there would have to be another public hearing and appropriate advertising.

Mr. Greenwald then asked the County to erect signs to advise folks of the speed zones. He also asked that, in the future, the County provide the lake front homeowners with an advanced copy of any proposed ordinances or amendments that would affect them.

5. MAIN STREET DESIGN

Ms. Kim Newell of Main Street Design addressed the Board. She explained that she had been working with Lee & Bridges on the

interior decorating for the new judicial complex located in the old Barnett Bank building. She showed the Board samples of the colors for the walls and floors, etc. No formal action was necessary as the report was for the Board's information only.

(Commissioner Dixon arrived at this juncture of the meeting.)

6. GROWTH MANAGEMENT DEPARTMENT AGENDA

6.1 Adoption of Comp Plan Amendment

Ballister:

Good evening, Commissioners. My first order of business tonight is for the first reading of the ordinance that would adopt our Comp Plan Amendment 2001. This is the culmination of the EAR and Comp Plan Revision process that we went through in 1999 and 2000. It also includes the 3 most recent land use amendments for St. Joe, Oil Dri and Gadsden County Schools.

The text portion of the plan was submitted, actually the text and the land use amendments were submitted to DCA on January 16. They gave it their full 60 day review and issued us a report on March 30th which is attached. The County's response letter to that is attached and will be sent in with the adopted plan.

I have discussed our visions or our adjustments based on their report with Walter Banning and Mike Sherman at DCA. So, I think we are in good status with this adoption.

The Planning Commission recommended approval 9 - 0. There was a wording request to revise some redundant language in 5.2.19 which we fixed.

Tonight, I just need a recommendation for approval for adoption.

Watson:

I move we adopt it.

Roberson:

Second.

McGill:

There is a motion and a second to adopt the Comprehensive Plan Amendment.

Are there any questions?

Dixon:

Mr. Chairman, on the recommendations about historic preservation, are we just accepting State's language on that or?

Ballister:

Let me look at the comment.

Dixon:

And my point and concern is

Ballister:

Sensitive or adaptive re-use as opposed to adaptive reuse?

Dixon:

No, I mean just the general historic preservation ordinance. What are you using to define historically significant?

Ballister:

A lot of them are nominated by the owners or nominated by some historic society. There is not, to my knowledge, a county-wide historic or heritage group. But, there are some operating in the Cities and I think we probably could pull them together to work on that ordinance.

The typical break time is 50 years old. 50 years or older structures for the historic site file and/or the national historic register. Or some spot in which something significant happened.

Dixon:

My concern is that I would like to make sure that we are as inclusive as possible for the simple reasons that usually, when we've said historic preservations, very few African American buildings have been included - if any. The only one that keeps popping up is Arnett Chapel. And you can't tell me that, in this county, that is the only black historical structure.

When you look at the historical lines that are drawn, they

were drawn during segregation. So, they don't include any African American Black sites.

And so, I want to make sure that we're not creating an organization that, an opportunity, I am sorry, that is only going to, by law and by definition, be acceptable to those particular facilities.

Ballister:

No, sir. I believe that we will have plenty of time to address the specifics of an ordinance as we draft it. In terms of inclusiveness, I would hope that it would be as inclusive as possible of all groups.

Dixon:

O.K. I just wanted to put that on the table.

McGill:

Commissioner Dixon, your statement was (inaudible)"Did we abide by DCA language?" As I read it, I think we did abide by exactly what they said.

Watson:

He thinks, one day, his house is going to be historical or something,

Laughter.

Watson:

One day, there's going to be one of those green monuments out front.

Dixon:

Commissioner, I will be frank with you. Before it was rehabbed, it was historical. It had push-out windows.

McGill:

O.K. Is there any more discussion on the Comp Plan Amendment?

Richmond:

Could I make one suggestion? Rather than voting to adopt it, you vote a notice of intent to adopt it at a subsequent meeting.

Watson:

I will amend my motion to include such language.

Roberson:

And, I will second it.

McGill:

We have a motion and second to vote a notice of intent to adopt the Comp Plan Amendment and to publish the notice of intent.

Ballister:

We had one other comment from the Planning and Zoning Commission. We discussed it two weeks ago. And they were upset that the County, by Statute, has to be subservient to the authority of the Water Management District with regard to water rights. And I believe that some of those members are gonna visit the Management District to see at what point we have input when they make decisions. Other than that, the language is like we talked about it.

McGill:

We have a motion and second, do we need to restate the motion? If not, then all in favor of the motion say "aye."

Opposes?

No response.

6. 2 Old Federal Road Subdivision - Major Subdivision Project No. #01PZ-032-207-5-05 - Quasi Judicial Hearing

Mr. Ballister told the Board that James Thompson submitted a proposal for a major subdivision to be located on High Bridge Road at the "no access" intersection with Interstate 10. The site is already zoned Rural Residential. It consists of 16.76 acres and includes 20 lots varying from .5 acre to .881 acres.

The plan includes two paved roads with cul-de-sacs. The area is served by Talquin Electric for electricity and central water. The staff recommended approval subject to the special conditions as listed in the agenda packets.

Mr. Ballister stated that until the Comp Plan is adopted, the Board can still allow ½ lots which is proposed for Old Federal Ranch.

Mr. Richmond interrupted the proceedings to administer a sworn oath to Mr. Ballister as to his prior and subsequent testimony. (Mr. Richmond is a Notary Public licensed by the State of Florida.)

Ballister:

If this project were to be approved by the Commission, the Planning Department has some recommendations that would bring it into line with our policies. The 16.76 acres that are shown in your subdivision drawing are a part of larger 18.7 acre lot that was subject to a minor subdivision earlier this year. Those 4 lots on a minor subdivision are immediately adjacent to High Bridge Road. They are oriented such that the two 60 ft. right-of-ways will fit between them. These 4 lots should be included in the area used in post development run-off retention system.

If there are wetland associated in the low area to the east that have been 50 ft. of the boundary, they should be indicated on the preliminary plat and any setbacks imposed.

The 20 lots proposed and the original 4 lots should be connected to the Talquin water system. It's extension should be made with a 6" minimum diameter to provide fire flows at such point that Talquin system is upgraded.

The preliminary plat should clearly indicate the area that is used to calculate the 10% open space. Right now, on the conceptual plat, it shows that there is some space out there, but we don't know how much is pond and how much is open space.

I am recommending a class B buffer be placed along the Interstate right-of-way to buffer noise for the inhabitants and to shield the development from I-10. The fence should be placed on the development side of the buffer. This should also tend to keep people from accidentally digging a post hole for their storage barn and putting a hole through the fiber optic cable that runs through there. An awful lot of communications are in the 10 ft. easement on the north side of this plat. The swale system that is designed within that 30 ft. drainage easement should also be respectful of that easement.

Cul-de-sacs should be redesigned to have the minimum radius that is in the Code which is 100 ft. diameter. Drive ways

that are constructed should be stabilized to the property lines to protect our roadway once we accept it.

The Planning Commission approval was a 7 - 2 vote. Discussion in the Planning Commission centered around the home owner association covenants and restrictions.

He indicated that at preliminary plat submission, he would bring in some covenants and restrictions for review. The Planning Department's concern primarily is not the aesthetic things that are usually in there because they are usually in there to protect the seller as long as he is selling lots. I am more concerned with a homeowners association be set up with fiscally sound backing. I have asked them to look into the feasibility of - "Can HOA fees be escrowed so that they are automatically paid to the organization?"

Richmond:

Can I ask one or two questions about this? I just want to make sure of where I am at.

There was a minor subdivision split off this piece of property earlier this year?

Ballister:

Yes, sir.

Richmond:

Is it a common source of title? Another words, is it all one owner?

Ballister:

Prior to the minor subdivision, there was 1 owner on that parcel of land.

Richmond:

Who was that?

Ballister:

James Thompson.

Richmond:

So, they have done a minor subdivision with the 4 lots along High Bridge Road. Is that correct?

Ballister:

Yes, sir.

Richmond:

And the proposed subdivision is actually setting back off High Bridge Road?

Ballister:

Correct.

Richmond:

O.K. There is no road frontage on High Bridge Road except through the access roads provided?

Ballister:

Right.

When the minor subdivision was originally proposed, it had 4 lots adjacent to each other along High Bridge Road and I had a frank discussion with the applicant and included that if yes, his intention was to eventually subdivide the remainder of the property. And I said, well, lets leave room for those roadways to exist. And, came up with the 60 ft. block-outs that were retained for future right-of-way.

Richmond:

Have those lots subsequently been sold? Or do you know?

Ballister:

I believe we have issued permits on them but I don't know if they have been sold.

McGill:

Inaudible

Richmond:

Yeah, the 4 lots on High Bridge Road.

Ballister:

There is one more additional comment that I think I didn't do it when I was scanning the comments.

Prior to the creation of the minor, this tract had been one larger property of over 20 acres. The remainder of the property to the rear will be cut off by the lot pattern as

shown. I have indicated a need to extend an easement. I don't remember which two lots it was. At the end of the southern cul-de-sac, that would extend to that rear property to maintain access.

There is another two-rut road that goes back to that property, but, it is a family drive-way at this point. If something were to become of that parcel in the future, I would rather see good access through here.

Watson:

This 16 acres is part of that?

Ballister:

Yes, sir.

Watson:

Why is this not a re-subdivision that we don't want happening?

Ballister:

It is in a sense a re-subdivision of the minor - the fifth parcel in the minor was retained as a big tract.

Watson:

To me, this is what we were trying to get away from.

Ballister:

Well, this is a re-subdivision but if you remember, sir, we had the stipulation that any re-subdivisions had to come to the Board for consideration.

McGill:

I thought we had a general rule that we would not subdivide that which was already been subdivided?

Watson:

That's what I thought we had.

Ballister:

O.K.

Watson:

That was my understanding. That's what I thought I was voting on.

Ballister:

I know we have had individual cases that have come in that were sub-dividing subdivision lots. Usually in half. This is a much more aggressive circumstance than anything we've had.

Richmond:

Well, this part, this 16.76 acres was originally a part of the original minor subdivision.

Ballister:

Yes, sir.

Richmond:

So, it's a re-subdivision within a year.

Ballister:

Yes, it would be within this year.

McGill:

I don't think we can legally do that. Do we have other questions for Mr. Ballister from commissioners? I would like to do that before we entertain questions from the public. Are there other questions from the commissioners?

I've got a couple.

On Item 4, you talked about $\frac{1}{2}$ acre lots. I thought we were for - we could not go less than 1 house per acre.

Ballister:

Yes, sir. That policy will become effective upon the adoption of Comp Plan on July 17. And, that is what we have been working to all this time.

When this application was submitted, the rules on the books right now are $\frac{1}{2}$ acre if we have

McGill:

Have we not denied some requests already because of 1 acre per lot? I mean 1 house per lot situation. Have we not done that already?

Ballister:

I am trying to recall.

McGill:

I thought we had denied some requests already because the amount of acres was less than 1 per unit.

Ballister:

We have had some serious prayer meetings with some applicants in the past about the sizes of their lots but I don't know if we have actually denied any based on that criteria. This is a density policy that will take effect with the Comp Plan. It is not in effect yet.

McGill:

Again on Item No. 4, you talked about the 22 ft. cul-de-sac being less than the minimum of 50 ft. But at the end of that you said, the cul-de-sacs have met

But on Item No. 7 in the back, you are still looking at those.

Ballister:

No, the conditions that I was talking about were the angle of the intersection of the two cul-de-sacs when they come into the road. They are greater than the 75 degrees.

McGill:

So, that had nothing to do with the previous statement.

Ballister:

It had nothing to do with the bulb radius.

McGill:

How many fire hydrants are we going to have out there?

Ballister:

The number will be set up with review by the fire marshall when we do the preliminary plats and they have the utilities shown. There is no requirement to show utilities on the plan.

There probably should be at least 1 fire hydrant at the middle of each lot and a blow off valve at the end of the road. I mean at the middle of each cul-de-sac. They are about 600 ft. long, so centrally would cover that.

Watson:

This is a

Ballister:

It will be subject to a fire marshall review.

Watson:

Have any of ya'll been to Tobacco Road?

McGill:

That's in Havana? Yeah.

Watson:

This is a Tobacco Road in its embryonic state.

Dixon:

Embryonic?

Watson:

Yes.

McGill:

New state.

Richmond:

You're sounding like a doctor again.

Dixon:

I'm glad to know that. I was getting concerned.

Watson:

If you go, before you vote on this thing, you really need to go to Tobacco Road and see what this is going to look like one day. It would be a crime for us to approve this. Once you go look at Tobacco Road and see what those residents have to put up with, and there is nobody, as we have said many times, you hammered and hammered and hammered - who do they turn to?

These people aren't going to have anybody to turn to one day when it winds up like Tobacco Road. There'll be nothing the County can do for them.

McGill:

But, won't they have a homeowners association with deed restrictions and that kind of stuff?

Watson:

Tobacco Road's got one and they have tried that. It is ineffective. They have made a grand effort in trying to do it themselves. But, the money is not there to maintain a stormwater facility and the drainage.

McGill:

I have a lot of calls about Tobacco Road. I referred some of them to you.

Watson:

Well, I got them.

McGill:

Because I get 3 or 4 a day sometimes. But when it rains like it did recently, we have a lot of problems on Tobacco Road.

Would anybody from the public like to address this issue?

Richmond:

I think, you probably need to let the proponent, the applicant come forward first.

McGill:

Let's have the applicant come forward first then please.

Richmond:

Good evening. Would you raise your right hand, please. Do you solemnly swear that the testimony you are about to give will the truth so help you God?

Thompson:

I do.

Richmond:

Please state your name.

Thompson:

My name is Jamie Thompson. 1825 Commerce Blvd., Midway.

Richmond:

Thank you, sir. This is your presentation, I believe.

Thompson:

Yes, sir. I didn't really bring an official presentation. I was just going to answer questions.

I guess my understanding with re-subdividing that 5th lot was that it had to go through a major subdivision approval and that is what we are doing. I discussed at length with Mr. Ballister whether we could do this or not. He said we could.

Richmond:
O.K.

McGill:
Are you aware that the County has a rule not to sub-divide after it has already been subdivided?

Thompson:
I was under the impression that if you did subdivide, you had to go through a major subdivision approval.

McGill:
Let me ask the question that Mr. Watson raised. Are you familiar with Tobacco Road?

Thompson:
Yes, sir.

McGill:
You see the mess they've got out there?

Thompson:
Yes, sir. I've been out there.

McGill:
What kind of assurances that you are going to give us that it won't happen with your development?

Thompson:
Are you talking about problems with storm water runoff?

McGill:
That's one of them. No paved streets. Narrow paved streets. Streets that don't measure up to DOT specifications. That is a third one.

Thompson:
It is our plan to build streets that measure up to DOT specifications.

McGill:

What kind of power will the homeowners have once you do the development, sell and then move? How will they have the chance to sue you?

Thompson:

How will they get a chance to sue me?

McGill:

Yeah. You developed it, didn't you? You sold it, didn't you?

Thompson:

What would they need to sue me for?

McGill:

The development is not up to snuff. It's raining in the house, for examples. Lots are flooding out.

Thompson:

I think they could sue me on those grounds. I think I've got an engineer that is working on the project to make sure that doesn't happen. I think he would have to be included in the suit as well. But, we are going to try to take every step possible to prevent that sort of thing from happening.

McGill:

Are there any questions from the other commissioners?

Watson:

I move denial.

McGill:

Well, let me ask for comments from the public first.

Are there those who want to speak for or against the proposal?

Ms. Lasley?

Richmond:

Please raise your right hand. Do you swear that the testimony that you are about to give shall be the truth so help you God?

Lasley:

I do.

Richmond:

Please state your name.

Lasley:

My name is Marion Lasley.

I am very concerned about the covenants. The use of a covenant to protect the people. I don't think that is a good idea. I think it misleads the people who buy the property. For all the reasons that ya'll know of, I, they, it takes a lot of money. I think it needs to be done correctly in the first place by standards that the County can support. That corner is ah, there are a lot of people who hang out there and we just need to be real careful about it. Fewer homes would be better.

My big concern is "What is the mechanism to prevent lots from being bought, mobile homes installed and the mobile homes then being rented out making this similar to a mobile home park? And, what is the guarantee that these homes are going to be owned by the people who live there and not simply rented out?"

If somebody can answer that.

McGill:

Do you want to respond?

Thompson:

As far as the homes being owned, I sold about 200 mobile home lots last year and I would say that 99% of those are lived in by the owners of the land and the home.

McGill:

Does that satisfy you?

Thompson:

You know, I

The lots are for residential housing or for people to buy and to live on. I am confident that will happen.

McGill:

I've got a quick question for Mr. Thompson. Did all of you read the excerpts from the Planning and Zoning Commission meeting. On page 24 and 25, at the very top portion of 25

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(inaudible) did not get printed. But, I noticed on page 25, Mr. Yerkes of the Planning and Zoning Commission raised a question about stick built homes. Your response was there's no demand for stick built houses. Is that true?

Thompson:
Yes, sir.

McGill:
There is no demand for stick built houses?

Thompson:
Not in that area. I really don't believe so.

McGill:
Are there any other questions?

Hearing none, it is time for the Commission to offer a motion.

Dixon:
Mr. Chairman, if I am in order, I would like to take an opportunity to table this, I would like to see Tobacco Road. I haven't seen it.

Watson:
That's fine.

McGill:
Is that your motion?

Dixon:
Yes, sir.

Roberson:
Second.

McGill:
We have a motion and a second to table this item until such time the Commission will have an opportunity to visit Tobacco Road.

Any questions on the motion?

Hearing none, all in favor, say "aye".

All:

Aye.

McGill:

The "Ayes" have it.

The vote was unanimous to table.

Ballister:

The next meeting will be the 17th of July. Should we schedule it for then?

By that time, I will make sure I have a report on whether we have voted denial based on ½ acre lots or get you the current policy on the re-subdivisions.

6.3 Sand Extraction as a Mining Use - Policy Guidance

Ballister:

I have a request to the Board for some policy guidance for sand extraction as a mining use. Currently, the Land Development Code is pretty silent on mining other than - Mining is what you can do in a mining land use category. It is not an allowable use in any other zones.

The Mining land use category was category was created in its own wording "to protect the mineral resources so that they wouldn't be covered by other development." You couldn't get to them for mining in the future. That adequately protects our generous deposits of attapulgate.

We have some applicants who have come in who have existing sand pits on their properties. I have told them that they need to get land use amendments to mining prior to doing mining permits. At least, that is my interpretation of the Code - the way we have it now. And, I have had buyers looking at property that they wanted to purchase of doing sand mining.

When told that they have about a nine month wait to find out or to get an approval on a land use change, the interest goes away.

It became obvious that including surface sand mining in the same pot as deep pit attapulgate extraction was hindering a lot of people's possible economic resource on their land.

I just wanted to get your guidance on whether we could adjust the wording in the Land Development Code (in our definition

section) to say that surface extraction of sands above the water table are not included in the mining definition per the Comp Plan or if you feel it is necessary to adjust the Comp Plan also.

Is that a resource out there? I think I mentioned in my notes, here that Leon County, by virtue of its ordinances has zoned itself out of the sand business. You can't site a good sand deposit that doesn't conflict with their own Code. Wakulla County and Jefferson County have very shallow sand pits or sand options. We have a lot of economic resource here but it is just very painful to get to it for a future procedural point of view. Most of the stuff that is mining (except for a little bit of the Sheline area) is attapulgitic soils, not construction sands.

You don't have to act tonight, but, you know, I would like to have you think about that and we can, ah, if you do want to decide tonight, that's great. We'll start working on that idea.

Dixon:

Tell me what - do you have some numbers on economic impact, I mean, if folks are mining and zoning themselves out of the sand business, give me a reason that we shouldn't do the same.

Ballister:

I could, in terms of economic impact, I am not sure how to do that. I know I could probably come up with numbers looking at aerial photographs of sand mines that are not operable because they are AG 3 or AG2.

My concept is that if we were to do this, any mining permit would be a Class II permit. It would be required to submit a contour map showing the elevations and closure plan. And probably bond the closure. They are too easy walk away from a sand mine and never do anything to it. And that would give protection to the people who live next to it. A closure plan is what's often the best protection. If you bond that and the mine goes out of business or quits, there is a bonded fund set aside to close that pit.

Dixon:

What did you say, 12 feet is what they go. Did I read that in your notes?

Ballister:

I think, down to within a foot of the water table, so that there isn't any water extraction of sand. If you are keeping yourself above that danger zone,

There are places in the County where we have 10 to 20 to 30 feet deep above the water table.

Dixon:

So, there could be very deep pits.

Ballister:

There could be some fairly - well, mostly, they are ridges. Like the property that was being considered for the, off Sheline Road, you know, all that sand on that Sheline property is ridges. So, to some extent, you bring the whole area down.

At some point, there will be a depression. Then the closure plan would define what size slopes you have to do, how far can you be from your neighbor, and how basically to keep that thing from eroding in the future.

McGill:

Why did Leon County get out of that? Sand mining?

Ballister:

I don't think they intended to, but, in my previous life time as a designer for development industry, we were looking for some sand pits for our owner. Every time we found a viable sand deposit, they had a criteria that said that dump trucks or heavy equipment from a mining could not pass along a local road. So, you basically had to find your sand mines along major highways. I am not sure that was the intent of their plan, I believe the intent was to protect neighborhoods. But, the effect was that you couldn't find sand next to a major road. Everything on Highway 20 had been bought.

Dixon:

But, that sounds like a good standard.

Ballister:

That is why it would only take effect if you did local planning. If you came to the Board and said "Yes, the impacts are mitigated." Or "No, there are not" and we don't approve them.

Watson:

Would that change the assessment by Mr. Hamilton?

Ballister:

It could. If it went from AG land to - actually, I think he does it by what you are using it as.

We had a vacant sand pit that hadn't been used in 10 years, it probably wouldn't change anything.

Dixon:

Yeah, you go from dirt to sand.

Ballister:

But, if you start to mine it, then you're having to change.

Watson:

There are people now that probably have AG3 property that have sand on it who may want to extract the sand which would change the assessment.

Ballister:

When it became an operating mine.

Dixon:

It would become a commercial use, I guess,

McGill:

But, once they start extracting sand on AG 3, wouldn't it change the use to mining?

Watson:

It would. So, I would think the assessment would go up.

Ballister:

You see, he does the assessment by how it is being used.

Dixon:

Are mining properties assessed up? I don't think so.

Ballister:

I don't know. I don't know what George's policies are on assessments.

McGill:

I noticed that you said that Wakulla and Franklin Counties have very shallow deposits. How many feet can they go down?

Ballister:

Well, in those two counties, your water table is fairly near the surface most of the time. You know, you're rarely 5 or 10, rarely 5 ft. away the water table. Because they are coastal plain counties.

We have in the ridge system, on the southern tier where we do have sand deposits, we do have some fairly deep deposits of sand. And, I am saying that all of this, I guess it has to be predicated by sound engineering and good plans and the public process. We wouldn't open any new mines without the public process. It would be a Class II development or a Type II development.

Watson:

I don't see where it would cause trouble as long as we have that in place.

Ballister:

I know.

Watson:

I mean, I think it would be a good idea to do so long as we have that Type II review in place. I mean, if it looks good, we approve it and if it doesn't, we don't. It would just make it easier for them to come before us. It doesn't mean that it will make it easier for approval. It will just shorten the time if they can get the approval. But, it doesn't guarantee the approval.

Ballister:

Right. It doesn't guarantee anything. There are no guarantees in that. It's like any other Class II. And, it can be crafted so that it doesn't have to be a performance application where if you fit all the slots, you automatically get it.

McGill:

That would constitute a mining use, is not that right?

Ballister:

It would not, I guess what I am saying is - if we did this, it

would take surface extraction of sand out of the mining definition for land use classification.

McGill:

Well, what would the definition be then?

Ballister:

Surface extraction as opposed to deep mining.

McGill:

Surface extraction.

Ballister:

We would probably have to adjust the definitions in the Comp Plan. But, I think they are two different animals. I have seen some of the Englehard pits go 150 ft. deep. That is obviously not surface extraction.

McGill:

Any further discussion?

What is the will of the Board?

He is looking for direction, so he can do what he needs to do with the Comp Plan.

Dixon:

I motion that he brings us something back.

Watson:

Second.

McGill:

We have a motion by Commissioner Dixon and second by Commissioner Watson that Mr. Ballister bring us something back that we can take a look at. (Inaudible)

All in favor, say "aye"

All:

Aye

McGill:

All opposes with the same sign.

No response.

6.4 Telecommunication Tower Moratorium - Resolution

Ballister:

Thank you.

As we got into last meeting, we had some discussion on the land use change. Excuse me, a land use error on the map. I got into the realization that we were going to modify the Telecommunications Ordinance. All the paper work is in place to adopt it. We physically can't do it until we have had the chance to advertise and have two meetings.

Since these people act very quickly, I am proposing a resolution of the Board of County Commissioners to place a moratorium on new tower applications until we pass the ordinance that would fix the gap that we found in the ordinance.

McGill:

Has everybody read a copy of the ordinance that was in your package?

I have just one question. In the first "Whereas" near the end - these are just some grammatical kinds of things - I don't know that "also known as" should be capitalized necessarily.

Ballister:

Oh. O. K.

McGill:

That is my only comment.

Anybody else?

Can I get a motion to approve?

Watson:

So move.

Roberson:

Second.

McGill:

We have a motion and a second that we approve the resolution

to temporarily put a moratorium on the placement of telephone towers, ah, telecommunications towers. (Inaudible)

All in favor, say "aye".

All:

Aye.

McGill:

Opposes?

No response.

McGill:

It is approved.

7. COUNTY MANAGER'S AGENDA

Mr. McKinnon had nothing to report.

8. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Clinical Affiliation Agreement between Gadsden County BCC and Pensacola Jr. College that allows PJC students to ride with Gadsden EMS to obtain the clinical experience required for Paramedic Training.
- 2) FY 2000/2001 Mosquito Control Detailed Work Plan Budget and Operation Work Plan Narrative
- 3) Petroleum Products Bid # 01-013 - Award of Bid to Petroleum Traders of Ft. Wayne, IN for .0221 for unleaded gasoline and .0117 for #2 low sulfur diesel fuel over the OPIS/Bainbridge Average
- 4) SHIP Subordination Agreement of Behalf of Betty Bradley
- 5) Gadsden County Chamber of Commerce Executive Report for month of May 2001. Economic Development issues.
- 6) Certificate of Liability Insurance by DasSee Management, LLC - - Management of the Gadsden Community Hospital

9. CLERK'S AGENDA

9.1 Budget Amendments 01-06-19-01 through 01-06-19-21

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

9.2 Ratification of the Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONERS REPORTS

10.1 District 1 Report - Big Bend Track Club

Vice-chair McGill yielded his time to the Big Bend Track Club who was not on the printed agenda.

Ms. Sharon Walker stated that they were a summer youth organization for athletes ages 5 - 18. She said that their mission was to take athletes from diverse backgrounds and teach them self discipline against alcohol, tobacco and drugs and also to teach them self respect by using track and film.

Ms. Walker said that they participate in the USA Track and Field and Amateur Athletic Union sanctioned meets as well as the Florida Sunshine State games. She went on to say that the Big Bend Athletes Club had 22 athletes who participated in the regional AU Track and Field meet in Tallahassee. Of the 22, 21 qualified to participate in the State AU Track and Field Meet in Sebastian, Florida on June 22 - 24. If they qualify at that meet, they will have the opportunity to compete in the AAU National Jr. Olympics in Norfolk, VA on July 27 - August 5.

She reported that most of the athletes come from low income homes which cannot provide the costs for the children to compete at the national event. She asked the Board to consider helping with funds to provide transportation and hotel accommodations for those students and chaperones to the national event. They asked for \$15,500. (\$5,600 for chartered bus and \$9,900 for hotel for 9 days for 22 team members and 10 chaperones.)

There was discussion among the Board members.

THERE WAS A MOTION BY COMMISSIONER DIXON TO PROVIDE THE COST OF THE TRANSPORTATION FOR THE NATIONAL MEET.

Vice-chair McGill called for a 5 minute recess.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO TABLE DISCUSSION ON THE REQUEST FOR FUNDING UNTIL THE NEXT MEETING IN JULY.

10.2 District 2 Report

Commissioner Watson asked that the Board consider taking some measures to eliminate the pin hooking operations that take place with regard to tomato sales.

There was a consensus of the Board to direct Mr. Richmond to do some research and determine if an ordinance could be crafted to make pin-hooking illegal in this county or at the least control it to the extent that safety and health is provided for.

10.3 District 3 Report

Commissioner Roberson reported that she and Mr. McKinnon had met with the manager of Martin Marietta which is a company that supplies gravel, sand and rock. The material is normally sold for road building purposes and Martin Marietta is the only supplier of those materials this side of Macon, GA.

She then explained that the main mode of transportation for bringing in the goods is by way of a dredge on the Apalachicola River. In order for the dredges to come by way of the river, the river must have routine maintenance dredging by the Corps.

Commissioner Roberson then told the Board that President Bush wants to stop the funding that allows for the maintenance dredging.

She went on to say that if that should happen, it will, in turn, greatly increase the price of the goods because of the transportation cost increase. It would essentially close the dredge industry down and it would put an end to 22 - 24 jobs and a \$1 million per year payroll.

She explained that one dredge equals 50 semi-truck loads of material. Without that form of transportation, the cost of the road construction materials will increase in proportion to the

transportation costs.

Commissioner Roberson asked the Board to consent to writing letters to the legislative delegates or adopt a resolution requesting the continuation of the river maintenance. (Senators Bob Graham, Bill Nelson, Allen Boyd and Bev Kilmer, Al Lawson)

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, TO AUTHORIZE THE VICE-CHAIR TO WRITE A LETTER OR RESOLUTION ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS IN SUPPORT AN EFFORT TO CONTINUE THE RIVER DREDGING MAINTENANCE.

10.4 District 4 Report

Chair Fletcher was not present.

10.4 District 5 Report - Summer Jobs Program

Commissioner Dixon called attention to the brief proposal in the agenda package dealing with student summer jobs. He said that it is not "fleshed out" very well and he would get with the County Manager and the Work Force Program to insure that The Board doesn't duplicate any efforts. He asked to table any action until a later meeting.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, AND, UPON MOTION BY COMMISSIONER WATSON, THE VICE-CHAIR DECLARED THE MEETING ADJOURNED.

W. A. (BILL) MCGILL, VICE-CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A SPECIAL MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON JULY 9, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
MURIEL STRAUGHN, DEPUTY CLERK

CALL TO ORDER

Chair Fletcher called the meeting to order. He stated that the purpose of the meeting was todiscuss the GRIT claims processing and to adopt a resolution dealing with the Communications Services Tax.

He then turned the meeting over to Mr. Craig McMillan.

GRIT CLAIMS PROCESSING

Mr. Craig McMillan addressed the Board to explain the status of workers comp claims that were covered by GRIT which is now in bankruptcy. He explained that one of the county's claims has been settled, but there are two others that are pending. He went on to say that the County has had a contract with Zenith to process the outstanding claims for the last year, but the contract had expired. He also stated that there was some discussion going on throughout the State of Florida about possibly allowing the Florida League of Cities to handle the outstanding claims. However, He iterated that there seems to be a lot of erroneous information surrounding the status of the claims and the attorneys are trying to sort it all out in court.

Mr. McMillan stated that he had talked with the Zenith staff and they are willing to continue handling the claims for a time (even though the contract is about to terminate) and he was assured there would be no consequences from delaying action until July 17. In the meantime, Mr. McMillan said that he would try to discern more information.

Discussion followed.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO TABLE

ACTION ON THE GRIT CLAIMS PROCESSING UNTIL JULY 17, 2001.

TELECOMMUNICATIONS TAX RESOLUTION 2001-015

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE RESOLUTION 2001-015.

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON JULY 17,
2001, THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER
W. A. (BILL) MCGILL
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: NICHOLAS THOMAS, CLERK

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Hal Richmond led in pledging allegiance to the U.S. Flag and Howard McKinnon led in a prayer.

2. APPROVAL OF AGENDA

Watson:

Mr. Chairman, I would like to table the Old Federal Road Subdivision for another meeting - not talk about that tonight. Pull it from the agenda if you can.

Fletcher:

Do I hear any objections to removing it from the agenda?

Dixon:

I don't have any objections.

Fletcher:

O.K. We need to remove Item number 6. Gordon Jernigan.

And we will add to the consent agenda the List of Errors, Insolvencies, Double Assessments and Discounts to our Tax Assessments.

Then we want to move Item # 5 up under the County Attorney's Agenda.

Do I hear a motion to approve the agenda?

Gadsden County Board of County Commissioners
July 17, 2001 Regular Meeting

Dixon:

I so move approval of the agenda as amended.

Watson:

Second.

Fletcher:

It has been moved and seconded that we approve the agenda as amended. All in favor, say "aye".

All:

Aye.

Fletcher:

The motion passes.

Richmond:

There was an objection, I think, from Mr. Thompson on the Old Federal matter. I saw him raising his hand out there. But, it's a matter for ya'll to determine.

Unidentified audience member:

May we speak?

Richmond:

It is an internal matter.

I mean, I

Fletcher:

Mr. Richmond.

Richmond:

Oh! Approval of the minutes.

Fletcher:

Oh. That's right.

Dixon:

So move, approval of the minutes.

Roberson:

Second.

Fletcher:

We've got a motion and a second to approve the minutes. All in favor say "aye".

All:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

4. COUNTY ATTORNEY'S AGENDA

4.1 Ordinance Adopting Code of Ordinances - Public Hearing

Richmond:

Gentlemen, we've got, properly advertised, a public hearing for tonight, for an ordinance adopting and enacting the Code as prepared by Municipal Code Corporation. It basically keeps all the up to date ordinances in effect and it puts in the proper order where we can find them. Is there anyone to speak for or against that matter?

No response.

We need a proper motion to adopt the ordinance.

McGill:

So moved.

Dixon:

Second.

Fletcher:

We've got a motion and a second to adopt this ordinance. All in favor, say "aye."

All:

Aye.

Fletcher:
Opposed?

No response.

The ordinance passes.

**4.2 Resolution Amending and Establishing Planning & Zoning and
Building Inspection Fees**

Richmond:

Pursuant to the ordinance, because we have a new codification, we need a resolution amending the establishment of Planning & Zoning and Building Inspection fees. There has been one prepared this afternoon, with the fee schedule and the resolution, for the chairman to sign.

Watson:
I move approval of the resolution.

Roberson:
I'll second it.

Fletcher:
It has been motioned and seconded to approve this resolution.
All in favor, say "aye."

Dixon:
Discussion, Mr. Chairman?

From the Building Inspection, are these new fees?

McKinnon:
Commissioners, some of them are.

(Inaudible discussion)

Dixon:
Were we charging for these things before?

McKinnon:
Everything that is grey or yellow, we were. Yes, sir.

The green ones are some of the new ones. New services that we have been requested, from time to time, to do.

Dixon:

We've got building permit fees, mechanical permit fees, plumbing and electrical. The new fees are already contracted licensing?

McKinnon:

Yes, sir. Let me get the list.

Dixon:

What is "maintenance and security for county property after office hours?"

McKinnon:

If somebody wants to use - mainly this room here - you know. That's what that is for.

Dixon:

Do we have in here, I think it is important that we keep remembering that a substantial part of our population is the below the poverty index. So, is there some kind of waiver built in here? Or will they still be allowed to come before the Board?

Watson:

Yeah.

McKinnon:

Yes, sir. They are allowed to come before the Board.

McGill:

But, I think we have to have some type of criteria put into place.

Dixon:

There has got to be some criteria.

McGill:

If we allow one to use it and say "no" to another - with or without a fee. There needs to be some criteria that they would have to prove prior to.

Watson:

If that is the case, it would not need to come before us.

McGill:

Why?

Watson:

Well, I mean, if you have criteria, go by that.

Dixon:

If the criteria is in place.

McGill:

O.K. I don't have a problem with that.

Dixon:

It's a matter of criteria and demand.

McGill:

But, let's suppose that the criteria are in place and somebody wants to vote to waive that. It could still come before the Board, could it not?

Watson:

Again, it would depend on the criteria.

McGill:

But, if the criteria are in place, if one group appears before the Planning and Zoning Commission for a fee waiver, there should be a criterion that would allow Planning and Zoning to waive that fee and then staff could bring it before the County Commission.

Dixon:

Mr. Chairman, that is all.

Fletcher:

If there is no other discussion on this matter, do I hear a motion to approve this resolution?

Dixon:

I so move.

Watson:

Second.

Dixon:

You don't need a motion and second, you already have one.

Fletcher:

All in favor, say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

5. GRIT CLAIMS PROCESSING

Richmond:

Gentlemen, as you recall, Craig McMillan appeared before us with a question on worker's compensation under the GRIT program with two remaining claims. He tried to get the League of Cities, who is currently handling worker's comp insurance for the County, to adjust these two claims. They refused to do so and he called me last week to tell me that there is no other option on this but to go ahead with the GRIT, Zenith Insurance, I guess, and his recommendation was that we sign the agreement and go ahead and send them the money and let them handle the last two remaining claims.

Watson:

I move approval.

McGill:

Second.

Fletcher:

We have a motion and a second to approve this. All in favor, say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

Richmond:

I believe that completes my agenda for this evening.

7. MAUREEN DAUGHTON OF NABORS, GIBLIN & NICKERSON, P.A.

Daughton:

Mr. Chairman, good evening. Members of the Commission, good evening. My name is Maureen Daughton. I am with the law firm of Nabors, Giblin & Nickerson in Tallahassee.

I appreciate the opportunity to be here with you tonight. I know you have a lengthy agenda, so I will try and keep my remarks as quick as I can.

Our firm represents the Bank of New York as trustee and also 100% of the beneficial bond holders regarding some bonds which were issued in 1988 by the Gadsden County Industrial Development Authority. These bonds were used for the acquisition and renovation of 3 nursing home facilities - one of which is in Gadsden County. That is the River Chase Care Center.

The bonds currently are in default. And, what we have done, the Bank of New York, as well as the current owner, which is RHA of Florida, is trying to try and work out a restructuring so that those bonds can be re-issued and the facilities can remain open and operating.

What we have come up with is a transfer of ownership of the River Chase Facility as well as two other nursing homes which were part of the initial bond issuance to a new owner. That is the Trousdale Foundation of Gadsden. I have a representative of that organization here with me this evening if the Board has any questions of him.

What the Bank of New York and the new owner, or the new prospective owner have agreed to do to keep these facilities open and to keep this deal on-going is to reduce the principal amount of the initial bond issuance. Initially, we had \$13 million. We are seeking, basically, to exchange those bonds, re-issue those bonds for a lesser amount of principal which would be \$10 million, change ownership. And, the trustee as well as the new owner feels confident that with that change in circumstance, we are going to be able to make debt service on the bonds.

Now, why am I here before this Board? That is because, under Florida Law and under the Internal Revenue Code, when an industrial development authority within your jurisdiction is seeking to issue bonds, we have to have the permission of the County as well as have a resolution entered. We have appeared 4 times before the Gadsden County Industrial Development Authority. We have had a TEFRA hearing which was publicly noticed so that persons could come and appear before the Authority and give comment on this. The Authority has issued a resolution where they have consented to go forward with this if we have the County entering into a resolution to go forward as well and the other local governments that are involved.

So, tonight, we are seeking your permission and seeking to enter into a resolution which would allow us to move forward with the re-issuance.

I am happy to take questions, if there are any.

Dixon:

What is the exposure of the County to this?

Daughton:

I am glad you asked that question.

There is absolutely none. There is and actually, it states that in the resolution which we have provided and should be a part of your package.

On the second page, I believe it might be paragraph 3, indicates that there is no pledge on the part of Gadsden County, if the bonds were actually, after this new change in circumstance, were actually to go into default at some other

point, there would be no recourse against the County. There is no - would no, you know, impede your ability to get funding or to enter into some bond agreements on some other deals. It has absolutely no negative impact on Gadsden County.

Dixon:

What about the Industrial Development Authority?

Daughton:

It has absolutely no negative impact on the Industrial Development Authority and they asked similar questions.

McGill:

Have you been before the other two counties?

Daughton:

Yes, sir. We have appeared before the Jefferson County Board. We have noticed a TEFRA hearing for this Thursday to appear in front that of body as well to see if there are any public comments regarding this.

We have a meeting set before the City of Clearwater in the first week of August. That is where the third facility is based. Once we have the permission of the county here and also the folks in Jefferson County as well, the City of Clearwater agreed to enter into an interlocal agreement which they need to do.

Gadsden County does not need to do that. We, then, would go back to the Industrial Development Authority and indicate to them that we have all the approvals necessary to go forward.

McGill:

What happens if we approve this and the other two don't?

Daughton:

Then, the Industrial Development Authority cannot issue their bonds and cannot go forward.

McGill:

And it will absolutely have no negative affect on Gadsden County?

Daughton:

No, sir.

Watson:

I move approval.

McGill:

Second.

Fletcher:

We've got a motion and a second to approve this resolution.
All in favor, say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

Daughton:

Mr. Chairman, I have a resolution with the requisite
attachments for signature. I believe, I don't know whether
there is one in the commissioners' packets.

McKinnon:

If you will, give that to the Clerk.

Daughton:

Thank you very much. I appreciate the Commission's time.

Fletcher:

Mr. Ballister:

8. PLANNING AND ZONING ISSUES

8.1 Adoption of 2001-2010 Comprehensive Plan

Ballister:

Good evening. I apologize for my late arrival this evening.
In the old days, I could have said the dog ate it. But,

today, I have to say that the printer ate it. But, I finally have all my stuff here.

The first order of business tonight is the adoption of the 2001-2010 Comprehensive Plan. The document I have had a lot to do with since the beginning in 1997.

This Comp Plan includes all the EAR policy revisions and other policy revisions brought by public comment. It also includes three land use amendments - the St. Joe Land Development application for 296.5 from AG 3 to Light Industrial; Oil-Dri Corporation's application for 153.5 acres from mining to AG 2; and Gadsden County School's 100 acres from AG 3 to Public.

The Plan was submitted with documentation on January 16th. We have been through the ORC Review Cycle. This Plan includes all those revisions due to the ORC - Objections, Recommendations and Comments.

The Planning Commission's recommendation was for approval 9 - 0. Last month, the second meeting of the month, we adopted or approved a notice of intent to adopt. Tonight, I am asking you to adopt the ordinance that will or pass the ordinance which will adopt this Comprehensive Plan.

We will then have a year to revise the Land Development Code to bring it into compliance with the new policies in the Code or rather the Comp Plan.

Muriel, do you have a signature page?

Straughn:
No.

Ballister:
I can give you one if you don't.

Do you have any questions for me?

Unidentified audience member:
Is this the first hearing?

Ballister:
This is the second hearing. This is the adoption hearing. It

would have been scheduled and adopted on July 3rd but we cancelled that meeting. So, here we are.

Watson:

I move we adopt it.

Roberson:

I second it.

Fletcher:

We've got a motion and a second that we adopt the Comprehensive Plan.

McGill:

Can't we have some discussion on AG 3 to Light Industrial? Approximately how many acres do you have for heavy industrial activity?

Ballister:

In that particular spot?

McGill:

No, in the county, period.

Ballister:

I guess a few hundred because the area below Strong Road - between Strong Road and Ranch Road - is Heavy Industrial. The Coastal site is Heavy Industrial plus Peavy, Poly Steel and a few minor locations. All of the

McGill:

What about industrial activity, I mean, land that is not being used right now.

Ballister:

Not being used right now?

A lot of the area between Strong Road and Ranch Road is yet to be developed. Most of the Coastal site is occupied by their facilities. And, the 10/90 area is building out. I would say that they are about 50% covered as they are platted. Except for the Anderson Columbia site which will be platted shortly.

McGill:

That's all, Mr. Chairman.

Fletcher:

Is there any further comment?

Is there any public comment?

No response.

Hearing none, all in favor, say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

The motion passes.

Dixon:

Mr. Chairman, may I?

Fletcher:

Yes.

Dixon:

Bruce, do we have anything like a practical breakdown of what this means to the average "Joe" citizen?

Ballister:

I can probably try to do a plain text version of that at some point. We did do an awful lot this time to make complete sentences out of thoughts that were in it before. But, I have not made an "every man document."

Dixon:

Do something that gives me some examples that takes a piece of property and attempts to put it through a process and how this affects it. Do you know what I mean?

Ballister:

I think so. In terms of how it is changed or how it might have changed or

Dixon:

In terms of what actually happens as a result of this. Because Dr. Watson is the only one that understands all of this.

Ballister:

Sure. Are you discussing the revised policies?

Dixon:

What we just passed.

Ballister:

O.K. I will try to do that. I may take

Dixon:

The old scenario of "I've got 1 acre, if I've I got 10 acres, and want to do this with it.

Ballister:

Pretty much for the Land Use Element?

Dixon:

Yes, pretty much for the Land Use Element.

Ballister:

Yes, sir. I will work on that.

Watson:

Do you want me to hold a seminar on it one day for you?

Dixon:

Yes, sir, if you will.

Laughter.

McGill:

And while you are doing that

Watson:

Just pick a day you like, it doesn't matter to me. Just whatever afternoon you choose.

Fletcher:

Make sure ya'll properly notice it though.

Laughter.

Watson:

We will.

McGill:

And while you are doing that, Commissioner Dixon and Watson, list for me all the activities or types of activities that can go in Light Industrial categories and Heavy Industrial categories.

Ballister:

All the SIC's would be - I can try to make that a list. Right now, they are in paragraph form. But, I can try to list it out. But, they are in the Land Development Code - from when we passed the Light Industrial section. It has put some more qualitative review. A cabinet shop could be in either - depending on how they affected their environment.

8.2 Old Federal Road Subdivision

Ballister:

And it is my understanding that Federal Ranch is not on the agenda. So, moving on to

Richmond:

Could we just briefly, Mr. Wiener wanted to place an objection or at least notice on the record that he was here today and prepared to proceed. He has a court reporter here.

Wierner:

Mr. Chairman, Bruce Wiener, for the applicant, Old Federal Road Subdivision, conceptual application, I guess. The name of the applicant is James Thompson.

For the record, we are here and it is my understanding that this meeting was duly noticed and ah, to be heard and that it was a continuation of last meeting. We are here prepared to address the concerns of the Commission and simply put on or provide for the Commission further discussion and evidence

regarding the application. And, we would still request the ability to do that tonight if you could undo what was previously done. But, we are here and we are prepared and we would certainly like to come before you tonight and simply have this matter heard.

Thank you.

And, just, we would like, in the event that you could, please give us notice prior to tabling in the future on this application.

Thank you.

Dixon:

Mr. Wierner. I don't think we have to give you notice. I think that is a prerogative of the Board or a particular board member.

Wierner:

I didn't say you had to. I would appreciate any notice that ya'll could provide in preparation. To deal with the preparation involved with the public hearing and putting on evidence for a particular subdivision application - if there is anything that might postpone the hearing. We did meet with the county attorney recently and we have been in touch and we did bring over our engineer, applicant, and so forth to follow your procedure and so forth. So, all we are asking is a little bit of notice, nothing else.

And, we absolutely object to the way this was handled this evening. So.

Dixon:

Well, I absolutely flew all day just to vote on that one project.

Wierner:

I'm sorry?

Dixon:

I flew all day just to vote on that one project. But, if the commissioner wants to table it, then we have to show proper respect.

Wiener:

And, all I am saying is, from our standpoint,

Dixon:

You are not going to disrespect the Commission.

Wiener:

No, I'm not disrespecting the Commission. I am just covering my

Dixon:

It is tabled. It is tabled.

Wiener:

Thank you.

8.3 Tower Citing Ordinance - 1st Reading

Ballister:

The next thing on my agenda is the first reading of the Tower Ordinance.

If you remember, we had the discovery that there are a lot more industrial spots on the map than was originally, I guess, was understood at the time the thing was passed. We passed a moratorium 6 weeks ago.

This is the 1st reading of the ordinance modifying Section 5800 of the Gadsden County Land Development Code, removing exceptions for Industrial Zoning, eliminating speculative tower applications, providing for separability and providing for an effective date.

Copies, as Exhibit A, is Section 5800 of the Code. The first page of that, you will see, underlined, the section which is new. And, I believe, there are 4 sections further into the Code which show deletions as strike-thru's.

I'm having trouble finding it now.

Section 5805, 06, 07 show strike-thru's with regard to location criteria that will no longer affect industrial sites.

There is a representative in the audience from the tower industry who has some possibly modified language in the paragraph in 5802 concerning spec towers or towers with no confirmed clients will not be permitted. Excuse me, tower companies will not be granted permits without a first use telecommunications carrier under contract.

If he would like to come up to the front, he may be able to give us some guidance as to what would be more appropriate legal phrase to put in there that best fits industry practice.

Douglas:

Mr. Chairman, Commissioners, my name is Howard Douglas. I am with Big Bend Towers. Thank you for the opportunity to talk tonight.

In reading the new proposed ordinance, you have inserted some language that says that tower developers or "spec towers" are no longer allowed in that you are going to require these tower developers to provide a contract for carriers.

Generally how it is done in the industry is a "Letter of Intent" is issued. Then, once the tower is approved through the zoning process, then they move on into the lease and the contract. And, so, I would like to respectfully suggest that maybe we could change the word "contract" to a "letter of intent", you know, issued to the County on behalf of the tower developer that they will locate on their tower if it is approved. That's more of a way that the industry handles those things rather than have them under lease or contract from them. That is my suggestion.

Watson:

I don't have a problem with that change, do you?

Dixon:

I don't either.

Fletcher:

Do I hear a motion?

Richmond:

This is the first public hearing. I believe it has been

published, right. So, it will be adopted on the second hearing, which is noticed for August 7th, correct?

Ballister:

Yes, sir.

Richmond:

We will just take public comment tonight.

Fletcher:

Is there any comment from the public?

Ausley:

My name is Dan Ausley. I am also from Big Bend Towers.

When this ordinance was originally adopted, I don't know how long ago was that, do you know? Anyway, there was a group of citizens and some to speak for the industry who got together on this and I was a part of that committee.

We looked at the Land Use Map and looked at the zoning. And, somebody came up with the criteria that are in here now. The seven times, if it has a red light, so on and so forth.

The industrial lands, I think we probably identified all of them at the time and realize now why we are coming back to where we are.

Just one question that I have or just one thought - the height is restricted to 250 ft. And, if you are really trying to encourage people to co-locate, you might want to look at, since that is actually tied into the height of the tower, you know, for instance, if it has a red light at night, it must be 7 times the height of the tower from a residential property. If you had, you know, even - The way that was done was that if someone had a 50 ft. pine tree in their yard, how far away the tower had to be for them not to see it. Seven times was the - it was mathematic-geometry equation someone came up with that night.

So, my question is - Does it have to be stuck to 250 in some of those jurisdictions or can it be 300 or 350 which would allow somebody like ourselves or another carrier to build a

tower that would accommodate additional users? That's just a thought I would like to pose to the Commission.

Dixon:

What is the average height of a tower?

Ausley:

It depends on the jurisdiction. I don't think there has been anything built in Gadsden County that is over 250.

Dixon:

Define jurisdiction.

Ausley:

Whether it's the county or whether it is the city. I don't think anything in Gadsden County has been built over 250 ft. since the new ordinance was adopted.

Ah, we have one recently that we constructed on the south end of the County, off Highway 27, and it was at 250 ft. That was the maximum height. We were in a flood plain down there and if we had an extra 50 feet, we may be able to accommodate some additional users. That is just kinda the problem that can be solved tonight.

Thank you.

Fletcher:

Is there any further public comment?

Ballister:

If I may address that? If extenuating circumstances apply to any one tower, a variance could be sought at that time as a variance to the Code. If somebody should ask for additional height for a specific reason, they could make that request and be heard on its merits.

Fletcher:

May we proceed?

Dixon:

I call the question, Mr. Chairman.

Richmond:

There is no question. Not tonight. It's not until August 7th.

8.4 St. Mary Missionary Baptist Church 01PZ-041-20-4-06
Request for Front Set-back Requirements

Ballister:

O.K. The next item on tonight's agenda is a set-back variance for St. Mary's Missionary Baptist Church. They are located out on State Road 65 about a mile short of Old Federal Highway.

Watson:

I move approval.

McGill:

Second.

Fletcher:

We've got a motion and as second to approve this variance. All in favor, say "aye".

All:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

8.5 Jamieson Road - Partial Abandonment

Ballister:

Jamieson Road - partial abandonment. The northern ½ mile to ¾ mile of this road serves two county properties. The northern extremity of this road extends into Georgia and has been fenced and closed for some time. The two owners find that from time to time, residents further south on Jamieson Road or other individuals are dumping trash or debris onto their property. They would like to be able to fence this off and take over maintaining it.

Watson:

I move approval again.

Roberson:

Second.

Fletcher:

We've got a motion and a second to approve this partial road abandonment. All in favor say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

That motion passes.

Ballister:

I'll have to speed it up.

Watson:

Well, we have talked about Jamieson Road before.

McGill:

I thought it was already done.

8.6 Harbert S. Smith - Gadsden Commercial Exchange Plat - 01PZ-025-201-2-04

Ballister:

O.K. The last item on my agenda is a proposed bond in lieu of Final Inspection Approval for the Final Plat for Gadsden Commercial Exchange.

Remember, we went through several hoops with this project a year and a half ago. It was approved by the Commission in Preliminary Plat in the spring of 2000. The applicant, tonight, would like to propose a bonding of the remaining improvements that it would take to finish the subdivision. The Code allows for that in Subsection 6500.

The county engineer has proposed a bonding amount. And, I believe the applicant is here and would like to explain his reasons. He was here.

Mr. Smith? Oh. There you are.

Smith:

Good evening. I am Harbert Smith from Tallahassee.

Mr. Chairman, fellow commissioners, about 8 or 9 weeks ago, I was called to come and take over this project and complete it and bring it into compliance and get it ready to be effective to the County and to the people that are interested in building businesses there. I started on it and when I got it to within about 10% of completion, I had to go to Columbus, GA to have my wife's right knee replaced. While I was there, Alice came through Texas, Louisiana, Mississippi and dumped 10,12,14 inches of water into this area and did some damage as waterways and ditches are concerned - which set the project back.

We are no longer able to fund the project at the bank. We have been paying them about \$7,000 per month for about 12 months now and that money has dried up. The bank is very interested in how this works out tonight so that we can complete it and bring it on line and get it done.

When this was dropped in my lap and things happened as they did when I got back from Columbus. And Mr. Fletcher has been a friend of mine for a long time, and I called him, I said "Mr. Fletcher, how do we approach this?" And, he said, "Go see Mr. Bruce Ballister and whatever he works out with you will probably be something that we could work with."

I did that and we have been out to the project with Mr. Ballister, the engineer and myself. We went over the project and we made a list of those things that needed to be brought into compliance. We have done that and we are now at the juncture that we need to get approval.

If it be your pleasure, then we could go ahead and move some lots that people are ready to buy. And pay the bank, make them happy. Bring the property into compliance, make the County happy. And, if there are any bucks left, make the

owner happy.

I respectfully request your consideration of this tonight and your approval of it that I might be able to go forward with it.

I am retired from this kind of work - many years ago. And, I am well aware of what it takes to get it done, how to get it done and the necessary things to be done to bring it on line.

I will take any questions that you might have. And, we will go from there.

Dixon:

Mr. Ballister, does this entertain that someone would be allowed to build before we give approval?

Ballister:

If platted, we could agree to the bond, (inaudible) and lots could be sold. By the time (inaudible). The initial shot in the arm that they need is if lots can be sold and it would give them the additional money that they need to finish the work. As you can see, it's about \$27,000 bill. So, they need to sell some of those lots. There is a passable roadway which needs repair and do some of the swales and other drainage features.

Joe Miller and I went on site and we looked at the paving and the paving conditions, (inaudible.) It appeared to me that some sub-grade replacement in the low lying areas and the overlay of the entire paved area - an inch of asphalt - would stabilize the roadway. There are some swales that will need to be re-pulled beside it. Some of the roadway along Merritt Road and CR 159 will need some repair and stabilization.

Watson:

O.K. They are not coming onto Merritt Lane at all, correct?

Ballister:

No, sir. In fact the fence that is along the buffer line is in place.

McGill:

How much of a bond are you talking about?

Smith:
\$30,000.

McGill:
\$30,000.

Smith:
\$30,000.

Watson:
Well, explain to me what happens if this doesn't happen?

Ballister:
They will foreclose on the bond and then we will get somebody to build it.

Watson:
And then?

Ballister:
What we are saying is that with these improvements in place, we will accept the roadway as public right of way. If this fails and we foreclose on the bonds or the insurance company should cancel the bond, I'm not sure I've used the right term, but, we then would have the funding for our road department to go out for contract and have it fixed.

McGill:
Well, that's a private road, is it not?

Ballister:
From (inaudible) to (inaudible) is a public right-of-way.

McGill:
I don't see that on here.

Smith:
To me, the problem, as far as washing is concerned, has been in the county right-of-way almost to the road. And, we ran into a sandy area there when all that mass of water came down through there - about the last hundred feet before it got to the culvert - was all pretty sandy and it washed out on both

banks, on the roadside, and on the property side, but none of the lots that would be sold have been affected per se from washing or sanding. And, we found out that the man who did the initial black top on the property, we didn't get the 1 ½ inch that we were supposed to get. And, of course, this calls for an additional inch to be laid on top of everything that is there after the shoulders have been brought into compliance that (inaudible)

McGill:

How many lots can be sold, right now?

Smith:

How many can be sold?

Watson:

None until it's platted.

Smith:

Until this takes place, none can be sold, Mr. McGill. If you all approve what we are proposing here tonight, unless the Lord takes me home, I'll get the project done because I am the one that is going to be in charge of getting it completed.

I look forward to working with Mr. Ballister and your county engineer on this project and bringing it on line and making everybody happy.

Watson:

I believe you will, sir. I'm going to

Smith:

I beg your pardon?

Watson:

I believe you will and I so move approval.

McGill:

I don't believe he will. I'm just kidding.

Dixon:

I will second, but, he needs to know that the Lord has a bad habit of taking folk home.

Laughter.

McGill:

That's a bad habit?

Dixon:

Good, bad, it don't make a difference.

Roberson:

Haven't met anybody that wanted to go, have you?

Laughter.

Smith:

People who know me -

Dixon:

Mr. Ballister, I would like to have tied into it that no building permits for the pieces of property will be issued until this is complete.

Smith:

Mr. Dixon, that would kill the whole thing because the bank to which we are behind already on payments - June and July - We can make no more payments.

Dixon:

I understand. You need the money from selling the property to upgrade the property.

Smith:

Well, the people that have funding ready to buy lots from the bank are

Watson:

They are not going to buy if they can't build on it.

Smith:

They are looking to go ahead and permit their buildings and get on with the work.

Watson:

I think we are covered. I think Preble-Rish has

Dixon:

Yeah, but I would like to see some redundancy. I mean, we are not going to take on the project.

Smith:

We are not asking you to, Mr. Dixon.

Dixon:

But, both

Watson:

We will have the money from - the way I understand it, we will have the money to hire somebody from the bond to finish the project. To bring it up to where it ought to be. I don't see how we could loose on this.

Richmond:

What's the time on the bond?

Two years, one year?

Ballister:

Not to exceed two years.

McGill:

O.K. Is it possible that the county attorney can draw up the proper language and have an agreement signed between the Chairman and Mr. Smith?

Richmond:

The bond will be drawn appropriately and it will be paved. If it is not completed within the time required, it will be paid into the County and we will proceed with everything.

Smith:

I think that the figures to arrive at this analysis are fairly gracious figures. They are real easy.

Richmond:

It's enough to do it.

Watson:

If there is a delay, could these figures go up and your bond

not cover it?

Smith:

I don't think that can happen.

McGill:

Suppose another Alice should come through and washing out what you've already?

Smith:

Well, that is always a problem with people who build roads, subdivisions and streets. It can come through and it can happen.

McGill:

You might not be protected, that is what I am saying.

Smith:

The areas that we have talked with Bruce about, Mr. Ballister, the areas that are giving us the greatest problem - which is county right-of-way - I have suggested that we go in and concrete that problem area in the bottom with an 18" wing on both sides which would prohibit that from ever happening again - even with 12" of water.

Watson:

How much more expensive would another \$10,000 on the bond be?

Smith:

I have no idea.

Watson:

Would you be in agreement to padding it a little bit?

Smith:

Well, ah, you know, if we can afford it, yes, sir. But, we think that with the \$30,000, you are already \$10,000 in the clear.

Watson:

According to this, you are only 3, right.?

I mean, you are just cutting it from this figure here.

Roberson:

From \$27,232.25.

Smith:

Well, we know that in this figure, the black top is a concrete figure because I called C.W. Roberts and that is what it will cost to put one more inch.

Watson:

But, I would feel a little better, Mr. Smith, if we had a little bit more cushion that \$2,800. Just in case, another Ed Dixon, ah, Hurricane Ed Dixon comes through. That would be devastating if that happened.

Laughter.

Smith:

But, what I am trying to say is that we already have that cushion in this price, I think. But, we'll add another five to it and cut a year off the two years - something like that - we could work with.

Watson:

All right. Add 5 and cut a year off, that is fine.

Richmond:

A one year bond.

Smith:

I don't want to go 2 years anyway. As a matter of fact, I don't want it to go past December.

Watson:

I will amend my motion, Mr. Chairman.

Fletcher:

Do I hear a second?

Watson:

Taking a year away and adding \$5,000 to the bond.

Roberson:

So, it will be \$35,000 bond?

Fletcher:

Do I hear a second to that amendment?

McGill:

I will second the amended motion.

Fletcher:

It is only an amendment.

McGill:

I will second the amendment to the motion.

Fletcher:

All in favor of the amendment, say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

The amendment passes.

Now, I need a motion to the, I mean, we need to vote on the original motion.

Smith:

Thank you for your consideration - to come and be heard.

Fletcher:

Let us have a vote on the original motion.

All in favor, say "aye."

All:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

Ballister:

Thank you. I will have the plat forwarded for your signatures.

9. BILL CARR - PROBLEM WITH DOGS AND SANITATION

Mr. William Carr told the Board that he had been to the Sheriff, the county health department, county manager and Commissioner McGill, with complaints about his neighbor and her dogs. He also reported that he had gotten some results thanks to the efforts of Mr. Howard McKinnon. However, he said that the situation is so bad that he felt that he still needed to come before the Board for relief. He made the following statements:

- 1) The neighbor has 22 big dogs on less than a one-acre lot. Upon being contacted by county personnel about his complaint, the neighbor moved the dogs to the indoors and only allows them out occasionally.
- 2) The enforcement officer wrote a letter to the neighbor telling her that she had to pick up the feces to which she has not fully complied. He cannot enjoy the outdoors because of the smell.
- 3) One of the dogs bit him through the fence that separates their yards. He spent 7 hrs in the emergency room as a result.
- 4) Two of the dogs were killed by the other dogs at the home. A sheriff's deputy witnessed one killing act.
- 5) The health department did intervene on one occasion when he complained about discarded mattresses in the yard which had become unsanitary.
- 6) The problem has been ongoing for 10 years.
- 7) At one time the neighbor would entice stray dogs to her home by putting dog food in the street.

Mr. Carr asked the Board to consider passing an ordinance to limit the number of dogs a person can have in a subdivision.

Discussion followed.

Commissioner Watson suggested that Mr. Carr should file a nuisance complaint and come back before the Board for a formal hearing.

Mr. McKinnon reported that the neighbor has complied with any specific nuisance complaints that Mr. Carr had made known.

There was a consensus that the county manager should do some research as how to define the word "nuisance" so that the Board can enforce abatement of the issues that give substance to a complaint - such as foul odors and the number of dogs a person could have on a piece of property.

10. SHARON WALKER - BIG BEND TRACK CLUB - REQUEST FOR FUNDING

Ms. Walker addressed the Board asking for funding assistance so that 12 Gadsden County athletes could compete at the National Junior Olympics. She said that they had qualified to compete in Norfolk, Virginia on July 25 - August 5, 2001. She specifically asked for money with which they would pay for transportation to the event.

Commissioner Watson told the students that he was proud of them and was impressed with their accomplishments. However, he said that he did not feel that it would be a proper use of public tax dollars. He went on to say that he would personally make a contribution.

Commissioner McGill stated that he felt it would be a proper expense because recreation is part of the concept of the general welfare of a community.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO APPROVE PAYMENT OF \$1800.00 TO BIG BEND TRACK CLUB FOR THE PURPOSES DESCRIBED ABOVE. COMMISSIONER DIXON, MCGILL AND FLETCHER VOTED IN FAVOR OF THE MOTION. COMMISSIONER WATSON AND ROBERSON VOTED "NO."

Commissioner McGill presented the track club with a check for \$1,050 which he raised for them through private efforts.

11. COUNTY MANAGER'S AGENDA

11.1 City of Quincy Fire Services Interlocal Agreement

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5- 0, BY VOICE VOTE, TO APPROVE THE FIVE-YEAR INTERLOCAL AGREEMENT FOR FIRE SERVICES WITH THE CITY OF QUINCY.

11.2 Quality of Water in Ochlochonee River

Mr. McKinnon recalled that the City of Havana had requested the County Commission to look into the matter of the Ochlochonee River pollution. He reported that he had attended a meeting on November 17, 2000 at which all parties agreed to collect water samples, identify pollutants, then submit the appropriate data. He then reported that the data has now been collected from participating counties. He went on to say that there would be another meeting on August 6 at the Leon County Courthouse when an action plan to improve water quality will be discussed. See the attached memo for further details.

11.3 Date of Department of Transportation (DOT) Rural County Workshop

Mr. McKinnon told the commissioners that DOT had requested to meet with the Board in a workshop session on August 7, 2001 at 5:30 p.m.

12. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Gadsden County Roadway Resurfacing Contract with C. W. Roberts - Change Order #12 - This change order will increase the contract price by \$752,975 and bring the total contract price to \$4,842,509.19. Resurfacing of CR 159 (Salem Road) from Conrad Hills Road to the GA line. SCRAP Funding
- 2) Gadsden County Roadway Resurfacing Contract with C. W. Roberts - Change Order #13. This change order will

increase the contract price by \$240.067.00 and bring the total contract price to \$5,082,576.19. Resurfacing of: Brickyard Road from the railroad tracks to CR 268 and; dusty House Road; Peoples Road; Cox Street; Howell Road from US 90 to Shade Farm Road. Partial funding by Count Incentive Grant Program.

- 3) Lease Agreements with Florida Department of Agriculture for the Recycling Department Spaces at the State Farmer's Market for the period July 1, 2001 Through June 30, 2002: Lease No. 1085 - Land \$6,061.39; Lease No. 1086 Unit 1 Annex and stalls 11 - 22 - \$15,454.13; Lease No. 1087 - Truck Scales - \$3,438.75. Total Annual Rent \$24,954.27
 - 4) Satisfaction of Housing Rehabilitation Agreements for:
Rainey and Hattie Lockwood
Rosa Frison
Marie Hobley and Robert Dennis
Cora Lee Anthony
Roma and Mildred McNeal
Mattie Butler
David and Rachell Bell
Earnest and Etta Mae Lurry
Renita Barkley (After the Fact Approval)
 - 5) Contract for Rehabilitation Work for:
Carrie Burke
Jimmie L. Wester
Estella Johnson
Erie D. Jenkins
 - 6) Catastrophic Inmate Medical Insurance Option 2 (\$10,000 deductible; monthly premium of \$2,502 based on jail population of 175
 - 7) Green Thumb's Host Agency Agreement - provides 3 custodial workers to the county at no charge.
 - 8) E-911 Road Name: Anita Road; Kate Copeland's Lane
 - 9) Resolution 2001-015 Honoring Dr. Pat Woodward upon his retirement
 - 10) List of Errors and Insolveancies, Double Assessments, and Discounts submitted by the Tax Collector
13. GOVERNMENT RISK INSURANCE TRUST PROOF OF CLAIM/INTEREST
LETTER OF WELCOME - 136TH Session of the Florida Annual
Conference
Hosted by New
Bethel AME
Church

14. CLERK'S AGENDA

14.1 Budget Amendments 2001-0717-01 through 01-07-17-06

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

14.2 Ratification of Approval to pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

15. COMMISSIONERS ITEMS

15.1 District 1 Report

River Dredging & Maintenance

Commissioner McGill recalled that the Board had instructed him to write letters to the legislative delegates or adopt a resolution requesting the continuation of the river dredging/maintenance on behalf of Marietta Milton. (Senators Bob Graham, Bill Nelson, Allen Boyd and Bev Kilmer, Al Lawson) He reported that he had not done it yet, but, he would get with the county manager or county attorney and draft the appropriate language and get the letters out by the end of the week.

Commissioner McGill then referenced a letter which the commissioners had received from the Florida Association of Counties. He said that he would prepare a resolution in response to that letter and have it ready for the next meeting. However, he took exception to the reference to Union County on page 3 of the letter.

15.2 District 2 Report

Old lFederal Road Subdivision

Commissioner Watson stated that he had several concerns with the proposed Old lFederal Road Subdivision. He asked the Board to hire Attorney David Theriaque to review the application and assist the Board through the decision making process.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO HIRE DAVID THERIAQUE AS A CONSULTANT ON THE ABOVE STATED PROJECT.

15.3 District 3 Report

Commissioner Roberson told the Board that she had received a letter dated July 9, 2001 from the Florida Department of Children and Family Services asking her to serve on the 2001-2002 Promoting Safe & Stable Families Grant Selection Committee.

15.5 District 5 Report

Summer Youth Program

Commissioner Dixon called attention to the memo from Mr. McKinnon regarding the fee that Tallahassee Community College would require to administer the Summer Youth Program for Gadsden County. (\$1,450 per student) He asked the Board to approve \$30,000 for that purpose.

Discussion followed.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO APPROVE THE TAKING \$30,000 FROM THE GENERAL FUND CONTINGENCY OR WHATEVER FUND NECESSARY FOR THE SUMMER YOUTH PROGRAM. COMMISSIONERS DIXON, MCGILL, & FLETCHER VOTED IN FAVOR OF THE MOTION. COMMISSIONERS WATSON AND ROBERSON OPPOSED.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A SPECIAL MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON AUGUST 2, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: E. H. (HENTZ) FLETCHER, CHAIR
EDWARD J. DIXON
NICHOLAS THOMAS

CALL TO ORDER

Vice-chair Bill McGill called the meeting to order explaining that the purpose of the meeting was to set the tentative millage for the fiscal year beginning October 1, 2001.

Mr. McKinnon recommended that the Board adopt the attached resolutions setting the tentative millage rate for general operating account for the Board of County Commissioners at 10 mills for FY 2001/2002.

He then recommended that the hospital millage be set at .64. He explained that it would be the last year that the hospital millage will be assessed because the bonds will be paid off during the upcoming fiscal year.

TENTATIVE MILLAGE RATES 2001/2002

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO SET THE TENTATIVE MILLAGE RATE FOR THE GENERAL OPERATING ACCOUNT AT 10 MILLS AND THE HOSPITAL MILLAGE AT .64 MILLS.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, VICE-CHAIR
MCGILL DECLARED THE MEETING ADJOURNED.

W. A. (BILL) MCGILL, VICE-CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT THE REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON AUGUST 07, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

ABSENT: E. H. (HENTZ) FLETCHER, CHAIR

1. CALL TO ORDER

Vice-chair McGill called the meeting to order. Commissioner Roberson led in pledging allegiance to the US flag and Commissioner Watson said a prayer.

2. ADOPTION OF THE AGENDA

The agenda was amended to allow public comments after Item # 5
- School Superintendent's update on new high schools.

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY
COMMISSIONER WATSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO
APPROVE THE AGENDA AS AMENDED ABOVE. (Commissioner Dixon was
not present for this vote.)

***Mr. McKinnon noted for the record that Chair Fletcher was absent
because he was attending a Commission meeting in Bay County at
which a Land Use Amendment was being discussed - one that could
affect him as an adjacent property owner.

3. COUNTY ATTORNEY'S AGENDA

Outdoor Festival Ordinance

Mr. Richmond asked for authority to draft a new ordinance
relating to outdoor festivals which would be better suited for
Gadsden County than the one previously adopted on an emergency

basis. He said that he would like to have it ready to adopt at the second meeting in September.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO AUTHORIZE THE COUNTY ATTORNEY TO DRAFT A NEW OUTDOOR FESTIVAL ORDINANCE AND TO ADVERTISE THE NOTICE OF INTENT TO ADOPT IT.

Ordinance to Control Resale of Tomatoes (Pin-hooking)

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, TO AUTHORIZE THE COUNTY ATTORNEY TO DRAFT AND ISSUE A NOTICE OF INTENT TO ADOPT AN ORDINANCE TO CONTROL THE RESALE OF TOMATOES FOR THE SECOND MEETING IN SEPTEMBER.

4. ESCAMBIA COUNTY HOUSING FINANCE AUTHORITY
Update on 2001 Single Family Bond Program

Mr. Gordon Jernigan, Executive Director of Escambia County Housing Finance Authority was present. He explained that the Authority issues tax exempt bonds for first-time home buyers. They offer low interest loans in 20 counties throughout the State of Florida. He reported that Gadsden County had been participating in the program for several years. He said that the 2002 Series of Bonds will be offering home loans at a fixed interest rate of 5.8% for 30 years. In connection with the bond program, they will also offer soft second mortgage money so that families of lower incomes can borrow up to \$2,500.00 to pay the closing costs and expenses. The second mortgage does not require any payment during the life of the first mortgage nor does it accumulate any interest.

Mr. Jernigan asked the Board to set a public hearing for September 4, 2001 so that Gadsden County may participate in the bond program for 2002. He said that he will advertise the hearing and assume all the expenses. There is no liability or costs to the County or any other governmental agency in Florida or the United States.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO SET A PUBLIC HEARING FOR SEPTEMBER 4, 2001 DURING THE REGULAR COMMISSION MEETING TO CONSIDER PARTICIPATING IN THE 2002 SERIES OF TAX EXEMPT BONDS TO BE ISSUED BY THE ESCAMBIA COUNTY

HOUSING FINANCE AUTHORITY.

5. STERLING DUPONT, SUPERINTENDENT OF SCHOOLS

Superintendent of Schools Sterling Dupont addressed the Board. He told them that he was present to update the Board as to the plans to construct new high schools in the Gadsden District. He reported that there are 16 schools in the district and all of them are old. He told them that the State of Florida decided to assist small rural districts with funding with which to build new buildings. He went on to say that Gadsden County stands to gain new buildings at no cost to the local tax payers.

The following facts were made:

There are currently 4 high schools in the district - Havana Northside; Shanks; Greensboro and Chattahoochee - the schools will be combined into 2 schools - East Gadsden High and West Gadsden High

The first new high school will be for the eastern part of the County. That high school will combine Havana Northside and Quincy Shanks. It will be located 6 miles east of Quincy on US 90 - across from Pat Thomas Law Enforcement Academy. It will include an athletic facility (basketball, football, track and baseball), auditorium (500 seats), cafeteria, gymnasium (will seat up to 2,500). The cost will be \$23 million. Construction will begin September 1, 2001 and conclude May 1, 2003. Plan to occupy the building August 1, 2003. State funding is already approved for the facility.

The second high school is proposed for the western part of the County combining Greensboro High and Chattahoochee High School. The new school is proposed to be built on CR 270A (Flat Creek Road). It is 6 miles from the Town of Greensboro. The proposed building will be 160,000 sq. feet. The projected student body is 809. It will also have an athletic facility. There will be a 500 seat auditorium and 1500- 2000 seat gymnasium. The football stadium will seat between 2000-3000 spectators. The total proposed cost will be \$16 million. Construction will commence near September 10, 2002 and be completed May 1, 2004. Target date for occupancy is August 1, 2004. The funding has been applied for but not yet appropriated by the Florida Legislature.

Mr. Wayne Shepard, School Board Facilities Manager, was present and demonstrated the location of the proposed West High School on a map.

Superintendent Dupont urged the Board to support the School Board's efforts.

Upon being questioned by the Board the following facts were discerned:

- 1) The designated land use of the proposed site for the west high school is AG 2 (1:10)
- 2) Schools are allowable in AG 2 and the School Board would not need to seek a Land Use Amendment. Once it can be confirmed that the School Board owns the property, it will only be a matter of course to change the zoning to "Public" on the next Land Use Amendment.
- 3) The P & Z Department has not been asked to review either site as proposed by the School Board despite the Department's request to see their plans for a conceptual review.
- 4) The plans are being updated by the School Board and will be forwarded to the P & Z Department on August 8.
- 5) The site plans for new public schools are required to go through Class II process. The P & Z Department will have 90 days to complete their review but construction cannot begin until after the review is completed.
- 6) No construction has begun on the east high school, however, the former owners of property are removing the timber.
- 7) The land for the western high school has not been purchased.

There was a consensus between the County Commissioners and the School Board office that Mr. Shepard will communicate at least weekly with Mr. Ballister as to school construction plans.

Mr. Ballister asked that the School Board get conceptual approval of the proposed west high school prior to them purchasing the property to insure that there are no serious impacts that would affect the site.

Vice-chair McGill called for public input.

Howard Kinch addressed the Board representing approximately 10

other residents near the proposed west high school. He stated that they were all opposed to the placement of the high school.

Mr. Richmond stated that if the citizens desire to offer evidence or testimony, it must be in the forum of a public hearing for conceptual planning. He explained that the Board cannot consider anything at this meeting because they (the School Board) have not submitted any plans. He then stated that by FL Statutes, the School Board must first submit the plans, then the County Commission has 90 days to review the plans and make a determination as to approval.

Ms. Lindy Jaudzimas asked what Statute mandates the due process in this matter. She was referred to Chapter 235. As to the County's involvement she was referred to Chapter 235.193.

6. MORGAN MARKHAM - GREENSBORO KIWANIS CLUB BICYCLE RACE

Mr. Markham requested a permit to hold a bicycle race in the Greensboro area and also requested a waiver of the requirement to apply for the permit 90 days prior to an event and waiver of the required bond.

He explained that the Kiwanis Club had to submit a bid to the Cycling Federation in order to get it to come to Greensboro. At the time, they were unaware of the permit requirements recently imposed by the County.

Commissioner Watson stated that a similar bicycle race was held in his district and was not popular with the residents.

Mr. Markham then requested a waiver of the bond.

Mr. Richmond stated that the bond can be waived, but it would depend on the potential liabilities for a particular event.

Commissioner Watson argued that it might be setting a precedent that could pose problems for future permit applications.

Mr. Markham pointed out that the Kiwanis is a not for profit organization and carries a \$1 million liability insurance coverage under their umbrella policy. They will have an additional \$1 million liability coverage through the Cycling Federation.

Commissioner Dixon stated that he did not have a problem with

waiving the bond. He added that he did not like to see ordinance requirements that would de-suede people from holding events such as this one.

Mr. Markham said that the Kiwanis Club would be hand delivering notices to every property owner and resident who lives along the route of the race. He also agreed to list the County as co-insured by their policy for this event in lieu of the bond.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 1, BY VOICE VOTE, TO APPROVE THE PERMIT APPLICATION AS DESCRIBED ABOVE, WAIVE THE 90 DAYS APPLICATION REQUIREMENT AND WAIVE THE BOND REQUIREMENT. COMMISSIONER WATSON CAST THE LONE DISSENTING VOTE.

7. GROWTH MANAGEMENT AGENDA

7.1 Tower Ordinance - Second Reading Of Ordinance 2001-008

Mr. Ballister introduced a new proposed Tower Ordinance which modifies Section 5800 of the Gadsden County Land Development Code.

He said that it removes the location exemptions for industrial zoning and it eliminates the speculative tower applications. He read the title of the ordinance into the record.

He stated that the wording was revised to provide that the tower company must have a letter of commitment from a communications carrier (rather than requiring a contract) when making application to the County. The change was made in response to comments made at the first reading of the ordinance. He then requested that the ordinance be adopted.

Vice-chair McGill called attention to the last sentence of Section 10 - Severability. He asked that the word "effect" be changed to "affect."

He then called for comments from the public. There was no response.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO ADOPT THE ORDINANCE AS DESCRIBED ABOVE AND ATTACHED TO THESE MINUTES.

7.2 10/90 DRI - Notice of Proposed Change - 01PZ-047-206-1-06

Ballister:

As I indicated at the end of this review, the finding of a substantial deviation would require a different set of review procedures and a different set of advertising procedures. There are a few details that we felt were outstanding and we agree with the request to continue. There are some review letters from agencies that have, I guess to a large extent, they have been satisfied. But, the agencies have not had a chance to re-review these.

Richmond:

What about the Florida Wildlife Conservation Commission?

Ballister:

Right. There are still a few issues out there. There is one extremely technical issue in the wording of the Statutes themselves that I would like to have clarified. And, I have not yet had a chance to get a response from Gary (inaudible) at FDOT access concerning the drive-way location.

It has been suggested that we hear it again in a week at a special meeting. There was supposed to have been a special use meeting. The August 14th meeting, excuse me, the August 21st meeting is extremely impacted - is that the right date? Yeah, it's the 21st. The 21st date is extremely impacted. I would not recommend that date. We could hear it on September 4th. That is a very light agenda at this point and we could discuss it at whatever length it deserved that evening. And, I think we could come to a conclusion that it is probably the best. But, you know, I think it needs more discussion and I don't believe that we have satisfied all the issues tonight.

Richmond:

Now, this is to put an asphalt plant, as I understand it, in the DRI?

Ballister:

There are several use changes proposed for that SIC categories. The asphalt plant is one of them. A concrete and stone processes are another one. Sawmills and lumber yards are another.

Richmond:

There needs to be a full blown hearing with evidence to determine whether or not there is a substantial deviation, no matter what.

Ballister:

Yes, sir.

McGill:

Do I hear a motion to continue?

Watson:

Well, wait now. You said it needs to be a hearing to determine whether or not there has been a substantial deviation.

Richmond:

Well, right now -

Watson:

Why do we need to postpone it. Why can't we hear that right here and now?

Dixon:

They have asked for a continuance.

Richmond:

There needs to be a determination as to whether there is substantial deviation as the initial step in the process. It has not been properly advertised if there is a substantial deviation. So, you are either going to have to do it twice if you do find that there is a substantial deviation or not.

If there is a substantial deviation, it does not mean that you can go ahead and approve the project. It's just that it goes through a different procedure for review. That is my understanding. Is that stated correctly, Bruce?

Ballister:

Yes, sir. The standard for review for a substantial deviation to modify the development order is a different public process and a different advertisement standard. It has to be advertised as if it was a land use change.

Richmond:

In part of the package that has been presented, you know, the letter from Bradley J. Harrman at Florida Fish and Wildlife Conservation Commission states "In summary, the applicant has not provided sufficient and convincing evidence to allow us to conclude the proposed changes would not constitute substantial deviation to the approved development order. The applicant should address the issues and concerns raised in this letter."

Now, they may have done that. And, I know that Nancy provided a response, but, we haven't heard anything further from them. So, there is evidence in the package that says it would require a substantial deviation.

So, if we proceed at this time, we would just have to go back and start again.

Dixon:

I got an e-mail from our resident environmentalist which was pretty good. Bruce, you could be out of a job.

Ballister:

I am not an environmentalist.

Dixon:

It was pretty good and pretty thorough and in layman's terms, I might add. So, it has provided us some very good food for thought that quickly eluded to the fact, from their prospective, it was a substantial deviation - terms of creating ingress and egress to the property.

Richmond:

That is one of the major issues.

Dixon:

Things like that. So, I certainly would like to look at it.

Watson:

My point is - you are talking about having another hearing to determine whether or not there is a substantial deviation.

Richmond:

It would all be heard at the same time. You would then make an initial determination of whether there was a substantial deviation.

Watson:

Which would then kick it into a longer process.

Richmond:

A different review procedure.

Watson:

I was trying to do it tonight.

Richmond:

Do it tonight and

Watson:

Determine tonight if there has been a substantial deviation.
That's what my point is.

McGill:

But, can we do that tonight? Legally? I'm not sure we can
act on that part tonight. Maybe we can not - tonight - decide
that there is substantial deviation.

Richmond:

If there is a substantial deviation, then you have got to go a
different procedure.

Watson:

But, you are saying, it is your opinion, that there is not
enough evidence here for us to determine if there has been a
substantial deviation.

Richmond:

I haven't heard the presentation. I know, in the package, I
know Ms. Linnan and their position is that there is no
deviation at all much less a substantial deviation. I have
heard from other people and going through the package tonight,
I found this letter that says there is. And, they take a very
strong position, which I find most of these agencies don't do
that. So, I figured that this is something for ya'll to
consider when they say "Hey, we feel there is."

And, so, it leaves us in a quandry as to how to proceed -
which procedure do we go through. Yes, it creates extra work.
I don't know what the answer is, that is why.

Dixon:

I mean, I certainly would take it slow. I mean, you are

talking about asphalt companies. You are talking about rail spurs and bringing in things and where they are disposed of - all those kinds of questions that go with this particular situation.

Watson:

Well, are you saying that you feel it is?

Dixon:

I think there is some evidence here that would sway me.

Watson:

Well, I am trying to skip a step. I'm not trying to skip a step. I just don't want to waste time. If we are going to meet again to determine what we all think probably is the case anyway. This is my point.

Richmond:

Well, ya'll are going to have to make that determination at some point. And, it's got to be based on the evidence that Ms. Linnan presents, the evidence that Mr. Ballister presents, the other people who are in the audience who want to speak to it that are here tonight.

So, eventually, yeah, to determine that issue because they are saying it is not. There is evidence in the record to indicate that it is a substantial, and if it is a substantial deviation, it shoots down a different path entirely, to my understanding.

Ballister:

The different path that it goes down is the second step which is the revision of the approved development order. You can make the substantial deviation determination at this level of any meeting. But, to approve the change of an approved development order, that has to go through a public notice process through the Planning and Zoning Commission or the Local Planning Agency and have the appropriate advertisement as though it was a Land Use Amendment.

Richmond:

And then come back.

McGill:

Gadsden County Board of County Commissioners
August 7, 2001 Regular Meeting

I guess Commissioner Watson and I must have gone to the same school, we didn't have the (inaudible). I still don't see any reason why we could not act tonight to say whether it is or it is not a substantial deviation. I understand where they are

Dixon:

No one is saying that we couldn't. I do think I heard that perhaps it would not be wise.

Richmond:

I am just saying that if you rule there is not a substantial deviation, then you can proceed. If you rule that there is a substantial deviation, I think it would come back again anyway. So, then, Ms. Linnan is chomping at the bit.

McGill:

So, I guess, I will entertain a motion to continue this.

Richmond:

She represents Columbia Anderson, she is their attorney.

McGill:

I don't like attorneys.

Richmond:

I know you don't like 'em. I don't blame you. I hate them.

Laughter.

McGill:

Ms. Linnan, do you want to address the Board?

Watson:

It sounds like to me that you are saying that we are not going to have to hear it twice, that we only have to hear it once.

Richmond:

If you find that there is substantial deviation, then they are entitled to a different procedure in coming back. I am sure that they are not going to go away without exhausting every right they've got. This is not the nature. Am I right?

Linnan:

I am Nancy Linnan.

McGill:

Then why should we have to listen to this now if they are going to have to come back anyway?

Richmond:

It is up to ya'll.

It is up to you. It is to control whatever you want.

McGill:

Commissioner Dixon, you are of the impression that we don't need to hear from them because we are going to have to hear it again anyway. Commissioner Watson is of the impression that if we hear it tonight, we don't have to hear it again.

Watson:

We are going to have to hear it twice, no matter what. He's talking about if we're going to have the first one tonight or the first one three weeks from tonight. We are going to have to hear it twice, anyway. That's what my understanding is.

McGill:

So, do we entertain a motion to continue to September 4th?

Richmond:

Ms. Linnan?

Dixon:

Could we hear Ms. Linnan's short version?

Linnan:

Can I make a legal correction? I am Nancy Linnan with the Carlton, Fields Law Firm. I am representing Anderson Columbia tonight.

I will only speak to the process. I requested the continuance because my client notified me that they had gotten word back from Chairman Fletcher preferred to have it continued. I did not know why. I assumed it was because of the complexity of the item. And, therefore, I filed a request. I then heard later that some people would like to hear it tonight.

We will do whatever this Board wants. I can go either way

knowing that we might not get a vote tonight. In terms of the process itself, this is the DRI, which only means that the Legislature has decided that this project is big enough at 400 acres of industrial park, to have to go through a special review procedure. That is why we have the Regional Planning Council involved and the Department of Community Affairs. Any changes you make to the project have to go through a public hearing and the same kind of process.

Whenever you make a change, you do it one of two ways. One is - if you don't think (and all the agencies agree - mainly DCA agrees) that what you are doing is not a substantial deviation - and I will tell you what the test for that is - then you file a notice of proposed change to a previously approved development order. This is the NOPC that I have filed. Then you go through it and it usually goes to a public hearing at about 40 days out. And, the local government decides whether to grant it, whether it is a substantial deviation and if it is whether or not to say "Go ahead." There may be some local issues that have nothing to do with the regional issues.

If they decide it is a substantial deviation, we don't come back in front of the local government again. What happens is that we have to go back through the DRI process all over again for that particular change - if you want to pursue it. That takes usually about a year for that issue. So, there may be a local process that you would follow, but, there is also a serious State process if there is substantial deviation that we have to do.

So, no, we wouldn't be coming back in front of you very quickly. Usually, in the same meeting, in the same motion or part of the resolution, the local government will say it is or isn't. And, if it isn't, this is what - we either say "yes or no or yes, with conditions." Usually we see that. I can go present it to you tonight - with or without a vote. I can do it next week. Really, whatever the Commission wants.

McGill:

Let me inject this. Historically, this Commission does not like to act on controversial issues when one commissioner is absent. And, I understand that Commissioner Fletcher did

request that we table this until September. We respect that because we all do that. With one commissioner's absence and the issue is going to be kinda controversial issue, we just respect that person's position and not act on it in that person's absence.

Dixon:

Not that your issue is controversial or anything.

McGill:

Well, I am saying that it is substantial deviation and you are saying that it is not. So, it is going to be controversial anyhow.

Dixon:

I will respect the commissioner's request. I did not know that he had requested that it be tabled.

McGill:

Do we table or continue it?

Dixon:

(Inaudible)

I ain't going down that road.

Laughter.

McGill:

O. K. Are there any more comments?

Yerkes:

John Yerkes. I would like to speak to this briefly.

I spent many hours with this fine lady and her staff. I spent many hours on the phone discussing every detail of this with all the state agencies. O.K.

What is at risk right now is making a wrong decision on whether it is a substantial deviation or not. That should be heard very, very closely. My understanding was that tonight, this whole process was going to be forwarded. I talked to him and other people.

So, there are other people. We didn't want to deluge in here

with people giving evidence of pro or con on it. So, they are not here. So, the understanding was that it was going to be continued until later. So, I would encourage you to not get into the process.

If this fine lady gets up and makes her presentation tonight, there are people that will miss it and they need to understand her views. So, I encourage you to pass, delay, continue or whatever the terminology is. O.K.

McGill:
Inaudible.

I need a motion to continue.

Dixon:
I'll motion.

Watson:
Til when?

McGill:
September 4th, I think that is what he said.

Richmond:
It's a light meeting he said.

Dixon:
14th?

Richmond:
4th.
The first meeting.

McKinnon:
The first meeting in September because it was a light one.

McGill:
Any additions to your motion to continue for September 4th?

Dixon:
Yes, sir.

McGill:
I need a second to continue.

Roberson:

I can't second it knowing that I am not going to be here.

Dixon:

You can still second it.

Roberson:

That's like seconding it for

Watson:

Second.

Dixon:

Are you going to ask us to continue again?

Roberson:

No, I am sure you can handle it.

McGill:

But, you know, historically, we don't act when

Roberson:

If it is requested.

McGill:

And you are not going to request it?

Watson:

I call the question.

McGill:

We have a motion and second that we continue Items 2 & 3 under new business for the Planning Department until September 4.

You have had time to consider and ask questions. All those in favor say "aye."

Watson

Roberson

McGill

Dixon: AYE

McGill: The "ayes" have it.

7.4 Willie and Willie Mae Williams - Land Use Amendment - 98PZ-47-209-5-06 19.4 acres from AG 3 to Rural Residential

Mr. Ballister told the Board that the above mentioned application was actually approved by the Board in December of 1998, but somehow was not forwarded to the Department of Community Affairs (DCA) for their approval when the others were submitted that year. He stated that no action was needed by the Board and that it appears on this agenda merely as notification that it will be included with the next package to be submitted to DCA.

7.5 Wal-Mart Supercenter Store - SR 267 and Hogan's Lane 01PZ-042-207-4-06

Mr. Ballister told the Board of the proposal by Wal-Mart to develop a new super center at the intersection of Pat Thomas Parkway and Hogan's Lane. He gave pertinent facts about the application as outlined in the attached documents.

Mr. Ballister then reported that there is no recommendation from the P & Z Commission because by the time this item was heard, there was no a quorum. However, the Commission did take comments from the public.

One of those comments was that there were steepheads emitting from the proposed property. (Steepheads are protected by Gadsden County Codes as if they were wetlands.) Mr. Ballister reported that he and Ms. Hare had walked the over the western and northern regions of the site to look for the steepheads. They did not find anything that looked like a steephead but they did find a drainage ditch of some sort but it did not appear as though water had flowed through it for a long time.

Another public comment made was regarding the increased traffic on Hogan's Lane.

Ballister:

There is a curb cut along 267 now. I don't know how many DOT would require. But, we recommended that the outparcels have interconnecting parking lots to reduce the jumping out and jumping back into the traffic.

There is a proposed new drive, a new roadway to be constructed along the northern 50 ft. of this site. Bicycle parking facilities are to be included per section 5604.

Conceptual site plan indicates 541 parking spaces. This is not quite adequate per our code. We will require 73 additional spaces. Wal-Mart will be asking for a variance because of the number of spaces. They have also proposed (inaudible) and adjacent to the garden center in order to reduce the amount of runoff.

Due to known presence of high water tables in this area, percolation tests should be taken at top and bottom to verify those infiltration rates if a bottom infiltration system is used.

We have asked that Hogan's Lane should be improved to curb and gutter standard to the depth of the rear drive way entrance. This area will see increased traffic loading that the existing narrow roadway cannot handle. We have also recommended a three lane configuration entering onto 267 to handle the additional trips to the south.

We have been working for quite a while with the City of Quincy on this. They are providing the utilities and the combined engineering departments of the City of Quincy and the Wal-Mart engineer are working to make sure that sewer is in place. The order is in place now. It is my impression that they are going to have to provide a pressure tank on site to provide fire flows. I know the applicant's engineer is here and he can speak more to the application.

McGill:

Are there any questions for Mr. Ballister before we have any body to come up?

I have a question regarding handicapped parking. I notice that was not mentioned in here?

Ballister:

Oh, it is on the site plan. It wasn't noted as a deficiency.

McGill:

Then I have a lot of procedural questions, I guess. I guess I am the only commissioner with a problem with this. But,

these are the kind of things that I would really like to go before the Planning and Zoning Commission before it comes to the County Commission. I understand that meeting past, you did not have a quorum. That is unfortunate, but, even if it has to take a slight delay. I think we would have more citizen input if it came here from Planning and Zoning Commission with a recommendation from the Planning and Zoning Commission plus comments that are made by the public at that meeting. I just have a little problem when a big development comes to us and bypass the Planning and Zoning Commission.

Ballister:

I understand. We can revise the policy about forwarding applications. I don't know how to take a break point though. Where is a project so important that it doesn't need to see the P & Z? We need to have a policy that says we forward them or we don't.

Watson:

We can't do that until P & Z - P & Z has got to start having a quorum. That is the problem here.

McGill:

I guess they have to have a quorum.

Watson:

Well, you know, you could put it off month after month after month. We have to have people on the P & Z Board who are going to go to the meetings.

McGill:

I agree. Don't we have a procedure in place now that removes them when they are absent so many times?

Ballister:

As of May or June, we passed an ordinance that says they can no longer have more than 3 absences in a calendar year. That was fairly recent.

Roberson:

A lot of them have 2 before they have the 3rd one so you have already gotten 2 meetings where there wasn't a quorum at.

McGill:

I understand that. I am in sympathy toward that. But, either

we need to abolish P & Z or put people on there that are going to attend.

Ballister:

I don't know that you can abolish it. We, statutorily, we have to have one.

McGill:

Well, I'll be it.

Laughter.

Ballister:

I just need direction. If we want to have a policy change that says we would just postpone for a month on any applications in events when we didn't have a quorum.

Watson:

I would hate to do that though. That is holding people up and it's not their fault.

McGill:

I am in sympathy toward that. But, I guess, I am just frustrated that we get these big things like this and they haven't heard by P & Z. But, I understand where you are coming from, Commissioner. I understand that. But, that is just my personal opinion.

Watson:

Not just big business, but, anybody. It's a - We are wasting people's time and we shouldn't be doing that.

McGill:

I agree. But, I still think that it is a local matter for the P & Z and they ought to come through it. Anyway. That's my little pet peeve and I will deal with that later.

Are there any comments directed to Mr. Ballister?

And you said there is a Wal-Mart representative here to talk?

Ballister:

Yes, sir.

McGill:

And are there people from the public to talk also?

Now, how do they do that? Somehow, I get the distinctive feeling that this is inside the city limits of Quincy and it's not.

Dixon:

It is across the street from the city limits.

McGill:

Across the street?

Dixon:

When they annexed all this property, they intentionally did not annex people. Intentionally.

McGill:

Intentionally.

Wade

Olszewski:

Good evening. My name is Wade Olszewski. I am with CPH Engineers, Inc. We are the site civil engineer representing Wal-Mart here. I brought with me Peter Sutch, also with CPH Engineers and Michelle (inaudible) our traffic consultant on this project.

I just wanted to say from the start that Wal-Mart is very excited about this project. I have been told that Wal-Mart here in Quincy is the first Wal-Mart that was built in Florida. And they are coming up on 20 years on their lease. And, it's about time for a new one. I hope you guys are excited, too.

I also want to say that I concur with everything that Bruce had to say. The only issue I may have with him is on the actual section that we are looking at proposing for Hogan's Lane improvements. We do want to improve Hogan's Lane. We are going to have a little bit of traffic, but, it is very, very minor. Probably 5% of our traffic. And, I, ah, we are actually looking more to focus our traffic into this new three-lane access on the north side since most of the traffic is coming from Quincy. But, we will be discussing that with Bruce, I am sure.

As he said, our zoning is o.k. This will be a full service

super-center. The general merchandise will be full service to include firearms sales. The grocery site will include beer and wine sales also. I just want to make sure that goes on record.

Access wise, this parcel is a larger parcel owned by Mrs. Bentley. You may be familiar. There is currently an existing ingress - egress easement across the center of the property which I have shown in yellow here and you probably have them on your conceptual site plan for approval. We are proposing to re-locate that slightly to the north for our main access. That will connect to the rear property behind us. There is a 92 acre parcel behind us and it will benefit both our site and also future development of the site north of us in addition to the site behind us.

Wal-Mart is proposing to build a three-lane section that will handle their traffic plus any additional traffic of the other parcels - halfway across that easement. We also propose to take the stormwater from that into our pond and also a utility line all the way up that easement and a side walk for pedestrian access.

The access on the south, Hogan's Lane, as I said, will be improved. We are looking at improving Hogan's Lane. It is currently about 20 ft. wide section. We are looking at adding 4 feet to the northern side to offset the existing easement and we are looking at adding 4 ft. to the northern half to make it a 24 ft. section and resurfacing it. The stormwater from that would not change. We will be treating it as it is currently with a swale on both sides of that roadway with culverts under the drive way for the limited housing that is there. And, we look to keep the drainage patterns the way that they are now and have the existing swales to treat the water.

Drainage wise, on the overall site. The overall site drains to the northwest corner of the site through an existing kind of sheet flows across a portion of the property in the back and then there is a ravine that dumps into an existing pond that was actually built during the tobacco days. This used to be a tobacco farm as well as some of the property behind us. It eventually goes through some wetlands down to Cox Creek and then eventually into Lake Talquin. So, it is an open drainage basin and we are not looking to changing the discharge point.

We have coordinated a little bit with the property owner behind us. We would like to continue the drainage going to where it goes now and they are open to granting an easement so that we can get to a proper discharge point. We could also put a spreader swale at the back of our property and try to spread it out so that it sheet flows like it does now. But, I think it will be better for both parties to put an easement across to the pond they have existing so they would not have to re-route it on their site and it is easier. Of course, that system is being designed to meet both Gadsden County and DEP requirements.

Utilities are being provided by the City. The city is currently upgrading their water system to provide adequate water supply. Firewise, we probably will need a pump on site to get the fire flow that we need. Sewer, as Bruce discussed, is currently being negotiated per a CDBG grant to provide sewer to the site.

Other than that, I'll be open to questions and we are looking to have an expedited session here. Hopefully, we will open that store by July 2002. I would also like the option to respond to any public comment also.

McGill:
Any questions?

Dixon:
Mr. Chairman?

McGill:
Yes, sir.

Dixon:
Tell me, if I lived in this neighborhood, why I should feel excited that Wal-Mart is moving next to me?

Olszewski:
If you are talking about the neighborhood on the south side of Hogan's Lane. We are trying to take care of their concerns. A couple of people spoke to them at the Planning and Zoning Meeting. We did stay around to have some discussions.

We are going to improve Hogan's Lane so that any of our

impacts will not impact Hogan's Lane. We moved the store as far north as we can to provide a good buffer along Hogan's Lane. I think we've got 25 plus feet there and there is a nice stand of existing trees there that we are going to maintain if at all possible. We also will meet the Code with the six ft. opaque fence that Bruce spoke to also.

Obviously, the convenience of that store will be very advantageous to those residents. The lighting will be designed to keep the intrusive lighting on site and they are really only looking at lighting a parking lot and with those buffers, there shouldn't be a lot of light or noise on the adjacent properties.

Dixon:

You haven't told me why I should be excited yet. You told me why you are excited.

Olszewski:

Well, why are you not excited?

Dixon:

I am fine with Hogan's Lane now. I like Hogan's Lane. It's nice and quiet and peaceful. I know everybody going up and down Hogan's Lane. There are no strangers. I don't have to listen to traffic 24 hrs. a day. I don't have to listen to big trucks backing into my house at 2:00 a.m. I am fine listening to the deer walk across right now. Why should I be excited?

Olszewski:

Well, I just want to say that

Dixon:

Say it again.

Olszewski:

We are trying our best to concentrate the traffic on the northern route.

Audience member:

Would you hold that up so we can see it, sir.

Dixon:

Bruce will get you a stand, but, please continue.

Olszewski:

We are trying to concentrate the traffic up here. We are even considering lighting this road and not lighting Hogan's Lane so that it kinda attracts people to this road. The truck turn-arounds are happening on the north end. As far away from Hogan's Lane as we can possibly do it. Those are some of the efforts we are making to not impact Hogan. We are not trying to do this development without considering any of that.

Dixon:

Well, let me add in there, that you also next to me, a 3-acre mosquito invested pond. Now, you, I'm sorry, I didn't catch your name.

Sutch:

That's a hard entry coming in on, but, good evening, my name is Peter Sutch and I am with CPH Engineers as well.

Mr. Commissioner, to be quite frank, I mean, having a vacant property next to your area would, I think, no one would object to having an area maintained vacant. I know I wouldn't if I was a property owner. However, this being in the Urban Service Area has the ability to develop and the rights to develop within the County.

What we are trying to do is consider our neighbors in the development of this project and still be able to provide a development that functions and operates safely, effectively, and also for return that basically warrants the investment that it makes here.

In going back to Hogan's Lane, again, we don't want to do a lot of the improvements that are necessarily proposed at this point - the curb and gutter improvements, etc. to the full extent due to the fact that we don't want to promote people to use this if at all possible. We don't want Hogan's Lane to be the main access point. We want to keep it as quiet a residential street as possible. There will be impacts - some impacts - to that street. I would be lying to you if I said there wouldn't be. But, the majority of the traffic coming into this site will be coming from the north from Quincy. That is why we are developing this main boulevard entry feature along this northern side of the property.

This will not only accommodate our development, but, of course, the area which will develop to our north, which will likely be commercial as well and also the potential residential development to our south. And, that way protect

Dixon:

There is a potential residential development to the south?

Sutch:

To the west, I am sorry, to our west. Which could have impacted Hogan's Lane if that wasn't in place. So, we are trying our best to divert all development as Wade had mentioned before. The most intense portion of the stores are obviously where the entrance is going to be. We've oriented the building in such a manner that it pushes the entrance of the building as far north as practical.

All the major truck movements and major intensiveness of the site will be on the north side of the building.

You had mentioned the pond area. Again, please note that we are going to try to maintain, through our grading, as much of the natural buffer as possible. There is a good stand of trees there. You are familiar with Hogan's Lane and you see that.

Dixon:

"Trying" is not a good word to use.

Sutch:

Well, again, I am not going to stand here and promise you something that we don't know that we can't deliver. We will make every single attempt possible to maintain that buffer. We have a good buffer shown here. I believe it looks like at least 25 or 30 ft. pushing. I don't see a reason why we couldn't maintain a good stand of trees there. Until we have our final construction plans, I can't necessarily guarantee the extent of it. But, we are going to make every effort to do that.

With respect to the pond, we anticipate that we should be able to design this as, we are going to make every attempt to design it as a dry retention system, if at all possible. And, in that way, make sure that it recovers and you keep it as dry as possible. Granted, you do have wet areas just to the west

of this, with respect to the (inaudible). They are there, and unfortunately, that's Florida.

Dixon:

Sounds like you would not encourage it.

Sutch:

No, I understand that is a required part of the development. In order to maintain water quality within the State. So, we are obligated to do that. We will do it accordingly in accordance with all the State standards and the County standards. We will be sensitive to our neighbors in doing that.

To be excited about the development - I think that one thing that this will potentially help - again - the extension of utilities to this area. Which I think will be a benefit. The , ah, you know, we could talk about the whole economic impact, we can talk about the generation of new jobs, which could potentially help the people in this area to gain employment.

Dixon:

But, you've got a corresponding generation of loss of jobs that goes along with Wal-Mart.

Sutch:

It is a transfer. It is a transfer. Right. There will not be 100 % new jobs. This will be a transfer of existing staff plus the additional jobs that this project will bring. And, then, granted, not only the convenience aspect of the shopping at this point for the residents next door, but also the employment opportunities for those people in that area.

So, I think, generally, again, I don't think anyone could stand up here and say "We want to have a commercial development across the street" if we had our choice. But, it is zoned land use appropriately for it and we are definitely going to be sensitive to the development of this site, considering our neighbors there.

Dixon:

You haven't given me anything for my neighbors yet. You haven't said anything that would make them happy, or at least, sad or mad or angry to see a Wal-Mart come. I mean, we all love Wal-Mart. That's why you are building. But, you know, I know that across the street from Wal-Mart, Super-Value had 20

trucks that back up on Joe Adams Road and my people can't get in and out of their houses already. I know there is no stop light, no signal light there and you don't propose one because your entrance is down the way. So, there is no need for one.

You are talking 24 hr. traffic. You are talking about strangers being able to ingress and egress the neighborhood. We get this with a convenience store so, I can only imagine what a Wal-Mart would bring along with the Taco Bell, the Burger King or whatever there will be in that out-parcel - yet to be determined. These are the kinds of things that give me the greatest concern. And, you have not given me anything concrete. You keep saying that "I'm trying", "possibly", or "doing the best I can." So, between the 30 ft. buffer could conceivably, at the end of construction, be a 10 ft. buffer and you would not have lied to me. You will say "We tried."

But, I still have to deal with that community. Give me something I can stand on. Will the buffer be 25 ft? You can do it, I think, if you want it to be 25 ft.

Sutch:

I don't see any problem with providing 25 ft. buffer. What I am concerned about is the native 25 ft. of natural buffer. Of the buffer that is there. The buffer will be there, the 25 ft. will be there whether it is planted or natural. But, what we are concerned about is saving the natural resource that is there. You know, you could level 25 ft. and plant trees and it doesn't do anything.

And, our concern will be, as yours is, we want to provide that buffer. We don't want to create problems for Wal-Marts neighbors. It's residential neighbors, especially.

We haven't done the final engineering plans to be able to tell you that we'll be able to save 25 ft. of the natural trees. I can commit to you that we will definitely meet Code, by all means. But, I would like to think that we can go beyond that, but I just can't promise you that at this point in time.

Olszewski:

I want to say this in reference to the neighbors. We did go to the Planning and Zoning meeting and even though they didn't

have a quorum, we did stay around to hear all the comments from the neighbors that were there. We did hear their comments and we are trying to address them.

McGill:

What happens to your current facility when you relocate to the proposed site?

Olszewski:

That existing store is leased so, Wal-Mart does not own it. They are not the landlord. It's going to be up to the current landlord.

McGill:

Anybody in the audience want to speak for or against? Let me have all the "for" comments, then we will go to "against". All the people who want to speak for Wal-Mart, come ahead. Come right ahead.

Ford:

My name is Carolyn Ford, Executive Director of the North Florida Education Development Corporation. To the Chairman and to the Commission, thank you for having me.

We support the Wal-Mart Store. We have a letter there in front of you.

Dixon:

We have a whole lot of letters.

Laughter.

Ford:

We have had a number of concerns with the Wal-Mart Store, but, we have met with them, I think it was last week. We own the property west - it is 92 acres west. Our plans for those 92 acres beginning 2002 is to put a senior community complex back there. We have plans to develop that pond - that natural pond - that is also on that land. Our concern was initially that the natural conveyance of the water where they have the holding pond would be impacting on our property. But, in that discussion with Wal-Mart, they did come to an agreement that they would make some consideration for our property. In the letter that I just submitted was some of the discussion that

we had.

We would like for you to look at that. If you look at the map that they gave you, we have a 50 ft. easement where we are going to be coming off 267 to our property in the back. Also on that property, we are going to put single family homes. But, the easement presented a problem to them. So, we agreed to move our easement so that it will accommodate their property. But, in that consideration, we wanted, for instance, if you will look at the map, we are going to make sure of that water line, because you are going to change the whole character and impact our land on the back. We cannot do what we had planned to do with it. So, what we want to do, if they will agree to do some of the things that we discussed, such as the sewage, they are putting in a lift station - just make it a little bit bigger. Because, if you see the road here, that little road not being extended, that would definitely, once it is done, that will impact on the entire thing in the back. We have asked for several things and they are listed in the letter. They pretty much agreed to. We just want to make sure that it is included. We agreed to give them that easeway, which is about a 100 ft., yes. It is about 100 ft. to the north. In other words, we want our interest protected.

Watson:

Has Wal-Mart agreed to these 4 conditions?

Dixon:

I think she wanted the Board of County Commissioners to make the conditions part of the Wal-Mart agreement.

Watson:

She made it sound like they had agreed to it.

Ford:

Yeah, we have discussed all of them. I don't know whether, I haven't talked to them since we composed the letter with our engineers. They had the last say in this.

Dixon:

It says "We would like to request that from the Board of County Commissioners"

Ford:

Yes, we have discussed these points.

Dixon:

But, you don't have a development proposal before us.

Ford:

Not yet, but, it is coming.

Dixon:

That is my next question. What kind of development are you talking about.

Ford:

It is coming, but, at this time, I think that the plans that we have, you know, because of this development, we are going to make some changes. It kind of delayed us somewhat until we can see what they are going to do.

What we want to do is to have this to compliment our development in the back. Before, we didn't have that problem.

But, now we do. It's not exactly a problem, but, our plans have definitely changed because we didn't know about Wal-Mart.

Watson:

But, does Wal-Mart agree.

Wal-Mart, do ya'll agree. You need to read this and see.

Yes, sir.

Dixon:

Before we get to the part of whether Wal-Mart agrees with a proposed project that does not exist, can we deal with Wal-Mart?

You know, Wal-Mart is more real. While, certainly, her proposal is directly affected by this, I would like to get to whether we will do the main motive first, before we decide whether we will approve the conditions.

Richmond:

You need to hear the negative comments.

McGill:

Are there any more positive comments before we move on?

Anybody speaking in favor of Wal-Mart.

Ford:

This is not part of anything we are proposing. We want to include it because, if you understand right now, we have a right-of-way that will split their property wide open.

Richmond:

Yeah, I think they are in a good position to get what they want.

Ford:

I want to be sure that it is in the development plan that they have even though we have discussion approval.

Dixon:

My comment is "Let's see if they get a development plan before we discuss what is in the development plan." Those are my comments.

Ford:

O.K. All right. I agree with you on that.

McGill:

Anybody speaking in favor of Wal-Mart? Only favorable comments now.

Does anybody want to speak in opposition to Wal-Mart. O.K. We'll start with you, then you, then you. Come on down. Yeah, save some time. Come on down.

Robinson:

Good evening, Mr. Chairman. My name is Master Robinson. I own the parcel of land directly across from where they are going to build this shopping center.

Now, as Commissioner Dixon spoke of, this will be hell for me.

With all that traffic and all that noise, all that 24 hours a day. I am in opposition for it being put there. I mean it is directly across from where I live at. Across the street. I don't know but I was told that they aren't going to put a traffic light up there at Hogan's Lane. It's hard to get on Hogan's Lane as it is. But, if they don't put a traffic light there, from where my house is, I back out onto Hogan's Lane - out of my drive-way - that is where I turn around at. Well,

once all this traffic starts, what am I going to do? I am going to have to make provisions. I'll have to have other means. I won't be able to back out, I'll have to drive out. So, this is really going to be an inconvenience for me, no matter what way you put it.

Now, I never even knew that this land had been zoned - I know at the time I purchased the land I have, it was residential. I didn't know that it was commercial. I came to find out later, even though the land that I live on myself, is zoned commercial. I can't build a house on my land but they can put a shopping center across in front of me. I don't think it is right. I don't know where along the line all these changes were made, but from the time I was a little boy, this was a residential land here. Then, all of a sudden, someone decided that it was going to be commercial. Maybe they did try to contact me and ask me about it. But, I don't remember anything about this. The only thing I know is all of a sudden, some of the neighbors came up and said they were going to bring a petition - I didn't know anything about this. I didn't get anything in the mail saying what they want to do. Some of them said they did, but, I didn't. Some of them said they were going to build a big shopping center in front of my house.

McGill:

How far is your house from the proposed site?

Robinson:

I am right there on the road, right across the street on the south side of Hogan's Lane. Sitting right there on the road. If anybody goes down there, he knows. You know my house with the big white trim on there. That's where I live at.

McGill:

Is that within 1,000 ft. of the development, Mr. Ballister?
Did you send him a letter? Is it on the record?

Watson:

He's on the list.

Robinson:

I never received it. The only thing I knew was a gentleman came which I had never seen before - this is my home that I have been working for for many years - I just came back about

a year and a half ago - came back here to live but I bought the property from my mom. This gentleman came up which I don't even know and he was telling me about this and he said they was going to make a petition and asked me would I sign it. And, I said "Of course, I will." But, I haven't seen him anymore to sign the petition. But, I am just concerned that I am going to have to sell again.

McGill:

Thank you, Mr. Robinson.

Next?

Neely:

Yes, Commissioner McGill and fellow board members, my name is James Neely. Excuse, me.

I met with the Planning and Zoning Board before when they proposed this project. And, what I am asking from the Commission tonight is what someone has suggested that it be returned to the Planning and Zoning Board for consideration so that the people can get a full and fair opportunity to address it. As I have talked quite a bit with people recently about this, there is a big misunderstanding or lack of education as to the adverse affects that such a development is going to have on the community. I shared with, I think, the commissioners, a copy of this pamphlet with excerpts from the book Slam Dunking Wal Mart by Al Norman. This book chronicles the history across this nation, and I will get back to that part, I'm going to talk about Hogan's Lane. But, it chronicles the history of Wal-Mart across this nation and destroying rural communities.

I coincidently talked to the assistant manager of Winn-Dixie, asking them just out of curiosity, what they think was up. Well, as it happens, he commutes from Chipley daily because when the Super Wal-Mart in Chipley opened, Winn-Dixie closed.

If I may, I'll just drive a nail in that and get back to the point that concerns me about Hogan's Lane.

There is 3+ acre pond that has to be a least 2 - 3 ft. deep. Soil Conservation Services verified that the water table on that property just below it is within 2 - 3 ft. of the surface of the soil. That is the case of much of that water - soft surface water in that area. As I explained to the Planning

and Zoning Board, I used to drink from a spring in that depression that you are referring to because it ran on the surface of the ground. Like I said, in past years, it has changed, but ground water is very near the surface of that soil.

If you dig a 3-acre pond, it has to infiltrate the ground water with all that grease and oil and whatever off that parking lot includes the nutrients from the nursery and all that will ultimately make its way into that pond. It is going to make its way into the ground water and that is not good for our community. We know and have heard - the news media has been bombarded the last few weeks with all these various encephalitises that are affecting our area. St. Louis encephalitis - we have heard about that for years. It happens all the time. But, now the equine encephalitis that took the life of a 9 year old. The west Nile virus that they are just learning more about. All of those are carried by mosquitos. With that kind of pond area abutting a residential community is going to be a real environmental nuisance in our community.

If you walk that area, they have a lot of native trees right where the pond is going to be. You've got the live oaks, the magnolias - all those trees are going to be destroyed. That is not a good situation for our County. Now they have been very subtle about what is going to happen to Hogan's Lane, but with 2 entrances on Hogan's Lane, you can't help but to get a lot of traffic and deterioration of roads and everything else in that area. I don't see why we can't have

******At this juncture of the meeting there was a failure in the public address system which resulted in an inaudible tape for the remainder of the meeting. The minutes that follow are summary minutes only.**

Administration of Oaths

Mr. Richmond (a Notary Public and licensed by the State of Florida to administer oaths) interrupted Mr. Neeley's testimony in order to administer oaths to the people listed below as to the testimony they had given in this proceeding:

James Neeley - area resident opposed to the Wal-Mart Supercenter
Master Robinson, affected resident opposed to Wal-Mart

Bruce Ballister, Growth Management Director
Carolyn Ford - adjacent property owner in support of Wal-Mart

Mr. Neeley concluded his remarks by asking the Board to deny the Wal-Mart. He asked them to protect the poor dis-enfranchised people who don't have the power or the money to fight Wal-Mart.

Mr. Tracey Leonard of Super-Value addressed the Board with concerns about safety and traffic. He was administered an oath by Hal Richmond as to his testimony. He cited a number of concerns regarding traffic - in particular truck traffic. He reported that there are over 250 truck moves (53 ft. long trucks) per day by Super-Value alone in that area. He said that there is already a lot of truck congestion at the intersection of Pat Thomas Parkway (SR 267) and Joe Adams Road. In addition, he stated that Super-Value employees over 200 people who use that intersection as their main entrance to the workplace. He then called attention to the fact that there is not a traffic light at the intersection despite their requests to DOT for a light.

There was some discussion regarding the large numbers of trucks that park along Joe Adams road at all hours of the day and night. Mr. Leonard explained that each truck is given an appointment time to load or unload beginning at 9:00 a.m. and instructed not to arrive until close to that time. There was a consensus that the problem could likely be one of an enforcement nature by law enforcement officials.

Mr. Leonard once again spoke to issues of safety at the intersection. He stated again that he felt like a traffic light at the intersection would provide for greater safety.

Ms. Marion Lasley addressed the Board. She was administered an oath by Hal Richmond. She requested that if the project is approved that the Board encourage creative landscaping on the parking lot and the holding ponds. Plans would preserve the trees in the parking lot and the holding pond. She also requested that if the project is approved that they allow no entrance from Hogan's Lane.

Mr. Jim Kellum addressed the Board. He asked for a point of order and he questioned whether or not it was necessary for people to be sworn in before they would be allowed to speak.

Mr. Richmond explained that whenever there is a planning issue

before the Board, it is considered a quasi-judicial proceeding and that there must be fundamental due process per case law.

Mr. Kellum was administered an oath by Mr. Richmond. He stated that he had watched the degeneration of Quincy merchants over the last 23 years due largely due to the drain that Wal-Mart had put on them. He concluded his remarks by asking the question "What has Wal-Mart done for us?"

Mr. Elijah Knight, an area resident affected by the proposed project, was administered an oath by Mr. Richmond. He asked that the Board carefully consider the issues of stormwater run-off and the high water table in the area. He questioned whether or not the ground could absorb large amounts of water even with a buffer in place.

Mr. Wade Olszewski, and Peter Sutch, CPH Engineers, were both administered an oath as to their previous testimony and the testimony they were about to give.

They addressed the following issues in rebuttal:

- 1) The letter from NFEDC requesting certain conditions be imposed by the Board of County Commissioners. They have not received a copy of the letter referenced by NFEDC.

Mr. Richmond interjected that those matters are private rights and the Board could not deal with them at this juncture.

- 2) Traffic light at Hogan's Lane. They said they would like to see a traffic light placed at the main entrance of parcel and therefore it would not be likely that another one would be placed in such close proximity. The development does not support a light at Hogan's Lane. However, no traffic light is likely to be put into place until the traffic volume warrants it.
- 3) Stormwater control - They will meet all state and local requirements. They will make certain that the rates of discharge coming off the site will be no more than the rate of discharge today.
- 4) Economic impact - the store will be 107,000 sq. ft. as opposed to the current 50,000 ft. A grocery store will be added which typically a community enjoys.
- 5) Parking lot lights - they expect to design buffer screening that will be sufficient to not impose problems for the neighborhood

- 6) Signal light at SR 267 - Traffic engineering studies indicate that it currently operates at a level of service A. Even with the proposed development, it is expected to remain at an acceptable level of service.
- 7) They will commit to at least 35 ft. buffer on Hogan's Lane

Mr. Olszewski concluded his rebuttal by saying that the urban service area designation will support a number of uses. He also said that the proposed development will bring about improvements in sanitation and sewer services that will support the growth of even more development.

Ms. Nancy Gee addressed the Board. She was administered an oath by Mr. Richmond. She made the remark that the Wal-Mart Foundation usually brings some commitment to the community. She asked Mr. Olszewski what kind of commitment will they bring to Gadsden County.

He reminded Ms. Gee that he is not an employee of Wal-Mart but he said that each store selects their own community charity to support. He would expect this one to do the same.

Mr. Jim Kellum called for a point of order once again.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 2 - 2, BY VOICE VOTE, TO APPROVE THE WAL-MART PROJECT. COMMISSIONERS WATSON AND ROBERSON VOTED FOR THE MOTION TO APPROVE AND COMMISSIONERS DIXON AND MCGILL VOTED "NAY." The motion died.

8. COUNTY MANAGER'S AGENDA

*****An announcement was made concerning funeral arrangements for Ms. Ernestine Butler, wife of Community Development Director Edward Butler. The Board extended condolences to that family.**

8.1 Date for Joint Meeting with Quincy-Gadsden Airport Authority

A joint meeting with the Quincy-Gadsden Airport Authority was set for August 21 at 5:30 p.m.

9. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Wetumpka Volunteer Fire Department Station, Amendment 2 to Trustees Lease Number 4599
- 2) City of Chattahoochee Cooperative Equipment Lease of Tanker Truck for Fire Protection Services
- 3) Memorandum of Agreement between Division of Elections' and Gadsden County - Funds to Purchase Voting Equipment
- 4) Administrative Services Agreement with Apalachee Regional Planning Council for Five Year Update and Enhancement of Gadsden County's Comprehensive Emergency Management Plan (CEMP)
- 5) Extension of Contract Between Gadsden Citizens for Healthy Babies, Inc. and Gadsden County Extension Services
- 6) Hospital Lease Agreement with Ashford Healthcare Systems, Inc.
- 7) Change Order Request for Fire Alarm Upgrade at Gadsden Community Hospital - Strickland Electric Company of Tallahassee, Inc.
- 8) Change Order Request # 1 for New Courtroom/Related Space - Southern Triad Construction
- 9) CDBG Contract for Rehabilitation Work for Annie J. Footman
- 10) Satisfaction of Housing Agreement - Debra Russ
- 11) Chamber of Commerce Executive Director Report for June 2001
- 12) Letter to City of Gretna - Support of Application for Toolkit for Economic Development Program

11. CLERK'S AGENDA

11.1 Direct Deposit Option for County Employees

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE OFFERING OF DIRECT DEPOSIT FOR COUNTY EMPLOYEES.

11.2 COUNTY DEED TO HABITAT FOR HUMANITY

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE COUNTY DEED FOR 19 ACRES OF PROPERTY ON IRON BRIDGE ROAD TO

HABITAT FOR HUMANITY.

11.3 CASH REPORT

11.4 FINANCIAL STATEMENTS

Clerk Thomas called attention to the Cash Report and Financial Statements in the agenda packets.

11.5 Budget Amendments 01-08-07-01 through 01-08-07-03

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

11.6 Ratification of the Approval to Pay the County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

12. COMMISSIONERS REPORTS

DISTRICT 2

Commissioner Watson asked Bruce Ballister to bring back to the Board some language to amend the Land Development Code language to restrict the 5 to 1 density in the Urban Service Areas.

DISTRICT 3

Commissioner Roberson had nothing to report.

DISTRICT 5

Commissioner Dixon had nothing to report.

DISTRICT 1

Vice-chair McGill spoke briefly to the issue of re-districting saying that he would be gathering more information.

He then thanked the Board for the appointments to the Recreation Committee and that they would be having their first meeting soon.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE VICE-CHAIR
DECLARED THE MEETING ADJOURNED.

W. A. (BILL) MCGILL, VICE-CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT THE SPECIAL MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON AUGUST 7, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: E. H. (HENTZ) FLETCHER, CHAIR
EDWARD J. DIXON

CALL TO ORDER

The meeting was called to order by Vice-chair McGill. He explained that the meeting was a workshop to hear the Florida Department of Transportation's (FDOT) Five-Year Plan for Gadsden County. He then turned the meeting over to **Mr. Tom Shafer**, Midway Area Operations Engineer.

Mr. Shafer greeted the Board and explained that he is responsible for the construction and maintenance for a six county area which includes Gadsden County. He then turned the meeting over to Mr. Bryant Paulk.

Schedule of Project Lettings - Work Programs - for Gadsden County

Mr. Paulk outlined the projects that have already been identified and planned for Gadsden County by FDOT

- 1) Low Level Bridge Replacement on US 90 - Quincy Creek Bridge
\$1.4 Million construction cost - Scheduled for July, 2002
letting
- 2) Bridge Replacement on Cr 65D over Telogia Creek
\$900,000 Construction Cost - Scheduled for September, 2002
- 3) Bridge Replacement on CR 269B - 2 projects over Yawn Creek
Scheduled for July, 2002
- 4) SR 12 - Ninth Ave. - Scenic Enhancement Project -
\$150,000 Construction cost sidewalks in Havana - Scheduled for
July 2002

Gadsden County Board of County Commissioners
August 7, 2001 Special Meeting/Workshop with FDOT

- 5) Quincy By-Pass Project - US 90 and SR 12 at C & W Farm Road
In right-of-way acquisition currently - Construction programed
for 2005

Small County Programs

- SCRAP - Small County Road Assistance Program
This program has been approved for another seven years.
- SCOP - Small County Outreach Program
This is final year for this program.
- SCIGP - Small County Incentive Grant Program
This is final year for this project also.

Mr. Paulk then told the Board that the Legislature had approved a waiver of local matching funds. He then explained that there is no set deadline for FDOT to accept waiver requests but they should be submitted to Secretary Prescott's attention. He also noted that no money was appropriated for the waiver requests and they are still awaiting a determination by the central office as to how the additional funds will be acquired.

Upon being questioned by the Board, the following facts were determined:

- 1) The SCOP funds can be used for widening of county roads or resurfacing.
- 2) The SCRAP funds may be used for widening and resurfacing of county roads up to 18 ft. in width.
- 3) It was not known which projects have been approved for Gadsden County through the above named projects. Counties will be notified of approved projects for grants by end of October, 2001.
- 4) Once the grant funds are committed by DOT, it is considered tied to the specific project for the life of that project, they are not tied to a time limit.

Current On-going Projects in Gadsden County

Mr. Garret Martin addressed the Board. He reported the following:

- 1) Ochlockonee River Bridges on US 27 - should be completed by October/November of 2001. It is now 80% complete.
- 2) There are currently 2 projects on-going on Interstate 10 within Gadsden County.

Gadsden County Public Works Director told the DOT officials about an accident at the Yawn Creek bridge (wooden bridge) on August 3, 2001 during which the rails were knocked off. Since the project is already on the 5-year plan, he asked if that project could be expedited. No definite answer was given, however, DOT stated that they would look into the matter.

Mr. Fred Buchanan, CTST Coordinator spoke to the Board regarding traffic safety issues. He reported that Gadsden County has a Community Traffic Safety Team that has been organized for about one year. He stated that they meet monthly with Dr. Atkins.

Mr. Buchanan then reported that there exists a safety concern on CR 159 where the road is narrow and there have been several instances where crashes have almost occurred. He told the Board that there are some funds available for projects that meet the criteria for a safety project that has been identified by the safety team. He went on to say that the funds are 100 % reimbursable including engineering, design and inspection. He emphasized that the County must pay for the project up front then request reimbursement. He emphasized that a project must meet the safety program criteria.

Mr. McKinnon told Mr. Buchanan that he had heard that DOT would put a traffic light at the Flying J intersection on US 90. He asked him if he could confirm that information.

Vice-chair McGill told him that the Board has written to DOT office in Chipley three times requesting the light but each time they had responded saying that the traffic data did not support a need for a light to be located there. He went on to explain that he feels there is great potential for a fatal accident there.

Mr. Buchanan replied that he would check the status of that request.

Gadsden County Board of County Commissioners
August 7, 2001 Special Meeting/Workshop with FDOT

Commissioner Watson then asked as to the status of a railroad crossing on Jamieson Road.

It was determined that Mr. Bill Clark would be the person to contact regarding railroad crossings.

Mr. Buchanan then stated that railroad safety is an issue that CTST does address. He called attention to a program called Operation Life Savers whereby they educate the public by distributing materials through the schools and teaching children and adults about the importance of "stopping and looking and listening at every railroad crossing."

An unidentified audience member requested information regarding the safety team.

Mr. McKinnon remarked that the FDOT grant programs have been a tremendous help to Gadsden County. He thanked them for coming to the Quincy to present their five-year plan.

ADJOURNMENT

**THERE BEING NO OTHER BUSINESS BEFORE THE BOARD VICE-CHAIR
MCGILL ADJOURNED THE WORKSHOP.**

**_____
W. A. (BILL) MCGILL, VICE-CHAIR**

ATTEST:

**_____
NICHOLAS THOMAS, CLERK**

AT THE REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON AUGUST 21, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

ABSENT: EDWARD J. DIXON

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Mr. Richmond led in pledging allegiance to the U.S. Flag and Mr. McKinnon said a prayer.

2. ADOPTION OF THE AGENDA

Fletcher:

Do I hear a motion to adopt the agenda?

Richmond:

Gentlemen, if I could, I've got one item listed under my agenda. Because of the absence of Mr. Dixon tonight, he has asked that I not bring up any issues on procedural review without his presence. So, I request that it be dropped from my agenda tonight.

Fletcher:

Is that the Walmart issue?

Richmond:

That was the Walmart issue.

Public outcry inaudible.

Richmond:

Well, Mr. Dixon - it is in his district. He could not be here tonight. When he found out that it was coming up tonight, he called and asked me not to bring it up tonight as to what

various procedures are available.

We didn't expect a crowd on this issue. I apologize to everyone here, but, it is a matter of procedure within the Board that they wanted to look at various options.

Public outcry inaudible.

Richmond:

Noted. We can't do anything because it is his district and he is not here.

Public Outcry - inaudible.

Applause.

Fletcher:

I am sorry, but, I am going to have to honor his request.

Unidentified audience member:

Well, what I am saying is that they overlooked you when you weren't here. Now, what I am saying is if you're going to do it one way, do it that way all the time.

Richmond:

That is partly the reason that we need to bring it back up and review those various procedures. We can't do it without the presence of the full Board.

Inaudible remarks by public.

Fletcher:

I can't help that. The commissioner has asked that we not take this up unless he was here. And, I am going to have to respect that.

Richmond:

So, if you would, just take that off the agenda.

Inaudible public remarks. Well, when will it come back. Will we be notified?

Watson:

Tell them tonight.

Fletcher:

We'll tell them tonight. Absolutely.

Richmond:

On September

Watson:

Tell them tonight when, and we will hear it that night, regardless if I am here, or

Fletcher:

Or, if I am not here.

Watson:

I mean, this is really making us look like a bunch of bozos.

Huge laughter.

Applause.

Watson:

The lady made a good point. But, ya'll tell them when we are going to hear it again, and, Bruce, let's make sure that everything is in order so that there will be no mistakes. This had made us look bad again tonight.

Public outcry.

Fletcher:

What is the pleasure of the Board? When does the Board want to hear this thing?

Watson:

As soon as we can do it legally - with notice. Whatever we need to do. If there is no notice needed, then fine, we can do it at the next meeting, correct?

Richmond:

Commissioner Roberson can't be here on the 4th. The first meeting where everyone is scheduled to be here is September 18th.

Large public outcry.

Fletcher:

Let's have a special meeting and take care of this matter.

Gadsden County Board of County Commissioners
August 21, 2001 Regular Meeting

Watson:

Can we do it in a week?

McKinnon:

No.

Fletcher:

Why not? Why can't we do it in a week?

McKinnon:

If you want to honor the notice requirement, we could do it August 30th or 31st probably.

Roberson:

I am leaving the 31st, but, I will be here through the 30th.

Fletcher:

What day is the 30th? What day will that be?

Watson:

What were you going to do tonight?

Richmond:

I was just going to go over the various procedures that are available to the Board, given the circumstances of the 2 - 2 tie vote. And, go over the options. Then, it was up to ya'll as to what to do, whether notice had to be given, or what procedure you wanted to follow.

Walmart has certain rights, too. They have to appeal within 30 days of the ruling you made two weeks ago. So, they are affected.

The citizens are affected. They have a right to appeal that within 30 days of the ruling made two weeks ago.

All of which, comes into play. And, we can't take any official action with regard to the land without giving notice to the land owners.

But, there was a procedural matter that, you know, because Mr. Fletcher was not here and the commissioner did not have the opportunity to vote, that the Board could or could not, as a matter of personal privilege, extend him that right, given the record that already exists. In other words, there will be no

additional citizen input in those matters that I said I would not talk about tonight. And, those are the matters that we need to take up whenever it comes up.

Or, Walmart can make a decision to re-apply and start the procedure again.

Watson:

So, we don't have to give notice to accomplish what you wanted to accomplish tonight?

Richmond:

All I was going to do was to talk about the various options you have. I am not trying to tell you what to do or not to do. But, to explain what options are available - given the situation of the 2 - 2 vote.

Watson:

Is one of those options an option that does not require notice?

Richmond:

One of those options does not require notice. The other options all require notice. But, it's a decision that ya'll need to make.

Fletcher:

I would just as soon get it done with, myself.

Richmond:

If you have to give notice, then, if you want to give notice to all the citizens and publish again, then, you probably need to set it for the 18th and then take whatever action you deem appropriate at that point in time. Whether it is to give them a hearing or don't give them a hearing, you will have given them notice to be here.

McGill:

I would hesitate to do anything not knowing whether Commissioner Dixon is going to be here at the September 18th meeting or not.

Fletcher:

He knew it was going to come back up tonight.

Gadsden County Board of County Commissioners
August 21, 2001 Regular Meeting

Watson:

Well, the thing is this - We can't be putting off county business, especially these important things, just because somebody is not here.

Huge applause by public.

McGill:

(Inaudible) because Commissioner Fletcher was not here.

Watson:

But, we dealt with it that night. We went ahead and dealt with it that night. What we are being told tonight is that we can't even deal with it because somebody called.

Richmond:

Well, I am just -

Fletcher:

What is the pleasure of the Board? Let's deal with it.

Inaudible comments from the public.

Unidentified audience member:

Why is he not here?

Fletcher:

I don't -

Watson:

When did he call you?

Richmond:

Yesterday afternoon, if ya'll,

(Huge public outcry - inaudible)

Let me explain. Just a second, please. Let me explain, please.

On the agenda, it says "Procedural Review". It said nothing about Walmart. When I heard that Mr. Dixon was not going to be here tonight, (because it is in his district, and he was the moving party last week) I called him to tell him that it is about Walmart. At that point, he requested it. He did

not know, and we did not see the agenda until yesterday afternoon to know whether or not what was on it.

Loud Public Outcry.

Unidentified Audience Member:

He did not want to be here.

He is "our" county commissioner, right? Isn't it his job? Isn't that what we pay him for? To be here and be a county commissioner?

Richmond:

Well, this is -

I can't comment on that. This is just a matter of whether to leave it on the agenda or take it off. I have requested to take it off because I told Mr. Dixon I would. I asked to have it removed from the agenda, because, he needs to be here for it.

Unidentified audience member:

Well, we are here. Does it matter what we request?

Fletcher:

We have to have a motion to take it off the agenda.

McGill:

I move that we take it off the agenda.

No response.

Watson:

I would like to hear what he was going to have to say, personally. I mean, this is the first that I have heard of this.

Fletcher:

Do I hear a second to that motion?

No response.

Fletcher:

The motion dies for a lack of a second.

Unidentified audience:

Move the agenda forward.
Other inaudible comments and questions.

McGill:
My motion was to remove the discussion from the agenda.
Fletcher:
And, it died for lack of a second.

Watson:
Exactly, so I move that we adopt the agenda as it is.

Roberson:
I will second that.

Fletcher:
We have a motion to adopt the agenda as it is.

Do I hear a motion to approve the minutes?

Watson:
Wait a minute, we need to vote on the motion for adoption.

Fletcher:
All in favor, say "aye".

Watson, Roberson, Fletcher:
Aye.

Fletcher:
Opposed.

McGill:
Nay.

Fletcher:
The motion passes.

3. APPROVAL OF MINUTES - JULY 17, 2001 REGULAR MEETING

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER
MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE
MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

Procedural Review

Richmond:

Gentlemen, the only item I have this evening concerns procedural review that I was asked to look at with regard to the vote on the Walmart issue two weeks ago.

In that regard, if you recall, it was a 2 - 2 vote. I reviewed whether or not the vote would withstand a test under Roberts Rules for Order. It was a proper vote. The 2 - 2 vote does, in effect, not permit Walmart to utilize that piece of property at this time. It is not a denial. So, they have the option of re-applying on that piece of property. They are not barred for a year as they would be if it had been a total denial.

Second, It is a question of whether they want to apply for another hearing which would require full notice and have a new trial of the issue on their new application. That is one method of proceeding.

The second method of proceeding is a motion for reconsideration, which could only be made by one of the prevailing parties on the motion which either Commissioner McGill or Commissioner Dixon.

A third matter of procedure which would be considered, and that is a matter of discretion with the Board is, because Commissioner Fletcher was not here last week, rather two weeks ago, if Commissioner Fletcher was to review the testimony and evidence as contained in the minutes and transcript, and was comfortable with casting a vote, if one of the members of the Board made a request that, as a matter of personal privilege, he be extended to Commissioner Dixon, it could then be brought up. There would be no additional notice, no additional evidence taken from any party - because it would be based solely on the record as it exists. Then, any party would have the right to appeal. Either Walmart or the citizens from that determination.

This is a unique way of doing it and it would have to be as a matter of personal privilege to the commissioner who could not be here.

Those are the 3 options that you have. As, I understand it,

at this time, Walmart and all of them, and that is what I was going to explain tonight.

Fletcher:

In other words, you are telling me that I could bring it back up, then. Is that what you are saying?

Richmond:

I am saying that there could be a motion made based upon personal privilege - that you were not here, that you were unavoidably detained and as I understand it, could not be here. Then that would be voted on. If that was to be done, then the matter would be brought up, it would be based solely on the evidence presented. And, you would have to review that record and make a vote based upon that.

Watson:

I so move, that we offer him that privilege.

Fletcher:

All right. All in favor of the motion, say "aye."

McGill:

I don't think there was a second to that motion, was there?

Roberson:

I did.

Fletcher:

Commissioner Roberson did.

McGill:

I vote against that motion.

Fletcher:

The motion passes.

Watson:

Now, he needs to review the minutes and it needs to be brought back up for a vote.

Fletcher:

I have reviewed them. I have reviewed the minutes. From the last meeting, you are talking about, right?

Richmond:

Yep. Are you comfortable in making a determination as a qualified judicial official based upon the record presented, without any external communications?

Fletcher:

I am.

Richmond:

What is the pleasure of the Board?

If you extend the privilege, then you can extend him the vote and let him vote. Commissioner Dixon is not here. I had told Commissioner Dixon that I would not bring this up.

Watson:

Well, you tried not to. It's not in your -

Richmond:

I am just explaining, that's all.

Watson:

I understand.

Then the proper thing is a motion to approve the Walmart project.

Richmond:

To allow Commissioner Dixon to cast his vote.

Watson:

Fletcher.

Richmond:

Fletcher, to cast his vote one way or the other. No one else would vote on it.

Watson:

So moved.

Roberson:

I'll second it.

Fletcher:

All right. We've got a motion and a second.

All in favor, say "aye."

Watson, Roberson, Fletcher:
Aye.

Fletcher:
All opposed?

McGill:
Nay.

Fletcher:
Motion passes.

Where do we go from here, Hal?

Richmond:
If you are comfortable casting your vote, put it on the record
and tell the reason why.

Fletcher:
I cast mine "aye" for Walmart.

Huge public applause.

I don't feel that I am obligated to give a reason.

Huge public applause.

Richmond:
Based upon the record, you are voting for approval?

Fletcher:
Voting for approval.

Richmond:
Let the minutes so reflect.

Fletcher:
All right. Let's move on.

Richmond:
That is all I have tonight.

6. GROWTH MANAGEMENT ISSUES - BRUCE BALLISTER, DIRECTOR

6.1 Clayton C & D Landfill - Project # 01PZ-15-205-2-03

Mr. Richmond administered an oath to Mr. Ballister as to his testimony. He then told them that Mr. Ben Clayton had requested a permit for a construction and demolition (C & D) landfill on the property currently zoned for mining. The C & D activity would take place in the void left by the mining operation. The site has a permit from the Florida Department of Environmental Protection (FDEP) of Mine Reclamation for sand mining. The only allowable use currently for the "Mining" land use category is mining. Therefore the request for landfill permit would entail approval as a Special Exemption land use. It would be a matter of the Board's discretion for this specific site.

He further testified that the site is located on Selman Road about 2,000 ft. west of the entrance to the Byrd Landfill and sanitary waste transfer station.

Mr. Ballister then described the possible impacts that this proposed use might create - traffic, noise, dust, environmental safety and suitability of the location.

Traffic - The site (if used as a mining operation) would normally be visited by dump trucks using the site as a borrow facility. This background activity is to be expected in the mining use by right. It is uncertain as to what this daily trip count might be, but, there is an existing borrow facility located adjacent to the entrance to the City/County landfill. In addition to the permitted sand haulers, construction sway cars and dump trucks will bring construction waste to the site for disposal. There will be additional traffic impacts associated with these loads.

The applicant has indicated a willingness to participate in a fund currently set aside for the paving and maintenance of Selman Road - by the City of Quincy.

Noise Impacts - The noise can be mitigated. The application demonstrates that a 200 ft. buffer exists around the proposed site which is owned by Ray Sheline. In addition, there is a 50 ft. buffer internal to the boundary that will be maintained by the applicant. The proposed fill site is at least 400 ft. from the nearest residential properties. Noise will be heard from the site as a mining operation. The additional impacts as a landfill would

be difficult to determine. However, the hours of operation would be limited.

Dust Impacts - The access road to the proposed site is separated by a 50 ft. buffer as required in LDC Subsection 5302. A dust suppression system has been proposed by the applicant which would incorporate a spray irrigation system that would periodically wet down the access roadway.

Environmental Impacts - The site's boundaries are 200 ft. from the centerline of surrounding streams by requirement of the original land use amendment to mining. In addition, the site's additional 50 ft. buffer provides additional protection from the wetlands in excess of the Comp Plan's 50 ft. minimum setback. The application indicates that the entire boundary is uphill from the wetland boundary shown on the national wetland inventory maps. It is also upland from the 500 year flood limit as shown on the FEMA Flood maps.

The operation of a C & D landfill is regulated by FDEP. All sites are required to install groundwater monitoring wells in advance of C & D operations. Initial samples will be taken and they will serve as background for comparison with the series of samples to be taken when the site is in operation. No C & D landfills are allowed below the existing water table to minimize effects on groundwater. Surface water will be directed to a treatment basin located at the lower elevations on the site. These would have to be installed prior to operation so as to prevent untreated runoff from reaching Quincy Creek. The basins would be permitted by FDEP and Gadsden County if approved.

The types of demolition materials allowed are regulated by FDEP. Per the FDEP approval, a trained material spotter would be required to be on site when the facility is accepting waste materials to make sure that no un-permitted materials are dumped.

Suitability of Location is satisfied. Selman Road is already associated with the landfill operated by the City of Quincy and Waste Management. However, that facility is cost prohibitive for bulk disposal of construction or site clearing debris because all loads are charged by net weight. The proposed site will accept materials that constitute a waste problem for Gadsden County on a charge per volume basis instead of a charge per weight basis.

At this time, the nearest permitted C & D facility is located in Leon County. The FDEP database lists a closed facility at the

Chattahoochee Landfill. It lists one other site in Gadsden County - the Sailor C & D on South Adams St. That site was not developed and the C & D permit has been rescinded.

Buffering should be provided to mitigate the impacts of dissimilar uses. The buffer proposed is at least four times that required by the Land Development Code. A 50 ft. Type "A" buffer is required for Industrial uses. There is a 400 ft. separation from the site and its nearest neighboring use. There is a 65 ft. separation between the entrance roadway and that property line.

Staff Recommendation: If the project is approved, it should come with a recommendation to develop a donation per waste load to a road maintenance fund similar to the arrangement with Quincy. (For future maintenance of Selman Road); require the installation for a dust mitigation system; restrict hours of operations from 8 a.m. to 6:00 p.m. Monday thru Friday to minimize the impacts on residents.

Planning and Zoning Recommendation: Denial by a vote of 4 - 2.

Attorney Bruce Wiener addressed the Board on behalf of Mr. Clayton. He asked that the basic requirements of a quasi-judicial proceeding be put into place for the remainder of the hearing.

Mr. Richmond asked Mr. Ballister to submit his complete file on the C & D Landfill application be entered into the record as Exhibit #1. Mr. Wiener agreed that copies of the application file would be agreeable with him.

Wiener:

Would you please state for the record again, the criteria that the Commission should consider in reviewing this application.

Ballister:

To me, this application is to approve the special use of the C & D landfill operation in the "Mining" land use zone. The Land Development Code simply states that the only allowable use in a "Mining" category is mining. However, the logical location for any C & D landfill would be in an existing hole in the ground for it presumes that the C & D will take place in a mining area. However, since it is not listed as an allowable activity, it comes to a special exemption use.

Special Exemption uses are site specific and require the Board's approval.

Wiener:

Mr. Ballister, would this use be appropriate as a special exception under the zoning category?

Ballister:

Well, any use not listed in the zoning criteria would have to be special exemption approval. Perhaps, anything could be requested as use in a mining category. But, since it is not mining, it would have to have special exemption approval. Is that clear?

Wiener:

Do you think this is an appropriate land use for that particular zoning category?

Ballister:

I think my earlier testimony or synopsis of my written statement said that is an appropriate use because it is going to be a hole in the ground which normally left as a hole in the ground.

Wiener:

So, it would be an appropriate use in a mining category?

Ballister:

To my knowledge, the only places I have ever seen C & Ds permitted have been waste holes left by mining activity.

Wiener:

I believe you reviewed other criteria including traffic, noise and environmental suitability factors. In going over those criteria, does this project comply with those criteria?

Ballister:

The applicant has expressed some willingness to mitigate those impacts that are derived from this activity to the extent that they can be mitigated. There have been some offers on the table that can be cooperated into the conditions of approval.

Wiener:

And if those conditions are agreed to by the applicant, would you say that - for instance, the traffic criteria would be

met?

Ballister:

Yes, to the extent that the additional impact here is going to be wear and tear on Selman Road. That can be mitigated. As such, there is still the externality of more trucks on the road which are perceptual and cannot be mitigated. But, I think that the offer to help the County maintain the road certainly is in good spirit.

Wiener:

O.K. As for noise, has the applicant complied with any of the requirements regarding noise?

Ballister:

I guess that noises are always very subjective. The kind of noise that you would hear from this activity would be the beeping of backing up large vehicles in a construction. Construction vehicles always put that high pitched beep out. Most of the impact of that activity would occur down in a pit.

There would be some in the marshaling area where they accept material. But, there is as I indicated, about a 450 ft. separation from the site and the nearest property owner. Again, it gets hard to quantify without noise meters.

Wiener:

As for environmental and suitability, I believe that you stated that the applicant has satisfactorily met those criteria?

Ballister:

Yes, DEP is indeed in a more appropriate position to regulate that than the County. But, it will have a DEP permit issued.

The kinds of waste that are allowed in are clean - considered clean debris - sheet rock, excess timbers, concrete debris, etc. from the construction business. And, we don't have any codes on the books for those materials. But, the activity is strictly regulated.

Wiener:

Would you state, for the record, that the proposed use is compatible with surrounding uses?

Ballister:

I don't think so. As for compatibility, the best you can do is buffer incompatible uses. There will always be a just

position in any scenario of incompatible uses. In those situations when you have incompatible uses abutting each other, you buffer. The proposed buffer is in excess, by far, of the required Type A type buffer - required by the Code.

Wiener:

Would you say that the applicant proposed a buffering as a reasonable accommodation to any compatibility issues?

Ballister:

I would say that it is reasonable. Yes.

Wiener:

Would you also, Did you say that the use was compatible with the immediately surrounding area, given the zoning of mining, etc. and landfill?

Ballister:

It would be considered a compatible use in the mining zone. Yes. There are

Wiener:

We didn't establish, ah,

What is your position with the County, Mr. Ballister?

Ballister:

I am the Planning and Zoning Director.

Wiener:

And as the Planning and Zoning Director, what is your responsibility?

Ballister:

To try to gather enough information about an application to make a reasonable presentation to the Board as to all the facts that I can find.

Wiener:

Are you in charge of interpreting the Land Development Code for Gadsden County?

Ballister:

Yes.

Wiener:

We have no other questions.

Richmond:

I would ask him to submit, for your review, before it is entered, but, I am going to ask him to submit his file - a copy of it - to Muriel, the clerk. Without objection. A copy of his file, like we discussed as evidence.

Mr. Ballister, are there any questions of Mr. Ballister, from the Board?

McGill:

Yes, sir.

Mr. Ballister, when you were talking about the road, did you say anything about the width of Selman Road?

Ballister:

I believe it is around 18 ft.

McGill:

Don't you think that the Department of Transportation would require a road of that type to be at least 22 ft.

Ballister:

That, I don't know, sir. I know that it is traversed daily by large vehicles. Certainly, additional width would make it a safer operation.

McGill:

Do you think that, however, given that the road requirement is met, and I don't think it does, if the road met the requirements, that the additional trucks on that road provide a health hazard?

Ballister:

Any truck in a residential setting could present some safety hazard.

McGill:

Is this a residential community?

Ballister:

Yes, there are residents all along Selman Road.

McGill:

Mr. Ballister, you said earlier that there was another C & D landfill proposed for South Adams Street. Why was that not operationalized?

Ballister:

I don't know, sir. That was permitted some time ago and nobody pursued that permit. Somebody in the past had pursued a permit on South Adams, but, had not - it never got built. So, no mine was ever dug and no

McGill:

Let me say for the record, Mr. Chairman, that I have been in conversation with both the applicant and the residents on this issue for the record. I want to disclose that to be sure that there is public notice.

But, I still have another question.

If, in fact, there is going to be additional traffic on the road, and that is clearly a safety hazard, and the fact that Quincy has not used already the money coming through landfill operations to maintain the road, what assurance do you have that it is approved, that it will be maintained?

Ballister:

I don't have any assurance. I do know that an offer has been made to put additional money into a fund. The question of how much Quincy has up there, the County Manager might be able to tell us how much that is. Ah, I am assuming that the road would need some primary paving maintenance at some point in the near future.

McGill:

But, as long as Quincy is operating that landfill, it has never undertaken to go out and do any maintenance on the road except to fill potholes. I don't know how much money they've got, but I am trying to find that out. But, I don't have any assurance that even if the C & D landfill would provide additional revenue that the road would be maintained.

Ballister:

I understand.

McGill:

I'll rest right now, Mr. Chairman. I might come back later.

Richmond:

Mr. Wiener, do you want to make a presentation?

Wiener:

Bruce, if the record fully in place regarding everything that is in the file.

Richmond:

I will be, yes.

Wiener:

O.K.

One other question for Mr. Ballister.

Mr. Ballister,

Richmond:

Would you like to withhold your presentation until we hear adverse public comments so you can rebut it at the same time?

Wiener:

That would be fine. Just one final thing before we sit down, I just want to be sure if it was Mr. Ballister's recommendation, based on his review, that this application should be approved? The whole application?

Ballister:

Actually, the Commission has asked that I refrain from making approval or denial recommendations - but, to present conditions that should be included for approval - if the Board should decide to approve an application.

Wiener:

Let me restate it. Based on the facts and circumstances that you have reviewed, would this application comply with the Land Development Code, based on all the criteria you have reviewed?

Ballister:

I think that the offers to mitigation would go a long way to making this an acceptable project. But, I mean, I don't vote.

Wiener:

Alright. If ya'll would like me to

McGill:

I have one other question for Mr. Ballister, Mr. Richmond.

Richmond:

Yes, sir.

McGill:

Under Item No. 3, where Mr. Ballister says "It is not a use by right, but, rather a special exception," - As such, does that not indicate that something is not exactly up to snuff? That is the reason it came to us. It is zoned for mining. A C & D landfill is not mining.

Ballister:

Correct.

McGill:

So, that would say to me that it is not really compatible for what is going on back there.

Ballister:

That is why this application should be considered as discretionary. The Board would be under no obligation to approve it. And, special exemptions are discretionary and site specific - as I understand our use of the Code.

Roberson:

Bruce, would the traffic be more? Would there be more of an impact if it was used strictly as mining. For instance, if they used it mining?

Ballister:

I don't believe so. The mining activity can occur anyway. A certain number of trucks will enter and exit Selman Road in the extraction activity. Most of the earth moving equipment will move in one time and do extraction. From then on, it will be dump trucks hauling loads out. Coming in empty and taking away sand.

At some point, they would be required by the Bureau of Mines to address the size of excavation so that it would shed water adequately and didn't create an erosion hazard in the future.

But, there would be a background level of dump truck activity accessing the property as a mining use.

Roberson:

Then it wouldn't necessarily be less traffic either?

Ballister:

There would be the amount of - well - in terms of less - you would only - the additional traffic that you would be looking at associated with this application should be those new trucks coming in with base material to be disposed of. So, you will have a background level of trucks associated with mining and you would have an additional level of traffic associated with the dump activity, or the waste activity. The applicant can be more informative about how many loads he expects that to be.

McGill:

Mr. Chairman, if I could pursue that line of questioning a little bit further?

Do you have any idea how many trucks would be coming in to use the landfill? The C & D landfill?

Ballister:

No, sir. I don't. I think that the applicant had stated some numbers in his testimony in April. But, I don't remember that number off the top of my head.

McGill:

But, could those numbers be factual? As I understand it, it would be open to Leon County or possibly other counties coming couldn't those figures be tripled or quadrupled? Maybe even as many as five times?

Ballister:

That would be purely conjecture, sir. I don't know.

McGill:

I am asking you an objective question - if it is possible.

Ballister:

It is possible if they were a successful operation.

McGill:

Thank you.

Watson:

You say here, Bruce, in number 3, that should be considered here are any impacts that are in addition to the "use by right mining activity."

Ballister:

Yes, sir.

Watson:

And, you are stating that there will be additional impacts?

Ballister:

Yes, sir. Those will be the trucks and the additional machine noise coming from the site.

Watson:

O.K.

Just understanding that this is a special exception use and it is granted that this is at the pleasure of this Board.

Ballister:

That is my understanding.

Watson:

As this application stands, it does not fall within the parameters of our Land Development code.

Ballister:

Correct.

Watson:

O.K.

Is it your opinion that a C & D landfill should be in a neighborhood?

Ballister:

In a neighborhood - a C & D landfill should be in a mine. Whether that mining use is appropriate or not,

Watson:

That is not what I asked. I did not say a word about mining.

Ballister:

I am trying to get to that point.

Watson:

Let's stick to the landfill.

As the Director of Planning and Zoning of Gadsden County, are you of the opinion that a C & D landfill should be placed in a residential area?

Ballister:

Nice spot.

May I qualify that answer?

The whole idea of land use planning is to try to associate similar uses in similar areas. When you get to those just positions, as I said earlier, you try to buffer. To the extent that it can be, the site has been buffered. Some of those impacts would be external to the site which would be additional trips and the neighborhood - the residential area - the residents of the area will have to bear that impact. Whether those additional trips would be on that road.

Watson:

But, I think this is a "yes" or "no" question.

Ballister:

O.K. In a perfect world, no.

Watson:

I am basing that on, you know, the suitability of the location. You are saying that a C & D landfill should not be placed in a residential area?

Ballister:

Yes, I would have to say that. If I could plan it otherwise, it would be otherwise.

McGill:

Is there any public input on that topic?

Richmond:

Anyone want to speak to this?

Ballister:

May I make one other comment?

I had a phone call from a lady today who indicated that she would deliver a message, or a letter to the Board. She couldn't be here tonight, she has school open house. I have not received that letter yet, so.

Richmond:

Ma'am. Would you come to the podium and state your name and raise your right hand.

Reynolds:

Cynthia Reynolds.

Richmond:

Ms. Reynolds, do you swear that you will tell the truth so help you God.

Reynolds:

Yes.

Richmond:

Would you state your name again and then begin.

Reynolds:

Cynthia Reynolds. I am a resident who lives on Selman Road right where the landfill is supposed to be entered. I think I can speak on behalf of the community that we do not want this.

I spoke with the person who is in charge of this project. I asked the question "Would you want it in your back yard?"

They told me "no."

So, members, before you make a decision about whether to approve it or disapprove it, please take us into consideration. We want to have a livelihood. We have enough traffic coming on that road. We have been dealing with the city dump/landfill for almost 30 years. Now, if you think about it, don't you think we have had enough in our back yard?

Don't incase us with another landfill. Think about our children. They need to be safe on the bus. Think about our homes. We have accidents in our yards - right outside by the road. It is just a dangerous situation. And we don't want to get to the point that we won't be able to live there.

If I had a choice and I could move, I would. But, I like living there. And if I am not going to put something in your back yard, you should think about not putting it in ours. And, before you make a decision, please take this into consideration. Would you want it in your back yard? Do you want your life to be in jeopardy - whether you are going to wake up in the morning or not?

Watson:

I would like to ask her a question.

Richmond:

Ms. Reynolds, they may have some questions.

Watson:

Have you ever witnessed an accident?

Reynolds:

Yes. In my yard.

McGill:

How long ago was that?

Reynolds:

It was about 1992. There have been some since then, but, this was in my yard, about that time.

Richmond:

What did it involve, Ms. Reynolds?

Reynolds:

A car.

McGill:

Any trucks?

Reynolds:

There have been several trucks who have actually jumped the ditch and end up in the field in front of my parents house. Some around the curve, the steep curve where they are planning on entering, there have been several accidents there including trucks, cars and vans.

It just so happens that a truck came across my yard and came

onto the far end of my house -here I sleep. Luckily, it didn't hit my house.

I want to live a long life. But, I don't want to take a risk and cut it short.

Richmond:

Mr. Wiener, do you have any questions of Ms. Reynolds?

Wiener:

What time of day was that accident?

Reynolds:

Morning, noon, afternoon.

The one that came across my yard?

The truck that came across my yard in the morning hours.

Wiener:

What time of the morning?

Reynolds:

I would say about 8:30 or 9:00 o'clock.

Richmond:

Is there any other comments?

Watson:

I just wonder if they are going to present anything.

Richmond:

They have a right to present their side of it.

Watson:

I didn't want to jump to a motion.

Fletcher:

It is appropriate any time, now.

Richmond:

Is there anyone else who wants to speak adversely to this?

McGill:

Ms. Reynolds, do you want to read that letter into the record?

Richmond:

Would you please state your name?

Ford:

Irene Ford.

Richmond:

You've got to review it. Either pass it around, or it can be read to you.

McGill:

Wouldn't it be better if she just read it?

Richmond:

It's your pleasure.

Fletcher:

Go ahead, Ma'am.

Richmond:

Do you solemnly swear that the testimony you are about to give will be the truth?

Ford:

Yes.

Richmond:

State your name.

Ford:

Irene Ford.

O.K., I have not been on Selman Road as long as the lady who just spoke, Ms. Reynolds. But, I have been there for 3 years.

I have just recently built. I have noticed excessive speed on that road of the trucks. I haven't seen anybody out there as far as trying to make sure that the speed limit is kept. And, I have seen them, you know, the road is in poor condition. Potholes and everything else. Cars run past my house, on a curve, they just run all over the embankment part.

It is bad out there. If they have one, that is enough.

Don't give us two.

Watson:

Ms. Ford, did you know that the speed limit has dropped?

Ford:

Well, I have not, - isn't it 45?

Watson:

It's been dropped to 35, so you'd better pay attention.

(Laughter)

Ford:

Well, they are not doing 35. They are going a lot faster than 35. When did they put the speed limit to 35?

Watson:

About a month ago.

Ford:

O.K. See, I didn't even need to say that. I just thought it was 45 and sometimes they think it's 55 or 60 - the speed that they are going at. There is no way they could stop if a child or any, you know, they couldn't stop those things.

Watson:

Let me say that when this came up and there was found to be a speed problem out there, I asked the Sheriff to monitor it. He did and there was nobody speeding over the 45 mile per hour. So,

Ford:

Really? What time did they monitor it?

Watson:

I don't know when they were out there.

Ronnie, were you doing that?

But, the speed limit was dropped to 35. I called him again last week and asked him to monitor it again. So, efforts are being made to slow people down.

Ford:

Oh, that is good. I mean, even for, not only the trucks, but, for cars also. Maybe they have been there, but, I live closer to 90 than Ms. Reynolds does. So, I am sure I see more. Even

though the traffic, she lives further down and there are probably some people stopping before they got as far as the house. But, it is kinda bad, you know.

As I said, we have one. If there is any other place that can be considered, please spare us more trucks.

McGill:

You said "kinda bad." Is it bad or kinda bad?

Ford:

It is bad. I am outside all the time because I work in my yard. And, you talk about trucks, but, have you considered the cars that come? Because on Saturday mornings, I have gone out and picked up the litter. When I know that when 3:00 o'clock comes, It is better for me to go out and pick it up than to have this stuff in my yard. I love my yard. I am out there all the time. I don't want that litter out there, so, I go out and pick it up myself.

Thank you.

Richmond:

Mr. Wiener, do you have any questions?

Wiener:

I would like to point out for the Board, that the applicant has proposed to move the road. I don't think it goes anywhere near Ms. Reynolds' home. In fact, the engineer for the project will point that out. But, that is another thing that we tried to do to avoid traffic considerations that the neighborhood has expressed.

And, if the Board would like, we will be happy to try and meet with the neighbors, stop this process now, and meet with the neighborhood to discuss any other issues. I think we tried to do that and we are certainly willing to do that in this case.

We are not trying to push anything through. We want to - We understand that mining is out there and we want to do this as a good neighbor to them in the best way that we know how.

And to, as noted, help the road and handle the road. But, I just wanted to throw that out there for the Board to consider, too. If the Board thinks that will be productive.

Watson:

I just want to know, are ya'll going to make a presentation of any kind? Or are you doing it?

Wiener:

No, we have two members that are going to make a presentation. I was just hoping that ya'll were not about to vote or anything.

Fletcher:

Well, we need a motion.

Watson:

Well, I didn't want to do that until we had given them an opportunity.

McGill:

Is it appropriate for me to put a question to him?

Richmond:

Sure.

McGill:

Mr. Wiener, looking at Number 3 of the comments by the Planning and Zoning Department, would you agree that this is not the appropriate area for a landfill? Because, it says clearly that it is not a "use by right." That it is strictly an exception? Will you agree with that?

Wiener:

Here is the way I will answer that. I look at your Code and I see a mining land use category. Underneath that part of the Code, there is a, the way that your Planning Director is interpreting it, as a public utility type use, it comes under a Class II situation. Given that consideration and the compatibility issues that are on record, then, yes, I would say that it would be an appropriate use for this area.

McGill:

So, if that is true, then we don't need a (inaudible)

Wiener:

I didn't say that. I think that what - that Mr. Ballister accurately reflected that based on his experience in dealing with the Code. Given that and the considerations that he has

laid out - the criteria - I think it does meet your Code. And any impacts are mitigated against. The applicant has done an extensive amount of work to try and get there for ya'll.

Watson:

But, as you read our Code, you would agree that this is not a "use by right" - Yes, or NO?

It doesn't take any amount of speculation. You have read the Code. You are an attorney. O.K.

Wiener:

I do think this is a permitted use.

Watson:

No, come on, now. You have read the Code. You have read our Land Development Code. You will agree that C & D Landfill on this site is not a use by right?

Wiener:

I can't answer that.

Watson:

You weren't sworn to tell the truth?

Laughter

Wiener:

Richmond:

He is here as an advocate.

Watson:

I want to let him talk here.

Wiener:

I think it is an appropriate land use.

Watson:

That is not what I asked you. That is not what I asked you.

Wiener:

It is

Watson:

My question is this - Is it a use by right? I didn't ask you

if it was appropriate. Is the C & D Landfill on this particular site a use by right?

Wiener:

Meaning that it is allowed under -

Watson:

You know what it means as a "use by right" more than I do.

Wiener:

The only thing that I

Watson:

Come on, now.

Wiener:

In order to get approved by you guys, we have to meet a bunch of criteria.

Watson:

That is not what I am asking.

Wiener:

Right.

Watson:

I know you really don't want to say that, but, you really should.

Laughter.

Why will you not answer that question?

Wiener:

Because I don't think it - I kinda object to that question.

Watson:

You don't think it is an appropriate question?

Wiener:

I don't think it accurately reflects what

Watson:

That is a solid, no-room-to-get-away-from-it question. There is just no slush there.

Wiener:

I think that the applicant is entitled to this use under your Land Development Code.

Watson:

No. You are saying that it is a use by right.

Wiener:

No. The only way it becomes a right is if we meet the requirements of your Code.

Watson:

An, that is not in this Code, correct?

Wiener:

I believe there is substantial competent evidence.

McGill:

I don't think that is of issue here.

Roberson:

I'd like to ask a question. If you do not get approval for this C & D landfill, do you have intentions of further development for this property?

Wiener:

I believe that there is already a mining permit in place and that is kinda where I am getting to. What this does is follow it up with a very, very regulated use of that property. And you still have the same owner out there that you can deal with on a daily basis. If it gets mined, it gets left out there, it's out there and that is how it is going to be. It is not going to be any different than when you - With these guys out there, it becomes a more safe area. There is somebody out there monitoring the area that is in a mining area. I don't know if ya'll have that out there. That is why - we are going in a positive direction.

Roberson:

Do you believe that if you just mine and have the C & D out there that you would have the same amount of traffic or that the impact will be the same?

Wiener:

I would have to yield, I am not a traffic expert.

Richmond:

The position we are in at this point, Mr. Wiener has made this suggestion which you need to consider. Would it do any good to have his clients to meet with members of the community to try to work out some of the adverse comments?

If you choose to proceed with the hearing at this time, then it is Mr. Wiener's turn to present his side of it which is the evidence in favor and his experts and what have you which he needs to put on record. Then it would be appropriate, after considering all the evidence, and everybody has had the opportunity to make a motion one way or another.

The question at this time is "Is there anyone from the citizen's group that is here and wants to meet with them and discuss some of these issues?"

Audience:

NO.

Richmond:

O.K. Understanding that it is approved for mining, then there is no way we can stop the mining operation out there. I am just trying to explain the options. If the public does not want to meet, then let's proceed. Whatever the Board wants to do. It is your call.

Roberson:

If the community is willing.

Fletcher:

I think it would.

Wiener:

I would be more than happy to do that.

Watson:

That would be to no avail.

Fletcher:

Then, let's have a motion on this matter and dispose of this.

Richmond:

You have got to have a record. They have the opportunity to be heard. They have to have the evidence on the record that they want on the record so you can make a determination based solely upon competent substantial evidence presented.

Wiener:

At this time, I think it would be appropriate to have Mr. Babcock to come up and explain the project.

Richmond:

Mr. Babcock, do you swear to tell the truth, so help you God?

Babcock:

Yes.

I am Newt Babcock from Big Bend Technologies. I am a partner in the business. I am here on the behalf of Mr. Ben Clayton in his application for this landfill.

Wiener:

Mr. Richmond, will you stipulate that he is an expert in land use planning?

Richmond:

You had better put something on the record because it doesn't matter what I say. It matters what the other side may say if somebody appeals this. I cannot stipulate for the citizens. I am sorry.

Wiener:

O.K.

Babcock:

I am a partner in the Big Bend Technologies Engineering Consulting Firm. I have a degree in Geography and backed up with a minor in Urban Economic Geography.

Richmond:

Have you been called to testify in any courts and hearings such as this?

Babcock:

Many times.

Richmond:

And been accepted many times as an expert witness?

Babcock:
Yes.

Richmond:
Go ahead.

Babcock:
As we know with this project, the property is and was zoned for mining since early in 1996. It will be mined. We don't like the idea of leaving an open pit. The whole idea of this C & D disposal facility is a re-use or continued use of this property. Hopefully to leave it in as good a condition or better condition than it is right now.

I think that I am going to deviate from some of the comments that I have prepared to make the point - from what I have seen this evening - just the fact that this application has been made, it has been a starter for positive actions in this area and this neighborhood.

We talked a long time about the reduction in speed limits. We talked about the problems have not been able to resolve the trash collections. I think we have a mechanism in place either now or can have one to clean up the area. The road is in a condition that it shouldn't be. And we have pointed out that there has been money placed in a pot for the repair of it. In that same nature, we need to push for the repairs. I believe that, in truth, that some of the accidents that have been out there have been - have not been as a result of the on-going commercial operations - the landfill, if you will. The other mining area out there. Some of them may well have been. But, I don't think that you can blame all the accidents on the non-residential use anymore than you could other things that happened in the area.

Watson:
How many accidents of non-residential use need be before it becomes a problem?

Babcock:
Accidents are always a problem, sir. I was concerned that the indication that all the accidents, all of the speeding was being related to the landfill that is out there or the other mining operation that is out there. I don't think that is

correct.

McGill:

Gentlemen, I don't think that is what was said. I think we were talking about the number of vehicles on the road, not necessarily associated with this.

But, let me ask this, Mr. Chairman. I think he is talking about.

You have a degree in Geography, is that in any way related to transportation.

Babcock:

In Transportation? No, I do not have a degree in Transportation. No, I don't. I have some experience in dealing with it, but, I do not have a degree in it.

McGill:

Then you are not an expert in the field?

Babcock:

Not in Transportation, no, sir. No, sir.

What we have done out there is to take this piece of property, knowing what it will be, and we have designed around it. We have monitored the soil. We have actually put in monitoring wells out there to sample water. We have, in preliminary design, a stormwater management system plan that will assure that there will be no problems in there. As, has been said earlier, the State of Florida has a set of standards for a construction, demolition debris facility that are very stringent.

This document is the operation plan for what we have prepared for this facility already. We are, we have addressed the noise issue.

Certainly, a lot of the noise is going to be down in the pitted area. However, there is in excess of 200 ft. in natural buffering around this. A lot of the noise, unless it is a really high pitch noise, is going to be buffered or baffled on it's way out of there.

There is a plan in here for nuisance. I would consider noise

a nuisance, pests, a nuisance. There is nothing going into this landfill that would generate bugs or smells.

The traffic in and out of there can be mitigated. We have talked to some of the neighbors. We have considered even relocation of the entrance. Certainly, the current location is close to Ms. Reynolds's residence. We find that we have an option. We can move it further south and avoid all of the residential areas around that curve.

We have already indicated that we will do what we could to keep dust down. We have indicated that we will adopt a road and work to keep the debris down. It is a shame that they haven't worked the same deal with Waste Management and those folks down there. I don't know. I came after that happened. So, I can't tell you why that hasn't happened.

The speed limit has been reduced. I think that was very positive.

We have a plan for continued maintenance over the years. We are required to design closure. That is, this facility is designed to start at the far, far end. Half a mile from Selman Road. It may 2 years or it may take 3 years to fill in that first 2 acres. We are talking 40 - 50 acres in there. It is going to be a long time and a lot of regulation before that activity moves even reasonably close to the neighbors out there.

It isn't mixed use area. There are residential areas, but, when you get to the back side of 500 acres, it's kinda difficult to include that 500 acres with the residential frontage. I would have to call it a mixed use area. There is a considerable use of agricultural land or land available for agricultural use out there. This property is surrounded by it. But, it is going to be maintained in its natural condition.

Part of the plan, there is security training, nuisance control, training the operators in the selection of the materials that are coming in there. If it is not on the short list, as Mr. Ballister indicated, it is turned away. It goes somewhere else.

Mr. McGill asked about traffic coming in from other counties.

I don't think that will be a practical solution. Leon County has a closer C & D facility. Construction, demolition debris from this county now goes in there. I don't see that continuing to happen. I think each of the counties is going to have to keep their own waste.

There will be monitoring of wells that are already put in out there every six months to determine from background whether there is anything out there. We don't believe there will be.

There is a confining layer under the site that we don't intend to breach. And, the monitoring will prove that out.

The area that we are developing (if you will look at a map) the area that we are proposing for development is by land use, mining. You call it mining. Other areas would call it an industrial use. It is not residential use.

Mr. Clayton.

McGill:

Before we move on, I have a couple of questions.

Did you not indicate that you could actually leave a hole in the mining?

Babcock:

That is correct.

McGill:

I thought that FDEP had some regulation regarding that reclamation of mining. Is that not true?

Babcock:

The only thing that has to be done out there is to leave it in a state to where it won't collapse on itself.

McGill:

I actually have a couple of more questions.

Tell me, you might be able to regulate the traffic and the amount of debris. But how do you control fear? How do you regulate fear? Is fear not a real problem?

Babcock:

I can't answer that.

McGill:

But, you do agree that the more trucks on a highway, the greater the safety problem is?

Babcock:

In any neighborhood.

McGill:

If there is only 1 more vehicle on a highway, there is 1 more opportunity for an accident. Is that not right?

Wiener:

Objection.

McGill:

Does he not have to answer the question, Mr. Attorney?

Richmond:

There has been an objection lodged. It would be better not to consider it.

McGill:

I withdraw my question, Mr. Chairman.

Wiener:

I don't want to belabor this for you guys, but, could we have Mr. Clayton to say just a few words to ya'll. He has spent a great deal of time trying to work this out.

Richmond:

Mr. Clayton. Please state your name and raise your right hand.

Clayton:

My name is Ben Clayton.

Richmond:

Do you solemnly swear that the testimony you are about to give will be truth, so help you God?

Clayton:

I do.

What I would like to do is clarify a couple of these things that have been battling back and forth about this operation.

Richmond:
Sure.

Clayton:

We have performed, I guess, one or two traffic counts out there. On one day that we did, we counted 60, I think it was, 60 vehicles going past her home. The majority of them were city vehicles going down to the transfer station. There were 10 pick-up trucks that were going down to dump C & D materials. (We looked in the trucks as they were flying by.)

Now, we are going to mine the property. And it is going to be our sole source of income on this particular piece of property. We did not buy the property, or not going to buy the property, for mining. What we wanted to solve one of our internal company problems, was to have a place to put our C & D material and let the company grow.

There are 5 or 6 C & D facilities in Leon County. All C & D material, right now, is going to Leon County. We have growth coming on. You've got industry moving here. You've got all these operations and no place for them to put their material except into Leon County.

In fact, two weeks ago, we recycled a mobile home (a partially burned out mobile home) in Havana. We are recycling two of them in Quincy this week. The citizens are paying extra money for us to recycle these and take them to Leon County rather than putting them in our own county.

You know, these are just some of the things, I think, that are a by-product.

The dump trucks are going to flow every day. The C & D material - we've got 2 trucks and we dump an average of 10 loads a day. That is 5 per truck. There will be 10 trips a day on that road. Now, we can't say who else. A lot of the dumping that is going down there is already going down to the transfer station now. That will be turning into our property and not going by their homes.

What we are proposing, if the commissioners see fit to approve this, we are going to re-locate the road. If the Commission approves it, we are going to re-locate the road from where it

presently is to (inaudible)

We would acquire this property. It would normally get down into this area. (Inaudible) So, the dump trucks a

We propose also to pay a 25 cent tipping fee per our trucks that come in there. We figure that to be \$5,000 to \$10,000 per year. We propose that this be placed into a jointly maintained trust fund between us and the residents for the maintenance of this road. It would require signatures from both parties to spend it. We estimate that in 8 - 10 years, there will be sufficient money in that trust fund, to resurface this road. This means that if it is resurfaced now, in 8 - 10 years, there will be enough money to do it.

That was just a couple of points that I wanted to clear up. And, as far as the noise is concerned, this is ½ mile. This is our land clearing debris. We estimate it will take 40 years to get up to this point. I am not going to be worried about 40 years from now, but,

Well, this land, by State Law, is required to be reclaimed. We will have to put up the cash, and that is the reason we are only starting with 2 acres - because I have to put up the cash to restore, haul new dirt in there, I can't use my dirt. I've got to buy dirt from some other place and bring it in there.

Audience:

(Inaudible)

Clayton:

All I am saying is the County needs this utility. We estimate that it will cost in equipment something close to \$.5 million. The taxes on that property right now is \$125 per year. The tax assessor tells me that it is going to go to \$10,000 per year. So, I don't know how the County can, you know, cannot be looking at the economic aspects of what something like this can bring to the County.

McGill:

I have one correction to Mr. Clayton's statement. It is not the County that will have the money to put up the money to do (inaudible) in Midway. That is the Department of Transportation's responsibility. Not the County's responsibility.

Clayton:

Well, I am not going to get into the politics of the thing. I just know that we are willing to pay the property taxes on all of that equipment. Right now, we pay about \$800 per year. So, economically, it means something to the County.

We will employ 8 - 12 people with a minimum wage of \$8.00 per hour.

Richmond:

O.K. Mr. Wiener, is there anything further.

Wiener:

Mr. Richmond, if there is no objection, I would like to admit this as part of the record.

Richmond:

There is no objection. It has been used to present it.

Wiener:

I guess we will call it a chart proposing the Clayton Disposal Facility Exhibit # 1.

Commissioners, before ya'll vote, I hope you will take into consideration the entire process that is involved with this use. This is a long term use. Someone is going to be there and somebody has got to finish this job from the time they mine it until the time they wrap it up. It is highly regulated. It will not be something that is left out there as a pit.

Again, in giving that consideration, it is well thought out, it is well planned and it is well regulated. And during the process, it will be a lot better than any basic mining facility.

Again, we are still willing and eager to talk to any of the neighbors to confirm the middle of the road, to confirm how we would help the County on maintaining this road. And, I think that it is very important, or at least the projects that I work on in Leon County, we work as closely as we can with the neighborhood to try and make it work. If there are no options, we are missing a very good opportunity here. I guess it is up to ya'll to make that decision.

But, we respectfully request that you grant this application.

Watson:

I just want to state that I have spoken with the Claytons and neighbors, too, for the record. And I want applaud the Claytons. Ya'll have bent over backwards to try to appease the folks out there. But, like I told you from the very beginning, that if you couldn't make them happy, you're not going to make me happy. They are already dealing with a landfill. We worked for about 3 years ago to keep Leon County from bringing all their garbage over here. We prevented, well, we encouraged the City of Quincy not to bring Leon County's garbage over here. That is sorta the problem that we are having with the road maintenance from what I gathered this weekend. That is sorta why we can't find out about this road maintenance fund. They are a little upset about that.

I just have to sympathize with the folks who live on Selman Road. Putting up with the landfill now. Three years ago, Leon County wanted all their garbage over here and now, here we are again.

I think ya'll are victims of bad timing. The property is not zoned for that. It is not a use-by-right, regardless of whether your attorney will admit to that or not. With that, I do want to applaud ya'll for trying, Mr. Clayton. I really do. I think ya'll have bent over backwards to help and you have met with them and it just hasn't worked out for you.

So, I make a motion to deny.

McGill:

Second.

Fletcher:

We have a motion and second for denial. All in favor, say "aye."

Watson, McGill, Fletcher: Aye.

Fletcher:

Opposed?

Roberson:

NO.

Fletcher:

The motion passes.

5.3 St. Joe Land Use Amendment

Mr. Ballister read the description and staff comments into the record as written in the attached agenda packet. He explained that the above stated application was actually 3 land use amendments. They are as follows:

25.2 acres Rural Residential to Commercial 01-M2-3A
59 acres AG 2 to Rural Residential - 01-M2-3B
518 acres AG 2 to AG 1 - 01-M2-3C

Land Use Change 01-M2-3A

Mr. Ballister stated that the request to change the 20.1 acres from Rural Residential to Commercial falls under locational criteria in Policy 1.1.5. "Commercial nodes are to be located at the intersection of collectors and arterial roads." He pointed out that US 27 is an arterial, however, Gibson Road is an unpaved collector that will soon be paved - to rural road standards. He also said that it is considered a local road and it would never become a "collector" road.

Mr. Ballister continued by saying that the Policy does allow for expansion of existing commercial areas, - "Nodes may extend further if a predominance of commercial land use is already existing." He explained that, at the present time, he had observed only 1 active commercial use and that was at the Gibson Road intersection. He added that there is also a church on the corner. He then said there are other commercial uses within a mile of the intersection but he could not say that there is a preponderance of commercial uses.

Mr. Ballister said that he would prefer that no access be allowed onto US 27 even though the applicant has proposed it. There again, he pointed out that such a restriction cannot be made at the Land Use Amendment stage. He explained that there is already a median cut onto US 27 at Gibson Road. If the applicant should happen to get a drive way permit as they proposed in the application, there would have to be 180 degree turns at Gibson Road because the proposed driveway is too close to Gibson Road to get its own cut. He also said that it is not likely that the Florida Department of Transportation(DOT) would allow placement of another

one in such close proximity. (They require a 660 feet of separation between median cuts.)

Land Use Change 01-M2-3B 59 Acres AG 2 to Rural Residential

The above stated Land Use Amendment is for the area immediately east of the CSX tracks. It is proposed to be developed as a residential subdivision for approximately 22 low to moderate income homes. It could mean homes that range from \$90,055 to \$106,363. All sites would be 1 acre minimum lots.

Land Use Change 01-M2-3C - 518 acres from AG2 to AG 1

St. Joe has also proposed that the large section (518 acres) being considered for a Land Use change is located west of the CSX tracks and has two different but integrated concepts. This area has a few hundred feet of road frontage along CR 270. It is cut into about a third by a big drainage area that runs through it. The area to the east was proposed to be low density home sites - 10 acre lots or greater. The density could be transferred out of this area to the western area where there is more access. Such a subdivision would be comparable to the two subdivisions on either side of it. It could be done through the "clustering" provisions.

Mr. Ballister then addressed the impacts of the proposed development. They are described in the attached documentation.

Commissioner Watson if the information found in the agenda package could be entered into the record rather than having Mr. Ballister read them.

There were no objections by the applicant.

Chair Fletcher asked for public input. Each of the following people were administered an oath by Hal Richmond.

Edward Herring who owns adjacent property since 1950 addressed the Board. He explained that had lived on San Bonita Farm until his adulthood and knew the property very well. He testified that it does not touch CR 159. He also stated that he had served 10 years on the Water Conservation Board and knew the property to have considerable wetlands. He also stated that there was a cemetery on San Bonita Farms. He said that there are no markers on the graves and it was planted over by Coastal Lumber Company prior to it being purchased by St. Joe.

Mr. Herring stated that he was not for or against the proposal. He just offered the information for the Board's consideration.

Travis Burdett (sworn as to his testimony) stated that he has lived next to the property that fronts CR 270 for 22 years. He stated that his concern was about traffic. He asked if there would be an entrance onto CR 270. He reported that there have been several wrecks going around the curve going west. He added that 2 of his grandchildren had been killed in auto accidents in the area and personally knew of the danger that the traffic poses.

Mr. Burdett said that he is not opposed to the development. But that he knew of a wet weather spring that begins on his property and continues onto the proposed development.

He then reported that there were no double center lines on the road but understood that the road was to be resurfaced soon.

Ms. Elva Peppers was administered an oath by Hal Richmond. She explained that the property descriptions have been determined now. (See the attachment) She said the land use change was proposed only for possibilities for a development. She said that St. Joe is prepared to make some concessions to address the concerns raised at the Planning Commission such as buffers - place 20% of the commercial area in buffers that would not be subject to development.

Commissioner Watson asked if St. Joe would be willing to pay for the upgrade of the road from residential standards to commercial standards.

Mr. Ballister called attention to the fact that St. Joe property does not directly abut the maintained right-of-way of Gibson Road. However, the Gibson family is willing to negotiate for St. Joe to acquire the land.

Mr. Robert Dean of St. Joe Land Co. was administered an oath. He confirmed that St. Joe is short at least 4 - 5 feet to having access to the county maintained property. He said that he is negotiating with the Gibson family to gain access to Gibson Road. He also stated that St. Joe would be willing to participate in upgrading the road. He was also agreeable to negotiate as to some kind of development agreement to limit the uses.

Marion Lasley addressed the Board. She was administered an oath by Hal Richmond. She reported that she attended the Planning and Zoning Commission meeting. She said there was considerable discussion regarding traffic issues and the rural residential change. She cautioned them to look at the commercial application very carefully.

Mr. Ballister told the Board that he had talked with Walter Banning at the Department of Community Affairs regarding whether a land use designation could be made with stipulations. Mr. Banning stated that the County could do "spot zoning" or develop an agreement with the owner of the property that would be recorded with the property records and become binding with the land throughout time.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE DESCRIBED LAND USE CHANGES WITH THE STIPULATION THAT ST. JOE ENTER INTO A DEVELOPMENT AGREEMENT WITHIN A SIX MONTH PERIOD ON THE COMMERCIAL DEVELOPMENT THAT WILL BE RECORDED AND THAT WILL FOLLOW THE LAND IN THE FUTURE.

5.3 FONTAINE FIREWORKS MAGAZINE - 01PZ-054-205-2-01

See the attached documents for details of the proposed project. The applicant, Paul Fontaine, addressed the Board. He was administered an oath as to his testimony.

Discussion followed.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE SPECIAL EXCEPTION USE OF THE PROPOSED MAGAZINE TO BE LOCATED ON MR. FONTAINE'S PROPERTY IN THE RIVER OAKS SUBDIVISION.

5.4 THOMPSON LANDFILL PURCHASE

Mr. Ballister told the Board that Mr. Lex Thompson has requested to purchase an old county landfill located adjacent to property which he owns.

Mr. Lex Thompson addressed the Board. He was administered an oath by Hal Richmond. He stated that he would purchase the property and bring it up to DEP standards and hold the county

harmless in the future. He further stated that he would use the property as conservation and open space for a project he has proposed to develop that is adjacent to the old landfill.

Mr. Arthur Lawson, acting as representative of his mother, stated concerns and objected to the sale of the property and commercial use in the area.

Clerk Thomas voiced some concern as to the possibility of future liability with the landfill. Discussion followed.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO KEEP OWNERSHIP THE LANDFILL.

6.1 Meeting with Airport Authority and City of Quincy

The joint meeting with the City of Quincy and the Airport Authority was rescheduled for September 4, 2001 at 5:30 p.m.

6.2 Enterprise Zone Application Process

Mr. McKinnon reported that the County was entering Round III of the application process for Enterprise funds. He said that the application should be completed by the end of the month.

7.0 CONSENT AGENDA

UPON MOTION AND SECOND BY COMMISSIONER, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA, TO WIT:

- 1) Library Technology Plan
- 2) Long Distance Services - TDS True Talk
- 3) Solid Waste Grant Agreements: Solid Waste; Litter; Waste Tire
- 4) Final Plat Approval for Gadsden Commercial Exchange
- 5) Letter to Governor - Artilece V Funding and Revision 7
- 6) Housing Rehab Program - Contract for Rehabilitation Work - Edith Bell Fain
- 7) Rehabilitation Agreement and Special Assessment Lien - Edith Bell Fain and Mary L. Dawkins

8.0 CLERK'S AGENDA

8.1 Budget Amendment 2001-08-21-01 Through 2001-08-21-07

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE NAMED BUDGET AMENDMENTS.

8.2 Ratification of the Approval of the Payment of County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

9.1 DISTRICT 1 REPORT

Resolution 2001-020 Naming August 25, 2001 as Dr. Frederick S. Humphries's Day in Gadsden County

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE NAMED RESOLUTION.

9.2 DISTRICT 2 REPORT

Commissioner Watson stated that he had requested information from the City of Quincy regarding information as to the trust fund that was set up for the maintenance of Selman Road. He recalled that Waste Management was to pay a percentage of tipping fees to the trust fund and it was to be used for Selman Road.

Upon talking to a city commissioner, he learned that the City Commission had some animosity toward the County Commission for the position it took with Leon County on the transfer station. He then asked the Board to take some official action with the City Commission and ask them to respond to the County's questions. (How much is in fund)

He explained that the County's paving contract could be utilized for the resurfacing, but, the City should be forthcoming with the money from that fund.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO AUTHORIZE THE CHAIRMAN TO WRITE A LETTER TO THE CITY OF QUINCY REQUESTING THAT THEY RESPOND TO THE COUNTY'S QUESTIONS ABOUT THE SELMAN ROAD TRUST FUND.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR
DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY
FLORIDA ON SEPTEMBER 4, 2001,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE CHAIRMAN
STERLING WATSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

ABSENT:
H. E. (HENTZ) FLETCHER, CHAIRMAN
CAROLYN ROBERSON

1. CALL TO ORDER

The meeting was called to order by Vice-chair McGill.
Commissioner Dixon led in pledging allegiance to the U.S. Flag and
County Manager Howard McKinnon led in a prayer.

2. ADOPTION OF THE AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER
DIXON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE
AGENDA AS PRESENTED.

3. APPROVAL OF MINUTES

August 2, 2001 Special Meeting
August 7, 2001 Regular Meeting
August 7, 2001 Special Meeting

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER
DIXON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE
ABOVE STATED MEETINGS.

4. COUNTY ATTORNEY'S AGENDA

PUBLIC HEARING - ESCAMBIA COUNTY HOUSING FINANCE AUTHORITY

Mr. Gordon Jernigan addressed the Board. He called attention

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to the attached resolution and interlocal agreement which would allow the Escambia County Housing Finance Authority to work in Gadsden County in the year 2002. He then stated that the interlocal agreement is basically the same as in past years.

Mr. Jernigan then read the title of the resolution into the record.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE RESOLUTION AND INTERLOCAL AGREEMENT DESCRIBED ABOVE.

5. MASTER ROBINSON, JR. - OPPOSITION TO WALMART SUPERCENTER LOCATION

Mr. Robinson addressed the Board. He questioned the legality of the actions taken by the Board at the previous meeting regarding the Walmart Supercenter. (See minutes of the August 21, 2001 Meeting.)

A verbatim transcript of this portion of the meeting is on file with the Clerk's office but not made a part of these summary minutes.

In response to Mr. Robinson's questions, Mr. Richmond stated that he believed that the special privilege that was extended at the August meeting to allow Commissioner Fletcher to cast a vote was legal.

Commissioner Dixon argued that it was not the practice of the Board to do such matters and he did not believe it was legal and would join the citizens in seeking a declaratory judgement challenging it. He asked the Board to rescind it's previous vote on the matter.

Commissioner McGill stated that his previous vote was not against Walmart, but was against putting it in a neighborhood.

Mr. Richmond stated the following facts:

- 1) The vote was cast as a matter of personal privilege extended by the commissioners present.
- 2) The vote stands, after Commissioner Fletcher cast his vote, as 3 - 2 in favor of Walmart.
- 3) The decision can be appealed by anyone within 30 days.

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- 4) The vote has been formalized at this juncture.
- 5) The vote was not done as a motion for re-consideration. It was done as a motion of personal privilege because Commissioner Fletcher had requested the right to vote on the issue.
- 6) A motion for reconsideration to be considered by the Board at this point would have to be made by one of the prevailing parties at this point. (Roberson, Watson or Fletcher)

Mr. Richmond reminded the Board that he had attempted to have the matter removed from the agenda but there was a vote to not allow it to be removed.

Commissioner McGill stated that he had attempted to prevent the extension of the privilege vote by Commissioner Fletcher.

Further discussion among the Board followed.

Mr. Fred Flowers, attorney for Gadsden Environmental Protection Association, addressed the Board. He stated that Mr. Robert Woolfork will also be working for the association. He pointed out a number of environmental issues and facts that concern the residents and urged the Board to reconsider the Walmart project.

There was no further action taken by the Board.

6.0 GROWTH MANAGEMENT AGENDA

6.1 Gadsden Station DRI NOPC - 01PZ-047-206-1-06

6.2 Gadsden Station Conceptual Plat 01PZ-027-201-1-04

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO CONTINUE THE HEARING ON THE ABOVE STATED PROJECTS UNTIL SEPTEMBER 18, 2001.

It was clarified for the record that no new testimony would be taken on the 18th but new motions will be made based on the record and verbatim transcript of this portion of the meeting.

See the court reporter's transcript of this portion of the meeting which is attached for the record.

6.3 Presentation by Pat Thomas Law Enforcement Academy

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Due to the lateness of the hour, the presentation was postponed at the request of the Academy.

7. COUNTY MANAGER'S AGENDA

The meeting with the Airport Authority was scheduled for September 18, 2001 at 5:30 p.m.

8.0 CONSENT AGENDA

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Budget Calendar Update - October 3, 2001 set for Value Adjustment Board Meeting
- 2) High Tech Training Reimbursement Procedure
- 3) Jail Physician Employment Agreement - Dr. Ramos
- 4) Emergency Management Preparedness and Assistance (EMPA) Base Grant #02CP-04-02-30-01-020
- 5) Disaster Relief Funding Agreement (Public Works Department) - Department of Community Affairs
- 6) Annual Certified Arthropod Control Budget
- 7) Library License Agreement - On line Encyclopedia Services
- 8) Letter to Department of Agriculture - Gadsden County's Round III Empowerment Zone Application
- 9) Rehabilitation Agreement and Special Assessment Lien - Vannoy J. Potts
- 10) Contract for Rehabilitation Work - Vannoy J. Potts
- 11) Letter to City of Quincy Regarding Selman Road Resurfacing - for the record
- 12) Chamber of Commerce - June 2001 Economic Development Report - for the record

9. CLERK'S AGENDA

Budget Amendments 01-09-04-01 through 01-09-04-14

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

Ratification to Approve Payment of County Bills

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER

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WATSON, THE BOARD VOTED 3 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONER'S REPORT

Value Adjustment Board

On behalf of Chair Fletcher, Vice-chair McGill appointed Commissioners Watson, Roberson and Chair Fletcher to the Value Adjustment Board.

Letter to CHP on Behalf of Dr. Abbey

Commissioner Watson called attention to a letter from Dr. Abbey stating his desire to become a provider to Capital Health Plan.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 3- 0, BY VOICE VOTE, TO SEND A LETTER TO CHP REQUESTING THAT THEY APPROVE DR. ABBEY AS A CHP PROVIDER.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD AND UPON MOTION BY COMMISSIONER DIXON, VICE-CHAIR MCGILL DECLARED THE MEETING ADJOURNED.

W. A. (Bill) McGill, Vice-chair

ATTEST:

Nicholas Thomas, Clerk

AT A SPECIAL MEETING/PUBLIC
HEARING OF THE BOARD OF COUNTY
COMMISSIONERS HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON
SEPTEMBER 11, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
BILL MCGILL, VICE CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

CALL TO ORDER

Chair Fletcher called the meeting to order. He called attention to the terrorist attacks that took place earlier in the day on the Twin Towers of New York City, the Pentagon in Washington, D.C. and the airline crash in rural Pennsylvania. He called for a moment of silence to honor the thousands of people who died in the attacks.

In the light of the tragedies and the state of emergency in the nation, Chair Fletcher suggested that the meeting be as brief as possible. He then turned the meeting over to County Manager Howard McKinnon.

Mr. McKinnon then called attention to the proposed tentative budget for FY ending September 30, 2002. (Attached) He pointed out the following as being new to the budget over the current year.

1. Garbage Dump Collection at 10 sites county wide
2. Five new fire trucks
3. Salary increases per the third year salary survey
4. Increase to the health insurance costs
5. Additional funds for the telephone equipment and communication equipment for the new courtroom
6. Worker's Comp Insurance for law enforcement officers (It was previously calculated incorrectly and this budget reflects the increase.)

Commissioner McGill asked how the budget would affect the unappropriated fund balances.

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Mr. McKinnon stated that the proposed budget would impact the General Fund Balance by approximately \$50,000 and \$30,000 in the Fine and Forfeiture Fund. It was determined that there would still be at least \$750,000 in the General Fund Balance; \$1.5 million in Transportation # 1 Fund. See Page 126; 127.

Chair Fletcher requested that some of the fund balance be put into contingency funds in the budget so that the County would have access to the money during the year without having to re-advertise the budget to recognize the revenues. He clarified that he was not suggesting that they should spend the money, only that it should be available should the need arise.

Commissioner McGill stated that he would like to have \$500,000 of the Transportation Fund Balance into a Transportation Contingency in the event some additional road construction and road re-surfacing opportunities might arise. (In addition to the roads already scheduled in the tentative budget.)

Commissioner Watson stated that the County could just do a budget amendment if the opportunity should arise.

Commissioner Dixon stated that you would still have to do an amendment even if the money is put into contingency.

COMMISSIONER MCGILL MADE A MOTION TO TAKE \$500,000 OF THE PROJECTED TRANSPORTATION FUND FUND BALANCE INTO THE CONTINGENCY FUND TO ALLOW FOR PAVING AND RESURFACING PROJECTS IF ANY OPPORTUNITIES or NEEDS ARISE. COMMISSIONER DIXON SECONDED THE MOTION FOR PURPOSES OF DISCUSSION.

Mr. McKinnon stated that the Board policy has been to bring all road projects back to the Board for approval.

Commissioner Watson called the question.

THE BOARD VOTED 5 - 0 IN FAVOR OF THE MOTION.

Mr. McKinnon called for public comments.

Commissioner McGill proposed that \$40,000 in additional funds be set aside for non-profits to be divided among those requesting it.

COMMISSIONER MCGILL MADE A MOTION TO PUT \$40,000 FROM THE FUND

BALANCE INTO THE GENERAL FUND CONTINGENCY TO FUND TO NON-PROFIT AGENCIES - IN ADDITION TO WHAT IS ALREADY PROPOSED IN THE TENTATIVE BUDGET. THE NON-PROFIT FUNDING WOULD THEN TOTAL \$180,999. THE DISTRIBUTION OF THE ADDITIONAL FUNDING WILL BE DETERMINED AT A LATER DATE. COMMISSIONER DIXON SECONDED THE MOTION. COMMISSIONERS MCGILL, DIXON AND FLETCHER VOTED IN FAVOR OF THE MOTION. COMMISSIONERS WATSON AND ROBERSON VOTED "NO".

Commissioner Dixon asked that the County develop a recreation program in each district. He said that there are not enough opportunities for recreation in any district. He then stated that there are great opportunities available. He proposed that \$50,000 be taken to begin the process for developing a plan for passive parks - parks for leisure - throughout the County. He pointed out that the County has the natural terrain to become a "show place."

A MOTION WAS MADE BY COMMISSIONER DIXON AND SECONDED BY COMMISSIONER MCGILL TO ADD A LINE ITEM FOR RECREATION DEVELOPMENT WITH \$50,000.

Commissioner Watson stated his opposition citing that the County was in sound financial shape because of the conservative practices. Such a recreational program would compromise the financial soundness. In addition, he said that he gets continual complaints about people loitering in the parks that are already in place.

Commissioner McGill stated that he did not think it was fair for the cities to have to bear the total burden for recreation for county citizens.

Commissioner Roberson stated that her experience had been that everybody thinks having parks is a good idea, but no one wants it in their neighborhood.

THE QUESTION WAS CALLED BY COMMISSIONER WATSON. THE BOARD VOTED 2 - 3. THE MOTION FAILED. COMMISSIONERS DIXON AND MCGILL VOTED IN FAVOR OF THE MOTION. COMMISSIONERS WATSON, ROBERSON AND FLETCHER VOTED "NO."

Commissioner Roberson asked that the County look into encasing the mower tractors and the boom mower for safety reasons. She stated that there have been five accidents recently that give rise

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September 11, 2001 Tentative Budget Hearing

to her concern about safety for employees that operate those machines. She then stated that the States of Florida, Alabama and Georgia are already in the process of enclosing all their tractors for the same reason.

She also stated that Public Works Director Robert Presnell would like to get a new boom mower, but keep the old one to be used just on paved roads. She explained the Mr. Presnell had said that there is enough mowing work to be done to keep two tractors busy.

Commissioner Dixon asked if it made sense to enclose the existing machines or just begin to purchase enclosed ones in the future.

Commissioner Roberson said that it might not be economically feasible to enclose the current machines that are being used, but any machinery that is purchased in the future should be enclosed.

Commissioner Dixon asked if the machines with enclosed cabs would cause an increase in operational costs.

It was suggested that it would likely cause an increase in fuel and maintenance.

Commissioner Roberson stated that if you had ever seen the mowers operate, it would be obvious as to why an enclosure would greatly enhance safety.

Chair Fletcher acknowledged that the mower is a vicious machine, but with additional contingency funds in the budget, such things could be easily addressed.

Mr. McKinnon stated to the public that the final budget hearing would take place on September 24 th at 6:00 p.m. at which time the Board will give more directions to the staff as to how to distribute the non-profit funds in the budget. He then stated that if there was anyone present who wished to make comments at this meeting, the Board would hear them.

Chair Fletcher called for public comments.

Mr. McKinnon stated that the local American Red Cross Chapter was activated earlier in the day in response to the national emergencies. There was a representative present to request funding. Her name was not stated for the record, but she was representing Ms. Karen Hagens.

She stated that she had been watching the activation of the military forces throughout the day in response to the terrorist attacks in New York City and Washington D.C. She said that the government requires all Red Cross chapters throughout the world to serve the military families even though they do not get federal funding for that service. She said that it is vitally important for Red Cross staff to be present and on duty for 24 hours a day.

She then said that the local chapter served 79 different families in Gadsden County last year who needed to reach their military family members. Then she said that all of the servicemen and women who were activated on this day will have a need for the Red Cross services within the next two days to contact their families. She explained that, at the present time, there is no communication going in or out of New York City and the local chapter was already taking inquiries from family members. The disaster workers are making plans to go to New York, Washington D.C. and Pennsylvania right away. She said that the local chapter has been servicing Gadsden County for 85 years and the funding was very critical.

Ms. Sandy Watts then addressed the Board. She stated that the local chapter responded to 69 home fires in Gadsden County alone within the last year and expended \$28,000 in those fires.

Commissioner McGill asked why they did not receive federal funding.

Ms. Watts stated that they can get federal funding for specific projects, but there is no federal funding available for emergency services related to home fires and natural disasters.

Ms. Sherry Taylor, Executive Director of Children Are Our Future, addressed the Board. She said that she could not be back on September 24th and requested to address the Board. She said that in light of the emergency situation in the nation, she would keep her remarks brief. She then stated that the organization served 175 children last summer. She said that they could have served more, but the funding did not allow for it. She then explained that they would like to implement an after school program and requested additional funding to help with that cost.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER

DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE TENTATIVE BUDGET AS RECOMMENDED BY THE COUNTY MANAGER \$23,637,845 PLUS THE AMENDMENTS AS PROPOSED AT THIS HEARING AS STATED ABOVE.

ADOPTION OF THE GENERAL OPERATING FUND MILAGE AT 10 MILLS

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO ADOPT THE MILAGE AT 10 MILLS.

ADOPTION OF THE DEBT SERVICE MILAGE FOR THE HOSPITAL AT .64 MILLS

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO ADOPT THE HOSPITAL DEBT SERVICE MILAGE AT .64 MILLS.

ADOPTION OF THE AMENDED TENTATIVE BUDGET

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO ADOPT THE TENTATIVE BUDGET AS AMENDED AT THIS MEETING.

INCREASE IN INSURANCE

Commissioner Watson inquired as to why the insurance amounts went up so much in this budget.

General Services Director Arthur Lawson explained that there was a tremendous increase in prescription drug usage and demand for specialty doctor services from patients which contributed to the increased costs.

There was some discussion regarding other insurance carriers.

ADJOURNMENT

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER
MCGILL, THE CHAIR DECLARED THE MEETING ADJOURNED.

E. H. (Hentz) Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON SEPTEMBER 18, 2001,
THE FOLLOWING PROCEDURES WERE
HAD, VIZ.

PRESENT: H. E. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Hal Richmond led in pledging allegiance to the U.S. Flag and Commissioner Watson led in a prayer.

2. ADOPTION OF THE AGENDA

The following changes were made to the agenda:

- 1) Commissioner Dixon asked that the Special Events Ordinance (Item 3.1) be pulled from the agenda and tabled until October 2, 2001.
- 2) Dave McLain - Tri-State ACF Water Allocation Negotiations (Item 4) was removed from the agenda per Mr. McLain's request.

UPON MOTION BY COMMISSIONER DIXON SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED ABOVE.

3. COUNTY ATTORNEY'S AGENDA

3.1 (Removed from the agenda)

3.2 Public Hearing - Ordinance for Prohibition of Pinhooking

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Mr. Richmond called attention to the proposed ordinance stated above. He said that this hearing had been properly advertised. He then stated "There has been a proposed pinhooking ordinance dealing with the sale and repacking and resale of tomatoes in Gadsden County during the growing season. In the past, we have experienced difficulties with numbers of people doing this on county rights-of-way and county roads and in areas on private property that has not been properly permitted or zoned for that. This ordinance provides for proper sanitation and security and traffic control and for a permitting process to allow us to find out where it is going on so we can control it. That is the purpose of this ordinance." He then read the title of the ordinance into the record.

A MOTION WAS MADE BY COMMISSIONER WATSON AND SECONDED BY COMMISSIONER DIXON TO ADOPT THE ORDINANCE.

There was some discussion as to Item number 7. It was determined that language should be added to allow enforcement to be carried out by a law enforcement official, code enforcement official or someone designated by the county manager.

Violation penalties were discussed. Mr. Richmond stated that it is a second degree misdemeanor and penalties are prescribed by the Code of Ordinances. (\$500 per violation or 60 days in jail)

COMMISSIONER WATSON AGREED TO AMEND HIS MOTION AS DESCRIBED ABOVE. COMMISSIONER DIXON AGREED TO AMEND HIS SECOND. THE BOARD VOTED 5 - 0 TO ADOPT THE ORDINANCE AS AMENDED AND STATED ABOVE.

3.3 Frank Clore - Havana Flea Market

Mr. Richmond explained that the County had issued Mr. Clore a cease and desist order at the proposed flea market on north US 27. He explained that they have the right to appear before the Board and appeal that determination. He continued by saying they have filed a law suit but the County has filed a motion to dismiss the law suit for failure to exhaust administrative remedies because they did not come to the Board first.

Mr. Clore nor his attorney, Bruce Wiener, were present. This matter was passed to the end of the agenda.

3.4 Dr. Anthony Arnold - 10/90 DRI/Asphalt Plant and Procedures

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Dr. Arnold addressed the Board speaking on behalf of Gadsden United.

Arnold:

The subject I want to speak on is not the asphalt plant itself, but the procedures that we have gone through to arrive at where we are.

The main issue and the most important one has been that of citizen involvement aside from the fact that there has been almost no notification other than for the people who live within 1,000 feet.

I know that this is a regional project. That is what DRI stands for. And yet, there aren't many people living within 1,000 ft., and almost no citizens were notified. I think you need to develop a process by which, when a project is regional, the notification is regional, somewhat.

The first chance that the citizens had to give input would have been at the Planning and Zoning meeting on May 2. That meeting didn't reach a quorum so, no one was allowed to speak. After that meeting, the chance for citizen input would have been the next County Commission meeting on the 7th. At that meeting, the issue was continued rather than addressed. So, again no citizens spoke.

After both of these meetings, the proposal changed but the citizens still weren't sure of what the actual proposal was. Yet, it didn't go back through Planning and Zoning for their input.

Finally, at the last meeting on September 4th, at the County Commission meeting, the citizens did have a chance to speak. But, at this time, the applicant's lawyer asked that she be allowed to do a brief introductory presentation after which the citizens would be allowed to speak, followed by a lengthy rebuttal from a team of experts with no further citizen response.

Not only did that protocol eliminate citizens rebuttal for the program, but a couple of exceptions were allowed. Those were citizens who wanted to speak in favor of the project - Armer White and Mr. Peavy.

The reasons that this is important is that there were a number

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of aspects of the applicant's second presentation that we felt had problems and we wanted to talk about them. But, of course, we couldn't speak after that point and we were not allowed to.

Second issue. In the DRI, there are several statutory thresholds that, if crossed, apparently, it is my reading, and I am not an expert on that, but, this is 380.06. It looks like it is when those thresholds are crossed, it automatically triggers a significant deviation from the development order. We seemed to not have paid attention to that aspect.

Apparently, you've had some unannounced meetings. One in particular on the 16th of August. Now, this wasn't, I don't think it was subject to Sunshine because there weren't any elected public officials at that meeting as far as I understand. But, the meeting appeared to be intended to the citizens who attended, appeared to be intended to smooth the way for the applicant by negotiating with an agency head. And this was very upsetting to a number of citizens who attended.

At that meeting, Bruce Ballister said - and I am quoting here - One of my objectives at this meeting is that I want a cleared agency letter from all agencies, especially regarding the DOT and traffic on Brickyard Road."

Now, it would appear from that comment that Mr. Ballister's intent of the meeting was basically to get cleared agency letters. Not, as informational, fact finding process, but, in effect, to smooth the way for the applicant.

Tyler McMillan's comment at that point was that the message that they were getting was that the County wanted this project to go through and they were going to frame that agency letter on that basis.

In my opinion, from that point on, the agency letters have been tainted by that assumption on Mr. McMillan's part and presumably by, I don't know, by the other agency representatives.

Now, it may be that Mr. Ballister was correctly representing the consensus of the County Commission, but, if he was doing that, I would have to ask how that consensus was arrived at and if it was arrived at in the Sunshine.

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Now, fourth - with regard to changes in the application package, we've seen - the procedure this time seems to be that an application, a change in the application package can be made after it is presented to a Board - "a" being P & Z. Apparently, there were changes made after the initial attempts to present at P & Z, although P & Z never met.

Every application is allowed to go forward. If an application goes forward after changes are made, rather than being sent back through P & Z, a number of important things happened that need to be paid attention to.

First, that citizens have no idea what the application is anymore if it is changing as the process goes on and doesn't get sent back for approval.

Second, the applicant has the opportunity, I am not saying that happened here, but, the applicant has the opportunity to tailor the application to meet the approval of each board as they go along and then change it to meet the approval of the next one. That opportunity exists. I am not saying that it happened here, but, if you allow a package to change as it goes through the process without sending it back through the process, you don't know whether that change has happened. This is basic procedure to keep the applicant honest.

It is also possible for the applicant to represent to the County Commissioners after they have been through P & Z that they have made the changes that P & Z asked for. They have addressed the questions that P & Z had. But, unless you send the package back through P & Z, you don't know that and you have to take the applicant's word for it. Again, that shouldn't be the case. You should send the package back through. That would solve that problem.

In this particular case, this procedure means that there has been no P & Z input at all. The first meeting didn't meet a , didn't make a quorum. After that, no input from P & Z. I believe the applicant was offered the opportunity to go back, but declined to accept that opportunity.

On a project that changes the DRI, that seems to me to be inexcusable. Why have a P & Z Board if you don't use them or make use of their expertise.

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Formerly, the packages prepared by Bruce Ballister were - it seems to me, to be incomplete. At the very beginning, we saw a few negative agency letters in the commissioners packets. After that, we haven't seen letters. I don't know why that is - presumably there have been positive letters - some positive quotes have been extracted from some letters and have been presented by the applicant. But, we haven't seen agency letters in the commissioners packets and you don't have them tonight in your packets.

Also, we don't see up to date maps reflecting the changes in the application as it goes along. In fact, these missing essential elements have to be tracked down before the packet can actually be read.

To my mind, the purpose of the packet is to pull together relevant information so that readers and the county commissioners can make an informed decision, not to conceal information by scattering it through county offices so that anyone who wants to understand the packet has to chase rabbits in order to do so.

One of the things that wasn't included was a compliance history. Citizen groups tracked that compliance history down because Bruce Ballister didn't - and we feel that he should. The citizens feel we have to do this. We are taking off time from our jobs to do this. We all have 9 - 5 jobs, most of us do. And, if we take time off from our jobs to do this, we are faced with a constant reminder that right up to the minute of a meeting like this, in fact, I was working on this right up until I left for this meeting. We are reminded constantly, we are playing catch up, trying to get you the information that should have been in your packages to begin with. Is it any wonder that we get hot under the collar by the time we get here under those circumstances?

At the end of the application, the options that are open to you should be clearly presented. In this case, they were not complete. They offered basically 2 options. One was to find a substantial deviation and the other no finding of substantial deviation. No enemy positions were positions were presented to you at all. That forced you into the box of having to go totally for the project or totally against it. Those options were not the only options open to you. You

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could have found room for compromise in between.

In addition, the options open to you at the end of this packet are confusing. The options are seem to be listed under Item 5. Required action by the Board of County Commissioners - no.1 - the governing body is required by Chapter 380, FS to find that the proposed change is, as outlined in NOPC, does not constitute substantial deviation of the approved development order. It seems to be stating that that is a requirement - to find that it is not a substantial deviation.

There are some other options offered to you there. That is a very confusing way to present it. To present a decision that is favorable to the applicant is a requirement. But, that is the way it is worded here - in the package that you've got. Finally, I am still disturbed that yesterday's meeting had to take place at all. As a representative of Gadsden United, I am doing what I can to salvage our environment. But, by working with all parties involved. And, I very much appreciate Nancy Linnan's effort and the County's last minute efforts, but this shouldn't be a last minute effort. That should not be the case. It should be a public process and without any last minute decisions at all.

There should be public involvement all down the line and the County should not allow itself to be stampeded into action by an applicant, no matter how urgent the issue seems to be to the applicant. I realize it is urgent for Mr. Peavy. He has made a substantial investment even before the project was permitted. I sympathize with his situation, but the County should not be short-circuiting its normal procedures and cutting the public input simply because the applicant is in a rush just to push the project through. You should not allow yourselves to be stampeded this way.

There are larger issues at stake and the public input is a larger issue. You seem to be ignoring that.

Thank you.

Fletcher:

Thank you Dr. Arnold.

Mr. Ballister.

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Dixon:

Mr. Chairman, I really want Mr. Ballister to respond to Mr. Arnold's concerns.

Ballister:

O.K. I don't have the great notes that he had, but I will try to remember the essential comments.

When we missed the June, I believe it was the June P & Z quorum, the procedures have been in place that when P & Z fails to meet, the applications automatically get forwarded to the Board of County Commissioners for review because there is only 1 opportunity a month for the P & Z application to be heard. That is what we have always done. That is the procedure. It is not outlined as such in the Code, but that is what has been done in the department for some time.

If you would like for us to revisit that and make it an automatic postponement or re-scheduling of that hearing, we can do that. But, that is not the procedure we have been using.

As to the evolution of the application over time - I think that is a good way to phrase it - I think, in the long term, yes, it is appropriate to keep the public informed. Due to the request by Ms. Lasley, we have tried to keep Gadsden United informed. They seem to be the dominant "watch dog" group in the County. I appreciate their efforts to stay informed and keep you informed. We have attempted to make copies of everything available (in the files) to them. To the point of when I got new information from Ms. Linnan, the applicant or anybody else, we made copies. I apologize to Marion, the last time we made copies of the SIC code list, my staff assistant did not make double sided copies, so, she got an erroneous batch of paper, or useless batch of paper. But, to my knowledge, we have tried to make those public documents that come into the file available to her.

We did not re-issue agency letters. They were handed out, as I understand, last Tuesday and they were submitted into the record last Tuesday. In terms of agency letters, I still do not have an agency letter from Game and Fish Commission. I spoke with Rick McCann several times over the last few weeks and he indicated that he was busy working on other response letters from other applications and he would try to get one to

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us. I still do not have that in hand.

As to the intent inferred by my tone at the August 16th meeting - Yes, it was. The reason we were there is because we had agencies that had responded, there were negative comments, it was the applicant's opportunity to respond to those negative comments, try to understand, I give the agencies a chance to try and understand the applicant's position. If there was an inferred tone that the County wanted this to happen and that was the reason there - that is erroneous and I apologize for that inference, but, the object was to address those agencies who had made comments that were short of approval letters. And, the applicant made that presentation at that point.

And I think that Tyler McMillan made an excellent response in his letter. He said that his original complaints had been addressed, but, he, in no way, in his approval letter said that he conferred approval of the project - but, just simply that we had addressed the issues that he brought up.

Mr. Arnold, or Dr. Arnold indicated that we arrived at an intermediate position. And, I guess that's a good outcome.

If, what the applicant is going to present to you tonight, is approved, they will have an approved project that is probably much more to the county's future. If it isn't (approved) it isn't. On whatever merits, that is your decision to make. But, there is a better application here now because we have been through several meetings. I wish that I didn't keep getting packages of information at the meetings instead in enough hours in advance to review them. So, I haven't really had the chance to read this resolution as it is currently amended, having just been handed to me.

There is a list of codes and standard industrial classifications from OSHA that we reviewed yesterday in the county attorney's office. Gadsden United was there, Dr. Arnold was there, Marion Lasley was there, Carly and I were there and we went through, excuse me, and, Tallahassee Redi-mix was there. So, a table full of people went through a list of the 1987 approved codes and usually at the instigation of one member or another at the table, different codes were stricken from the list. There is far cry, or a huge difference, I'll say it that way, between what is allowed in the two-digit SIC list and the four-digit SIC list.

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Were the original 1987 granted the use for the use for broad categories- for industrial categories - like all wholesale or all retail or all manufacturing in certain categories. When we went through the four-digit form, we took very specific uses out of the approved list. Again, I have not had a chance to compare this list with my notes from yesterday.

Before we merge, I guess I could do it later, but, I would like to get back ,if I could, at some point tonight, to asking a question about the pin-hooking operations. Because there is one pin-hooking site that has a permit for this season. I don't know if the ordinance is designed to affect that site or not.

Richmond:
What site?

Ballister:
At Bostick Road and US 90. It is across the road from the old flea market site. They were operating at the first growing season and I imagine they intended to re-open in a few weeks for the second growing season. But, with the understanding that they wouldn't open at that site again. I need to know what to tell that person.

Richmond:
We'll discuss it later, if you'd like. I mean, the ordinance is there. He can apply for a permit but he's got to meet certain sanitary, safety and traffic requirements. If he does, and security, if he does that, he can open anywhere.

Ballister:
I will call him tomorrow.

Dixon:
Bruce, do you think we should have those letters?

Ballister:
The one letter that I don't have that was, I guess, a clearing of the initial set of letters is from the Game and Fresh Water Fish Commission. Or, whatever it is called now. He apologized. He said he had a busy schedule, but, he would try to get the letter to me either by FAX or mail. Neither one has shown up on my desk. So, I just don't know that response. Their thing has to do with the status of the area that is to

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the southwest of the pipe line. And, they wanted it to be held in conservation easement. The applicant wanted to reserve the right to use it as a mitigation bank for gopher tortoises. In fact, there is an enforcement action now against the applicant for some tortoises that were damaged by some clearing work. And, in fact, some of that area is being set aside for mitigation bank for gopher tortoise relocation. I did get a copy of that from the District.

Dixon:

My concern is that I thought we would have them because I listened to Ms. Linnan last week and read a portion of a letter that sounded very favorable to her position.

Ballister:

That portion of the letter.

Dixon:

Then somebody else read another portion that took me in a very different direction. And, I would like to be able to read those letters to make up my own decision about what state agencies are thinking and saying.

Ballister:

I apologize. I thought that you all got copies of those letters when they were submitted into evidence, too.

Dixon:

I mean that one letter that he is missing.

Ballister:

Oh. Which letter?

Dixon:

Didn't you say that you were missing a letter?

Ballister:

I don't have a response back yet from the Game and Fresh Water Fish Commission.

Dixon:

Ms. Linnan, do you have a response?

Linnan:

No, sir. I do not because you closed the record. I could not

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have submitted it into evidence.

Richmond:

Can I briefly just put the details on this before (inaudible)?

Ballister:

Does a letter exist?

Richmond:

You had a motion you wanted to make about opening the evidence. If I can, briefly, for historical purposes.

At the meeting on the 4th of September, we had a beginnings of a quasi-judicial hearing. At that hearing it was determined that the order of the proof would proceed with those opposed to it going first. Then, the applicant filling in the blanks with their presentation, at which point, the evidence was closed and deliberations began.

It became clear in the deliberations that we could not get a second for a motion to either approve or disapprove or initially define whether or not there was a substantial deviation, which is the first hurdle you have to find.

If there is a substantial deviation that ends it. If there is no substantial deviation, you move on to whether it is approved or not approved on the surface.

During that procedure, it was requested or suggested that we meet and possibly determine whether or not some of the SIC codes could be eliminated. The only way that SIC codes can be eliminated from that DRI is with the agreement of the applicant.

They've got them. We can't stop them from putting anything they want out there within the DRI as it currently exists.

Pursuant to that, we had a meeting yesterday with Gadsden United and with other members and we went through the SIC codes and they eliminated substantially every one that either Dr. Arnold or the staff or anyone had an objection to. And, they made certain other commitments to change the application which is now in this new resolution that is before you.

When the evidence was closed at the hearing on September 4th,

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there were letters introduced, I believe by Dr. Arnold, from the Game and Fish Commission or from others. That was the only agency action, I think, that felt there was substantial deviation.

There were letters from many other agencies that said they did not feel that it was a question of substantial deviation. Now, that becomes a question of fact for you to determine initially - whether there is a substantial deviation or not.

The proposal that is now before you that has been furnished - yes, at the last minute mainly because of the last minute negotiations - includes many things. It includes the elimination of many SIC codes that would be heavy industrial and create many problems, I think, if they went ahead and put these things out there to spite us. I am not saying that they would, but, I mean, it has been a fair negotiation.

There is also, as a part of this agreement, another tract of land located within the City of Midway which I call Stiles/McCord which is actually -

Yes, sir?

Ballister:

Maybe we might want to move off the Dr. Arnold portion of the testimony and move on to the other agenda item, then they could go ahead and start doing their recording.

Richmond:

Well, we already have, I think.

Ballister:

I don't know when to signal the court reporter to start recording.

Richmond:

It doesn't matter to me. That's their record, not mine. Muriel has got mine.

But the purpose of it was the Stiles/McCord property, they have gotten a grant which they have no obligation to, but, they would limit the use of their property which is located within the City of Midway to non-heavy industrial use. They agreed that they would give us a restrictive covenant for the

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benefit of both Gadsden United, Gadsden County and, I believe, the City of Midway, that would be enforceable by any of those 3 agencies that there would not be heavy industrial on that property.

Now, once again, we have no right to expect or have no way of obtaining. So, that is the procedure and that is where we are at at this point in time. They also agreed that they would re-pave 1.9 acres of land, miles - (you did that to me, excuse me, there was a typo in it at one point), 1.9 miles of roadway within the City of Midway. Those specific roads have been made a part of this procedure and process at this point in time.

So, at this point in time, which is what I have been trying to get to for the last five minutes, and I apologize, is if the Board determines that it wants to take additional testimony and evidence in the quasi-judicial proceeding, I believe it has the right to do so. You can do so by motion. The purpose of it was to obtain the attendance of the other two members of the commission who could not be here so that proper resolution of this matter could be made tonight.

The Board has had the opportunity of reviewing a transcript, a verbatim transcript of the meeting of September 4th. The testimony that's been presented would be the basis of that. So, when Ms. Linnan says that the evidence is closed, she doesn't have the ability to put other matters into evidence, that is correct at this point.

But, it is your option, gentlemen and Commissioner Roberson. That is why I said earlier, you can make a motion, if you want to open it up, you can do that and we will proceed. Or, we can proceed based upon the application and the proposed resolution that is here.

Dixon:

Mr. Chairman, I motion to open it up because I would like to hear what the agreement is.

Watson:

Second. I agree with that.

Fletcher:

Can we agree to limit it to 15 minutes to each side?

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Richmond:

Procedurally, you can place reasonable limits, but, once you open it up, it is a quasi-judicial hearing and

Fletcher:

We are going to limit this thing, this judiciary hearing, to 15 minutes per side.

Richmond:

You need to have a vote on the motion.

You have a motion and a second from Commissioner Watson. We just need to have a vote on that and then we can open it up.

Fletcher:

We have a motion and a second to open it up for 15 minutes. All in favor, say "aye".

All commissioners:

Aye.

Fletcher:

Opposed?

No response.

Motion passes.

Dixon:

Proponent and opponent.

McGill:

Before we start doing that, Mr. Chairman, I would like to recognize the (inaudible) but, I think we ought to look at - I'm not sure we can do it right now, Mr. Attorney, but at some point, we need to take a look at that. If substantial change has been made, (inaudible) Because of P & Z's requirement, then it should go back to P & Z to have a look at that to make sure that they did that. Or, if for some reason that a quorum was not present, the opportunity would then come back to the County Commission, just like they did before. But, I think we ought to look at that. I think it is the right thing.

Richmond:

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Well, the proposal, here is the position that we are in at this point in time.

McGill:

I'm not talking about this one.

Richmond:

In the future, yeah. In other ones, yes.

Procedurally, we are in the middle of a quasi-judicial hearing where the evidence has been closed. You have now voted to re-open it. It has been requested that the proponent go first. The applicant, if you will, Ms. Linnan.

Fletcher:

Do we need to swear them in?

Richmond:

Would it be proper to take questions at this time from the Commission? From Ms. Linnan? If you have some before she begins, is there any particular area that you want her to direct her evidence to?

McGill:

Do we need to have her sworn in again?

Richmond:

No, she doesn't get sworn. She's the lawyer.

Linnan:

Does that mean you don't trust me?

Laughter

Richmond:

Let's just say we know why you are here.

Laughter

Dixon:

That means that the judge knows better than to waste his time.

Laughter

Linnan:

I had not really planned to testify tonight. Only to describe,

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in detail, the proposal and the meetings that have been taking place. But, I will answer one of the questions that I didn't hear Mr. Ballister respond to.

First of all, there was notification. Statute requires notification, not by mail, but notification by advertising in a newspaper at least 15 days before the hearing. That was done. And in your county, it requires that we do it in three papers. So, that was done in this case.

The Legislature did that because there are regional issues and they don't want to miss anybody. Now, if the County chooses to do the mail whether it is 500 ft. or 1,000 ft., that is up to the County. Very few actually do that in DRIs.

Secondly, some of the frustration that Mr. Arnold exhibits, and I can't say that I blame him, is the result, and I see commissions in city and county all over the State doing this, it's kinda the unfortunate result of taking a public process and imposing on that the quasi-judicial requirements where everybody gets sworn and you have court reporters and you are limited in what you can do and you can't talk to anybody outside. Some of that is just a natural result of that. We are trying to fix some of that in the Legislature. But, the quasi-judicial ruling is a constitutional ruling and there are some issues in being able to do that. But, some of that is just kinda the natural tension. I wish I could tell you that there was a magic answer to some of that.

My purpose tonight is really to come and explain to you the proposal that is before you tonight. I have handed out, I have given copies to the representatives of Gadsden United that I recognize. I have extra copies if any members of the audience would like to see it.

It is in the form of a resolution. Let me explain that. Any DRI modification is normally done as a resolution, not as an ordinance. Some local governments do require ordinances. Most do resolutions because, with the effect of the DRI Statutes, the resolution has the force and effect of Law. It is not a resolution where you can change it next week or next year without going through the formal process. So, I wanted to assure you, by doing it by resolution, you are not doing anything any differently that anybody else does. It has the force and effect of law. Any change in words in that

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resolution have to go through this wonderful process all over again. Or, if it is a substantial deviation, if it is a really significant thing.

Because of this statute, it has more force and effect because it is backed by the County, it is backed by the State Attorney, it is backed by the Department of Community Affairs being able to enforce it.

Conditions to the Development Order, which is what Hal started into and which you really care about. There are a number of conditions that need other documents than what is in front of you. I am just going to touch on those tonight. But, mainly, I want to spend time on those that were a result of a meeting yesterday. We were willing to meet beforehand but all of the parties could not get together until 2 o'clock yesterday. That was the delay. We were ready to meet last week or whenever.

Of the result of meeting with members of Gadsden United, Councilman Willis of the City of Midway was there and County staff was there including the County Attorney. There was no - nobody walked out of that meeting making any commitments. Councilman Willis made it very clear that his Council wasn't - had not taken a vote. He was not in a position to do that. He was there just to comment from the prospective of the City of Midway.

First of all, the changes, as we explained the last time, they change the DRI map. This is what we showed you before and I will be happy to pull out the maps, if you would like it. It revises the entire configuration of the lots and the roadway in that the roadway loops slightly outside of the property.

It adds a rail spur to the development plan. It has a second access into the property. It relocates that access, but makes the second access into the property from Brickyard Road. It takes a large amount of property out of the development category. All that property which is in the conservation area or which is in pink - it is non-developable property.

For the audience, the property it takes out of consideration - any of the wetland property, except for the two railroad crossings, and the area in pink which is going to be not developed. It is shown as open space on the upper conceptual

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plat.

Most importantly, from your standpoint and the reason that there has been much of the controversy surrounding this application, is that it adds and deletes the Standard Industrial Classifications - SIC Codes which the people refer to.

We wanted to add lumber, wood products (except for furniture and sawmills.) We wanted to add an asphalt plant for asphalt paving mixtures and blocks. And, we wanted to add the ability to stone, clay, glass and concrete products.

As you remember, when we looked at the SIC codes the last time - the last time, - there are a number of - there are far more extensive than any of us would consider when we consider what we call "light industrial". But, they were approved back in 1987. And, as a consequence, we met with the parties and negotiated out 60 approved four-digit SIC codes. At great potential expense to the company, we restricted four others. In other words, we said you can use this category, but, you can't do "a, b, and c" within that category.

At the same time, we added any use of the possible uses that is currently allowable under the "Light Industrial" category of the Gadsden County Land Development Code. The parties spent a awful lot of time and an awful lot of effort - admittedly at the last minute, but, that was because of scheduling, to try and do that, and in making a good faith attempt to go through that. And, I think that the property, with this revised SIC code, more accurately reflects everybody's intention for it to be Light Industrial, with the exception of the asphalt plant, the concrete block plant and the concrete forms plant. Those are limited to certain portions of the property.

Let me make it clear. There can be only one asphalt plant and that is shown - the 10 acres on which that will sit are shown on that map. We can't put an asphalt plant anywhere else. We can't put any of these uses south of the major area and north or south of those wetlands.

The Development Order then goes on to add 10 special conditions, many of which were new yesterday. It re-locates the existing drive-way 13 ft. to the west. So, the existing

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drive-way is 100 ft. from the center line of the railroad track. It requires that we do this through the Department of Environmental Protection.

All construction and demolition debris to be disposed of at permitted land fills. Didn't think there was any questions about that, but, they asked about it so we said "Sure, no problem."

We clarified the septic tank usage as temporary only. They hook up when available and they have only up to 24 months of the effective date of this development order in which to do that.

It discusses the loop road. First, it says that we have to build the entire loop road, including that piece outside on the City of Midway and dedicate it to County. When the County accepts it, which means that it's got to meet county standards. Second, in response to concerns, that property in the City of Midway (not part of this DRI, not part of any of the open discussions) could be used for other purposes. We went through - Mr. Stiles and Mr. McCord. Mr. Stiles is the president of Midway Park, Inc., the holder of the property. The stock holders in Midway Park, Inc. are Mr. Stiles, Mr. Stiles' sister and Gyte McCord. We got them to agree, as a condition of the County, allowing that loop road to dip down there to exit the DRI and enter their property, that they would forever prohibit heavy industrial uses on the property.

Mr. McCord asked me to deliver a letter to Chairman Fletcher which I did today with a copy to Mr. Richmond to that effect.

But, also, there is a condition in the Development Order, that as a condition of allowing us to do this, these guys will do this and this is the time frame.

And, what it is, is they have to present the covenants and restrictions to the county attorney, get him to sign them to be in acceptable form, and then they must be in space no later than 10 days after the final effective date of this Development Order. They actually have to be recorded in the Public Records of the County.

Except for the railroad crossings, and other conditions that we cannot develop in the wetlands subject to DEP or Army Corps jurisdiction, we cannot develop within the 50 ft. buffers around all of those wetlands.

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Stormwater runoff from the asphalt plant is going to be directed to a stormwater management facility that holds on site and treats the runoff from the 100 year storm event. Folks, this may be the only one in the State of Florida. And, the pond is going to be fitted with a oil/grease skimmer.

The asphalt will utilize natural gas as soon as it is available. But, because there is some concern about this, there is a condition in the Development Order that will limit the use of fuel tanks -the only thing that anybody was concerned about - to no more than 24 months after the effective date of the Development Order. That wasn't something we even discussed with Gadsden United yesterday, but, was a comment or commitment I had made earlier. And, so, we left it in the (inaudible)

The asphalt plant - there was some concern that Mr. Peavy could move an old plant onto the property. So, we committed in a condition in the Development Order by make, model and serial number of which plant we are talking about. It is the plant that was in the video that ya'll saw at the very end.

The Anderson Columbia must plant and maintain an enhanced vegetative buffer inside its property line along the entire length of that property line on Brickyard Road. That would consist of (we had some discussion about it yesterday) of alternating rows of pines and shorter plant material - trees, but shorter, bushier trees - all of which would have to be at planting 4 - 5 feet. The plants have to be in within 5 months. I picked the 5 months because I like trees and the best time to plant them is in about 5 months. They've got the best shot of living.

Dixon:

Is there any natural buffer?

Linnan:

Pardon?

There is an existing mulch buffer consisting primarily of (just having driven it) large pine trees. With a large pine tree, what you mostly see is the trunk. You have some underbrush. That would be, if anybody wanted to maintain it, but, in addition, we would plant this on our property.

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Dixon:

I'm going for an unseen look.

Linnan:

Pardon?

Dixon:

I'm going for unseen.

Linnan:

That's what we are trying to pull off, also.

We agreed to resurface 1. - an issue came up whether we would resurface Brickyard Road. Brickyard Road is already resurfaced, although we had agreed to do that. So, we agreed to resurface 1.9 miles of two-lane roadway within Midway within 1 year of the final date of this approval. The County will designate those roadways. We will go ahead and do it at that point. The list is provided to Anderson Columbia.

Fletcher:

And I want to point out that the reason I missed the Airport - the joint Airport and County Commission meeting was because I was working on this item with Ms. Linnan at that time. Go ahead.

Linnan:

The final condition is - at the last meeting, I saw fleetingly as a condition, but, we were asked to agree to - but, I have not had the opportunity to review it. Gadsden United was kind enough to provide it to me today. I had problems. Quite frankly didn't understand the conditions, so, I rewrote it to be real clear. What it says, is just because we have the land use approval, nobody out there, it runs with the land is relieved from any permitting requirement and it specifically mentions, including but not limited to DEP, Corps of Engineers, Gadsden County Permit. The conditions of the permits must be followed. Any violation of any permit condition is deemed a violation of the Development Order.

And with that, I believe that the resolution reflects not a perfect solution for everybody, we all wanted more in our own way, but, I have checked with Anderson Columbia and we are willing to live with that. The resolution in front of you

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contains findings that it is not a substantial deviation, approves the development we are seeking and puts all the conditions in place. And all that I would ask is that you adopt the resolution, which I hope you will, you will give the county attorney the ability to make ministerial changes. Mr. Donovan has already noticed typos in the documents.

Fletcher:

Your 15 minutes are up.

Richmond:

Who will speak against?

Anyone, feel free.

Ms. Lasley, unfortunately, this is testimony, but I believe you were previously sworn.

Lasley:

I was. I was.

The volume of information that goes into this project is incredible. And, the amount that was in tonight's packet is 14 pages and I just, you know, I want to make sure that everybody has read the last 3 county commission packets regarding this because you have to have read them all to be able to put all this stuff together. That's one of the procedural things that I have a real problem with. I think this is a real important issue and I just, you know, I know you people are as busy as we are and you probably have less time to call Bruce and try to get a copy of the SIC codes.

I question whether or not you can fully understand, you know, everything that you are being asked to decide.

Let me see.

The agency letters - we did discuss that and they were all presented to ya'll as I recall.

My concern, I did attend the meetings and you know, if there is no way that anybody can say "no" to this project, I have, We need to make sure that the Stiles/McCord property is dealt with correctly. Bruce stated over and over again in his Planning and Zoning, I mean, his comments, that the road would

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need to stay in the DRI on Gadsden County property. It was also stated that Midway had to be involved in the discussion because they were going to co-own it.

Several things have happened and it hasn't ever really been - things have been dropped and they haven't been addressed. They have not been re-addressed. They have not been finalized.

I looked at the plat map after our meeting yesterday. The best I can tell, it is 640 acres that this road is going to allow them access to. And, you know, I think that everybody needs to feel like it is a great thing or else the road needs to be in the DRI, within the DRI so that a connection can be voted on by the Board.

I know that Mr. Stiles and Anderson Columbia already have an agreement, but that is not really, that's not really your problem.

And, you know, so, I think some questions need to be asked about that.

Dixon:

What are you saying about approving the road in its extended condition, are we going to arbitrarily impose development conditions on Midway?

Lasley:

Oh, absolutely not. You have no control.

Dixon:

So, the letter we have means absolutely nothing? Or, the letter Ms. Linnan recommends would mean absolutely nothing because they would not have to come to this board?

Lasley:

Well, the property belongs to Midway. And, you know, I don't know. Mr. Richmond is going to have to be the one to defend his position on that.

Richmond:

What the letter says, if I may, and I don't mean to interrupt, is that they will not do any heavy industrial development and they are giving us the right to intercede and force that

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restrictive covenant.

Dixon:

So, it's not within our jurisdiction?

Richmond:

But, they are giving us that right even though it is not within our jurisdiction because it does affect the County. We are getting something for nothing. We had no control of it now - absolutely none.

Lasley:

We do if the road doesn't go in.

McGill:

Well, why would that right not be given to Midway?

Richmond:

It is being given to Midway as well. Midway's got it.

McGill:

O.K.

Richmond:

But it is being given to Gadsden United as well.

McGill:

So, you are talking about three different parties - City of Midway, Gadsden County and Gadsden United.

Richmond:

Yes, if they put heavy industrial.

Dixon:

I am trying to see how we have some control. Midway's ability to enforce this may be as good as ours which isn't good at all.

Richmond:

They are giving us an agreement that they will not allow Heavy Industrial. Other than that, that's all that we are getting. In other words, they can put in anything that is termed "Light Industrial" or "Non-industrial" and we have no say-so. If they attempt to put something in that is offensive in the form of Heavy Industrial, we would have legal rights to proceed to stop that from happening.

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McGill:

That would include a transfer station, though, right?

Richmond:

Yes. I believe it would. They have already given us certain rights on that - already, as a part of the negotiations when they were annexed into Midway. With the transfer station and, I think, tank farms.

Dixon:

I am sorry, Ms. Lasley. Maybe the chairman won't take your time.

Lasley:

That's O.K. This is information. I am just up here because it deserves it. I mean, it would be nice to have some clear concise answers.

Richmond:

There are some other people, I believe, that want to speak.

Lasley:

O.K. I am almost done.

Then, I also have a problem with things being presented at the meeting that you are being asked to vote on and no one has, I mean, you vote on it and you approve it, then I read it and other people read it, and we have problems with that. You know, it's one of those procedural things that I think we need to clean up tremendously. I think this is not the project to put in jeopardy because of that was not done correctly.

Thank you.

Fletcher:

Thank you Ms. Lasley.

Bennett:

I am Berta Owens Bennett.

Richmond:

Will you raise your right hand, please. Do you solemnly swear that the testimony you are about to give will be the truth, so help to God?

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Bennett:

I am Berta Owens Bennett and I am the mayor of the City of Midway. There are several things that I would like to say.

First of all, the attorney spoke about a meeting that was held just recently this week. I would like to say that the City of Midway was not informed. Our attorney was not informed. Our council members were not informed. I have no idea how Mr. Willis was informed about this meeting.

Also, I was also informed by the (inaudible) here that on August 16, the City was not invited to the Planning and Zoning meeting nor were ever informed about such a meeting. And that is a shame because this asphalt plant is going to be in our back yard. We have a voice as well.

And I am partly here today because the citizens in my community asked me to speak on their behalf about the asphalt plant owned by Anderson Columbia Company that wants to locate in the back yard of citizens of Midway. They asked me to tell you that their back yards are filled with elderly people, men, women, babies and children who play in those back yards where this asphalt company wants to be located. This asphalt plant will be located .5 mile where those families built their first homes and fine churches. These families and their ancestors worked so hard to build what they currently reside in today. They settled into this community called Midway over 50 years ago and want their families to continue to live there many more years to come. The citizens have already accepted Anderson Columbia Company parenting company, Tallahassee Redi-mix, which currently resides in their back door.

Now, tell me, Anderson and other owners, what is in your back yard? Beautiful homes, manicured lawns and of course, your healthy families. It is not Tallahassee Redi-mix or this asphalt company that have caused lung cancer, cancer, and other serious health problems. None of this type of heavy industry are located in your back yards for your loved ones to digest, for future health problems and expensive medical bills.

County Commissioners, the City of Midway has spoken. They do not want this asphalt in their back yard or their community. Not now, not later nor in the future. Please vote "NO" and deny this company permission to locate in the City of Midway.

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And our attorney has submitted a letter on the City of Midway.
We also have petitions from our citizens that says that we do not want this asphalt company located in our community or our back doors.

Richmond:

Have they been given to the Clerk for part of this record today?

Bennett:

I gave them to the County Manager, so, they should be part of the record.

Roberson:

They are in the packet.

Richmond:

I just wanted to make sure. Thanks.

Davis:

I will make my comments very brief as follows.

We do not believe that the proper procedures were followed before the Planning and Zoning Commission.

Richmond:

Are you going to testify?

Davis:

No, I am not. I am the counsel for the City of Midway.

We do not believe that the proper procedures were followed before the Planning and Zoning Commission.

Fletcher:

Did you state your name?

Davis:

Yes, I did. But, I will do it again. My name Marva Davis.
I am the city attorney for the City of Midway.

Fletcher:

Thank you, Ms. Davis.

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Davis:

Thank you.

Again, we would argue as follows: We do not believe that the proper procedure was followed before the Planning and Zoning Commission. We believe that this body does not have sufficient information with which to reach a decision tonight.

We believe that this matter should be remanded to the Planning and Zoning for proper procedures to be followed so that citizen input and proper analyzation of this project can be done. We feel that it has come to you prematurely and that your decision tonight will be based upon not sufficient information.

Finally, we would like to argue that the citizens of Midway are citizens of this county and they were not properly notified of this development. The fact that people are living within 500 feet or 1,000 feet, who the owners of this development basically notified was inadequate notice. It is just that the citizens of Midway just by happenstance to find out that this was totally affecting them.

And, this City Commission has unanimously provided to you a letter stating that the citizens of Midway oppose this development, especially an asphalt plant and we believe there are certain portions of this that are health hazards which are not properly addressed before this body. They need to be analyzed as well as how this development is being effected in its closeness and proximity to churches and residential areas.

And for this reason, again, we emphasize that you should not take a vote tonight to approve this project. In fact, you should take a vote to remand it to the Planning Commission.

Richmond:

Two minutes.

Fletcher:

You've got two minutes left now.

Richmond:

Would you raise your right hand, please.

Do you solemnly swear that the testimony that you are about to

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give will be the truth, so help you God?

Wanda Jackson (inaudible)

Yes,

Richmond:

Will you please state your name?

Jackson:

Wanda Jackson (inaudible)

This is an article that I found on the internet and I just want to read this to you.

Be afraid, be very afraid. Anderson Columbia wants to open an asphalt plant in south Ft. Walton County. The idea of an asphalt plant in such an environmentally sensitive area is of itself, a frightening prospect. But, throw Anderson Columbia into the mix and this is a horror flick.

My mom already suffers from a rare breathing problem now and if this asphalt plant comes to Midway, not only her, but many other residents that will suffer from the same thing that she is currently.

So, I am asking you guys to vote "NO" for this asphalt plant to come to the City of Midway because we don't want it.

Dorian:

Mr. Chairman, may I ask my commissioner a question?

Fletcher:

Yes, sir.

Dorian:

Sterling, you went away from the last meeting thinking that the nearest resident was two miles away. Do you understand now how close the nearest resident is?

Watson:

.5 miles.

Dorian:

Thank you.

Bennett:

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My name is Leonard Bennett. I am the City Manager for the City of Midway.

Richmond:

Do you solemnly swear that the testimony that you are about to give will be the truth, so help you God?

Bennett:

Well, yes.

Fletcher:

You need to be as quick as you can because your time limit.

Bennett:

Well, basically, I just think that there are a lot of issues that the City of Midway was not aware of in relationship to this project. I think we really need more time to look into this. Some of the agreements that were mentioned here tonight, I am really not aware of. And, based on what I am hearing about those particular proposed agreements that were reached at some point in time, that we really, really need time to look into these.

Now, I know, I realize the impact of impact of delay of anyone who is attempting to develop a project. And it can be costly, but I think that is also warranted in this particular situation. So, I do request more time on the part of the commissioners before you consider this. To allow us, also, the latitude to look deeper in this matter.

Roberson:

Sir,

Watson:

Can I ask him a question?

Ms. Linnan told us the last time that she copied you all the information dealing with this. Did you receive this?

Bennett:

Not that I am aware of.

Watson:

You didn't receive anything that she copied to you? You are going to testify tonight that you did not receive any copies

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of what she has sent to us? Under oath?

Bennett:

I repeat, I am not aware of receiving anything. But, that is not germane to the situation, here. The important thing is that there are issues at stake that I think need to be addressed on the part of the City of Midway.

Roberson:

Sir, could I ask you a question?

Bennett:

Yes.

Roberson:

Are you aware of the fact that was an asphalt plant in Midway in 1975 -77?

Bennett:

No, I was not aware of that.

But, again, I am not sure that is germane, you know, to the point I am making here.

Dixon:

Midway didn't exist as a city then, either.

Bennett:

Thank you. There are a lot more people, you know, in Midway now, particularly that in the geographical distribution of those individuals.

I didn't want to go into this, but, just for the 4th quarter of the year 2000, the Agency for Health Care did database of statistics and indicated that there are over 1,000 cases of cancer in Gadsden County that went to Leon County for treatment. We don't know, you know, the relationship of these things as well as other conditions that the Agency for Health Care database indicated that bears looking into.

Now, I am not suggesting that there is a potential relationship. However, I am saying that there are issues that need to be looked into before you make a decision of this magnitude.

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Richmond:

Gentlemen, that would conclude the evidentiary portion as extended.

Watson:

Well, I would just like to know if there is anybody else that is opposed to it and wants to speak. I don't want anybody to leave thinking they weren't able to speak to this. I don't want them to duplicate anything, but if there is somebody who didn't get to speak the last time that is opposed to it, and feels like they were not given time to talk. I just don't want to cut it off - I really don't.

Fletcher:

And we really want you to be repeating something that has already been discussed.

Watson:

I don't want redundant testimony, but, I would, I don't want anybody to leave thinking that they weren't given a chance to speak.

Richmond:

Do you solemnly swear that the testimony that you are about to give will be the truth, so help you God?

Morningstar:

Yes.

Richmond:

Please state your name for the record.

Morningstar:

Debra Morningstar.

I have a copy of the conceptual plat for a portion of the Gadsden County 10/90 Commerce Park. And it says in Item # 6 - "The proposed plat will provide access to the park from the south which is labeled as the Davis family trust. That tract is the Stiles/McCord tract which was annexed into the City of Midway. By allowing the right-of-way in both jurisdictions, the application will require a approval of both governments."

Now, if that requires approval from both governments, and here is this letter from the people of the City of Midway who

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unanimously by everybody on the City Council saying that they don't want the plant, how do you answer that?

Watson:

Let Ms. Linnan answer that.

Richmond:

The City of Midway will address the problem when it is presented. But, Ms. Linnan -

Linnan:

For the purposes of the record, the right-of-way was approved by the City of Midway in June. I have provided Mr. Arnold copies of the city minutes today and they have been in the development file for a couple of months. They approved the railroad spur and the right-of-way.

Davis:

For purposes of the record, again, Marva Davis, city attorney for the City of Midway, when this project came across for the approval of the spur, the railroad spur, there was absolutely no mention that this was going to be an asphalt plant potentially there. There was none. We were approving simply the railroad spur (inaudible) for the industry that would want to be there. Because we were all talking about how legal department comes up with one (inaudible)

This was not presented specifically to the Council, in fact, I will tell you, that one of the reasons that the Council is outraged is because they feel that they may have been deceived.

Morningstar:

My other question is - in the papers, it stated Gadsden Station - Notice of Proposed Change. On the very last page of this, it says that this is the required action by the Board of County Commissioners.

No. 1 - the governing body is required by Chapter 380 FS To find that the opposed change as outlined in the NOPC does not constitute substantial deviation of the approved Development Order. Which in this case is (inaudible)

Why is it written where it is being sent out that you are required to find that the proposed change is not a substantial

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deviation.

Ballister:

As the author of that statement, in order to approve a change in a Development Order, we are required to find that the proposed change is not a substantial deviation. Period.

Dixon:

I think you need to break that down.

Ballister:

O.K.

The notice that - the amendment process for a DRI is governed by the Statutes, in this case Chapter 380. In order for a Development Order, which is a standing legal document, to be changed, they are required to find that the change is not a substantial deviation.

If they don't, then a much longer process ensues. And, I got to that in the next line down. "If the NOPC is determined not to constitute a substantial deviation" - Excuse me - in line two, "If the determination is made that the changes proposed do constitute a substantial deviation, then the NOPC is statutorily required to be heard by the LPA."

Morningstar:

It is still written in such a way that it appears that they are required.

Ballister:

I understand that. You could interpret a lot of sentences a lot of ways. I am sorry for that interpretation, but in order for this to have proceeded in that way, at that time, the meeting that was being written for, that was the required action. Otherwise, we would have to remand it back to the LPA.

Ordinarily, by Statute, the LPA doesn't even have a position.

It is something that we brought to them, they didn't have a quorum so we missed them. Ordinarily, they don't have a position by Statute. It is a Board of County Commissioner issue.

McGill:

I had that same question when I read through it, too. The

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part where we were required to do it and I got the same response that you got.

Morningstar:

But, everybody understands that you are not required to -
This isn't telling you how to make your decision.

Roberson:

We are required to make it one way or the other.

Richmond:

That is just the first step in the process.

Morningstar:

O.K.

Thank you.

Richmond:

Do you solemnly swear that the testimony that you are about to give will be the truth, so help you God?

Madison:

I do.

Richmond:

Please state your name.

Madison:

Deloris Madison.

Richmond:

Ms. Madison, go ahead.

Madison:

I don't want to repeat something that has already been said, but, I do want to call to your attention, that this map is showing you the road and where they want to put the plant. But, what they are not showing you is that .5 of a mile is where residential area begins.

We have residents out there who are senior citizens and children who are playing in the back yard where they want to put this plant. Less than a mile up the road, there is Midway Magnet School. My grandson, when we were riding up Brickyard

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Road, he asked me "Grandma-ma, what are they going to put over here where they are cleaning up all this property?"

I said "Well, baby, they are trying to put an asphalt plant over here."

He said "Well, Grandma-ma, the fumes from" (Mind you, my grandson attends the magnet school in Midway and he is only three years old. But, he is knowledgeable to know that the fumes from an asphalt plant can create sickness. He said, "Now, what if I get a stomach ache or I am out in the yard playing while I am at school and this fume is coming up and it's going to affect not only me, but, my other classmates? What are we to do?"

I said "Baby, the only thing we can do right now is pray."

He said "But, Grandma-ma, after that incident that happened last Tuesday, are these people trying to kill us off, too?"

I said "No, Baby, I don't think that is what their intent is."

But, I would like for these commissioners to please think about this issue before they vote on putting this asphalt plant so close, not only to our families within our community, but also to the children that are out there.

And, that is all I wanted to say,

Than you.

Richmond:

That will conclude the evidentiary portion.

Deliberations.

Watson:

I will move adoption of the resolution.

Roberson:

I'll second.

Dixon:

Tell folks what the adoption of the resolution is.

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Richmond:

The adoption of the resolution is the applicants proposed resolution outlining the changes in the SIC codes with the complete plan.

What it does is that it makes a finding that there is not a substantial deviation, that the SIC code must be amended to include the asphalt plant, provide for the roadways as shown, and the other matters as contained therein.

It also eliminates many other SIC codes that would be offensive and considered heavy industrial.

It includes a commitment, as part of this, that the Stiles/McCord property would be granting a restrictive covenant to the benefit of Gadsden County and to Midway and to Gadsden United that they would not be developed as heavy industrial.

It also provides that they any Light Industrial use not otherwise covered by the SIC codes could be utilized by Anderson Columbia on the DRI property later.

Otherwise, development of the Stiles property remains totally within the City of Midway. It is annexed property and they have direct control over that.

It provides for the specific repaving of three roads.

Do you have that list? I apologize.

Resurface Peter Road - .8 mile;

Joyner Road - from Brickyard Road to CR 268 - .4 mile;

Palmer Road - from CR 268 to the end of the old paving - .7 mile;

The 1.9 miles which they previously agreed to repave on Brickyard Road.

All of that is contained in the resolution of the intent.

There are other things that I may have left out that are in there, but, basically that is everything.

Ballister:

Hal, this may be mute, having just received this list, but, on page 9 of resolution, Item 4-J indicates that the County shall

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designate the roads.

Richmond:

Those are the ones that the County designated.

Ballister:

O.K. I didn't know if that was to be Midway.

Dixon:

When did we do that? When did we designate?

Richmond:

I was looking at the list. I don't know where it came from, but I think it is

Dixon:

So, we are going to designate those to be paved within the City of Midway?

Fletcher:

That is what this resolution says.

Dixon:

No, the resolution doesn't say that.

Fletcher:

Yes, it does. Yes, it does.

It says that Anderson Columbia agrees to resurface 1.9 miles of two-lane roadway within the City of Midway within 1 year of the final effective date of this approval. To implement this condition, Gadsden County shall designate such roads as it seeks to have improved.

Dixon:

Mr. Chairman. May I comment?

Fletcher:

Yeah, sure.

Dixon:

You know, that is mighty big of us to go into a sovereign city and tell them what roads they are going to get paved. I mean, it's, I recall asking in the last meeting "Where is the City of Midway?" And, nobody seemed to know.

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We are going to literally, the intent of the applicants application is to locate this in a Development of Regional Impact. And yet, all the regional players have never been at the table. And Midway should not be surprised, first of all.

We have dumped on Midway ever since I have been here - for the past 10 years. It was us fixing to put the waste incinerators out there. It was us, maybe not the waste incinerators, but, we had our number of things that we wanted to go out there. It was us that approved that list of SIC codes that set all of these things out there without your approval and without even inviting to the table to have a word. I think Midway, and I have always thought this and said it, that Midway area, with the school going that way (which provides water and utilities) that portion of the County is the next booming part of this county.

I think it would be dastardly wrong to stick an asphalt company - yes, asphalt companies are needed. They are needed but, they are not needed in potential population centers. I think that is going to be, and that is going to be - whether we like it or not - one of the population centers in Gadsden County. It is.

Applause.

Please, don't applause. You really don't know how bad this thing is. It is abominable to move an asphalt company in the midst of a population center. And you haven't had any discussion about plumes and what comes out of those plumes and how before they dissipate and how far do they travel and all of that kind of good stuff. Folks need to know.

I mean, you picked a place that is least able to fight you or at least defend themselves. Then you stick the worst things in the world right there. And then, ask them why they weren't at the meetings when we didn't invite them.

Fletcher:

Well, what do you suggest?

Dixon:

My suggestion is that this be tabled until a proper meeting can be handled. I don't like running things down Midway's

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throat. I think we have done that too long. We have manhandled them whenever it came to Planning and Zoning and we sue them when they wouldn't do what we wanted them to do.

It just smacks in the face of - and I don't want to even say big government because we are no big government - we are just bigger than them. And, we just continue to run over all the citizens out there who can come up here.

They don't have Nancy Linnans fighting for them. And, I guarantee you that the people from Gadsden United, whom I have never had a good relationship with, but, it is improving. If they had stood up and said some of these things and wrote some of these procedural questions before us, this thing would have (Inaudible) so fast that it would make you head spend. It is abominable that we don't give citizens of this county a better bigger presence at the table.

This is not to say that things can't come to Gadsden County. I am pro business and pro development, but, in the right way. These things are being run out of Tallahassee, run out of Leon County because Leon County no longer wants them. And, we need to be careful about where we sit them.

There are places for asphalt companies. Got one out near my house. Never see it until I go that way. Don't smell it, don't do anything. But, it is far enough away that the only way you see it is you run up next to the fence. You don't smell it, you don't do anything. There are places for them, but, I don't believe it is in the DRI, Mr. Chairman.

Watson:

I call the question.

Fletcher:

All right. The question has been called. All in favor, say "aye."

Watson, Roberson & Fletcher:

Aye.

Fletcher:

Opposed?

Dixon and McGill:

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No.

Fletcher:

The motion passes.

McGill:

Now, Mr. Chairman, since we passed that resolution, I have an amendment that I would really like to be considered as part of the resolution, that I, I think I gave Ms. Linnan a copy of this before. I think that would accomplish the - If the amendment could be read as a part of the record to be added to the resolution. Mr. Ballister can read it for the record.

This is the amendment.

Ballister:

An amendment concerning all the property zoned in the Gadsden Station DRI by Anderson Columbia Inc. and/or its subsidiaries and affiliates including companies or individuals leasing currently or in the future, properties from either of the

Unidentified

Audience member:

Would you slow down and speak a little louder, please.

Ballister:

O.K. but, it's long.

All said parties hereafter referred to as applicants by this amendment have entered into a legally binding agreement with Gadsden County to fully accept, not only the conditions normally set forth by the State and County in the permitting process, but shall unconditionally agree to accept and fully comply with additional recommendations and suggestions presented in writing during the permitting process by the Florida Department of Environmental Protection and/or the Gadsden County Department of Growth Management. If any property or subdivided portion of a property is sold or subleased at any time, then the obligations of this amendment are passed on to the buyer or lease holder and shall become incorporated in the sale or lease contract. These recommendations and/or suggestions shall be included as conditions of the permits and the applicant shall be subject to penalties for noncompliance. Once the applicant has provided all the requested permitting forms and other

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necessary information requested by the FDEP and the Department of Growth Management, the applicant shall agree to allow reasonable time determined by the permitting entity of the State or County permitting entities to properly research and determine if there are, in fact, recommendations or suggestions that were implemented by the applicant once important environmental and other concerns are being addressed.

These recommendations and/or suggestions are intended to address environmental matters related to and concern with the applicants facility design, facility operation, stormwater control, off-site impacts, waste controls, air emissions, hazardous product, spill control and clean-up. Prior prevention and/or control, maintenance, operation, reporting and inspections.

McGill:

I think that is the end of the amendment.
I move for the adoption of the amendment.

Fletcher:

I am not so sure that I understand the amendment.

Watson:

I don't either.

Ballister:

Is says essentially, if I may paraphrase -

Dixon:

I think those were incorporated by Ms. Linnan.

Richmond:

Ms. Linnan, would you like to speak to that?

McGill:

I gave you a copy before.

Linnan:

I think you meant to, but, you didn't. And, so I got a copy from Gadsden United today. That is the amendment that I spoke to earlier when I said we were provided this, could not agree to that language. But, instead of that, I think I put what I thought that was trying get to - and let me read what is in

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the actual development order that has just been adopted.

McGill:

Before we do that, you haven't been given a copy of that before?

Linnan:

You showed it to me, sir and then (inaudible)

McGill:

(Inuadible)

Linnan:

Right. You did show it to me.

What we put in, in its place, is that amendment, first of all, does not understand that a DRI runs with the land. So, any requirement you put in, you don't need to put in all that stuff.

Secondly, it assumes that we are going through the process for agency comment all over again. Anybody who does anything on that property that requires any permit, still has to go get those permits. O.K. The individuals. The developer won't except for the road permits. So, every individual who owns property, who leases property will be responsible for getting their own permits. When they do that, those permits will receive agency comments and agency conditions.

What the language in this says is "Approval of this amendment does not relieve an owner or lessee of property within the 213 acres from seeking and receiving all necessary permits including, but not limited to those of the Florida Department of Environmental Protection, US Army Corps of Engineers and the Gadsden County Growth Management. All conditions of such permits shall be followed. Violations of those permit conditions shall be deemed a violation of this amendment."

So, we covered that in the language that has been done. This language, sir, we can't live with. When I read it carefully today, it was very confusing. I notified Gadsden United of that and suggested instead, the language that I put in the Development Order.

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McGill:

Are you saying that they agreed to that language you put in?

Linnan:

No, sir. I never heard back from them.

McGill:

I think mine says a little bit more than what you have here.
But, let me raise a question to Mike Dorian.

Are you familiar with the amendment that I am talking about?

Dorian:

Tony Arnold is more familiar with this than I am. I will say this, we were told that we should agree to accept this. We were basically threatened. No, I am going to let Tony finish this. We don't like being threatened.

Arnold:

Thank you, Mike.

We talked this over with Ms. Linnan yesterday and not being a lawyer, this is a difficult thing for me to address intelligently. The intent behind this - the amendment that Bill McGill just suggested was basically just to insure that any environmental impacts from this asphalt plant would cause the involvement DEP. If I understand it from conversations with DEP, that they can't get involved in the process unless they are asked to or invited to by the Development Order, itself in the event of any environmental violations.

The intent of this, as I understand it, of this amendment, was to set up conditions that would give DEP a door or a pathway into the process whereby they could become involved. That would mean that their recommendations would carry weight. That was the intent.

Ms. Linnan said yesterday that DEPs recommendations and any agency recommendations, and I have to agree with this, you sometimes run into agencies that come with some pretty wild ideas. Therefore, her feeling was, and I don't want to put words in your mouth, but as I understand it, her feeling was that these conditions should be stated beforehand, these protections should be in place beforehand. It was our intent to make sure that DEP would have a voice and have some control over the process when we framed this.

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McGill:

So, have you read number "k" at the bottom of "9" of the resolution?

Arnold:

Basically, as I understand it, what we did was - what happened was we shifted from accepting DEP recommendations to accepting conditions. Conditions of permitting. O.K.? And that is the crux of the matter that you will have to focus on when you decide whether to accept this or not.

McGill:

Mr. Chairman, I withdraw the amendment.

I'll withdraw the proposed amendment.

Fletcher:

O.K.

6.2 Gadsden Station Conceptual Plat - 01PZ-027-201-1-04

Ballister:

The next application follows directly in line. It would be the conceptual plat for the same property. The map for that plat would look essentially like this with lot lines.

You have - This plat in its physical layout does conform to the comments that I originally had. They have withdrawn from the cul-de-sac that was intended from the west. (Inaudible)

The issue with the road to the south was addressed by the NOPC.

The 10.7 acres indicated here have been added to (inaudible) for the asphalt plant.

Stormwater treatment was originally proposed to take place in the rights-of-way. They have been removed to regional sites or sites that have been designed for the park in total. So, each individual lot might have to address their own unless they have a specific need.

I think the applicant is here to get into a lot more detail on their application if they want to make their bid. Does the

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engineering company want to present?

Linnan:

I am Nancy Linnan for the applicant. We could answer any questions. We do have engineers here, however, we do not disagree with any of the staff's comments or conditions. We believe we have met those conditions.

McGill:

Bruce, tell me - It is called the Midway Business Park. How much of it within the city limits of Midway?

Ballister:

How is located adjacent?

McGill:

How much of the property is located within the city limits?

Ballister:

None. It is located in the proximity of Midway. None of it located physically within the City of Midway. Midway city limits are located on the west and adjacent to the south. The southwest corner is a piece of property that is currently owned by the State and we have been working with Mr. Bennett to try and get that portion incorporated into the city. To the north is County. Across the street except for the far northeastern corner again, you find Midway.

McGill:

I am looking at your recommendation on page 9, number 1. It states "...that the roadway that dips into the Stiles/McCord property..". I thought that McCord property reached to the inside the City of Midway.

Ballister:

The condition satisfied the applicant in the NOPC as indicated that they would construct the entire roadway. They wouldn't leave a small portion of it not constructed. For somebody to do at another time.

McGill:

It seems to me that that should have been the call of the City of Midway since that part is in the City of Midway.

Ballister:

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I have gotten minutes from the City of Midway's city council meeting in June that indicated that they had approved a roadway and a railroad spur.

Dixon:

May I, Bruce.

Ballister:

Yes, sir.

Dixon:

In the comments on the business park, it says in number 2, under comments "...industrial lots... SIC codes approved for the DRI, and those included in the previous NOPC."

Is that different than what was just approved in the resolution?

Ballister:

No. What that says is that what goes on these lots will be as defined by the NOPC and/or anything made by/in the change. So, the NOPC that was just adopted will require that these lots develop within that criteria.

Dixon:

Is there a difference in legality of where you stand in using the word "should and shall" in terms of number 3? In terms of number 3 on staff recommendations as to sewer and water?

Ballister:

Oh. Actually, the wording (inaudible) is code specific that says that "they shall connect" if it is there. And if something is there when sewer arrives, they shall connect within 24 months. Any new development has to. So, this applicant will build a sanitary sewer collection system. We will see it in much more detail in the preliminary plat in a month. At least it will be in somewhat layout detail and we will see if the central sewer is going to be designed for the subdivision.

We have the additional stormwater design criteria that I wanted to see stormwater percolation tests taken at appropriate elevations, not just at the surface, but at the strata that will be subject to percolation.

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The item for number 5 has been already dealt with in the NOPC. That is the 100 year storm will be the design parameter for detention for the asphalt plant. And I believe I received in the office this week or last the on site review which I have not reviewed because we had not gotten the NOPC approval so it is premature. It is in-house.

And then Item 7 is whatever is in our Code for subdivisions - we will go through that checklist.

Does the Commission have any questions for me?

Watson:

Is there any opposition?

McGill:

Mr. Chairman, (inaudible) Midway Park, (inaudible) Gadsden Station?

Ballister:

They are adopting - well, they are different owners and they adopting a different name for their portion of the DRI. It is very possible that when Devoe Moore or some owner comes in in the future for the middle piece between Midway Park and Gadsden Sation, that they will have a third name. It is a different entity for that portion of the DRI.

Fletcher:

Is there anyone in the public who wants to speak for or against this item?

No response.

Watson:

I move approval.

Roberson:

I'll second.

Fletcher:

We have a motion and second to approve the conceptual plat. All in favor say "aye".

Watson, Roberson, Fletcher:

Aye.

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Fletcher:
Opposed?

Dixon & McGill:
No.

Fletcher:
Motion passes.

6.3 Habitat for Humanity - Density Variance 21PZ-057-201-1-08

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED VARIANCE.

Davis:
Commissioners, we are not sure of the proper process, so we would like to ask if it would be appropriate at this time for us to make a motion for a re-hearing on the issue of Anderson Columbia asphalt plant?

Richmond:
You have up to 10 days, I think, to do a motion for re-hearing.

Davis:
So, we don't need to do it here, because we don't want to waive any of our rights. We want to make sure, according to your procedures, that we do have additional time. (Inaudible)

Richmond:
You need to put it on the record here. You have the right to make it here tonight.

Davis:
We will make an oral motion and we will follow up in writing that we would like for you to consider at this time that the City of Midway has filed a motion for re-hearing.

Richmond:
Do you want to specify the reasons in writing, then or

Davis:

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Yes.

Richmond:

O.K. Then it will be considered at the next meeting.

Linnan:

Excuse me, once again, for the record, I would just like to object. The City of Midway is not considered to be a part of the DRI (inaudible)

Dixon:

You need to say that in the microphone.

Linnan:

Excuse me. Just for purposes of the record - I would only like to object and point out that the City of Midway is not considered a party under the Statute and therefore would not have a right to move forward with a hearing on it. But, I will address that in writing when the motion is received.

Thank you.

6.4 Shepard's Stitches & Such - Home Occupation Permit
01PZ-058-4-08

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTE 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED APPLICATION.

6.5 Gadsden East High School - Conceptual Site Plan & Variance of
the 50 ft. Buffer for Wetlands Impact - 01PZ-63-206-1-08

Mr. Ballister reviewed the School Board's application for conceptual site plan of the new high school proposed to be constructed on US 90 across from Pat Thomas Law Enforcement Academy. He pointed out a number of recommendations he would like to see imposed if the Board should approve the plans. They are listed in the attached documents. He explained that the School Board is in a time crunch to get the project approved so that they can receive the state funding for the construction of the new high school.

Chair Fletcher called for public comments.

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Mr. Ballister was administered an oath by Hal Richmond as to his testimony on the application.

Mr. Richard Thompson was administered an oath by Hal Richmond. He stated that he attended the special meeting of the School Board on September 17, 2001. He said that a change in plans for the new high school was discussed and tabled for another week at that meeting. He said also that the most recent proposed plan appeared to be a different one than the one being presented for approval by the County Commission. He cautioned them to be certain of the plan that they were being asked to approve.

Commissioner Watson pointed out that there was not a plan submitted in the agenda packet.

School Superintendent Sterling Dupont responded to Mr. Ballister's remarks. He was administered an oath by Hal Richmond as to his testimony. He then stated that there were no significant change to the plans. However, he added that they were trying to avoid the wetlands and they were looking at ways to place the building on the site and still preserve the wetlands to the extent possible.

Commissioner Watson asked why the Board was not furnished a copy of the construction plans.

Mr. Dupont stated that 31 copies of the plans were submitted to the Growth Management Department. Mr. Ballister, in turn, stated that he had furnished copies to the P & Z Commissioners and thought that plans were included in the Board's agenda packets.

Chair Fletcher pointed out that this approval was for conceptual approval and not final approval.

Mr. Dupont confirmed Mr. Thompson's statement that the School Board had made a change on to the plan on September 17. He added that the change is not reflected on the blue print yet. However, he pointed out that they were only asking for conceptual approval - not final approval. He emphasized again that it is the School Board's intent to focus on staying out of the wetlands.

Mr. Robert George, engineer for the School Board. He was administered an oath as to his testimony. He demonstrated the changes which the School Board now proposes. He explained that the

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Department of Education requires that the funds must be incumbered within 90 days of the funding cycle. He said that in order to do that, the School Board hired Ajax Construction as the construction management firm. Ajax took the original plan and bid it out. They are now in the process of doing "value engineering" and looking at ways to reduce cost and to do less impacts to the wetlands. There will be some modifications to the site plan based upon Mr. Ballister's recommendation.

Mr. George said that they are committed to working with Mr. Ballister to try to be in compliance with the County's requirement for "no wetland impacts." However, there will still be some encroachment for which they will mitigate. He said that they would need a variance for wetlands requirement.

Commissioner Watson stated that the County has never allowed a wetlands variance during his tenure as a commissioner. He encouraged them to find a way not to violate the wetlands.

Chair Fletcher said that the Board needs to find a way to allow them to move on with the project.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO GIVE CONCEPTUAL APPROVAL OF THE SITE PLAN WITH THE CONDITION THAT MR. BALLISTER BE GIVEN THE AUTHORITY TO DETERMINE WHETHER OR NOT THE PROPOSED CHANGES BY THE SCHOOL DISTRICT AND ITS ENGINEERS AMOUNTS TO SUBSTANTIAL DEVIATION OR FORAYS INTO THE WETLANDS - AT WHICH POINT, HE WILL MAKE A DETERMINATION THAT THE PROJECT NEEDS TO BE BROUGHT BACK TO THE BOARD FOR FURTHER CONSIDERATION. COMMISSIONERS DIXON, MCGILL AND FLETCHER VOTED IN FAVOR OF THE MOTION. COMMISSIONERS WATSON AND ROBERSON VOTED NO.

Mr. Ballister announced that Ms. Carly Hare who has worked with the Growth Management Department for a year and a half will be moving to California very shortly.

7. COUNTY MANAGER'S AGENDA

7.1 Request from Town of Havana - 11th Street Paving

Mr. McKinnon related to the Board that the Town of Havana has requested that the County assist them in getting 11th Street in

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Havana paved. It is located near the ball field. It is 3600 ft. long of which 200 ft. are in the County. They have requested that the County prepare the base for paving and they will put down the asphalt. In exchange for the county's contribution, the Town of Havana will also pave portions of Boyd St. and Lane St.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE REQUEST BY THE TOWN OF HAVANA AS DESCRIBED ABOVE.

7.2 Resolution 2001 - 023 Expression of Grief and Anger of Terroist Events of September 11, 2001

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTE 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE DESCRIBED RESOLUTION AND SEND IT TO THE LEGISLATIVE DELEGATION.

8. CITY OF QUINCY INTERLOCAL AGREEMENT - CDBG APPLICATION

Ms. Eileen Sheehan, Planner with the City of Quincy addressed the Board. She told the Board that the City of Quincy would like to apply for a CDBG grant with the Department of Community Affairs for an Economic Development Grant that will provide infrastructure necessary to meet the needs of the proposed Wal-Mart project as well as upgrade the sanitary sewer south trunk line. The grant will aid in the to the Quincy Business Park and the Urban Service Area.

A portion of the proposed infrastructure for this project is located within Gadsden County. Due to the fact that not all of the infrastructure lies within the Quincy municipal limits, the grant application requires an inter-local agreement be signed by the City of Quincy and Gadsden County.

Mr. Marvin Cox, Director of Utilities, City of Quincy, addressed the Board in response to their questions regarding where city services are at the present time and to what extent the city services will be expanded.

Commissioner Watson asked who - at the City - could answer his questions about the landfill maintenance fund and Selman Road. He stated that he was not willing to approve the interlocal agreement until he could get answers to his questions. He stated that he had

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been calling the City of Quincy for two months and the County has sent a formal letter requesting information and the City has failed to respond to his questions. He again asked for an accounting of the fund - how much money has been set aside for Selman Road. He reminded everyone that there was agreement to take a percentage of the tipping fee to go to the maintenance of Selman Road.

City Manager Willie Earl Banks responded that he has not been able to locate such an agreement.

Commissioner Dixon stated that a substantial loss of economic development will occur if Wal-Mart should not get the trunk line extended. He encouraged the other commissioners not to leverage the grant with anything.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO TABLE ACTION ON THE INTERLOCAL AGREEMENT WITH THE CITY OF QUINCY UNTIL THE CITY OF QUINCY RESPONDS TO HIS INQUIRIES REGARDING THE SELMAN ROAD MAINTENANCE FUND. COMMISSIONERS WATSON, ROBERSON AND FLETCHER VOTED IN FAVOR OF THE MOTION TO TABLE. COMMISSIONER MCGILL AND DIXON OPPOSED.

There was a consensus that the Board would call a special meeting to approve the CDBG application upon the City's response to questions regarding the Selman Road maintenance fund.

9.0 CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Interlocal Ambulance Services Agreement with City of Chattahoochee
- 2) Cooperative Equipment Lease with City of Quincy - Fire Truck purchased by County
- 3) Library State Aid Grant Application FY 2001-2002
- 4) Library Services and Technology Act Grant Agreement - 01-LSTA-f-06
- 5) Havana Library Lease - Olsen
- 6) TDS Equipment Purchase Agreement
- 7) Gadsden County Emergency Food Organization - TEFRA Contact 2001-2002

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- 8) DOT Traffic Signal Maintenance and Operation Request Order Number 4 - SR 267 at St. Johns Elementary School
- 9) Gadsden County Sheriff's Narcotic's Certificate of Acceptance 02-CJ-2H-02-30-01-092
- 10) Satisfaction of Housing Agreement - Jahazel and Earnest Dawkins, Sr.
- 11) Rehabilitation Agreement and Special Assessment Lien - Ida Herring

*******FRANK CLORE - HAVANA FLEA MARKET**

Mr. Bruce Weiner, attorney for Frank Clore addressed the Board. He stated that Mr. Clore had received a letter from the County cancelling his development order. He reported that he has filed a law suit challenging that cancellation. He then reported that he had sent a letter to the Planning Director prior to filing the law suit. He said the letter outlined some procedural deficiencies regarding the cancellation. In addition the letter requested a reasonable time frame in which for Mr. Clore to complete his flea market project.

Mr. Wiener explained that Mr. Clore had encountered some contractual issues. He acknowledged that Mr. Clore had received a letter dated June 27 from a principle planner which stated that if he did not do certain things by September 8, his development order would be cancelled. However, he received a second letter on July 27 stating that the development order was cancelled. He said that there is certainly some confusion surrounding the issue.

In response to the cancellation letter, Mr. Wiener stated that he sent a letter to the Planning Director and also called him and the county attorney. He said that he had filed the law suit even though there was ongoing communication between the P & Z office and himself. (There was a 30 day time frame in effect in which he could appeal the cancellation order.)

Mr. Weiner stated that Mr. Clore could get his site plan worked on by February 1, 2002 at the very latest.

Commissioner Watson recalled that the county had already been sued on this issue once before.

A MOTION WAS MADE BY COMMISSIONER WATSON TO LET THE DENIAL STAND. THE MOTION DIED FOR LACK OF A SECOND.

Mr. Ballister stated that he had been reviewing progress on

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the site over a period of time. He said that the County did a video tape of all the corridor right-of-ways with the intention of redoing the video every six months. He said that in the process of making the video (March 8, 2001) he took notice of the lack of progress on the Clore site. He said that subsequent to that date, he had periodically checked on the work and had observed that nothing had essentially changed. (The Code requires some substantial completion on the site within 6 months to be evidenced by certain things, none of which were observed.) The letter dated June 27 was sent in error by the Planning staff.

Mr. Ballister stated for the record that since he did not have the record in front of him, he would reserve the right to change his testimony if it was contrary to the file.

Commissioner Dixon asked how the Board should handle the fact that the Planning staff gave an erroneous deadline date.

Mr. Richmond stated that there is case law that says that a mistake by an employee is not necessarily binding on the County. However, there are also cases that say otherwise. It is an arguable fact in either case.

It was determined that Mr. Clore had exhausted administrative remedies prior to filing the law suit.

Further discussion followed.

Mr. Weiner contended that the project was moving forward. The holding pond has been constructed, grading has occurred and there is construction going on. He requested that the County allow Mr. Richmond and himself to draft an agreement where the project gets done in an orderly manner.

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO RESCIND THE CANCELLATION OF THE DEVELOPMENT ORDER AND EXTEND THE DEADLINE FOR THE SITE PREPARATION FINISHED BY FEBRUARY 1, 2002 AND HAVE THE BUILDING CONSTRUCTION COMPLETED 3 MONTHS AFTER THAT. IN EXCHANGE, MR. CLORE AGREED TO DISMISS THE LAW SUIT WITH PREJUDICE. COMMISSIONERS MCGILL, DIXON AND FLETCHER VOTED IN FAVOR OF THE MOTION. COMMISSIONERS WATSON AND ROBERSON VOTED NO.

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10. CLERK'S AGENDA

10.1 Budget Amendments 01-09-18-01 through 01-09-18-45

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

10.2 Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5- 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

11. COMMISSIONERS REPORTS

THERE WERE NO REPORTS.

Gadsden County Board of County Commissioners
September 18, 2001 Regular Meeting

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER
DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A JOINT MEETING OF THE
AIRPORT AUTHORITY, BOARD OF
COUNTY COMMISSIONERS AND CITY
OF QUINCY COMMISSIONERS, HELD
IN AND FOR GADSDEN COUNTY
FLORIDA ON SEPTEMBER 18, 2001,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: W. A. (BILL) MCGILL, VICE CHAIRMAN
STERLING WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

ABSENT:
H. E. (HENTZ) FLETCHER, CHAIRMAN
EDWARD J. DIXON

AIRPORT AUTHORITY:
JERRY OWENS
JIMMY ASHMORE
KENNY RUTTEN
EARL LODGE

CITY OF QUINCY COMMISSION:
LARRY EDWARDS

CALL TO ORDER

Vice-chair McGill called the meeting to order. He then turned the meeting over to Mr. Ashmore.

Mr. Ashmore addressed the Board. He called attention to a video which had been produced by the Florida Department of Transportation. He said that it explained the value of Florida's airport system of which the Quincy/Gadsden Airport is a part.

The engineering firm that made the video also prepared the Florida Airport Economic Impact Study to study aircraft operations. It determined that for every aircraft operation, it resulted in \$286.86 general demand impact at general aviation airports. It has a direct impact on payroll, capital expenditures and operating expenditures. It also determined that the Quincy/Gadsden Airport had 3,502 itinerate operations during the test period. That means

that the airport put back \$941,548 into the community.

Mr. Ashmore reported that the airport had installed a new fuel system at a cost of \$96,352 of which the airport's responsibility was only \$32,352. The remainder of the funds were through a DOT Grant. He said that they would use the profit in fuel sales to pay for the system. He pointed out that both the city and county will benefit from the sales tax revenues. The fuel costs \$1.40 per gallon and is sold for \$2.34 per gallon with a net profit of \$.80 per gallon which is considerably cheaper than in Tallahassee. The lower fuel cost entices many Tallahassee area pilots to stop in Quincy for refueling.

The new gasoline tank holds 10,000 gallons of fuel. It is a double walled tank above the ground and it operates as a 24-hr. System.

Mr. Ashmore called attention to the audit report which is attached to these minutes.

It was stated for the record that the County has appropriated \$10,000 in the new budget for the airport.

Larry Edwards, City Commissioner stated that there is also \$10,000 proposed in the City's budget for the Airport.

THERE BEING NO OTHER BUSINESS, VICE-CHAIR MCGILL DECLARED THE MEETING ADJOURNED.

W. A. (BILL) MCGILL, VICE-CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT THE FINAL BUDGET HEARING
SPECIAL MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN
AND FOR GADSDEN COUNTY, FLORIDA
ON SEPTEMBER 24, 2001, THE
FOLLOWING PROCEEDINGS WERE HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: EDWARD J. DIXON

CALL TO ORDER

Chair Fletcher called the meeting to order and stated that the purpose of the meeting was to take public input on the proposed tentative budget. He then turned the meeting over to Mr. McKinnon.

Mr. McKinnon referred to the proposed budget for FY 2001/2002. He stated for the record the following:

- 1) The roll back rate was \$9.52 per thousand.
- 2) The percentage increase of the proposed budget over the roll back rate is 5.04%.
- 3) The proposed county millage rate is 10 mills.
- 4) The proposed hospital millage rate .64 mills.
- 5) The proposed budget which includes inter-fund transfers is \$28,662,905.00

Mr. McKinnon then noted the additions to the budget which were approved at the tentative budget hearing. One of the issues that remained to be decided was the allocation of the non-profit funding.

Commissioner Roberson recalled that she had proposed at the last budget hearing to purchase a new boom mower with an enclosed cab on it.

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 3 - 1, BY VOICE VOTE, TO PURCHASE ANOTHER BOOM MOWER WITH AN ENCLOSED CAB, AND TAKE THE FUNDS FROM THE \$500,000 TRANSPORTATION CONTINGENCY FUND.

Gadsden County Board of County Commissioners
September 24, 2001 Final Budget Hearing and Special Meeting

Chair Fletcher stated that in Commissioner Dixon's absence, the Board would not make a decision regarding the allocation of non-profit funding. It was stated for the record that the proposed budget for the non-profit agencies included \$180,999 that will be allocated at a later date.

Chair Fletcher called for public comments.

The following people were heard:

Marilyn Anderson - Gadsden Day Care - requested \$5,000
James Smith- Panhandle Community Development Center
Marsha Hilte - Guardian Ad Litem
Ted Waters - Big Bend Transit
Dian Peacock - Refuge House
Scott - Legal Services of North Florida
Angela Burgess - Human Services - Substance Abuse
Alice Dupont - Literacy Volunteers

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE RESOLUTION 01-025 WHICH AUTHORIZED THE AD VALOREM TAX LEVY OF 10 MILLS FOR GENERAL OPERATIONS OF GADSDEN COUNTY FOR FY 2001-2002.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE RESOLUTION 01-026 WHICH AUTHORIZES THE AD VALOREM TAX LEVY OF .64 MILLS FOR THE HOSPITAL BOND FOR GADSDEN COUNTY FOR FY 2001-2002.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE RESOLUTION 01-027, ADOPTING THE FY BUDGET FOR 2001-2002.

There was a consensus to make a decision on the allocation of the non-profit funds on October 2, 2001.

Mr. McKinnon stated for the record that the inter-fund transfers stated "Jail Bond - General" but it should have read "Jail Bond - Fine and Forfeiture."

Gadsden County Board of County Commissioners
September 24, 2001 Final Budget Hearing and Special Meeting

CHAIR FLETCHER ADJOURNED THE FINAL BUDGET HEARING.

E. H. (Hentz) Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

*******SPECIAL MEETING*******

Chair Fletcher called the meeting to order stating the purpose of the meeting was to discuss with the City of Quincy the paving of Selman Road, approve an interlocal agreement with the City of Quincy, and to approve budget amendment.

City Manager Earl Banks appeared before the Board. He called attention to the fact that the 1999 Interlocal agreement between the City of Quincy and Gadsden County pertaining to the maintenance of Selman Road was no longer in effect. However, he said that he had been in touch with the City of Quincy Commissioners and they have agreed to resurface Selman Road at a cost of \$84,000 and renegotiate the agreement with the County regarding the landfill and the tipping fees.

CDBG Grant Interlocal Agreement to Extend Sewer Lines

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE INTERLOCAL AGREEMENT WITH THE CITY OF QUINCY RELATING TO THE GRANT APPLICATION FOR FUNDS TO EXTEND SEWER LINES.

Budget Amendment 01/09/24-01

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSISONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE BUDGET AMENDMENT STATED ABOVE.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR DECLARED THE MEETING ADJOURNED.

E. H. Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA, ON OCTOBER 2, 2001,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR (ARRIVED LATE)
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Vice-Chair McGill called the meeting to order in the absence of the Chair. Commissioner Roberson led in pledging allegiance to the US flag and Commissioner Watson led in a prayer.

2. APPROVAL OF AGENDA

Clerk Thomas informed the Board that there were no budget amendments to be approved at this meeting. He asked to delete that agenda item.

Commissioner Dixon asked that the Consent Agenda be amended to include a Proclamation recognizing Oscar Nathaniel Mabry.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED.

3. APPROVAL OF MINUTES

August 21, 2001 Regular Meeting

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

****CHAIR FLETCHER ARRIVED AT THIS JUNCTURE OF THE MEETING.

4. NON PROFIT FUNDING

Chair Fletcher called for comments regarding the proposed budget for the non profit agencies who submitted funding requests for FY 2001-2002.

Vice-chair McGill asked the Board to look at the letter to the Board from the Department of Veterans Affairs. The letter requested donations for the World War II Veterans Memorial. He asked that the County donate some money for the memorial.

Commissioner Dixon called attention to his proposed budget for the non-profits which is inclusive of the \$40,000 which the Board placed into the General Fund Contingency for additional non-profit funding.

This agenda was passed temporarily until later in the meeting.

3. COUNTY ATTORNEY'S AGENDA

Continuation of the Public Hearing for the Special Events Ordinance

This item was passed until later in the meeting. See below.

Frank Clore - Havana Flea Market

Mr. Richmond announced that the issues surrounding the Havana Flea Market will need to be a Level III appeal. He stated that some citizens have expressed that they had not been properly noticed. He added that he would like to re-schedule it for October 16th and re-notice it.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 1, BY VOICE VOTE, TO RE-SCHEDULE THE LEVEL III APPEAL HEARING FOR OCTOBER 16TH ON THE HAVANA FLEA MARKET AND RE-NOTICE IT FOR THAT DATE. (COMMISSIONER WATSON CAST THE LONE DISSENTING VOTE.)

Jo Ann Hart Vs. Gadsden County

Mr. Richmond reported that Ms. Hart has filed a Notice of Appeal in the District Court of Appeals in her suit against the County. David Theriaque will be handling the case with the District Court of Appeals.

Walmart vs. Gadsden County

He also reported that Walmart has hired an attorney to represent them in the legal matters involving their proposed relocation in the County.

Gadsden Environment Protection Association v. Gadsden County

A Notice of Appeal was filed on the 30th day by Gadsden Environmental Protection Association. The appeal attached the minutes of the meeting to it.

Mr. Richmond stated that the petitioner has requested to appear before the Board to discuss the matter. However, he advised against it since it was in litigation.

Motion for Re-hearing on the Gadsden Station DRI by the City of Midway and Request to set aside the Development Order Resolution

Mr. Richmond stated that he had received a copy of the motion which was recently filed by the City of Midway. He said that it involves some lengthy legal issues. He also said that the Board should decide whether to grant the motion and schedule the re-hearing. He pointed out that there are arguments that must be heard on the motion for re-hearing first.

Attorney Marva Davis was present to represent the City of Midway. Attorney Jon Hall was present representing Carlton Fields Law firm, however, he is not the attorney of record in the matter. Ms. Nancy Linnan was out of town and was not available for this meeting.

Mr. Richmond explained that there is a deadline of 30 days (which is running) for a party to file an appeal if they had standing. He stated that he was not certain who would have standing at this point.

COMMISSIONER WATSON MADE A MOTION TO DENY THE MOTION FOR RE-HEARING. IT WAS SECONDED BY COMMISSIONER ROBERSON.

Commissioner Dixon stated that he did not have a problem with tabling the issue until all parties can be heard regarding the motion for a re-hearing.

Vice-Chair McGill asked why there should not be a rehearing.

Mr. Richmond responded that there is an argument to be made that once the resolution was executed and forwarded, the Board can do nothing further in this matter.

Mr. Hall asked that the Board not consider the matter of whether to re-hear the matter until Ms. Linnan can be present.

Ms. Marva Davis urged the Board to re-hear the matter but she stated that she could understand Ms. Linnan's wishes to be present when the decision is made.

CHAIR FLETCHER CALLED FOR A VOTE ON THE MOTION TO DENY THE REHEARING. THE QUESTION WAS CALLED BY COMMISSIONER DIXON. THE BOARD VOTED 2- 3, BY VOICE VOTE, TO DENY THE RE-HEARING. COMMISSIONERS WATSON AND ROBERSON VOTED IN FAVOR OF THE MOTION. COMMISSIONERS DIXON, MCGILL AND FLETCHER VOTED NO. THE MOTION FAILED.

A MOTION WAS MADE BY COMMISSIONER DIXON AND SECONDED BY COMMISSIONER MCGILL TO SCHEDULE A DISCUSSION ON THE MOTION FOR RE-HEARING AT THE NEXT MEETING ON OCTOBER 16, 2001.

It was determined that an appeal could be filed within 45 days of the decision. It was also determined that there would be sufficient time to advertise the re-hearing after the discussion to re-hear can be accomplish.

Commissioner Watson was opposed to re-hearing the matter.

THE BOARD VOTED 3 - 2 IN FAVOR OF THE MOTION TO DISCUSS WHETHER TO GRANT A REHEARING ON THE GADSDEN STATION DRI AND SET ASIDE THE DEVELOPMENT ORDER AT THE OCTOBER 16TH MEETING.

Mr. Richmond explained that the only people that can be heard in the discussion on the 16th will be the applicant, Gadsden County and the City of Midway.

Continuation of the Public Hearing on the Special Events Ordinance

Mr. Richmond announced the opening of the public hearing on the ordinance stated above. He called for public comments. He explained that it will amend the ordinance which was enacted

earlier in the year.

A MOTION WAS MADE BY COMMISSIONER WATSON AND SECONDED BY COMMISSIONER ROBERSON TO APPROVE THE SPECIAL EVENTS ORDINANCE.

Commissioner Dixon stated that he had some concerns and would like to see some changes made to it. Page two, paragraph B - "An adequate plan for medical facilities....there should be one physician licensed by the State on duty at all times for every 2,000 patrons." He pointed out that there aren't that many doctors in the entire County and the figure is unrealistic. He asked that the wording be changed to say "There should be adequate medical facilities and personnel." He then pointed to Section D which says "a plan for adequate security and crowd control in and around...which plans should include as a minimum one police and security officer for every 250 people." He suggested that figure also was unrealistic also. He asked that it be changed to read "adequate security to be determined by the local law enforcement agency." He explained that certain types of venues would require more or less, depending on the activity. He added that it should be determined by the law enforcement agency.

Discussion followed.

CHAIR FLETCHER CALLED FOR A VOTE. THE BOARD VOTED 2 - 3, BY VOICE VOTE, TO APPROVE THE ORDINANCE AS WRITTEN. COMMISSIONERS WATSON AND ROBERSON VOTED "AYE." COMMISSIONERS DIXON, FLETCHER AND MCGILL VOTED "NO." THE MOTION FAILED.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO APPROVE THE ORDINANCE WITH THE CHANGES TO SECTION 4, SUBSECTION D (1), AMENDED TO READ "TO BE DETERMINED BY THE LOCAL LAW ENFORCEMENT AGENCY" AND SECTION B TO BE AMENDED TO STRIKE ALL THINGS AFTER THE WORD AFTER THE WORD "FACILITIES" IN THE FIRST LINE. IT SHOULD READ "AN ADEQUATE PLAN FOR MEDICAL FACILITIES AND PERSONNEL TO BE DETERMINED BY THE LOCAL EMS DIRECTOR." COMMISSIONERS DIXON, MCGILL, AND FLETCHER VOTED "AYE." COMMISSIONERS ROBERSON AND WATSON VOTED "NO."

NON-PROFIT FUNDING

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 3 - 2, BY VOICE VOTE, TO APPROVE THE

NON-PROFIT FUNDING AS FOLLOWS:

1)	American Red Cross	\$	10,000.00
2)	Children Are Our Future		3,000.00
3)	Gadsden County Senior Citizens		38,000.00
4)	Gadsden Day Care		3,000.00
5)	Legal Services of North Florida		9,000.00
6)	Chamber of Commerce		40,000.00
7)	Airport Authority		10,000.00
8)	Guardian Ad Litem		14,455.00
9)	Disc Village		23,000.00
10)	Capital Medical Society		4,500.00
11)	Big Bend Transit		12,000.00
12)	Refuge House		5,000.00
13)	Pilot Class Room- Sawdust Community		2,700.00
	Moving & set-up cost to move		
	Sheriff's mobile unit		
14)	New FL World War II Memorial		TBD
TOTAL:		\$	<u>174,655.00</u>

COMMISSIONER DIXON, MCGILL, AND FLETCHER VOTED "AYE."
COMMISSIONERS WATSON AND ROBERSON VOTED "NO."

6. DAVE MCLAIN - TRI STATE ACF WATER ALLOCATION NEGOTIATIONS

Mr. Dave McLain, representative of the Apalachicola Bay & Riverkeepers, addressed the Board. He gave the Board a briefing of what he hopes to do for the County:

- 1) Provide the Board with information as to the status of the Tri-state Water Allocation Negotiations.
- 2) Provide some recommendations as to the criteria by which the Board can evaluate whatever proposal is made between the negotiating teams.
- 3) Recommend and request that the Board endorse the criteria that are recommended by the other five counties that are immediately affected by the water allocation negotiation.

Mr. McLain recalled that the water allocation negotiations have been ongoing for at least the three past years and have been in dispute for at least ten years. He went on to say that the current status was that the negotiations have been extended until

November 14, 2001. He called attention to the attached information package. He emphasized that the negotiations came about because Atlanta, Georgia wants to reserve some of the water so that they can extend their growth capacity.

In summary, Mr. McLain asked the Board to adopt a resolution endorsing the evaluation criteria. (See Resolution No. 2001-022)

Discussion followed.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE RESOLUTION 2001-022 WHICH ENDORSES THE GUIDELINES ATTACHED IN ENCLOSURES 1, 2 AND 3 AS PRINCIPLES TO BE USED IN EVALUATING ANY PROPOSED AGREEMENT ON TRI-STATE WATER ALLOCATION AFFECTING THE APALACHICOLA, CHATTAHOOCHEE AND FLINT RIVER BASIN.

7. JAMES A. NEALY - SITE FOR WALMART

Mr. Richmond advised that the Board should not discuss the Walmart issue further since it is was in litigation.

8. PUBLIC WORKS AGENDA

Public Works Director Robert Presnell called attention to issues that affect the decision as to how to proceed with paving of Bell Road which is next on the priority list. He explained that under the statutory guidelines, this road would require a general permit from DEP and require additional right-of-way for the road itself and two stormwater treatment ponds. He reported that the existing right-of-way is approximately 40-45 ft.

Preble-Rish, the county engineers, have recommended that the County negotiate for an additional 15 ft. of right-of-way on the north side of the road to allow construction of a 20 ft. wide road with proper shoulders and swales. It was also recommended by them that the County purchase acreage to be used for stormwater treatment. Stormwater ponds near Miller Road and CR 157 were recommended to meet the treatment requirements. He added that one acre per site would be needed for to treat the storm water.

Mr. Presnell pointed out that since he has been with the County, most of the roads have been done with swale exemptions and permitting has not been a big consideration. However, with Bell Road there would be that additional expense. He recalled that it

has been the Board's policy not to purchase right-of-way but to encourage the land owners to donate whatever was needed. Otherwise, the road would be passed over on the priority list.

Mr. Presnell then turned his attention to Dupont Road. He stated that most of the stormwater could be handled with a swale but the County would need to acquire more right-of-way. However, it would still require engineering services because it will require a general permit. He then called attention to the attached proposal from Preble-Rish which outlines the engineering costs. He then asked for direction from the Board.

There was some discussion as to whether to purchase the rights-of-way. Commissioner Watson stated that he felt that the County should purchase the acreage for the stormwater retention ponds but asked the roadway be donated from the residents on the roadway.

Mr. Presnell reiterated that it has been the Board's policy not to purchase any right of way or acreage for stormwater ponds. However, this road will require an unusually large amount of property (15 - 20 ft. more and 2 full acres for the ponds.)

Commissioner Roberson asked if there was any alternative.

Mr. Joe Miller from Preble-Rish addressed the Board. He stated that in order to build a good road (20 ft.) with adequate shoulders they would need additional 15 feet along the entire length of the road.

Mrs. Mayo, a resident on Bell Road, spoke to the Board. She said that when she first bought the property, that Bell Road was no. 1 on the road paving priority list. She voiced concerns about the width of the road as it already exists. She said that a school bus and another vehicle cannot meet on the road now. She then called attention to the fact that the run-off from the road goes into her pond and that had required them to have to dig it out. Additionally, she stated that the lime rock that has been applied to the road for stability has generated a great deal of dust.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO ALLOCATE \$20,000 IN SURVEY SERVICES FOR BELL ROAD AND \$18,400 FOR

DUPONT ROAD.

Commissioner Dixon told Mr. Presnell to pay careful attention the DOT budget cuts because a lot of the grants for roadways will be cut from their budgets.

9. COUNTY MANAGER'S AGENDA

Request for Library Workshop with Library Commission

Mr. McKinnon told the Board that the public library is at capacity and the Library Commission has been working on some ideas. They have requested a joint meeting with the Board.

There was a consensus to meet with the Library on November 6 at 5:30 p.m.

10. CONSENT AGENDA

UPON MOTION BY COMMISSIONER MCGILL SECOND BY COMMISSIONER, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA, TO WIT:

1. Resolution Honoring Horace Murray Spooner
2. Contract between BCC and FL Heath Department to operate the Gadsden County Health Department
3. Purchase of Nissan Forklift from North Florida Material Handling, Inc. at a cost of \$12,200
4. Full Service Maintenance Agreement - Xerox Copier at Property Appraiser's Office.
5. Fee Adjustment by Waste Management effective October 1, 2001 at the June 1 price index of 3.2%
6. Large Item Pick Up Schedule set for October 22, 2001 - November 9 - Joint effort with County and Waste Management
7. Memorandum of Agreement with Department of State Division of Elections for Poll worker education
8. Committee for Epilepsy Awareness - Request Recognizing November as "National Epilepsy Awareness Month"
9. Request to CSX Railroad for repairs at Lincoln Drive Crossing in Chattahoochee
10. Final plat approval for Ebenezer Gardens Major Subdivision
11. Division of Forestry Annual Report for 2000-2001
12. Chamber of Commerce/Economic Development Activity Report

for month of August 2001

13. Proclamation Honoring Oscar Nathaniel Mabry on his 90th birthday and declaring him the honorary mayor of the Sawdust Community.

11. CLERK'S AGENDA

Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO RATIFY THE APPROVAL OF THE PAYMENT OF THE COUNTY BILLS.

12. COMMISSIONERS REPORTS

District 1 Report

Commissioner McGill had no report.

District 2 Report

Commissioner Watson called attention to the fact that the City of Quincy raised the tipping fees from \$52.00 per ton to \$60.00 per ton. He then recalled that the County does not have an agreement with the City and thus the County will have no input as to the price they can set their fees. He asked that the County begin to look at alternatives to take care of the garbage that is generated in the County.

Mr. McKinnon confirmed that the City did not agree with some of the language in the proposed agreement two years ago and there is no agreement in place at this time. (The County asked them not to allow the landfill to become a regional transfer station.)

District 3 Report

Commissioner Roberson had no report.

District 5 Report

Commissioner Dixon cautioned the Board about making county policy based on an individual commissioner's personal likes and dislikes. He said that it dangerous. He reminded them that the Board represents city residents and county residents.

District 4 Report

Chair Fletcher had no report.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER
DECLARED THE MEETING ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT A REGULAR MEETING OF THE BOARD OF
COUNTY COMMISSIONERS HELD IN AND FOR
GADSDEN COUNTY, FLORIDA ON OCTOBER
16, THE FOLLOWING BUSINESS WAS HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
EDWARD J. DIXON (arrived late)
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Hal Richmond led in pledging allegiance to the U.S. Flag. Commissioner Watson said a prayer.

2. APPROVAL OF AGENDA

The agenda was amended as follows:

- 1) Possibly remove Item 6.3 - Havana Flea Market - only if Item 5.0 is approved, otherwise it remains on the agenda.
- 2) Remove Item 8.2 - Contract between Gadsden Citizens for Healthy Babies, Inc. and County Extension Service

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED. (Commissioner Dixon was not present for this vote.)

3. APPROVAL OF MINUTES - SEPTEMBER 4, 2001 REGULAR MEETING

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING. (Commissioner Dixon was not present for this vote.)

4. COUNTY ATTORNEY'S AGENDA

Mr. Richmond had nothing to report.

**5. RICHARD THOMPSON - REQUEST TO CANCEL HAVANA FLEA MARKET TYPE
III HEARING**

Mr. Richard Thompson addressed the Board. He stated that according to the Land Development Code, the hearing which is scheduled for this meeting requires a public notice of at least 10 working days before the hearing. He said that it was advertised on Wednesday, October 3, 2001. He called attention to the fact that Monday October 8, was a legal holiday and should not be considered a working day. If it is not counted as a working day, the hearing could not go forward because it would not have been advertised for the full 10 days.

Mr. Thompson asked that the hearing for this meeting (of October 16) be cancelled and placed on the agenda for the next regular meeting to discuss another date for the hearing. It should then be re-noticed for the hearing date.

Mr. Richmond stated one or two issues needed to be addressed. The first being whether or not Columbus Day should be recognized as a legal holiday for the purpose of determining if the notice requirement for a Type III hearing was met. A Type III hearing requires 10 days notice. He said that even though Columbus Day is a recognized federal holiday, it was not observed by the State of Florida nor by the County.

Mr. Richmond continued by saying that the Havana Flea Market was on the agenda for September 18, 2001 (28 days ago) because Mr. Clore had filed a law suit against the County in response to a "cease and desist order" issued by the Growth Management Department. The law suit was filed by Mr. Clore's attorney, Bruce Weiner, without having requested an administrative review which may have been available to him.

Secondly, at the September 18th meeting, there was discussion about whether the County should file a motion to dismiss the law suit because Mr. Clore had not exhausted the administrative remedies. After some discussion, the Board voted 3 - 2 to rescind the cancellation of Mr. Clore's Development Order and they gave him until February 1, 2002 to have the site preparation completed and to have the entire construction completed 3 months later. This agreement was reached as negotiations to settle the law suit and the agreement is legally binding unless it has not been appealed by either party.

Mr. Richmond advised the Board that if they postpone the hearing as Mr. Thompson requested, they could be opening up a situation where the project would never get heard again. He reminded them that they had negotiated a settlement agreement that is in place.

Mr. Thompson stated that he recalled the September 18 meeting and was under the impression that the discussion was not about resolving the court suit but was a Type III hearing. If it was a Type III hearing, he said that it had to be a public noticed procedure itself and that notice did not occur for the September 18 meeting.

Mr. Richmond argued that it was on the agenda at a duly noticed regular meeting.

Again, Mr. Thompson asked that the matter be removed from the agenda and not be heard at this meeting and be rescheduled for the next public meeting at which time it can be scheduled for a another Type III hearing date.

A MOTION WAS MADE BY COMMISSIONER MCGILL TO DENY MR. THOMPSON'S REQUEST TO REMOVE THE HAVANA FLEA MARKET TYPE III HEARING FROM THE AGENDA, PUT IT ON THE NEXT REGULAR MEETING AGENDA TO HAVE DISCUSSION AND SET A NEW HEARING DATE FOR THE TYPE III HEARING.

Commissioner Watson asked Mr. Richmond to explain what the harm would be if the Board postpones the Type III hearing.

Mr. Richmond replied that the 30 days will have run and the agreement reached on September 18 would be set in concrete. The only people who could appeal that decision would be the affected parties. (Such as Mr. Thompson)

Commissioner Watson asked about the legal notice requirement.

Mr. Richmond stated that it had been on the agenda for the 18th to try and reach a decision.

Mr. Bruce Weiner, attorney for Frank Clore, addressed the Board. He stated that he had considered the September 18th meeting to be a negotiation of a settlement meeting because the matter is was in the court system. He said that he had been agreeable to resolving the issue in the public arena on the 18th. He went on to

say that he did not believe that an appeal is appropriate in view of the fact that the Courts have jurisdiction of it. He said he had drafted an agreement pursuant to the September 18 meeting. He then stated that the cancellation of the development order was arguable. He asked the Board to ratify the agreement that was agreed to on September 18.

Commissioner Watson asked if the September 18 meeting should have been noticed.

Mr. Richmond responded that it was properly noticed for the purposes of the settlement. Mr. Thompson was present at that meeting and no one else has intervened or stated objections. There was notice on the agenda and the agenda is considered public notice. It was not noticed under the Land Development Code Type III hearing (10 working days requirement) because it was for the purpose of trying to settle a law suit.

Mr. Weiner agreed with what Mr. Richmond stated above. He said that he had come to the September 18 meeting to make an offer to settle the suit that he had filed on behalf of Mr. Clore.

Commissioner Dixon said the Mr. Thompson's sole argument is that the October 8 was a legal holiday and therefore did not count toward the 10 working days. But, the County did not observe the holiday.

Mr. Richmond stated that there had been no showing of any prejudice to any party. Proper notice had been given in order to have the Type III hearing on this date.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO DENY MR. THOMPSON'S REQUEST.

Commissioner Watson stated that the Board should become more familiar with the notice requirements, State Statutes and the rules that govern the entire process.

6. GROWTH MANAGEMENT AGENDA

6.1 Deer Ridge Estates - Request for Extension Preliminary Plat Approval

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER

MCGILL, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO GIVE A TWELVE MONTH EXTENSION OF THE PRELIMINARY PLAT APPROVAL FOR DEER RIDGE ESTATES. IT WAS CLARIFIED THAT THERE WOULD BE NO MORE EXTENSIONS.

6.2 Motion to Set Aside the Amended NOPC by City of Midway

Ms. Marva Davis, City Attorney for the City of Midway addressed the Board. She stated that she had filed a motion for a re-hearing and to set aside the development order for the asphalt plant that is proposed for Midway.

Davis:

Good evening, Commissioners. My name is Marva Davis and I am the city attorney for the City of Midway. As you know, we have filed a motion for re-hearing to set aside a development order or your resolution concerning the asphalt plant proposed for right outside the city limits of the City of Midway. In fact, a portion of the property that was originally in the DRI is within the City of Midway.

In trying to discuss this issue with you tonight, one of the paramount consideration was how best to present the issue to you. I have just heard some arguments previously about notice and lack of notice and time periods for publicizing and advertising. And, of course, I witnessed your vote.

There is some difference in this in that we are not making a technical argument based upon a holiday and we are also not here that anyone necessarily intended there to be a lack of notice. One argument is that, in fact, there is a lack of notice. So, we are not here to point fingers or make recriminations, but to state what the facts are.

The fact is that you held a public hearing that was not property advertised. Now, does it make any difference? That is the bottom line. Does it make a difference that you have a public hearing that was not properly advertised?

It is our position as the City of Midway that it does and we believe that rules, statutes and case law support that position. So, I am going to follow the KISS principle. And I am going to change that last word from "keep it simple stupid" to hopefully "keep it simple smarty" because by keeping it simple, we all remain smart in the decision of this motion.

And that is that if we are doing something wrong, whether it was inadvertent or not, we've got time to correct it. We can cure it so, why not do it?

Rule 29L - 2.003(10)(a) of the Florida Administrative Code provides some pertinent part that once a development order has been issued and the developer applies to the local government for a change to the development order, then the local government shall review the proposed deviations to the development order.

Then it goes further into Rule 9J-2.05 FAC and it says that at least 30 days with no more than 45 days after the development order has been submitted to the local government, then they shall give it at least 15 days notice of the public hearing to be held to determine whether the proposed change is a substantial deviation.

So, basically, whether or not there is substantial deviation - in order to make the determination of whether there was none, there was to be notice of a public hearing and therefore, the citizens were entitled to that.

Now, Rule R J -2.05 (11) (d) provides a pertinent part. That any change which does not meet the criteria of even a substantial deviation will still be subject to any local government public hearing requirements that are necessary to amend the DRI.

Having that in mind, we can look at the Florida Statutes on what the rule is based upon. That is 380.0619 provides a pertinent part, again. No sooner than 30 days but no later than 45 days, you are suppose to give 15 days notice. Then 380.06 (6) provides some pertinent parts, particularly in subsection 3. The local government must - must- advertise a public hearing on the transmittal and make a determination of a transmittal within 60 days and then in section 125.664 which deals with the County and the regular way in handling such proposed ordinances and resolutions - it says "that the county is required to hold two advertised public hearings on proposed ordinances and resolutions that change the actual list of permitted conditional or prohibited uses within a zoning category or actually changes the zoning map designation of a 10 acre or more parcel.

I don't think there is any dispute that what you ended up doing with your resolution was changing the permitted uses of this land. With that as the case, then clearly, even as to this section, here again, we've got a requirement for two advertised public hearing notices.

Now, we know that the county at one point recognized its obligation to advertise. How do we know that? Because the county recognized its obligation and gave notice of a hearing when it advertised it on August 7 and August 21 meetings. These meetings did not result in a hearing that we had here, but, you knew that you had the obligation to have those notices and those advertisements. But, somewhere along the line, Mr. Peavy came in and withdrew his request for permission to have the asphalt plant on the P & Z agenda which was scheduled for August 8. Then Anderson Columbia came in and asked for a continuance of the August 7 Board of County Commission meeting. Somewhere along the line, something fell into the crack and there was not a notice for the September meetings.

The County Commission rescheduled the public meeting at its August 7 meeting, I believe, only by stating in there that a continuance was granted. It specifically stated for September 4th. There was no mention of a second hearing, but it did say September 4th.

Now, I have tried to anticipate what some of the arguments are and some of the questions. And, one of the arguments, I guess, is - If we publicly announced it at our County Commission meeting that we were continuing it to September 4th, isn't that requisite public notice? The answer is "no". That is not requisite public notice. It's not the advertisement that is required. How do I know then, that you also know that this is not the requisite notice? The way that I know it is if I reviewed what you have done in the past, when you have had issues that have had to come back before you, you have done what is called a re-notice. A re-notice of intent. Specifically, on May 14, 2001, a re-notice of intent - which I ask you to take judicial notice of was issued. Again, on June 14, 2001, (and this was concerning Anderson Columbia on both of these) re-notices of intent were issued. So, you know that when you have a matter that is continued, that you must re-notice the intent.

It fell through the crack. That is just a fact.

Now, what do we do about it? I think we do what our courts have said that we must do. And, that is that we must consider that the end result of the action is invalid. Therefore, what you did in passing the resolution was void. Anything that is void means that it is no good. That means that we need to start over.

Now, upon what basis do I assert that it is void and invalid? First of all, I cite the case of Malley vs. Clay County Zoning Commission. It is a case from the First District Court of Appeals - this is an old case but, it is very straight forward. It says that "The weight of authority in the United States subscribes to the view that legal requirements calling for notice in a particular manner and form preliminary adoption and amendment of a zoning law are generally construed as mandatory law and jurisdiction.. (inaudible).., they are invalid."

Florida has adopted the majority view. It has been held in this state for in the promulgation of zone regulation, there must be there must be strict adherence to the requirements of notice and hearing preliminary to adoption of such regulations.

Now, somebody might raise the question - Was this development order a zoning regulation? The closest that I can come to steering you in the right direction with reference to that issue is as follows. I cite to you the case of (inaudible) .

That means that it is a Court of Appeals case. In that case, the county passed a moratorium on building. And, they said "Well, a moratorium on buildings is not a zoning regulations, therefore, we don't have to have all this public notice that you say we are required to give." But listen to what the court said. "If an ordinance substantially affects the (inaudible) of man, it must be enacted under the procedure which governs zoning and re-zoning."

Therefore, if we take that position that in thought you granted to Anderson Columbia in your resolution, a decision that substantially affected their land use (and I think if you are very clear and don't try to avoid the issue) we all have to agree by adopting the SIC code regulation and saying "now you can use the land for this but previously you could not use

it for" but, in fact, you have adopted a resolution that, in fact, substantially affects the land use and therefore, your land regulations apply. And, as previously stated, if the zoning regulation applies, then the public hearing and notice requirements are mandatory.

Now, the next issue - Well, Ms. Davis, you just argued that we previously re-issued re-notices and re-notices of intent but that doesn't mean that you do it in this case. Well, in answer to that question, I cite to you a Florida Supreme Court case in Gulf (inaudible) vs. the City of Ft. Lauderdale wherein the Planning and Zoning Commission had done something very similar and then they came back and said "We don't have to do that." The Court said "Even if the City of Ft. Lauderdale was not constitutionally" (The reason I bring this up is because I heard some argument 'what is our procedure and what are we suppose to follow? - We don't really have regulations, so, what are we supposed to do? I am saying that you can set the course of what your regulations by your prior actions. And, if we go by prior actions, you have set a course which means that you owe the public those two advertised notices in this instance.) And the case goes on to say "Even if the City of Ft. Lauderdale were not constitutionally and statutorily obligated to extend the procedure of due process set forth in Section 47-32.7, nevertheless, once it has done so, it should not be permitted to (inaudible) on its promise any more that one of its private citizens would be entitled to do so." And, therefore, it ruled that they were required to give the requisite public notice and hearing.

I could go on and cite to you all those cases that state the actions that you took on that resolution are invalid. There would be numerous of those cases. I would just represent to you that the case law does hold this as invalid and void and it is illegal. I feel that this, I would suggest that this Commission does not wish to take actions which are avoided the is legal - in the face of knowledge. Once you have knowledge and can correct, then that is all you need to do. And that is all that we request.

We have raised in our motion all the reasons for requesting that you revisit this issue. We think that the major issue, of course, is the one that we just finished. And, I know that we do have time limitations and we have other business. And,

we set forth these arguments or positions within our motion. But, I still want to tell you that it is still our position, we are not waiving any of those positions. That the County erred in finding that there was not any substantial deviation and we also want to continue to assert our position that the Planning and Zoning Board was required to review these changes before they got to you. Now, how this step got omitted, simply because Mr. Peavy withdrew this first, withdrew the items from the agenda and it was not put back into the right process of doing that. I'm not really sure, but, it should have been done.

And, various case laws state that the Planning and Zoning portion of the reviewing process before the Planning Board is very essential because, quite frankly, that is a point in time where you really get down to the brass tacks of data. That's when you can really analyze and evaluate what is going on a lot more than you get to do in those quote "hearings" before you on this matter. It is not a part of the process that can be overlooked and avoided or evaded.

I think lastly, we argued that the decision of the County to hold a hearing without giving adequate and proper notice to the City of Midway, in particular, was not in consistent with Growth Management laws, the City of Midway Comprehensive Plan or the County Comprehensive Plan - all of which require that there be some inter co-relation with reference to land development issues that affect the City of Midway.

This property is so close to our city limits. We have comprehensive plans and you have comprehensive plans. All of that should be taken into consideration in its proper forum. There are even provisions within the law that allow for joint consideration of which may have never come to your attention and which may need to be discussed. But, primarily, for all those reasons, we urge you to reconsider your resolution.

I guess I do need to cite at least one more thing because it may be an issue with some of you. And, that is, once you have made a decision, whether you have lost jurisdiction to be able to correct it. I'm not sure if that is an issue with you or not, but, so as to not leave it unanswered, I would like to point out, and I hope that I can find my case fast enough here for you, Fairfield vs. Land and Water of Adjudicatory Commission, in that particular case, the Court cited

precedence to say that the "The Law is also well settled that a commission, like a court, may on its own motion or by request correct or amend any order still under its control without notice and hearing to parties interested provided that such parties cannot suffer by reason of the correction or amendment or if the matter corrected or amended were embraced with testimony taken at a previous hearing." If the matter was still under the commission's control, then you may correct an improper decision.

I thank you for your attention and if there are questions, I will be glad to answer them.

I worked, you will probably take judicial notice that I reviewed the newspapers and I did not find any such notice and I believe that I have inquired of your Planning Department enough to determine whether or not there was such a notice. I don't believe that I have made an error on that in reference to that at those particular meeting.

McGill:

Mr. Chairman, I would just ask a quick question of the attorney. Is this matter still in our jurisdiction?

Richmond:

There is a question of that because of the resolution has been executed and transmitted. Ms. Linnan make speak to that. There is an argument to be made that we lost jurisdiction when we sent it over to DCA and the 45 days of appeal have started to run.

Davis:

And, of course, my argument is that until, yeah, I understand, but, I would like to specify it anyway.

My argument is that until the appeal time has expired, as you well know, as in any court, which this is a quasi-judicial body at the time it held this hearing, has the ability to have re-considerations and re-hearings. The time for appeal has not expired, no one has filed an appeal which removes it from the jurisdiction of this body, and, therefore, you still have jurisdiction to consider it and to take action - in my opinion as cited by the case law that I have presented.

Fletcher:

Are you going to address the matter of jurisdiction?

Linnan:

Yes, sir. There is a threshold issue. I just thought I would get it on the record. I am Nancy Linnan with Carlton, Fields representing Anderson Columbia and Peavy and Sons.

Respectfully, I believe that the County no longer has jurisdiction over an issue like this. And I say it respectfully, because when you tell somebody "You can't do anything about it" you have to be nice about it. You no longer have control over the issue.

This is a statutory process. The Legislature set forth in detail in Chapter 380 how you do this kind of stuff. And, it also says, in both the Statute and the Rules, that a Development Order takes effect when it has been rendered. There is a definition of what rendered is and rendering is sending by certified US Mail a certified copy of the Development Order to the Department of Community Affairs, the Regional Planning Council and the applicant. That was done on September 25th - 3 days before the motion for re-hearing was filed.

The matter is now solely within the jurisdiction of the Department of Community Affairs. They have 45 days from that day to decide whether to appeal.

The reality is in this case, however, they sent you to put in the record an e-mail from the Department at the September 18th hearing, or maybe the one before that, where they said "We find that this is not a substantial deviation if you adopt a Development Order that is similar to that."

Legally, once the Department has done that, they cannot appeal because they have said that there is no substantial deviation.

So, while there is technically a 45 day appeal time pending, you have already received and we have received communication from the Department which means that legally, they will not appeal it. So, it is out of the county's hands at this point and the County can't do anything about it.

However, just by arguing that, I just wanted you to know that we are not afraid of the notice issue at all. Because, we believe that proper notice was given. It is a statutory process. The Statute requires "a" public hearing, not two.

The Statute requires the notice, as Ms. Davis said, between the 30th and the 45th day. In this particular case, notice was given three times in the newspaper. And, I would submit for the record, Proof of Publication - I am not sure that it is in the county file. The notice of the DRI amendment was in the newspaper by newspaper add that ran June 26th in the Tallahassee Democrat, June 28th in the Gadsden County Times, and again in the Gadsden County Times on July 19th. That last one would clearly put it between the magic required dates in the Statutes.

What you did at every public hearing following that was continue it to a time and date certain. And, under those circumstances, it is not required legally at all to re-notice it. I suspect that you do that pretty - as a standard matter on things to do that. So, it was properly noticed.

There was no requirement that it go before Planning and Zoning. We appeared. The earlier notices, I put in the newspaper to notice the Planning and Zoning hearing. Just so there would be no question about it. We appeared at Planning and Zoning, they did not have a quorum. Nonetheless, we discussed the matter for more than an hour at a public forum.

The City of Midway, additionally, had actual notice in addition to whatever public notice is required. No actual notice, other than newspaper notices, are required for anyone. But, the City of Midway was special because it was adjacent to the jurisdiction.

So, everybody, the applicant, the Regional Planning Council went out of its way, even though it didn't legally need to, to notice the City of Midway. Leonard Bennett, the City of Midway was sent a copy of the notice by the Regional Planning Council. This is a copy of the NOPC which we filed on June 15th, on June 18th, a copy of the agency comments - all of the agency comments were sent by the Regional Planning Council to Mr. Bennet on July 13th. A copy of the response to the agency comments were sent by my office on July 27th and a second supplement response. Everything that the County received, everything that all the agencies received were sent to Mr. Bennett at the City of Midway address which was checked by phone on August 22nd. I checked with the Region and they have confirmed (inaudible) that they did make the appropriate mailings.

Additionally, the city officials were present at all the meetings. Morris Thomas, who was a city commissioner, discussed the project on July 11th following the Planning Commission meeting of which there was no quorum. I sent him additional information, received confirmation that he had received that. He went to the site prior to this meeting.

Then we had a representative present, I believe it was Ella Barber, commissioner, on September 4th when the matter first came up. There was another representative of the City, Tucker Willis, present at the negotiations when we discussed the deletions of SIC codes in the county attorney's office on September 17th and at the September 18th public hearing - at which I objected because I thought ya'll had closed the public hearing before that or at least the record. The City of Midway was allowed to get up and the Mayor testified, Ms. Davis testified and provided comment at that time. So, in fact, the required statutory notice was given. The City also had additional public notice and received it.

Now, I can see stuff getting lost in the US Mail once. It has happened to me - occasionally. But, we had four documents to go by US Mail from two separate entities. And it is highly unusual that none of those would have been received. And people did show up at the public hearing, so, obviously they knew about it.

So, with that, I would be happy to answer any questions.

Watson:

I move that we not rehear it.

Roberson:

Second.

McGill:

Couldn't we discuss it?

Fletcher:

We have a motion and a second that it not be reheard.

McGill:

Ms. Linnan, You heard Ms. Davis's comments regarding the substantial change to the DRI?

Linnan:

Yes, sir.

McGill:

Do you agree that those SIC changes would constitute a substantial change?

Linnan:

Not at all. I believe the Commission made the proper decision and the two agencies that have jurisdiction, who review these things by law, agree that those changes were not substantial.

The Department of Community Affairs, which has supervisory authority over this process looked at it and you heard Mr. Donovan stand up (I forget at which public hearing) and said "We looked at these and they are not substantial deviation."

McGill:

But, we don't have to do them.

Linnan:

But, they are not a substantial deviation.

McGill:

As to Mr. Donovan's comments, we don't have anything in writing, it was just his word, but there was nothing in written form.

Linnan:

But, he said that on the record.

McGill:

O.K.

Linnan:

But he said that on the record. He stood up and said it. And I think he also said maybe have provided you (at this point, I am clouded as to what is in the record) he may have sent a letter saying that it wasn't. But, he clearly, at the public hearing, stood up and said, "I don't believe it is a substantial deviation."

McGill:

Mr. Chairman, I need to raise a question of Ms. Davis.

Do you have copies of that - what Ms. Linnan is talking about?

Davis:

Just a moment, please.

In response to the question about notice, actual notice, - First thing, I would like to call to your attention that Mr. Bennett who was here and swore under oath, I was not (inaudible) to argue, of course, but, he swore under oath that, in fact, that he was never aware of, he never personally received any such notice. I believe that Ms. Linnan indicated that, in fact, those documents existed showing his name to be there.

Now, they were addressed to him and he has said he was not aware of it and he did not receive them.

Second of all, with reference to notice concerning August 7th, I (inaudible). That is not notice for September 4th and September 18th. There is one thing that I want to make sure that we understand that this newspaper notification and publication was for the August 7th meeting - not for September 4th or September 18th meeting.

Now, there is also the question of if one or more of your people who are part of the City who, by happenstance, appear at a meeting, does that a representation of the City and does that put the City on notice? My answer would be no.

Honestly, eventually, it filtered back to us that something was going on that we did not know about because some discussion started occurring that there was an asphalt plant and it's going to be near the City. And, why don't we have actual notice of what is going on? Why hasn't the County coordinated this with us when we are the ones affected?

So, I believe, eventually, what ended up happening is that there was something about some roads that were going to be paved in the City of Midway. Mr. Chuck Willis took it upon himself, not knowing that we are talking a hearing of the nature that was going to occur here, but, to determine what was going on about the public roads. He stumble into that. Ms. Barber, who happened to attend a hearing or commission for some other reason heard bits and pieces of this. And, I believe Mr. Morris Thomas was at a different meeting. None

of them were in their position of representing the City of Midway. None of them had received actual notice that they were to appear or that the City was to appear.

Then finally, I would like to cite you a case. I believe it stands for the proposition that I am going to read to you. It is (inaudible) vs. (inaudible). It is a Third DCA Case. And the trial court was faced with a factual issue that even though Bell Harbor failed to give notice of a public hearing, and to hold a public hearing concerning two zoning ordinances, whether it was fatal to the validity. And, they tried to argue that the petitioners were stopped from urging the end validity of an ordinance or they had waived the right to question the end validity because her representative participated in the meeting. I think that is pretty much kinda close to my point.

Now, in each instance, the judge held that the legal defense against her ability to waive the validity was not sustainable under the law.

Basically, what it said was, and I will read this to you. "The town was required to give notice and hold a public hearing as provided by the law. This is a jurisdictional requirement that cannot be waived. Indeed, it is a condition perceived to the (inaudible) to the power of the village to adopt a zoning ordinance or to amend a zoning ordinance. There is no issue that there was not publication. (Inaudible) that the publication of the notice is not required because the municipality did not proceed under Chapter 176. We hold that the trial court correctly determined that the ordinance on its face shows that publication of notice was essential to its validity. Due process for the deprivation of the use of property requires no less. (Inaudible) is not necessary here for the ordinance purports to be enacted pursuant to a statute requiring publication and notice.

So, basically, what I am arguing is even if somebody from the City of Midway happened to be here and you can identify them as a citizen of Midway, that was not the requisite notice. And, it is so jurisdictional and so fundamental that their appearance cannot waive that requirement. And, whether you assert that it was constitutionally required or required by your county ordinance or your ways of procedure or whatever, it was required and therefore, cannot be avoided. Because of

the very absence of this notice and public hearing, advertising of this notice, this public hearing, rendered your resolution invalid.

Fletcher:
Commissioner McGill?

McGill:
I am finished.

Fletcher:
Is there any other comment from the Board?

Watson:
I call the question.

Fletcher:
All right, the question has been called in the matter of whether to grant a rehearing on this matter.

All in favor say "aye."

Watson, Roberson & Fletcher:
AYE

Fletcher:
Opposed?

McGill
& Dixon:
NO.

Fletcher:
Motion passes.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 -2, BY VOICE VOTE, TO DENY THE MOTION FOR A REHEARING ON THE NOPC TO THE DRI. COMMISSIONERS WATSON, ROBERSON AND FLETCHER VOTED IN FAVOR OF THE MOTION TO DENY. COMMISSIONERS DIXON AND MCGILL OPPOSED.

6.3 Havana Flea Market - Type III Appeal of Administrative Action

Mr. Ballister referred to the above subject at the beginning of this meeting. He explained that he had administratively revoked

the applicant's development permit on July 27, 2001 after having noted that at least six months had elapsed with no substantial evidence of on site completion. The Code reads "As evidenced by poured footers and stud foundation or road base construction after six months of approval." He then said that he based his decision on that wording in the Code and thus issued the cancellation order based on Section 7107(c) which outlines the conditions by which a development order can be denied.

Mr. Ballister reported that P & Z staff sent a letter to the applicant advising him of the deadline of September 8 and noted that the staff had not observed any activity since early March. He told the Board that the applicant had appealed the administrative action to cancel the development order. He stated that a hearing on the matter was properly noticed.

Chair Fletcher called for public input.

Mr. Richmond reminded the Board that this matter was discussed at the beginning of this meeting and an agreement was reached to extend the time frame of the development order. (Site preparation to be completed by February 1, 2001 and all construction to be completed three months after that - May 1, 2001)

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO AFFIRM THE EXTENSION OF THE DEVELOPMENT ORDER FOR THE HAVANA FLEA MARKET AS DESCRIBED EARLIER IN THE MEETING.

******Commissioner McGill was excused at this juncture of the meeting.******

6.4 Horseshoe Lounge - Conceptual Site Plan 01PZ-060-207-4-08

Mr. Ballister told the Board that the owner of Horseshoe Lounge (located on US 90 west of Quincy) has proposed to re-establish the existing motel portion of the development for use as a motel. (Old Clark's Motor Court) He went on to explain that if the Board should approve the project, the applicant would have to have several variances due to the Corridor Road Landscaping Ordinance. He then reviewed the staff comments as they are listed in the agenda packet.

Mr. Peter Patel, applicant, addressed the Board.

Discussion followed.

A MOTION WAS MADE BY COMMISSIONER WATSON TO APPROVE THE APPLICATION AND VARIANCES AS STATED IN THE AGENDA DOCUMENTATION WITH AN ADDITIONAL STIPULATION THAT THE MOTEL WILL BE FOR SHORT STAYS (2-3 DAYS) ONLY; THAT THE LOUNGE AND RESTAURANT WILL CLOSE AT 10:00 P.M.

Mr. Patel was agreeable to closing the restaurant/lounge at the county specified hour, but did not want to commit to closing the drive-through package store at 10:00 p.m.

COMMISSIONER WATSON WITHDREW HIS MOTION.

A MOTION WAS MADE BY COMMISSIONER DIXON AND SECONDED BY COMMISSIONER ROBERSON TO APPROVE THE MOTEL WITH THE STIPULATION THAT IT BE FOR SHORT DURATION STAYS ONLY AND TO APPROVE THE RESTAURANT/LOUNGE AND VARIANCES WITH THE ADDITIONAL STIPULATION THAT IT CLOSE AT 11:00 P.M.

COMMISSIONER DIXON THEN AMENDED HIS MOTION TO ALSO INCLUDE THE STAFF RECOMMENDATIONS AS LISTED IN THE AGENDA PACKETS. COMMISSIONER ROBERSON SECONDED THE AMENDED MOTION.

Chair Fletcher called for public comments.

There was no response.

THE BOARD VOTED 4 - 0, BY VOICE VOTE, IN FAVOR OF THE MOTION.
(COMMISSIONER MCGILL WAS NOT PRESENT FOR THIS VOTE.)

6.5 Bill Peacock's Idlewilde Fish Camp - Neighborhood Commercial
Use 01PZ-066-209-5-09

Mr. Ballister told the Board that Mr. William Peacock has proposed to reopen the Idlewilde Fish Camp. It is located at the southern terminus of McCall Bridge Road at Lake Talquin. The property is bisected by the right-of-way of McCall Bridge Road down to the old water line - a few feet from the bulkhead. The total acreage of the combined tracts (not including Mr. Peacock's home) is approximately 1.06 acres.

Mr. Ballister stated that the fish camp had not operated in over a year and could not be considered a grandfathered use.

However, the applicant argued that the boat ramp and the dock rentals have been open continuously and money had been received for them in the last year.

See the comments and project description in the agenda packet.
(Attached)

Commissioner Roberson disclosed that she had received telephone calls from people who told her that they had used the boat ramp within the last year.

Commissioner Dixon clarified that Mr. Peacock intends to rebuild the old lodge as a motel, (the old lodge had burned and was no longer standing) re-open the bait store at which he would like to ability to sell beer.

Mr. Ballister pointed out that the Land Development Code does not allow alcohol sales in neighborhood commercial property.

Chair Fletcher called for public comments.

Ms. Sharon Nivens, adjacent property owner, addressed the Board. She stated that she was concerned about the driveway that goes between her property and the lodge. She said that if a person comes in with a vehicle and a boat, she did not think they could safely make the turn without damaging her fence and mailbox. She also said that she did not like the idea that the lights would be shining into her bedroom window.

Commissioner Watson stated that the parking problem should be addressed. He was opposed to allowing Mr. Peacock to re-open it like it was.

Mr. Bill Peacock addressed the Board and demonstrated the lay-out of parking spaces on the map.

Discussion followed.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE IDLEWILDE FISH CAMP AS A GRANDFATHERED USE; THE LODGE MUST BE LIMITED TO ONE STORY; PARKING MUST BE DELINEATED AND RESERVED AS PARKING SPACES ON THE SITE PLAN FOR THE LODGE AND BOAT SLIPS (TO BE DETERMINED BY THE GROWTH MANAGEMENT DIRECTOR); SUBJECT TO THE STAFF RECOMMENDATIONS LISTED IN THE AGENDA

PACKETS FOR A GRANDFATHERED USE AND THAT THE PROJECT BE BROUGHT BACK TO THE BOARD BEFORE FINAL APPROVAL IS GRANTED. (COMMISSIONER MCGILL WAS NOT PRESENT FOR THIS VOTE.)

6.6 Saranac Farms Airstrip - Special Exemption Use

Mr. Ballister told the Board that Mr. William (Bill) Smith has applied to construct a 3300' x 250' private airstrip on his property known as Saranac Farms. The airstrip will only be used by the applicant and his son-in-law. The property is zoned Agriculture 3 and is approximately 177.58 acres.

See the agenda packet for further details.

Chair Fletcher called for public comments. There was no response.

Michael Dorian asked the Board if the special exception use as an airstrip could be passed on to the next land owner if Mr. Smith happened to sell this property.

Mr. Ballister said that, if the property is sold, Mr. Smith must notify the Growth Management Department of the transfer of ownership.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE SPECIAL EXCEPTION USE FOR THE SARANAC FARMS AIRSTRIP SUBJECT TO THE RECOMMENDATIONS LISTED BY THE STAFF AND PLANNING COMMISSION IN THE AGENDA PACKETS. IT WAS EMPHASIZED THAT THIS IS A SPECIAL EXCEPTION BY THE BOARD OF COUNTY COMMISSIONERS AND IT CAN BE REVOKED AT ANY TIME BY THIS BOARD.

6.7 Hammock Creek Commerce Park - Light Industrial Subdivision **01PZ-067-206-0**

Mr. Ballister recalled that the Board had approved a Comprehensive Plan amendment to change the land use designation of the subdivision described above from Agriculture 3 to Light Industrial land use. He said that the amendment was subsequently adopted by the Department of Community Affairs.

The property is owned by St. Joe Commercial and it contains approximately 270 acres which lie between I-10 and US 90. The first phase of the project will develop Lots 1 - 9 with Lots 1 - 6 abutting US 90. A single entrance-way to the subdivision from US

90 has been proposed with the entrance roadway extending to a cul-de-sac at Lot # 6.

Mr. Ballister explained that Light Industrial land uses allow the co-location of some commercial properties and the Planning Commission recommended that Lots 1 - 5 be designated as Commercial use. The Planning Commission also recommended that each Commercial lot should be responsible for preserving 50% of the lot frontage. Each owner would have to adhere to the Corridor Road standards.

The developer has proposed the possibility of a second entrance from US 90 for Lot # 6 because access from US 90 would impact fewer wetlands than from the interior entrance road. That decision can be made when the engineering studies come back.

Commissioner Dixon stated that he was not in favor of the second driveway from US 90 for Lot # 6.

Chair Fletcher called for public comment. There was no response.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONCEPTUAL PLAT SUBJECT TO THE RECOMMENDATIONS OF THE STAFF AND P & Z COMMISSION AS OUTLINED IN THE AGENDA PACKETS. COMMISSIONER MCGILL WAS NOT PRESENT FOR THIS VOTE.

CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Approval to pay \$15,998 vehicle for animal control program - item was budgeted
- 2) Notice of rate increase from Waste Management due to increase of tipping fees by City of Quincy (3.2% increase) City of Quincy raised tipping fees from \$52.00 per ton to \$60.00 per ton
- 3) Change Order #2 from Triad Construction for renovation of old Barnett Bank Building for courtroom. This change order amounted to \$570.00 bringing total contract price to \$529,789.00
- 4) Change Order # 14 - C. W. Roberts Contracting, Inc. for \$191,946.50 bringing total contract price to

- \$5,274,522.69. This change order for paving of Gibson Sawmill Road, Gibson Road and Frank Smith Road
- 5) Agreement of Partnership between Gadsden County and Shilo Community Action Group to monitor the upkeep and maintenance of Shilo Park which was developed by Gadsden County with DEP funds. Agreement for 25 years.
 - 6) Chamber of Commerce Economic Development Report for month of September 2001

9. CLERK'S AGENDA

9.1 Cash Report

9.2 Budget Amendments 01-10-16-01

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED BUDGET AMENDMENT.

9.3 Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONERS REPORTS

There were no reports.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER DECLARED THE MEETING ADJOURNED.

E. H. (Hentz) Fletcher, Chair

ATTEST:

Gadsden County Board of County Commissioners
October 16, 2001 Regular Meeting

Nicholas Thomas, Clerk

AT A SPECIAL WORKSHOP OF THE
BOARD OF COUNTY COMMISSIONERS
AND THE LIBRARY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON NOVEMBER 6, 2001,
THE FOLLOWING BUSINESS WAS HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

CALL TO ORDER

Vice-chair McGill called the meeting to order. He announced that the meeting was called in order for the Board to discuss the options available to the County for expansion of the public library facility in Quincy. He then turned the meeting over to Mr. McKinnon.

Mr. McKinnon told the Board that the Library Commission had asked to meet with them to bring several issues to their attention and, also, to get their guidance as to how they should proceed.

Ms. Marcia Deane was the first person to speak on behalf of the library. She stated that because of the high adult illiteracy rate in Gadsden County, it is very important to provide programs that will address it as well as to encourage children to read. She added that the current facility in Quincy is not adequate. She also said that, in addition to more space, it would be very desirable for the adult illiteracy program to have more privacy.

Ms. Deane reiterated that the children are the future of the County. She encouraged the Board to do everything possible to encourage children to read. She added that by making the facility accessible and friendly will help to insure the future.

Mr. Ralph Ranney implored the Board to provide a facility that is designed for a library. He said that in spite of the poor design layout, Ms. Jane Mock, the director has done a marvelous job. He then added that he would like to see a facility to match the quality of the director.

Mr. Carl Daniels told the Board that he was very proud to be a member of the Library Commission and of the progress it has made in Gadsden County. He said that he would like to see the County do everything possible to help the children into the future. He said "When we help them, we help our future, too."

Library Director Jane Mock addressed the Board. She stated the following facts:

- 1) The library is absolutely out of space.
- 2) Computer use by the public is greatly restricted due to lack of space for more computer stations.
- 3) All of the book shelves are full and there is no more space for other shelves.
- 4) The only ADA access to the library is by way of the elevator which is located on the first floor, but, the elevator does not operate after 5:00 p.m.
- 5) There is no room to accommodate more videos.
- 6) Some literacy volunteers have to work at another site because there is no space for them at the current location.
- 7) The library needs to be expanded from the current 8,000 sq. ft. to at least 12,000 and preferably 15,000 sq. ft. Ideally, a library should be one-story.
- 8) There is a need for a meeting room with its own bathroom facilities that can be blocked off from the library so as to accommodate after hour meetings.

Ms. Mock told the Board that there is a library construction grant that is available through the Department of State, Division of Library and Information Services. It would be for a maximum of \$500,000 and would require matching funds. She also said that the application must be submitted by April 1. She added "The applicant must be a government entity and the government has to already have a library program. And the grants are awarded on matching basis only."

Now, I know we have the critical concern and the depressed area. I called the State Library about this and what they told me was that each agency had to be brought into compliance before that took effect. And, their agency had not, but, hoped to be in compliance by April 1st. And, the applicant has to provide assurances of unconditional use of the site and the building for 20 years and would have to employ a professional librarian."

Bill Bridges, architect with Lee and Bridges, stated that he had been working with Ms. Mock on a general layout for a new library. He said that one of the designs contained 15,800 square feet and would require at least 2 acres of land. He said that the City of Quincy would only allow 60% of impervious surface on a parcel of land (including the building and the parking area).

Mr. Bridges estimated that a new library would cost about \$100 - \$120 per square foot totaling \$1.9 million plus acquisition of the land.

Mr. Bridges then reported that he had also looked at the old high school building on King St. as a possibility for a library. He explained that the ground floor could be used as part of the library and the top floor could be utilized for storage or for the literacy program. He said that the ground floor is 5,585 usable square feet and would still require a new addition to the existing building. Additionally, the old building would require asbestos removal and installation of an elevator. He estimated the cost of renovation to be between \$75 - \$100 per square foot subject to unforeseen variables.

Commissioner Dixon stated that he liked the proposed plan and would like for it to be centrally located.

There was discussion as to other possible locations.

Ms. Margaret Strickland addressed the Board. She stated that, at one time, there had been an arrangement with the School Board that the Library could have the lot located at Ward Street and King Street and Stewart St.

There was a consensus that the County should build a new building for the Library and that the Library Commission should come back to the Board with 5 possible sites.

Gadsden County Board of County Commissioners &
Gadsden County Public Library Commissioners
November 6, 2001 Special Meeting/Workshop

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE JOINT
WORKSHOP WITH THE LIBRARY COMMISSION WAS ADJOURNED.

E. H. (HENTZ) FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK

AT REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON NOVEMBER 6, 2001,
THE FOLLOWING BUSINESS WAS HAD,
VIZ.

PRESENT: E. H. (HENTZ) FLETCHER, CHAIR
W. A. (BILL) MCGILL, VICE-CHAIR
STERLING WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
NICHOLAS THOMAS, CLERK
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Commissioner led in pledging allegiance to the US flag and Commissioner led in a prayer.

2. APPROVAL OF AGENDA

The agenda was amended to include approval of Resolution 2001-024 to the Consent Agenda. (Gadsden County Men of Action recognizing Ms. Annie Britt-Berry, Mr. Wilson Hinson, Mrs. Katherine James, Rev. William Maxwell, Mr. Nicholas Thomas, and Dr. Pat Woodward for outstanding contributions to Gadsden County.)

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTE 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED.

3. APPROVAL OF MINUTES

September 18, 2001 Regular Meeting
October 16, 2001 Regular Meeting

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTE 5 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES AS STATED ABOVE.

4. COUNTY ATTORNEY'S AGENDA

Mr. Richmond had nothing to report.

5. MARY NICHOLSON - SUMMER/FALL YOUTH WORK PROGRAM

Ms. Mary Nicholson, Workforce Program Specialist at Tallahassee Community College (TCC) appeared before the Board and reported on the Gadsden County Summer Youth Program. She then played a video interview which was done by WCTV Television Station. She told the Board that two of the young people who participated in the program had earned full scholarships to TCC.

There were 28 students in the program. Each student worked an average of 121 hours and earned \$750 each.

6. GROWTH MANAGEMENT AGENDA

World Class Education Center - World Wide Web - Gadsden County Webpage

Ms. Mary Booker from the Florida Chamber Foundation's Education Center appeared before the Board and reported that the County's web site had been completed by the staff and students who were enrolled in the WorldClass Entrepreneur Academy.

Mr. Ballister stated that one of the "prime movers" who worked on the web site development was Randolph Bush who attempted to demonstrate the web site located at www.gadsdengov.net. However, there was a technical difficulty.

7. COUNTY MANAGER'S AGENDA

Bathroom Facility at Bear Creek Educational Forest

Mr. McKinnon reported that the Division of Forestry (DIF) has requested \$7,500 to the Friends of Florida State Forests, Inc. to construct a bathroom facility at the Bear Creek Educational Forest in Lake Talquin State Forest. The DIF will maintain the facility. He stated that the funds can come from the parks budget.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED REQUEST AND FURTHER APPROVED THAT THE FUNDS BE TAKEN FROM THE COUNTY PARKS BUDGET.

Voting Machines

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PURCHASE OF OPTICAL SCANNING EQUIPMENT IN THE AMOUNT OF \$10,000. IT WAS FURTHER APPROVED TO TAKE THE FUNDS FROM THE GENERAL FUND CONTINGENCY.

CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA, TO WIT:

- 1) 2000 Statewide Mutual Aid Agreement - Gadsden County School Board and Department of Community Affairs (DCA)
- 2) Gadsden County Extension Service and Gadsden Citizens for Healthy Babies Contract
- 3) Continued Lease Agreement with Phyllis Spears Everett for offices of the Tax Collector and Property Appraiser
- 4) Fire Services Contracts: Greensboro, Chattahoochee, Sycamore Volunteer, Wetumpka Volunteer, Robertsville Volunteer, Gretna, Midway and Coonbottom Volunteer
- 5) EMS Grant Application for Electronic Run Reporting Software and Hardware
- 6) Contract for Rehabilitation Work and Special Assessment Lien - Carol and Bobby A. Robinson
- 7) Contract for Rehabilitation Work and Special Assessment Lien - Bertha Robinson
- 8) 2001 - 2002 Appointments to the Small County Coalition - Bill McGill, Carolyn Roberson and Howard McKinnon
- 9) Year-end Report - Tax Collector
- 10) Appointment of Earl Lodge to serve a three year term, beginning June 7, 2001 through June 6, 2004 on the Quincy - Gadsden Airport Authority
- 11) Resolution 2001-024 to the Consent Agenda. (Gadsden County Men of Action recognizing Ms. Annie Britt-Berry, Mr. Wilson Hinson, Mrs. Katherine James, Rev. William Maxwell, Mr. Nicholas Thomas, and Dr. Pat Woodward for outstanding contributions to Gadsden County.)

9. CLERK'S AGENDA

Clerk of the Circuit Court Year-end Report for FYE 09/30/01

Clerk Thomas filed the above named report for the record.

Budget Amendments 01-11-06-01 through 01-11-06-07

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE BUDGET AMENDMENTS.

Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER MCGILL AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

11. COMMISSIONERS REPORTS

There were no reports.

Commissioner Dixon commended the students and staff for accomplishing the county's web page. He stated that he was impressed with the knowledge that the young people gained in such a short time. He thanked the Board for their willingness to give the students that experience which gave them skills with which to earn money.

Mr. Randolph Bush, project manager for the WorldClass Entrepreneur Academy thanked the Board for allowing the students to develop the site for Gadsden County. He stated that, as a benefit of the program, he had gained business skills that he expects to help him to develop a site for FAMU. He closed by saying "It's a great program."

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR FLETCHER
DECLARED THE MEETING ADJOURNED.

E. H. (Hentz) Fletcher, Chair

ATTEST:

Nicholas Thomas, Clerk

AT A REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON DECEMBER 4, 2001,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: W. A. (BILL) MCGILL, CHAIR
STERLING L. WATSON, VICE-CHAIR
CAROLYN ROBERSON
E. H. (HENTZ) FLETCHER
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: NICHOLAS THOMAS, CLERK

1. CALL TO ORDER

Chair McGill called the meeting to order. Commissioner Roberson led in pledging allegiance to the US flag and Commissioner Dixon led in prayer.

2. ADOPTION OF THE AGENDA

Chair McGill called for any changes to the agenda. There was no response.

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER FLETCHER, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA.

3. APPROVAL OF MINUTES

November 20, 2001

UPON MOTION BY COMMISSIONER ROBERSON AND SECOND BY COMMISSIONER FLETCHER, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE MINUTES OF THE ABOVE STATED MEETING.

4. COUNTY ATTORNEY'S AGENDA

Public Hearing - Enterprise Zone Ordinance - 2001-011

Gadsden County Board of County Commissioners
December 4, 2001 Regular Meeting

Mr. Richmond called attention to the attached ordinance which was duly advertised for adoption at this meeting. He read the title of the ordinance into the record. He explained that it establishes the Gadsden County Enterprise Zone Economic Development Board. He then called for public comments.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER FLETCHER, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE ABOVE STATED ORDINANCE.

5. INTERLOCAL AGREEMENT WITH CITY OF QUINCY - USE OF SHIP FUNDS
WILLIE EARL BANKS, QUINCY CITY MANAGER

Mr. Banks addressed the Board with a request for approval of an interlocal agreement with the City of Quincy. The agreement calls for the County to give the City \$100,000 in a one lump sum of the County's SHIP funds to supplement the City's CDBG rehabilitation program.

Commissioner Watson recalled that the last time Mr. Banks was before the Board, he was requested to give an accounting of the funds that were paid to the City of Quincy by Waste Management in tipping fees - funds that were suppose to be set aside for the resurfacing of Selman Road.

Mr. Banks replied that the previous agreement had expired and he was in the process of getting new ones in place.

Commissioner Watson then asked him if the agreement calls for the City to pay the County for the resurfacing of the road.

There was no reply.

A MOTION WAS MADE BY COMMISSIONER WATSON TO TABLE THE INTERLOCAL AGREEMENT FOR USE OF SHIP FUNDS UNTIL THE CLERK NOTIFIES THE BOARD THAT HE HAS RECEIVED THE MONEY FROM THE CITY OF QUINCY TO RESURFACE SELMAN ROAD. HE ALSO MOTIONED THAT THIS MATTER COME BACK TO THE BOARD FOR A DECISION.

Mr. Banks argued that the City has operated in good faith to come to an agreement about the paving of Selman Road. He urged the Board not to withhold the SHIP funds because that agreement has not come about yet.

Commissioner Watson stated that his motion had more to do with

Gadsden County Board of County Commissioners
December 4, 2001 Regular Meeting

the fact that the City of Quincy has not honored past agreements. He said that until the City honors those past agreements, it would be foolish to enter into another one.

Commissioner Dixon stated that it is deplorable to use the public funds and public policy making to fight a personal battle.

THE BOARD VOTED 3 - 2 IN FAVOR OF THE MOTION. COMMISSIONERS WATSON, ROBERSON AND FLETCHER VOTED "AYE" AND COMMISSIONERS DIXON AND MCGILL VOTED "NO."

6. SUSAN FREIDEN, HAVANA TOWN MANAGER AND JOHN OLSON, HAVANA LIBRARY

Ms. Nesta Cumbie, of the Library Commission and Susan Freiden, Town Manager of Havana addressed the Board to tell them of their hopes to build a new library in the Town of Havana.

Friends of the Library, Inc. found a grant that will pay \$400,000 of the construction cost, but it will require a cash match. The community has been active in raising the matching funds. They expect to raise \$200,000 of the cash match.

Commissioner Dixon asked what the relationship of the City would be to the County in this endeavor.

Ms. Freiden said that the town owns some property at the old middle school site that was set aside to be used for "other municipal purposes." The Library Committee approached the Town and requested that they give the land for a library and the Town is inclined to do so. She went on to say that the land is an ideal spot for a library. The Town applied for the grant and was approved. They will assume the debt for the construction of the library. In order to get the grant, there has to be a commitment that the building is used for a library for 20 years.

Ms. Freiden asked the Board if they would be interested in, at least, the concept of a new library and to working with the Town to make it happen.

Discussion followed.

Mr. John Olsen, the landlord of the facility where the library is now located made an alternative proposal to the Board. He proposed to sell the present library to the County, renovate and

Gadsden County Board of County Commissioners
December 4, 2001 Regular Meeting

finance it. He also offered to make a monetary gift.

It was determined that Library Director Jane Mock should come back to the Board with a proposal and conceptual plan.

7. COUNTY MANAGER'S AGENDA

Cancellation of January 1, 2002 Meeting

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER FLETCHER, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO CANCEL THE REGULAR MEETING OF JANUARY 1, 2002.

8. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) FACT annual Member Meeting and Designated Representative - Howard McKinnon appointed as representative
- 2) Agreement for Professional Services - Justice Benefits, Inc.
- 3) Close out of 2001 Sheriff's Narcotics Grant #01-CJ-02-30-01-175
- 4) Local Law Enforcement Block Grant - Grant Adjustment Notice
- 5) SHIP Agreement and Special Assessment Lien - Pamela L. Nesmith
- 6) 2002 Holiday Schedule
- 7) Change Order No. 15 to Gadsden County Roadway Resurfacing Joc #228 - Colonia Estates Neighborhood and Salem Road
- 8) October 2001 Economic Development Monthly Report

9. CLERK'S AGENDA

Bank Resolutions & Signature Cards

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTE 5 - 0, BY VOICE VOTE, TO AUTHORIZE THE CHAIRMAN TO SIGN THE BANK RESOLUTIONS AND SIGNATURE CARDS FOR THE QUINCY STATE BANK.

Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 5 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. DISTRICT REPORTS

Commissioners Watson, Roberson, and Fletcher had no reports.

District 5 Report

Commissioner Dixon asked that the Board develop some rules of procedure by which all commissioners can agree to follow in the future.

Discussion followed as to the things that should be allowed in board meetings such as tie votes (2 - 2) and personal privileges.

There was a consensus that Mr. Richmond should draft rules of procedure and bring back to the Board for discussion.

District 5 Report

Commissioner McGill yield his time to Mr. Eugene Lamb.

Mr. Lamb addressed the Board on behalf of the Recreation Committee. He spoke for just a few minutes about the direction he hoped for the committee to proceed. He encouraged each commissioner to make 2 appointments from each district.

Gadsden County Board of County Commissioners
December 4, 2001 Regular Meeting

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, CHAIR MCGILL
DECLARED THE MEETING ADJOURNED.

Bill McGill, Chair

ATTEST:

Nicholas Thomas, Clerk

AT THE REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
HELD IN AND FOR GADSDEN COUNTY,
FLORIDA ON DECEMBER 28, 2000,
THE FOLLOWING PROCEEDINGS WERE
HAD, VIZ.

PRESENT: E. H. FLETCHER, CHAIR
STERLING L. WATSON
CAROLYN ROBERSON
EDWARD J. DIXON
HAL RICHMOND, COUNTY ATTORNEY
HOWARD MCKINNON, COUNTY MANAGER
MURIEL STRAUGHN, DEPUTY CLERK

ABSENT: W. A. (BILL) MCGILL

1. CALL TO ORDER

Chair Fletcher called the meeting to order. Commissioner Watson led in an opening prayer and Commissioner Roberson led in pledging allegiance to the U.S. Flag.

2. ADOPTION OF THE AGENDA

The agenda was amended as follows:

- 1) Move the Growth Management Director's agenda to Item No. 3 before the County Attorney's agenda.
- 2) Add the bid award for the electronic on-line services for the Library - recommendation of the Bid Committee
- 3) Public Official's Bond for Dale Summerford, Tax Collector
- 4) Removal of Budget Amendment # 01-12-28-00

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE AGENDA AS AMENDED ABOVE.

3. PLANNING AND ZONING (P & Z) ISSUES

**3.1 Ordinance 2000-006 to Adopt Comprehensive Plan Amendment
2000-02**

Growth Management Director Bruce Ballister addressed the

Board. He stated that the County can now move forward with the 22 quasi-judicial (private property) land use changes that were approved at previous meetings. He then stated that they have been approved by the Department of Community Affairs (DCA). He added that the text changes will be transmitted by a separate ordinance at a later date.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE ORDINANCE AS PRESENTED.

3.2 Ebenezer Major Subdivision

Mr. Ballister reported that Maurice Evans is proposing an eleven lot subdivision for site built homes on a 16.48 acre tract located on McNair Road which was recently paved. The conceptual plat that was submitted to the Planning and Zoning Commission indicated nine 100 ft. wide lots along McNair Road and a 47 ft. access easement to two lots in the rear of the subdivision. Since the County requires 65 feet rights of way for roads, the 47 ft. easement would not meet the County Code. Therefore the lay-out was revised to indicate a 65 ft. right of way with 98.5' lot widths. Thus, Mr. Evans will need a variance from the County's lot width requirement of 100 ft. in order to allow adequate right of way for the road to the rear lots. To reduce the impact points along McNair Road, Mr. Evans agreed to combine some of the drive-ways. .

Mr. Ballister stated that the City of Tallahassee has a power utility easement and limits construction in its rights of way. They also take no liability for damage to pavements that are constructed in their rights of way. In an effort to limit the number of driveway accesses onto McNair Road, Mr. Ballister recommended that all the driveways be 16 ft. wide with dual hard pack road base on lots 1,2,5,6,7,8. Lots 3 and 4 however, must have individual drives due to the power line structure. He went on to say that Mr. Evans will need an access variance because the Code stipulates that residential developments with less than 25 lots shall have only one access to the existing road system.

The parcel lies on the east side of McNair Road and runs downhill to a stream that follows the east property line. A storm water system with swales and treatment areas will be designed to satisfy Florida Department of Environmental Protection (FDEP) and the County's storm water criteria. Further details of the project are in the attached documentation.

The P & Z staff recommended approval subject to the matters discussed above and in the attached documentation. Likewise, the

P & Z Commission recommended approval.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE EBENEZER MAJOR SUBDIVISION SUBJECT THE RECOMMENDATIONS DISCUSSED ABOVE AND IN THE ATTACHED DOCUMENTATION.

4. COUNTY ATTORNEY'S AGENDA

Engineering Services

Mr. Hal Richmond recalled that the Board had not approved a new contract with the existing engineers. He asked how he should proceed with engineering matters - modify the old contract to extend it or to seek new contract. He asked for directions.

Commissioner Dixon said that he was satisfied with the current contract and would like to continue it.

Commissioner Watson stated that he would like to go out for a RFP.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER ROBERSON, THE BOARD VOTED 3 - 1, TO GO OUT FOR RFP FOR ENGINEERING SERVICES. COMMISSIONER DIXON CAST THE LONE DISSENTING VOTE.

5. FIRE SERVICES AGENDA

Fire Services Director Oliver Sellars told the Board that when he submitted his original budget, he requested a used tanker truck for the Chattahoochee area. However, he said that since that time, he has learned that he can secure a new one for only a few dollars more. He asked for permission to take bids on a new truck.

A MOTION WAS MADE BY COMMISSIONER WATSON AND SECONDED BY COMMISSIONER ROBERSON, TO SEEK BIDS FOR NEW TANKER TRUCK.

Dixon: Oliver, what is the process? I have been trying to figure this out for about 2 years now. What is the process by which we go through to buy trucks, heavy equipment for fire services under your program? I know what it used to be when we have the chiefs.

Sellars: We just basically bid it out.

Dixon: No, no, no. Are you in a room just deciding who gets the next fire truck?

Sellars: No. I've got a plan.

Dixon: What is the plan? Could I see it sometime?

Sellars: Yeah, I've got it. I'll get you a copy of it. I've got it spelled out according to the age and the condition of the vehicles. This was an extra truck that was needed - out of the ordinary.

Dixon: Based on what?

Sellars: Need. There is no water in the Chattahoochee area near Sycamore.

Dixon: When you say no water, what do you mean?

Sellars: There are no water lines.

Dixon: No water lines.

Roberson: No place to fill the trucks.

Sellars: It is very, very sparse as far as water is concerned.

Dixon: I guess I should have posed this to the Manager. Is there a comprehensive, long range plan for fire?

Sellars: Yes, as far as pumper trucks is concerned. For the replacement of them.

Dixon: For replacement. I mean comprehensive - not just replacement of trucks.

McKinnon: We've got a plan for the replacement of trucks and for upgrading the waterlines county-wide where we can.

Dixon: You've done the hydrants county-wide?

McKinnon: Yes, sir. That's what we have in place.

Dixon: Let me ask you a question. Have we gotten with Talquin to basically change the type of line that they put down that, you know, basically moves them toward using hydrant ready lines? Is that all that they use now?

Sellars: That is basically what they are putting in. Anything

they put in now is basically big enough for hydrants.

Dixon: As they go through, are we putting hydrants in?

Sellars: Not as many as we should be. They are putting in some.
But not at the

Dixon: Why aren't we?

Sellars: Dollars.

Dixon: I haven't seen a plan asking for dollars.

Sellars: You are talking \$3,000 a piece.

Dixon: I didn't ask for that. I haven't seen plans asking for dollars.

McKinnon: We, you know, we've got the district-wide plan and we've got about, in the budget, in the fire budget, there is about \$20,000 - \$25,000 for hydrant upgrades based on - we have a plan. We have a plan for replacing a truck each year and then operating and so forth. Now, if you want to add some money to the fire plan, then we can increase that for hydrants.

Fletcher: Won't Talquin put these hydrants in if we give them the right-of-way for putting the lines down?

McKinnon: We can explore that possibility.

Fletcher: Absolutely. They ought to be putting them in when they build the lines.

Dixon: That's my point. We are defeating the purpose by having to go back and dig up water lines. Nobody wants to do that, especially if they just put them down. I mean that it seems like we are just shooting ourselves in the foot and going around in circles. Every time I look around, somebody says their house just burned down because the truck that came and the truck came after that and the third truck came and still didn't have enough water.

I mean, in Lake Yvette hadn't got no water, I am real concerned about what our long range plans. I would like to see that plan. For replacing not only capital items but what we intend this fire protection to look like in 5 years. We need to see where we are going with this because this stuff ain't working.

Thank you, Mr. Chairman.

I call the question.

THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE REQUEST TO GO OUT FOR BID FOR A NEW TANKER FOR THE CHATTAHOOCHEE AREA INSTEAD OF A USED ONE.

6. PUBLIC WORKS AGENDA

Purchase of New 2001 International 4700 4 X 2 with Flat Bed Dump from Tallahassee Mack Sales, Inc.

Public Works Director Robert Presnell told the Board that his budget included replacement of a six wheel dump truck. He stated that he had received quotes from the State of Florida Contract price list (International Truck and Engine Corp) and another from Tallahassee Mack Sales, Inc. He reported that the same truck was available from Tallahassee for less than the state contract price. He requested approval to purchase the truck from the dealership directly.

Chair Fletcher asked why it was cheaper from the dealership than it is from International Sales.

Mr. Presnell answered that he had found this scenario to be true a number of times but could not explain why.

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PURCHASE OF THE FLAT BED DUMP TRUCK FROM TALLAHASSEE MACK SALES FOR \$38,568.13.

7. CONSENT AGENDA

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE CONSENT AGENDA TO WIT:

- 1) Elected Officials Bond - Bill McGill, County Commissioner - for approval**
- 2) Elected Officials Bond - W. A. Woodham, Sheriff - for approval**
- 3) Public Official's Bond for Dale Summerford, Tax Collector**

- 4) Unpaved Road Maintenance Agreements with Chattahoochee; Midway and Gretna - for approval (Cost increase from \$62.66 pr. Hour to \$67.44 per hour)
- 5) Financing Purchase of Four 2001 Mack Dump Trucks - for Approval - Municipal Services Group, Inc. of Littleton, Co Total of \$318,000 for 48 Months at 5.27%. First Payment Due 1 Yr. From Date of Loan Closure.
- 6) WEB Page Development Agreement between Florida Chamber Foundation and the Gadsden County Board of County Commissioners for WEB Page Development. The County agrees to pay \$7,500.00 for the services to the Foundation.
- 7) Promissory Note - Centennial Healthcare. Original note matured August 2000 with a balance of \$145,027.22. This note begins September 1, 2000 and will extend the terms until March 2001.
- 8) Appointment of Bill McGill, and Evelyn Rollins to the Governing Board of the Apalachee Regional Planning Council
- 9) Reappointment of Bill McGill as the Chairperson of the Transportation Disadvantaged Coordinating Board.
- 10) Appointment of Bill McGill and Carolyn Roberson to the Small County Coalition and appointment of Howard McKinnon as the Staff Liaison.
- 11) Articles of Incorporation and Certificate of Incorporation of Gadsden County Development Council. (N00000008343)
- 12) Notice from FDOT that Gadsden County Will Receive Funding Through Small County Outreach Program (Scop) for Realignment of Cr 65 in Fy 2001. Fdot Will Provide Joint Participation Agreement (Jpa). Upon Execution, a Notice to Proceed Will Be Issued. Dot Share - \$727,734.00 Gadsden County Share - \$242,578.00.
- 13) Gadsden County Chamber of Commerce Activities Report for November 2000.
- 14) Notice of Intent to Cancel Lease from Metrocall (Lease of Space on Radio Tower Effective January 2001) for the Record.
- 15) Bid Award for the Electronic On-line Services for the Library - Recommendation of the Bid Committee to Award to EBSCO Information Services of Ispwich, Ma in the Amount

of \$19,186.00 - For Approval.

9. CLERK'S AGENDA

9.1 Budget Amendments 02-12-28-00 though 09-12-28-00 (01-12-28-00 was pulled from the agenda)

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE TO APPROVE THE ABOVE STATED BUDGET AMENDMENTS.

9.2 Ratification of Approval to Pay County Bills

UPON MOTION BY COMMISSIONER WATSON AND SECOND BY COMMISSIONER DIXON, THE BOARD VOTED 4 - 0, BY VOICE VOTE, TO APPROVE THE PAYMENT OF THE COUNTY BILLS.

10. COMMISSIONERS REPORTS

10.1 Commissioner McGill

Commissioner McGill was not present.

10.2 Commissioner Watson

Cancellation of January 2, 2001 Meeting

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER WATSON, THE BOARD VOTED 4 - 0, TO CANCEL THE MEETING OF JANUARY 2, 2001.

10.3 Commissioner Roberson

Commissioner Roberson had no report.

10.4 Commissioner Fletcher

Chair Fletcher had no report.

10.5 Commissioner Dixon

Commissioner Dixon had no report.

AJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE BOARD, THE CHAIR
DECLARED THE MEETING ADJOURNED.

E. H. FLETCHER, CHAIR

ATTEST:

NICHOLAS THOMAS, CLERK