

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
REGULAR MEETING
July 11, 2006

The Board of County Commissioners of Leon County, Florida met in regular session on July 11, 2006 at 3:00 p.m. with Chairman Proctor presiding.

Present were Commissioners Thael; Sauls; Grippa; Rackleff; and DePuy, and Winchester. Also present were County Attorney Herb Thiele; County Administrator Parwez Alam; Christine Francis, Interim Director of Finance; and Secretary Diane Norvell.

Invocation and Pledge of Allegiance

The Invocation was provided by Commissioner Winchester who then led the Pledge of Allegiance to the Flag.

Awards and Presentations

Award

Jeri Bush, Director of VolunteerLEON stated she was honored to present the President's Volunteer Service Award to Commissioner Rackleff. This is a 'lifetime achievement' award from the President of the United States, George W. Bush. Ms. Bush thanked Commissioner Rackleff for all he has done in Leon County and in New Orleans having made six trips there to assist the victims and families in New Orleans contributing many of his own dollars to help those in need in addition to so much of his time.

Resolution

Commissioner DePuy presented a Resolution to Captain Reynolds, Leon County Sheriff's Department and Mr. Jordan, Florida Gang Investigation Association designating August 14 – 18, 2006 as "Gang Free Florida Week" in support of "Gang Free Florida".

Captain Reynolds and Mr. Jordan acknowledged gang prevention is truly a community wide effort and thanked the Leon County Commission for taking a leading role in the state of Florida to help combat gang violence by adopting this Resolution.

Resolution

Commissioner Proctor presented a Resolution to the Florida State University Men's Track Team Head Coach, Bob Braman and Assistant Head Coach Harlis Meaders in honor of their NCAA National Championship 2006. Commissioner Proctor also noted the academic honors several members of the National Championship Team achieved. Commissioner Proctor acknowledged Garrett W. Johnson, who not only achieved the honor of being a Rhodes Scholar, and the 2005 Arthur Ashe Sports Scholar but was also named the ESPN Academic University Player of the Year. Commissioner Proctor expressed the recognition this honor brings to all of Leon County.

Coach Braman recognized Garrett Johnson as Florida State University's first Rhodes Scholar in 27 years and also recognized four first team Academic All Americans on the Men and Women's Track and Field Team. Florida State University had more Academic All Americans than any other school in the United States. He thanked the Board, the Tourist Development Council, and the Parks and Recreation Department for all their support.

The presentation by Mr. Desloge was made at a different point in the Agenda, following items pulled from the Agenda for discussion but appears below.

Presentation

Bryan Desloge, member of the Positive Aging Community Project Board introduced Susan Davis, who is the Leon County Senior Outreach Coordinator and pointed out that the Executive Director of the Senior Center was also present. Mr. Desloge informed the group they presented an award to Commissioner Proctor about 6 weeks ago. Mr. Desloge thanked the Board for making the community more senior friendly. This group works to raise awareness of issues for seniors, caregivers, and families and stresses the importance of aging with dignity, security and purpose.

Their current priorities include supporting improvements in: transportation, housing, and medical services for seniors. The bi-monthly senior health day the group holds has received great reviews – serving 1300 seniors who would otherwise not have access to preventative health screenings. He thanked the County for their role in helping make the upcoming Senior Center possible which will be at the Wesson School on the south side.

CONSENT

ACTION TAKEN: Items #14 and #29 were pulled for discussion.

Commissioner Sauls moved, duly seconded by Commissioner DePuy to approve the remainder of the Consent Agenda. Motion carried 6-0, with Commissioner Winchester out of Chambers.

1. Approval of Minutes: April 6, 2006 Joint City/County Adoption Hearing on Comprehensive Plan 2006-1 Cycle Amendments; May 9, 2006 Regular Meeting; May 22, 2006 Special Joint City/County School Board Meeting; May 24, 2006 Special Federal Emergency Management Agency Meeting; and June 1, 2006 Joint City/County Transmittal Hearing on Comprehensive Plan 2006-2 Cycle Amendments

The Board approved Option 1: Approve the Minutes of the April 6, 2006 Joint City/County Adoption Hearing on Comprehensive Plan 2006-1 Cycle Amendments; May 9, 2006 Regular Meeting; May 22, 2006 Special Joint City/County School Board Meeting; May 24, 2006 Special Federal Emergency Management Agency Meeting; and June 1, 2006 Joint City/County Transmittal Hearing on Comprehensive Plan 2006-2 Cycle Amendments.

2. Acceptance of Department of Children and Families Purchase Order for Reimbursement for Drug Court Urinalysis Testing

The Board approved Option 1: Accept the Department of Children and Families Purchase Order and approve the Budget Resolution and associated Budget Amendment Request.

3. Approval of Payment of Bills and Vouchers Submitted for July 11, 2006 and Pre-approve Payment of Bills and Vouchers for the Period July 12, 2006 through August 21, 2006

The Board approved Option 1: Approve Payment of Bills and Vouchers Submitted for July 11, 2006 and Pre-approve Payment of Bills and Vouchers for the Period July 12, 2006 through August 21, 2006.

4. Approval of a Resolution Supporting Day Jet Corporation as a "Qualified Target Industry" Applicant and Approval of the Required Local Match of No More Than \$35,000 from the County's Qualified Target Industry Escrow Account

The Board approved Options 1 and 2: 1) Approve the Resolution supporting the Day Jet Corporation, as a QTI applicant; and 2) Approve the required local match of \$35,000 to be paid from the QTI account, based upon the company's job creation performance.

5. Acceptance of Second Quarter Status Report on 2006 Board Retreat Priorities

The Board approved Options 1 and 2: 1) Accept the second quarter status report on 2006 Board Retreat Priorities and Administrative Issues; and 2) Accept the second quarter status report on the carryover 2005 Board Retreat priorities.

6. Acceptance of the 2006 Legislative Session Final Report; Authorization for the County Administrator to Extend and Retain Professional Lobbying Services; and, Request to Schedule a Workshop on the 2007 State and Federal Legislative Issues for Tuesday, October 10, 2006 from 1:30 – 3:00 p.m.

The Board approved Options 1, 2 and 3: 1) Accept the 2006 Legislative Session Final Report; and 2) Authorize the Chairman to extend the state lobbying services Agreement with Shutts & Bowen and Lewis, Longman, & Walker for one year in the amount of \$40,000 each; and 3) Schedule the Board Workshop on the 2007 State and Federal Legislative Priorities for October 10, 2006 from 1:30 – 3:00 p.m.

7. Acceptance of the Tallahassee Democrat's Donation on Behalf of Akin Ritchie, President of VolunteerLeon Youth Corps

The Board approved Option 1: Accept the \$500 donation from the Tallahassee Democrat and adopt the Resolution and associated Budget Amendment.

8. Approval of Housing Finance Authority Resolution Authorizing the Escambia County Housing Finance Authority to Issue Single-Family Mortgage Revenue Bonds

The Board approved Option 1: Adopt the Resolution authorizing the Escambia County Housing Finance Authority to operate within the boundaries of Leon County, and ratify and approve the Housing Finance Authority Resolution and Interlocal Agreement.

9. Approval of the 2005 Community Development Block Grant – Economic Development Category Agreement and Authorization to Advertise a Request for Proposals for Management of the Grant

The Board approved Options 1 and 2: 1) Approve the 2005 Community Development Block Grant-Economic Development Agreement between the County and the Florida Department of Community Affairs and authorize the Chairman to execute; and 2) Authorize staff to issue a Request for Proposals for grant management services for the 2005 Community Development Block Grant – Economic Development project.

10. Authorization for County Participation in a Habitat Challenge Build with the City of Tallahassee and Approval of Proposed Funding

The Board approved Options 1, 2 and 3: 1) Approve County participation in the Habitat Challenge Build with the City of Tallahassee; and 2) Authorize the use of \$24,000 for the Southwood Development of Regional Impact fees to be utilized in the Habitat Challenge Build; and 3) Concur with the City's decision to

utilize an additional \$24,000 from the Southwood DRI fees (\$48,000 total) to be utilized in a Habitat for Humanity Challenge Build with Leon County.

11. Request to Schedule a Public Hearing Regarding a Proposed Amendment to Chapter 10 of the Leon County Land Development Code to Include Connectivity Requirements for Tuesday, August 22, 2006 at 6:00 p.m.

The Board approved Option 1: Schedule a public hearing regarding a proposed amendment to Chapter 10 of the Leon County Land Development Code to include connectivity requirements on Tuesday, August 22, 2006 at 6:00 p.m.

12. Acceptance of Eight Conservation Easements from Adiron, LLC

The Board approved Option 1: Approve and accept for recording the eight conservation easements from Adiron, LLC for the River's Edge Type B subdivision.

13. Approval of Proposed Revisions to the Leon County Concurrency Policies and Procedures

The Board approved Option 1: Adopt the proposed revisions to the Leon County Concurrency Policies and Procedures Manual.

14. Consideration of Proposed Revisions to the Home Occupation Ordinance Regarding Home Businesses in the Rural Zoning District

Item #14 was pulled for discussion by Commissioner Rackleff.

- Commissioner Rackleff stated County regulations prohibit accessory home office buildings or home occupation buildings in the rural area. Staff's recommendation in his opinion discourages people from having home-based businesses. He believes this is something the Board should be encouraging rather than discouraging. He asked staff if there is not some way to craft language that would protect a structure that is not connected to the primary residence and is modest in size that allows this kind of business to take place.
- David McDevitt, Director of Growth and Environmental Management (GEM) stated there is an attached draft Ordinance where staff spent a considerable amount of time trying to do what Commissioner Rackleff suggested. Staff took this draft Ordinance to the User Group who informed staff to take the draft Ordinance back to the Board and inform them they do not think it is a good idea. Mr. McDevitt listed the reasons the User Group did not support the Ordinance at this time.
- Commissioner Rackleff stated he does not think the Board's only action is taking no action at all.

Commissioner Rackleff moved, seconded by Commissioner Sauls to approve Option 1: Do not authorize staff to present the proposed revisions to the Land Development Code regarding home occupations with the Rural zoning district to the Local Planning Agency for the purpose of Comprehensive Plan consistency determination, based on the recommendation of the GEM Citizens' User Group. Motion carried 5-0, with Commissioners Winchester and Thaeil out of Chambers.

15. Acceptance of Update on Bradfordville Agreements and Associated Issues

The Board approved Option 1: Accept the final status report on the Bradfordville Settlement Agreements.

16. Request to Schedule a Workshop on Energy and Air Quality Strategies for August 22, 2006 from 12:00 – 1:30 p.m.

The Board approved Option 1: Schedule a Board Workshop on Energy and Air Quality Strategies for August 22, 2006 from 12:00 – 1:30 p.m.

17. Approval of Resolution and Associated Budget Amendment Request for \$14,490 to Increase the FY 05/06 Budget to Purchase Aerial Photography for the Tallahassee Airport

The Board approved Option 1: Approve Resolution and Budget Amendment Request for \$14,490 to increase the FY 05/06 Budget to purchase the one-half foot resolution aerial photography for the Tallahassee Airport.

18. Approval of Agreement with Sentinel Offender Services for a Global Positioning Satellite Electronic Monitoring Services System

Approve the proposed Agreement with Sentinel Offender Services for Global Positioning Satellite Electronic Monitoring devices and services and authorize the Chairman to execute.

19. Approval of Agreement with Peter R. Brown Construction, Inc. for Construction Manager At-Risk Services for the Renaissance Center.

The Board approved Option 1: Approve the Agreement with Peter R. Brown, Construction, Inc. for Construction Manager At-Risk Services for Renaissance Center Renovations, modifications and build-out, and authorize the Chairman to execute the Agreement.

20. Approval of the Second Amendment to Management and Leasing Services Agreement Between Leon County and Advantis Real Estate Services

The Board approved Option 1: Approve the Second Amendment to the Management and Leasing Services Agreement between Leon County and Advantis Real Estate Services and authorize the Chairman to execute.

21. Approval of Agreement to Award Bid to Bass Construction Company for Continued Accessibility Improvements to County Building Facilities

The Board approved Option 1: Approval of Agreement awarding bid to Bass Construction for modifications to improve accessibility to County buildings and associated parking lots and walkways, in the amount of \$105,455 and authorize the Chairman to execute the Agreement.

22. Request to Schedule Public Hearing Regarding the Establishment of the Special Assessment Rate for the Solid Waste Non-Ad Valorem Special Assessment for Tuesday, August 22, 2006 at 6:00 p.m.

The Board approved Option 1: Schedule the public hearing on the establishment of the Special assessment rate for the Solid Waste Non-Ad Valorem Special Assessment for Tuesday, August 22 at 6:00 p.m.

23. Authorization to Negotiate with a Vendor for Disaster Debris Removal Monitoring Services

The Board approved Option 1: Schedule the public hearing on the establishment of the special assessment rate for the Solid Waste Non-Ad Valorem Special Assessment for Tuesday, August 22 at 6:00 p.m.

24. Approval of Proctor Road Sedimentation Ponds Maintenance Map for Recording in the Public Records

The Board approved Option 1: Approve the Proctor Road Sedimentation Ponds Maintenance Map for recording in the Public Records.

25. Approval of Recording the Plat of the Cove at Lake Hall Subdivision and Acceptance of the Performance Agreement and Surety Device

The Board approved Options 1 and 2: 1) Approve recording of the plat of Cove At Lake Hall and 2) Approve the Performance Agreement and Surety Device.

26. Approval of Recording the Plat of Pebble Brook Subdivision, Upon Final Review and Approval by Staff, and Acceptance of the Performance Agreement and Surety Device

The Board approved Options 1 and 2: 1) Approve the plat of Pebble Brook Subdivision and authorize staff to record it in the Public Records, upon staff's

final review and approval; and 2) Approve the Performance Agreement and Surety Device in the amount of \$204,626.59.

27. Approval of Recording the Plat of Centerville, A Conservation Community Subdivision, Upon Final Review and Approval by Staff and Acceptance of the Performance Agreement and Surety Device

The Board approved Options 1 and 2: 1) Approve the plat of Centerville, A Conservation Community Subdivision and authorize staff to record it in the Public Records upon staff's final review and approval; and 2) Approve the Performance Agreement and Surety Device in the amount of \$2,045,076.26.

28. Approval of Recording the Plat of the Ridge at Velda Dairy, Upon Final Review and Approval by Staff

The Board approved Option 1: Approve the plat of Ridge at Velda Dairy Subdivision and authorize staff to record it in the Public Records upon staff's final review and approval.

29. Rescind Board Action Awarding Bid to Peavy & Sons Construction Company, Inc. for the Construction of Pimlico Road Sidewalk in the Amount of \$778,199

This item was pulled for discussion by Commissioner Rackleff.

- Commissioner Rackleff stated the staff recommendation is for the Board to rescind awarding this bid to Peavy & Sons, which in his opinion is the right thing to do. However, this would mean a sidewalk would not be built on Pimlico anytime in the near future because the County does not have enough money to build one. Only \$500,000 annually is available in the budget for sidewalks. Commissioner Rackleff stated he will be requesting more funding for sidewalks at the Budget Hearings. He emphasized this sidewalk is important and would help children get to school more safely.

Commissioner Rackleff moved, seconded by Commissioner DePuy to approve Option 1: Rescind Board Action awarding bid to Peavy and Sons Construction Company, Inc. for the construction of the Pimlico Road sidewalk in the amount of \$778,199 and authorize staff to re-bid when funds are secured. Motion carried 5-0, with Commissioners Winchester and Thaell out of Chambers.

30. Revocation of the Existing Water and Sewer Franchises Held by the Fallschase Developers and Request to Schedule a Public Hearing to Consider Any Forthcoming Request Granting Water and Sewer Franchises for Tuesday, August 22, 2006 at 6:00 p.m.

The Board approved Options 1 and 2: 1) Revoke the existing water and sewer franchises held by the Fallschase developers, effective immediately, and require same to execute documents accepting full responsibility for all existing water and/or sewer system facilities as may exist in the area subject to this revocation; and 2) Schedule a Public Hearing to consider a request from a water and sewer utility provider for the water and sewer franchises for the Fallschase development area for Tuesday, August 22, 2006 at 6:00 p.m.

Citizens to Be Heard on Non-Agendaed Items (3-minute limit; non-discussion by Commission)

Speakers:

Dorothy Spence , 3982 Chaires Cross Road stated she thinks it's time the children had lights on the fields at the Chaires-Capitola Community Park.

Phyllis Knight, 745 Lewis Boulevard South representing a 501(C3) Organization entitled Casa 12, Inc. asked the Board to consider what it costs the County to support a drinking alcoholic and stated the cost is high. The cost for a sober alcoholic is nothing to the County. A sober alcoholic contributes to the County. Casa 12, Inc. is a clubhouse association for sober alcoholics that is there for newcomers. Casa 12, Inc. needs a permanent home. She is requesting \$50,000 from the County to help buy land that will cost \$500,000 in total. Sober alcoholics have already donated \$42,000. Sober alcoholics contribute to the community – get jobs, pay taxes, and help others.

- Commissioner Proctor asked Ms. Knight to submit this request in writing so the Board can determine whether they would like to agenda it for consideration.

General Business

31. Acceptance of Staff Report on Proposed County Charter Amendment to Establish Countywide Stormwater Standards and Ongoing County Initiatives to Address Stormwater Quality

- County Administrator Alam pointed out item #31 deals with one of the top priorities the Board established at their Annual Retreat. One of the priorities was a county-wide lake protection plan and a direction from the Board stating they would like to see a County charter amendment that would allow County Ordinances related to stormwater standards to prevail over City Ordinances. County Administrator Alam reported there are two ways to achieve this:
 - 1) Get the consent of the City Commission

- o 2) Amend the County Charter to say that County Ordinances would prevail

County Administrator Alam reported there is a Board in place called the Watershed Management Policy Board that Commissioner Thael representing the County, and Commissioner Lightsey representing the City are members of. This Board is working to bring stormwater requirements in line and compatible to each other. Staff recommends the Board does not pursue a charter amendment at this time.

Commissioner Winchester moved, seconded by Commissioner Thael to approve Options 1 and 2: 1) Accept staff report on status of countywide stormwater standards and ongoing County initiatives that address watershed/stormwater quality improvements, and 2) Do not pursue a countywide stormwater charter amendment for the 2006 general election.

- Commissioner Grippa stated he was confused over this recommendation because it sounds like the County Administrator is recommending the County not pursue a stormwater standard to protect our lakes based on what the County has been trying to do for years simply because there is a joint board set up. Commissioner Grippa stated he has not heard anything from that Board. Commissioner Grippa suggested that if the Board takes this tact does that mean the charter amendment is to be 'reconsidered' because the County has not had the opportunity to sit down with the City because they have formally objected to that.

Commissioner Grippa moved a substitute motion, seconded by Commissioner DePuy to accept the status report and direct staff to begin the process of pursuing a county wide stormwater charter amendment.

Commissioner Winchester withdrew his original motion.

- Commissioner Winchester stated he withdrew his motion based on Commissioner Grippa's comments. He would like to see some information on this matter. Commissioner Winchester stated not only is it in the stormwater standard; but in the environmental site plan process for the County that one can move forward on a joint site plan and an environmental permit for construction drawings You cannot do that in the City right now; but you can do it in the County. Commissioner Winchester stated a different standard in the community for development costs time, money, and interest. The stormwater standard is causing problems with our lakes and people are having difficulty interpreting the standards.

The substitute motion is now the motion on the floor.

- Commissioner Thael stated that either way the Board is talking about protecting the citizens' drinking water and keeping floodwater out of peoples homes. Commissioner Thael stated the Watershed Planning Board has met three times as established by the Ordinance approved by the Board. This is a three year process accepted by the City and County involving a lot of work.
- Commissioner Grippa stated he thought the Commission was going to start a process to look at this issue rather than casting it away. He is open to taking both of the proposed charter amendments - because there is one right now the City is objecting to - and sitting down with the City and talking with them before they would take any action.

Commissioner Rackleff called for a point of information.

- Commissioner Rackleff asked Commissioner Grippa what the other charter amendment was he referred to.
- Commissioner Grippa stated the Board is going forward in a referendum to do a sales tax.
- Commissioner Rackleff stated that is not a charter amendment; it is simply a referendum. Commissioner Rackleff asked the County Attorney about three issues:
 - 1) Is there enough time to draft the language for this
 - 2) What role does the City play
 - 3) What about jurisdictional problems, possible litigation
- County Attorney Thiele explained there is currently a provision in the Charter which specifies that within the municipal limits the municipal ordinances prevail. If the Board pursues this matter they would need to amend the Charter in two places - amend the language in the existing Charter to remove the City's prevailing language and then the Board would have to implement a provision indicating that County ordinances on stormwater would prevail over City ordinances on the same subject.
- Commissioner Rackleff asked if the County would have to have two Charter amendments then, two separate amendments.
- County Attorney Thiele stated he had not decided whether the Board could combine that into one ballot question or if it would have to be two. However, both changes would need to be made. He is working out the appropriate logistics.
- Commissioner Rackleff stated he is going to vote against this motion since it could be a distraction from an orderly process of merging the two stormwater programs.
- Commissioner Grippa stated he is concerned because whenever the time comes for the Commission to move forward on the stormwater issue the Board comes up with a reason not to. Commissioner Grippa stated the Board should be talking with the City about this matter and move forward.

Commissioner Grippa stated the Board should add to the motion the County at least try to have the opportunity to discuss with the City this Charter amendment.

- County Administrator Alam indicated to Commissioner Grippa there may be a need to add some aspects to his motion.
- Commissioner Grippa stated he saw a time frame where this would have to be completed by August 9, 2006.
- County Administrator Alam advised a Special Meeting could be held on August 8, 2006. It would be an advertised Ordinance and an advertised Public Hearing and there would have to be a supermajority vote of the County Commission.
- Commissioner Grippa asked if discussion on this item could be continued until later in the meeting.

Chairman Proctor agreed to defer further discussion on this item until later in the agenda without objection from the Board.

After addressing Item #38 the Board resumed discussion on Item #31.

- Commissioner Grippa expressed his desire for the Board to try to work with the City on this issue. Commissioner Grippa suggested the County schedule a Special Meeting to discuss this issue once and for all and try to move forward with the uniform stormwater standard issue with the City. He would like to end the debate once and for all regarding water quality.
- County Administrator Alam agreed with Commissioner Grippa and asked what date the Board could meet. He explained the County needs to adopt the Ordinance with a supermajority vote calling for a referendum and then the Board could always pull the referendum if an agreement is reached with the City.
- Commissioner Grippa asked staff if this would take care of the stormwater, TMDL issues if the County had the ability to dictate the stormwater standards and make them unified.
- County Attorney Thiele indicated that this would not immediately resolve the TMDL issue - but over time the answer would be 'maybe'.
- Commissioner Grippa asked if the County could do stormwater by watershed for Lake Lafayette, Lake Jackson and asked if we could get rid of the annexations that are done out of convenience to get around the stormwater standards.
- County Attorney Thiele indicated that stormwater standards by watershed is what the Board really ought to be doing.

Commissioner Grippa moved, seconded by Commissioner Winchester to schedule a Public Hearing on this matter. Motion carried 5-2, with Commissioners Rackleff and Thaeil opposed.

- Commissioner Thael stated it is interesting that Commissioner Grippa bring up the watershed planning – this process was created in January and the Board adopted a three year process to work in collaboration with the City to accomplish exactly what is being attempted with this motion. Commissioner Thael reported that as the Board's appointee to the Watershed Committee the subject matter is extremely technical, there is a technical advisory staff the Board agreed to. This motion, to him precludes the efforts of the Watershed Planning Committee Partnership. He sees this motion as a political move that means creating a whole new process afterwards to get the same information which the initiative that was unanimously approved previously is attempting to accomplish. Commissioner Thael asked staff if they could brief the Board on what the Watershed Committee has accomplished in the last six months and has planned to achieve over the next six months.

Commissioner Winchester on point.

- Commissioner Winchester asked Commissioner Thael for clarification of what he envisions the ramifications would be if a charter amendment passes in relation to the several possibilities he discussed.

Commissioner Thael discussed the matter in detail.

Lengthy Board discussion ensued regarding a charter amendment, the City's involvement, the Interlocal Agreement already set up, the Watershed Committee, opportunity to move forward on the stormwater standards for the community, a letter received from the City, getting the issue on the ballot, appointment of a subcommittee, annexation, liability, ballot language.

Commissioner Grippa moved, seconded by Commissioner Winchester to set a date certain for the Public Hearing – August 1, 2006 at 6:00 p.m. Motion carried 5-2, with Commissioners Rackleff and Thael opposed.

32. Acceptance of Status Report Regarding the Lease with Calhoun Street
Downtown Babies, Inc.

- County Administrator Alam requested this item be continued to the August 22, 2006 Meeting.

Commissioner Winchester moved, seconded by Commissioner Thael to continue this matter to the August 22, 2006 Board Meeting. Motion carried 7-0.

33. Authorization to Hold a Public Meeting Regarding the Installation of Lights
on Two Athletic Fields at Chaires-Capitola Community Park

- County Administrator Alam reported item #33 addresses the issue of the installation of lights at the athletic fields at Chaires-Capitola Community Park. He stated that when the park was built there was an understanding agreed to by the Board at that time with the community that no lights would be installed. The agreement at that time was that if the Board ever determined lights were to be installed then staff would get a recommendation from the Recreation Council and hold public meetings in the community of those who live within one mile of the park before any action was taken. County Administrator Alam stated staff recommends Option 1; authorizing staff to hold public meetings regarding the installation of lights and bring back a recommendation to the Board from the Chaires-Capitola Recreation Council.
- Commissioner Proctor asked why Public Hearings needed to be held when there were at least 60 public speakers in favor of moving on this item now.
- County Administrator Alam reported at the time the Park was approved an understanding between the County Commission and the neighborhood was agreed to that if lights were ever installed the Board would go through the process of Public Hearings.
- Commissioner Grippa asked if there was anything else in the area that is lit.
- County Administrator Alam reported the tennis courts are lit.
- Commissioner Grippa questioned why only the tennis courts were lit.
- Commissioner Proctor stated that was the best deal the Board could get at the time. However, Commissioner Proctor stated he favors option #2.

Commissioner Grippa moved, seconded by Commissioner Winchester to approve Option 2: Authorize the lighting of the two athletic fields at Chaires-Capitola Community Park and direct staff to apply for a modified site plan approval from Growth and Environmental Management.

- Commissioner DePuy stated he thinks there should be lights at Chaires for the young people to be able to play their games and he fully intends to support that position. However, he addressed the County Attorney saying what he sees in front of him is an agenda item to schedule this matter for public hearing. Commissioner DePuy asked the County Attorney if the Board has the authority to approve the installation of lights without holding a public hearing. He reminded the group there are residents opposing this matter.
- County Administrator Alam reported this is not an advertised public hearing – it is a public meeting, not an advertised public hearing.
- Commissioner DePuy asked the County Attorney what the Board's legal status is.
- County Attorney Thiele explained this was an extremely awkward site plan approval. However, the Board did – when they made the approval to build the park – agree that should the time come when installing lights was considered the process would be to hold public meetings with residents who live within one mile of the park and then get a recommendation from the Recreation Council. Therefore, in his opinion the Board obligated itself, not by contract, but – if you

would – as a condition of the site plan approval to hold the community meetings first.

Speaker:

Mr. Gary Yordon, 4568 Grove Park Drive former Leon County Commissioner stated he was the Commissioner who negotiated this matter. He strongly supported installing lights at the time. However, there were a lot of problems negotiating that. He stated they looked the neighbors in the eyes and said before they would do lights they would hold a series of public meetings and that request would come back from the Community Center Board or whatever Board was applicable at the time. Without that deal it is important that everyone understand there would not be any fields to argue over. Mr. Yordon reiterated the Board's agreement to hold public meetings prior to installing lights when this agreement was first reached to build the fields. This promise was made and it is important to remember that.

- Commissioner Rackleff stated the Board made a promise and it is very important to keep promises, especially as a public official. He cannot support the motion on the floor for that reason.

Commissioner Rackleff moved a substitute motion, seconded by Commissioner Thael to approve Option 1: Authorize staff to hold a public meeting regarding the consideration of installing lights on two athletic fields at the Chaires-Capitola Community Park, and bring back an agenda item to include the recommendation of the Chaires-Capitola Recreation Council.

- Commissioner Grippa asked Mr. Yordan to confirm that there were people who actually opposed building a park and asked if Option 2 was not a viable option.
- County Administrator Alam stated in his opinion Option 2 was a viable option.

Board discussion ensued regarding the legality of installing lights, the need to hold public meetings, the original agreement, the desire for children to be able to play their athletic games, opposition to installing lights.

- Commissioner Thael stated lighted fields are definitely needed. However, the County Commission reached an agreement years ago with the neighborhood regarding this matter. Commissioner Thael discussed the compromise the Board made. He suggested the Board invest in building lighted ball fields for the little leagues at the Apalachee Regional Park. He stated there is an issue of traffic as well as the legal and moral issue. Commissioner Thael reiterated the Board made a promise to a neighborhood.

Commissioner Thael discussed this issue further.

- Commissioner Sauls pointed out that the growth that has taken place in this neighborhood was not anticipated years ago. She reported there are different types of lights that are available now that are much less intrusive than lights available ten years ago. Commissioner Sauls stated we should want the children to play at the community park. If the fields are not lit, they cannot play there. She stated she recently attended a conference on various new types of lighting available and brought back information staff may wish to look at.

Board discussion ensued including questions to the County Attorney regarding whether the County could be sued over this matter and why there are lights on the tennis courts and not the other fields. The suggestion was made to turn the lights out at the tennis courts until the other fields were lit.

- Commissioner Proctor asked the County Administrator which Option 1 or 2 would achieve the quickest means of installing lights at the fields. He asked how soon the Board could procure lights under either Option.
- County Administrator Alam reported Option 2 would be the most expedient means of procuring lights. County Administrator Alam stated barring a lawsuit issue – Option 2 would get lights installed sooner than Option 1.
- Commissioner Proctor pointed out children only get a chance to be children for a short period of time and since they are present advocating for lights they should be rewarded for taking part in the process. He believes Option 2 will still allow for community input.

Board discussion ensued.

Commissioner Proctor advised the group there were:

41 speaker cards indicating the speakers were in favor of installing lights.

15 speaker cards that did not indicate whether the speakers were for or against installing lights.

- Commissioner Proctor noted both Options 1 and 2 approve the installation of lights at the Park.

Speakers:

The following speakers were in support of installing lights at the athletic fields at Chaires-Capitola Community Park:

Sammy Rivera Chaparro, 3848 Jefferson Road
Jack Rivers 3291 Salinger Way
Ron White, 2017 Atascadero Court
Trish Ekberg, 8861 Road to the Lake
Mark Bartell, 8625 Chatham Court

Chris Evelo, 6829 Chisolm Court East
Dean Kowalchyk, 4515 Argyle Lane

Some of the reasons citizens favored installing lights were:

- Citizens are simply asking for lights on fields already there. These are little league fields.
- The County has spent a lot of money on concession stands at the park – why can't they play at the park that is already built. They are not asking for a new regional park – just lights for a park that is already there.
- More cost effective to install lights now. Youths are being turned away now. Cannot wait for a new park to be built three to five years from now.
- The entire structure has changed from when the initial agreement was made. At one time the REC Council was an advisory Board. It is now an oversight board. Things have changes since 1998 when this agreement was made – Little League was not there – Pop Warner was not there.
- Safety Issue – Games start at 6:00 p.m. You cannot finish a ball game in two hours. Very dangerous to play at 'dusk'. Children's safety should come first.
- Only want lights until 9:00 or 9:30 p.m. Children have to get up for school the next day – there won't be any double headers.
- Children love playing in the ball games - but games have to be stopped at 8:30 because there are no lights.
- Let's counteract gangs, drugs, violence by keeping these children involved in sports.
- There was a motion made at the last Board meeting to put on the agenda to approve or disapprove lights – now they are talking about option 1 or option 2.
- Children are Little League District Champions – need to move forward.
- There was no 'promise' made.
- The REC Council is not in charge of running the Park. They run two programs, the County runs the Park.
- Citizens have spent over 300 hours working on these programs – they deserve a chance to have a 'full program' like every other facility in the County. This is the only one without lights.

The following speakers were opposed to the installation of lights at the athletic fields at Chaires-Capitola Community Park:

Marcy Palmer 4773 Chaires Cross Road
Fred Palmer 4773 Chaires Cross Road
Dan Thompson, 4867 Chaires Cross Road
Mr. Rivera 88829 Green Acorn Lane
Maribeth Campbell, 8919 Road to the Lake

Some of the reasons citizens did not favor installing lights were:

- No one received notification about this item being on the agenda – not even people on the Recreation Council. This was not fair.
 - Twenty families who live within ¼ mile of the park do not want lights installed.
 - Moved to the country for peace and quiet.
 - 65 of the names of youths registered to play at the park are outside of the 3 mile area – several names of players from Jefferson County – This park was not approved for our community to serve Jefferson County.
 - Money should not be diverted from a regional park to be put into a community park.
 - If the County has an extra \$180,000 to spend on lights where are the nature trails that were promised, also a boardwalk around the wetlands, picnic areas in the natural area – none of these things were delivered.
 - People who moved there value the character of their community – did not sign on for a 'sports park' across the street.
 - Traffic and noise this will bring.
 - Served many nights to resolve this issue – deserve the respect of the agreement that was made in order to come to a compromise to build the park – that resolution is not being respected.
 - Not against sports, but there is a better place for lighted fields. Originally the Board agreed there would not be any lights installed. Don't want lights installed near their homes.
 - Afraid initially the lights will go off at 9:00 or 9:30 p.m. then the time will be stretched to 10:00 p.m., 11:00 p.m. etc.
 - Residents moved there because it was a quiet neighborhood – do not hate sports or children, but like the quiet of their neighborhood and nights.
-
- Commissioner Proctor asked the County Administrator if the Board approved Option 2 how fast could lights be installed at the fields.
 - County Administrator Alam reported there are two issues involved. One is monies would be available October 1st, 2006 when the next budget year starts. What staff could do if the Board desires is to buy the lights on the state contract – order the lights now. County Administrator Alam reported it would still take two to three months for the lights to be delivered and installed.
 - Commissioner Sauls asked if this matter was continued to the August 22, 2006 Board Meeting to give the Board time to meet with residents - could they still fast track the lights. She is concerned since the REC Council was not notified.
 - County Administrator Alam reported if the Board waited until the August 22, 2006 Board meeting to make a decision on this matter the lights would not be installed until November.

Commissioner Rackleff moved an amended substitute motion to specify this matter be brought back before the Commission at the August 22, 2006 Regular meeting.

There was Board discussion regarding:

1

- Notification of the REC Council
- Lighting of only the tennis courts
- Whether or not to move forward with purchasing the lights
- New technology – low profile lighting available

Speakers:

Several youths spoke in support of lights being installed:

Chris Bartell, 8625 Chatham Court
Mary Kowalchuk, 4515 Argyle Lane
Gabby Evelo, 6829 Chisolm Court East
Dani Ekberg, 8861 Road to the Lake

- Commissioner Proctor posed the question to the Board as to what weight would the Chaires-Capitola Recreation Council's voice carry with the Board, other than a formality. He asked the County Attorney if the REC's opinion would be binding to the Board.
- County Attorney Thiele stated it would not.
- Commissioner Proctor asked Commissioner Rackleff to restate his amended substitute motion so the Board could vote on that motion.

Board discussion ensued.

- Citizens opposed to the lights installation declared their position strongly.
- Commissioner Sauls indicated the entire structure in place at the time the agreement was made years ago has changed. The County is now over the REC Councils. She verified with the County Attorney that the Leon County Board of County Commissioners through the Parks Department is legally responsible for the operations of the parks. This change was made because it had to be made legally.
- Commissioner Proctor asked if this made Option 1 moot then.

There was Board discussion.

- County Attorney Thiele explained this cannot take place until the site plan is modified, no matter what Option the Board approves. This will require a modification of the Type A site plan by staff so there is another step yet in the process.

The amended substitute motion made by Commissioner Rackleff failed 3-4, with Commissioners DePuy, Grippa, Proctor and Winchester opposed.

Commissioner Grippa amended his original motion, seconded by Commissioner Winchester to include purchasing the lights as soon as possible as staff goes through amending the site plan process. The amendment also included

1

direction that the lights should be low impact, and the community council be directed to move forward as to deciding how late the lights can stay on. Motion carried 5-2, with Commissioners Rackleff and Thaeil opposed.

34. Request to Schedule a Public Hearing to Consider Acceptance or Rejection of a Purchase and Sales Agreement for Property Proposed for the New Miccosukee Community Center on Tuesday, August 22, 2006 at 6:00 p.m.

- County Administrator Alam presented the item to the Board. This item involves three pieces of property – designated as B, C, and D in the agenda under consideration. The owner is not willing to sell “D”. “B” and “C” are the properties staff recommends purchasing.
- Commissioner Grippa stated the current Miccosukee Community Center has deeded restrictions to it where it is considering a “sewing club”. Leon County did not want to renovate this facility without having an unrestricted deed. Commissioner Grippa reported a group had discussed where the Miccosukee Educational Foundation should be located and suggested the Concord School. The Concord School has the same problem the Fort Braden School has and that is the past Superintendent was unwilling to sell the school to the County or give access to it. Commissioner Grippa strongly urges the Board to move forward on purchasing parcels “B” and “C”. Beyond these parcels is a park. Also, with this move the corner parcel could not be developed for commercial purposes.

Commissioner Grippa moved, seconded by Commissioner Winchester to approve Option 1 as amended : Schedule a public hearing to consider acceptance or rejection of the Purchase and Sale Agreement for Parcel B (Tilden - ID No. 1609202080000) on August 22, 2006 at 6:00 p.m. along with the parcels that are less than \$250,000. Also, the Board would approve an additional \$12,000 appropriation in funding for the Center. Motion carried 7-0.

- Commissioner Thaeil asked if there was a historic structure on this property and if so is there an intent to preserve that structure.
- Staff reported there is nothing historic on the parcel that is coming before the Board. The parcel next to the park has an old residence on it. It is nothing ‘historic’ – it is simply an old residence.

Speaker:

David Hall, 12700 Miccosukee Road is in favor of a new community center. This community is growing with new homes and new construction. Citizens have outgrown the present site. They would like to see their children and

grandchildren benefit from a new facility and compete with other community centers in Leon County. Wholly supports holding a public hearing.

Mary Young, 9538 WW Dell Terrace thanked the Board for all they have done for the Miccosukee area. Residents are very much in need of a community center where they can have more than one activity at a time. Residents want to beautify their area especially since it is growing rapidly. More citizens will be attracted to the area.

Perry Duhart, 9021 Chester & Lucy Duhart Lane stated everything can be brought together with the purchase of this land for the community center and the area would be greatly enhanced. With the Board's help citizens have built Miccosukee up a lot, many people are moving there now. Citizens would appreciate whatever action the Board can take to acquire this land.

- Commissioner Proctor applauded Commissioner Grippa for his leadership and the use of his office to reach out to areas that traditionally have not received a lot of this Board's attention. He stated citizens need to try to ensure their next Commissioner has the heart and the desire to reach out that Commissioner Grippa has show to their community. Commissioner Proctor wants citizens to consider when they vote that the current District 4 Commissioner has reached out to the south side. He and Commissioner Sauls can testify that Commissioner Grippa has been very helpful beyond the reach of his district.

Citizens applauded Commissioner Grippa for his efforts on their behalf.

Vice-Chairman DePuy passed the gavel back to Chairman Proctor.

35. Approval of Agreement with PBS&J, Inc. for the Implementation of the Water Quality Monitoring Program

- County Administrator Alam presented the item to the Board. This item was continued from the last meeting to give the Commissioners a chance to talk to the staff and have their questions answered.

Speakers:

- Sean McGlynn, 568 Beverly Court representing McGlynn Laboratories stated he has a certified lab approved by the Department of Environmental Protection (DEP) for Total Maximum Daily Loads (TMDL) sampling and stream condition index. He bid on this (Request for Proposal) RFP. After the bidding process, the scope was changed. This is no longer the RFP he bid on. Lake stations went down from 41 to 33. Stream stations went down from 52 to 28. PBS & J will subcontract out all work. He stated the Board asked him to keep monitoring the lakes until a new contract was in place. However, last month staff asked him to stop. He asked for written confirmation from staff that he never received.
- Linda Jamison, 319 E. Park Avenue, Chairperson Big Bend Group of the Sierra Club with about 2,000 members in 11 counties stated the group is very

concerned about water quality in this area. She questions how performance can be monitored on work that is to be subcontracted. Where is the bid process.

- Deron Lawrence, 2420 W. Lakeshore Drive #100 with Biological Research Associates – a Senior Water Resource Analyst. He stated that when the RFP came out there were 957 sampling events targeted; however today's contract only has 711 sample station events – which is a 25% reduction in the amount of work asked the contractor to supply. In 2005 this Commission projected they would spend \$400,000 on the fiscal 12 month monitoring program. What you are going to do is combine the water quality monitoring the lakes program that Dr. McGlynn has been doing at \$158,000 you are combining that with the TMDL monitoring program which was for \$241,000. His friends at PBS & J are asking for \$527,000 – that is a 30% increase for only $\frac{3}{4}$ of the project. This Board has authorized the Department of Public Works to select an evaluation committee that did an admirable job. Could the Board get a lot more work for a lot less money and the same or even better quality for this lake/stream monitoring program. He recommends Option 2, then return on August 22 and be able to compare.
- Bill Rollins, 5460 E. Rollins Pointe representing some of the property owners and Friends of Lake Jackson wants to respond to what they see is a major compromise to the water quality and health of water bodies in the County. To take this process out of the hands of certified biologists and put it in the hands of engineers with no expertise in water quality or lab facilities is upsetting. Also, the company is under investigation by the Federal Bureau of Investigation as well as the Securities Exchange Commission for fraud. The state of Texas suspended all contracts with PBS & J. Taxpayers' money should not be put in the hands of engineers with no scientific experience putting everything citizens have worked for toward cleaning up including millions of dollars spent in danger.
- Patrick Detscher, 6717 Visalia Place candidate for District 5 seat Leon County Commission stated he is a water quality professional. He wants to open this matter up for evaluation so Leon County can have the top water quality situation considering the amount of money being spent.
- Rick Bateman, 300 E. Park Avenue representing McGlynn laboratories stated he came up after the RFP process was done and thanked everyone for the process they had gone through. It was a Request for Proposal that did not have a price on it. What it turned out to be was more of a Request for Qualifications because the companies were ranked. McGlynn came in third. The process since then is suspect to him. When an RFP is done, generally the price and scope of work is considered. The Board has gone from a contract with Sean McGlynn done for \$158,630 for years and then extended it. Now the Board is up to \$762,685 which adds a TMDL component to it – for what. For 25% less services. The scope has been decreased and the price has been increased. What kind of process is that.
- Commissioner Thael informed Mr. Bateman that his understanding is that

staff does not have the authority by Florida State Statute to ask the #2 or #3 candidate what they would perform the service for. Commissioner Thaeil asked the County Attorney if that was his understanding.

- County Attorney Thiele reported the statutes are clear that in the instance of engineering and firms of this nature the County is required to follow the Consultants Competitive Negotiation Act (CCNA). That specifically restricts the County to only bid on qualifications – no bidding of price is permitted. In fact, it is absolutely prohibited under the statute. The process the County used was to judge professional qualifications. A staff committee was set up to do that. The committee ranked - based upon pre-noticed criteria - how points would be assigned. Those points were assigned and the staff committee's recommendations were brought to the Board and the Board accepted the rankings with the four firms that submitted. In this case, PBS & J was the number one ranked firm. The Board accepted that. Once that process is done – that process is over. One of the issues County Attorney Thiele wants to make clear to the Board is that many of the comments made at this meeting addressed 'not selecting PBS & J'. The answer to this issue is that the Board has already done that. The Board is now in stage two which is to negotiate the best price the Board can get for the services they want. If the Board determines PBS&J are not the most qualified firm the Board will have to start completely over with firm #2, or if the Board determines the firms is not meeting the criteria in the bid package the Board will need to re-bid. The Board cannot select Sean McGlynn or any other firm based upon their price. County Attorney Thiele reiterated other firms are not presently 'on the table'. In this case price is not bid, the qualifications of the firm are what is bid.
- Commissioner Thaeil discussed the matter with County Attorney Thiele who stated the issue before the Board now is– is the scope of the contract in accord with what the Board wants, are the terms and conditions of the contract in accord with what the Board wants and do they meet legal requirements – which they do. County Attorney Thiele stated the third aspect is – do you believe the price is fair given the criteria of what those services are to be rendered and that is a question for the professional engineering staff.
- Commissioner Sauls stated since the cost went up so much it looks like the County is paying too much money. She asked is it just that they were they getting an excellent bargain before this.
- County Attorney Thiele discussed the negotiation process in depth.
- Commissioner Grippa asked if the Board has the option to reject all bids if the Board is not happy with the original RFP and what it called for since it was too general to begin with.
- County Attorney Thiele stated at this point the Board is obligated to go to the number two selected firm if they do not go with PBS&J.
- Commissioner Grippa asked the County Attorney and staff a number of questions regarding the Board's options, contracts, bids, prices, components involved, labs.

- Commissioner Rackleff stated he understands costs have gone up; but he does not understand why they are reducing the number of stations on the streams and the lakes along with the frequency of sampling.
- Joe Brown, Director of Engineering Services stated there were five stations where the County was overlapping with the City. Also, the Ockolocknee River has been reidentified as not being a lake, but a tributary type system.
- County Administrator Alam explained that the Consultants Competitive Negotiation Act (CCNA) applies to engineers and planners. The CCNA does not apply to lab tests and collecting samples. Based on the CCNA, for the last 25 years the Board cannot have a price competition in these matters – the County has to select an engineer or a planner or an architect for qualifications and then negotiate. County Administrator Alam asked if staff could prepare a list of the tests the County needs, and the frequency of the tests and compete the different labs for it and in that way get a price quote. The location and frequency of the tests could provide the raw data for the Board to compare.
- Mr. Brown stated it is his understanding the CCNA has formed the foundation of the policy which Leon County has adopted. He stated regarding the price comparison – three of the four firms are using the same lab.
- Commissioner Sauls stated there are citizens upset in the Lake Bradford area who are under the impression that some of the testing stations in that area are being eliminated.
- Mr. Brown informed Commissioner Sauls those are testing stations the City is already doing.
- Commissioner Sauls asked if the testing was the same. Mr. Brown indicated the tests were exactly the same.
- Commissioner Sauls stated there are citizens concerned stations are being dropped and there is some misunderstanding. She wanted to confirm with staff these stations are being dropped by the County but the testing is still being done by the City and this was simply a case of duplication of efforts.
- Mr. Brown stated they are integrating what the County is doing with what the City, and DEP are doing. Nothing is being 'dropped'.
- Commissioner Proctor asked what is the key element being tested for since he has previously expressed concerns that these tests do not lead to anything.
- Mr. Brown stated that is why he would be concerned doing this as on a test cost basis comparison only because there is a lot of biology, a lot of site evaluation. They are testing for various chemicals, nutrients, phosphorous, etc. These tests would be a raw tests. Mr. Brown reported however there is also an evaluation of the plant life, the bug life, things that are active in the water body. What the bottom of the lake is like. The general health of the water is evaluated by the biologists who go out to the site. A person could use the testing costs alone as an indicator but it is not the whole thing.
- Commissioner Winchester asked the County Administrator what direction the Board needs to take.
- County Administrator Alam qualified his statements earlier reporting after hearing there is only one lab involved his solution is not a reasonable solution. He was simply trying to provide the Board a way of getting some type of price

competition. If there is only one lab his solution has no meaning. The cost has gone up from \$159,000 to \$527,000 annually, but with the tributaries added and with the new lab and all the new specs – his suggestion is to get a price competition on the tests themselves. If there is more than one lab this will provide some competition. The County Administrator stated however then the results would have to be taken to a biologist for interpretation.

- Commissioner Winchester asked if the County needs to restructure the negotiations and the contract or do they need to select a new firm or do they essentially need to bid out the testing.
- County Administrator Alam stated if the Board is not comfortable with the dollar amount then staff would have to negotiate with the number two firm and so on. If none of the numbers look good staff would have to go back and re do the entire process.

Commissioner Grippa moved, seconded by Commissioner Winchester to approve Option 2: Do not approve the Agreement with PBS&J for the implementation of the Water Quality Monitoring Program, and direct staff to initiate negotiation with Biological Research Associates.

Speaker:

Scott Zengel, Project Manager PBS&J stated PBS&J is very interested in doing this job for the County.

- Commissioner Proctor asked why the price is so much higher – they will be doing less work, charging 4 times more money – referred to ‘sticker shock’ by the Board – the term Commissioner Grippa used. Commissioner Proctor stated the Board needs to know why PBS&J is charging so much more money to do so much less work.
- Mr. Zengel explained that the scope of what PBS&J would be doing and what Dr. McGlynn did before is substantially different. He reported there are different parameters – this is also a 16 month period instead of 12 months. The contract called for substantially greater emphasis on QAQC, Data Quality, etc. Mr. Zengel assured the Board PBS&J’s costs are in line with what they charge for this type of work.
- Commissioner Proctor stated Mr. Zengel did not answer his questions, and he does not want to spend this large amount of money without knowing why.
- Commissioner Grippa thanked PBS&J for attending – however Mr. Zengel’s explanation for the high cost and the terms he used did not explain things to him either. Commissioner Grippa asked specifically what Q & A and Q & C (Quality Control) that Mr. Zengel referred to earlier covered– what additional dollars are involved and why.
- Mr. Zengel reported they would be doing a substantial amount of additional work. The previous contract just covered the lakes. The lab fees alone are three times more than what was charged before. They use people with at least a bachelor’s degree and in some cases a master’s degree to do their work. Mr.

Zengel reported on the hierarchy of the researchers and their titles. They are not subcontracting any of the work. PBS&J will be providing independent quality control and verification of the lab's data – something we probably were not getting before. A P.H.D. level scientist will be reviewing the data.

- Commissioner Grippa asked who the City is using for their water quality. The issue for him is that legally the Board would have to go to the second firm.

Board discussion ensued regarding firms, labs, how the Board could possibly contract the work out, legal issues, whether PBS&J is facing federal criminal investigations, PBS&J facing suspensions in other states, why the cost is so much higher.

- Commissioner Thael reported he met with Dr. Landing and Don Axelrad Chairman of the Water Resources Committee and knows that staff has met with both these parties as well. Commissioner Thael stated Dr. Bill Landing, Chairman of the Science Advisory Committee (SAC) raised concerns about the contract. Commissioner Thael asked Mr. Brown to reflect Dr. Landing's views at this point.
- Mr. Brown reported Dr. Landing expressed SAC's interest in working with the consultant. Earlier Dr. Landing raised concerns about the County's selection and the amount they were paying. However, upon final reflection he came to the conclusion that the selection of the vendor and the negotiations with the vendor is not scientific activity – so it is not in SAC's purview to consider. They have declined to issue a final formal comment in that regard. Mr. Brown stated he and an upper level PBS&J member broke all the costs down and looked at each component – the hourly rates, the equipment costs and came to the realization the prices PBS&J are asking are quite reasonable. The prices were reasonable – the scope was too large. Therefore staff took out sites that were not critical to the TMDL process.

Speaker:

Charles Redding, Senior Vice President, PBS&J asked the Board not to judge their company by one article in the newspaper. PBS&J is not under investigation. They have not been accused of fraud. They do have some internal problems they are dealing with; but this is not an external investigation. Mr. Redding thanked staff for all their hard work. He reported they have worked with staff on all the pricing. PBS&J has been in this community over 40 years and employ 170 citizens who live here.

Commissioner Grippa discussed the costs and scope of the work called for in this Agreement with Mr. Redding and County Administrator Alam.

Commissioner Proctor discussed the City's water standards as compared with the County's water standards in regard to the City testing County water bodies

with County Administrator Alam and County Attorney Thiele who suggested we would not want to use the City to do our consulting work.

Speaker:

Mr. Rick Bateman stated he questioned the need for the CCNA process as the one that has to be used in this project.

- Commissioner Thaelle asked if the CCNA process was used to negotiate with McGlynn Labs years ago.
- County Attorney Thiele stated on some of the more recent studies the Board has conducted they have bid qualifications instead of price.
- Staff's recollection was the contract was cost based.
- Commissioner Thaelle asked if from now on – bids for engineering, landscape, planning and such the County is required by statute to follow the CCNA.
- County Attorney Thiele stated yes.
- Commissioner Thaelle asked if the contract with PBS&J involves more services not less.
- County Attorney Thiele indicated not only more in the nature of the testing it is more in the analysis and more in the nature of a package because the County Attorney is going to be able to use their hydrologist, their biologist and their engineers – currently he has to hire those three entities separately.
- Commissioner Thaelle discussed the matter further.
- County Attorney Thiele explained the cost includes at least five years of inflation and the TMDL testing now requires the labs to do much more to verify their work under the old contract. County Attorney Thiele stated he would like to be able to have a historical review of the work purchased from McGlynn labs vs. what PBS&J will provide so the Board can look at the two columns and evaluate the differences.

Commissioner Thaelle made a substitute motion, seconded by Commissioner Winchester to approve Option 1: Approve the Agreement with PBS&J for the implementation of the Water Quality Monitoring Program and authorize the Chairman to execute. In addition, direct staff to compare PBS&J costs over the course of the Agreement with the costs of McGlynn Laboratories. Motion carried 5-2, with Commissioners Grippa and Proctor opposed.

- Commissioner Sauls asked the County Attorney when he goes to litigation he will be using PBS&J and would that be included in the price the County is paying now.
- County Attorney Thiele stated any firm will charge extra for court time. What he thinks the Board will get out of the new contract – with whatever firm – is when the original contracts were negotiated matters like the Clean water Act, TMDL and Georgia issues were not even under consideration by this Board. The scope of what the County expects the consultants to do is dramatically different

and bigger. County Attorney Thiele stated he is comfortable with PBS&J and has used them for 30 years in various formats.

- Commissioner Proctor wanted to make it clear that Dr. McGlynn's work is the County's property and the County would not have to purchase the results of what he has looked at.
- County Attorney Thiele stated that is true – Dr. McGlynn's work belongs to the County as well as PBS&J's work – the County would never have to buy back the findings as suggested by Commissioner Thael's queries.
- Dr. McGlynn is being paid to transition PBS&J to the historic patterns of the water and he does bring other aspects to the work since he did have the other data collection.
- Commissioner Grippa asked, for the record if there is any ability for a change order – are there any other charges above that 2.90 multiplier that is a fee for service the Board needs to be aware of.
- Staff answered there are none.
- Commissioner Grippa stated he would like to do TMDL and lake monitoring separately and is going to vote against this motion. He thinks the just mentioned separation would be more cost effective.

36. Consideration of Settlement Agreement Proposal in the Matter of *Leon County v. Edwin Cash, et al*, Circuit Court Case No. 02-CA-545

- County Attorney Thiele reported his office was very successful in foreclosing on a code enforcement board lien the amount of which was about \$113,000. They are in the process of pursuing collecting that amount by enforcing the judgment. However, they have received an offer to settle the case by the Cash's deeding the property which was the subject matter of the action to the County. Unfortunately the property does not come close to being valued at \$113,000. However, County Attorney Thiele is obligated to present the offer to the Board.
- Commissioner Proctor stated if the County decided to accept the property he would like to see it used for affordable housing purposes. Also, would purchasing this property mean the County would lose money.
- County Attorney Thiele reported the appraisal of the property was \$25,000 less \$5,000. The house would have to be demolished.
- Commissioner Rackleff reported these are absentee owners who were repeatedly asked to bring their property up to code. The house is now basically a run down shack.

Commissioner Rackleff moved, seconded by Commissioner DePuy to approve Option 2: Do not approve the Settlement Agreement. Motion carried 5-2, with Commissioners Proctor and Thael opposed.

- Commissioner Sauls asked the County Attorney if the Cash's own places in St. George Island and Georgia can't the County pursue some of the funds they owe through these residences.

- County Attorney Thiele reported that yes, this was an option his office could pursue.
- Commissioner Sauls stated she supported the motion on the floor to reject the offer then.

37. Adoption of Enabling Resolution and Committee By-Laws to Re-establish the Building Permit Fee Advisory Committee and Appointment of Members to the Committee

- County Administrator Alam presented the item to the Board.

Commissioner Winchester moved, seconded by Commissioner Sauls to approve Options 1, 2, and 3: 1) Adopt the proposed Enabling Resolution re-establishing the Building Permit Fee Advisory Committee; 2) Adopt the proposed Bylaw for the Building Permit Fee Advisory Committee; and 3) Appoint five members to the Building Permit Fee Advisory Committee. The Board appointed: Jeff Whitfield, Residential Contractor; Bill Muldrow, General Contractor; Andy Welch, Architect; Lucretia Thomas Realtor; and Robert Hartsfield, Tallahassee Builders Association. Motion carried 7-0.

38. Expirations, Vacancies and Appointments to: Architectural Review Board, Board of Adjustment and Appeals, Bradfordville Historic School House Board of Directors, Educational Facilities Authority, Enterprise Development Zone Agency Board of Commissioners, Fort Braden Community Center Board of Directors, Minority/Women Business Enterprise Committee, Planning Commission, Science Advisory Committee, and Water Resources Committee

- County Administrator Alam presented the item to the Board.

Speakers:

- Sally McCabe, 2808 Wood Hollow Court stated she was present to talk about the appointment to the Board of Adjustment and Appeals. She understands one of the current members being replaced was not aware of this. She questions the appointment of Mr. Campbell – no information was available to the public on line regarding the candidates for appointment. Mr. Campbell is a consultant to developers and does not think someone who has the potential for a conflict of interest should be appointed. Suggests the appointment be postponed until there is more input.
- Linda Jamison, 319 East Park Avenue, Chairperson Sierra Club stated she shares Ms. McCabe's concerns. Many members of the Sierra Club find the appointments to these positions seem to be 'top heavy' with people who represent business interests. Would like to see people who represent the majority of the citizenry rather than the majority of the people appointed representing business. Would like to see the incumbent on the Board of Adjustment and Appeals have the opportunity to serve again.

The Board discussed the new appointment to the Adjustment and Appeals Board.

- Commissioner DePuy asked Ms. Coble, the Agenda Coordinator about the comment made earlier by a speaker regarding questionnaires filled out by candidates and their availability to the public.
- Ms. Coble reported if a candidate submits an application staff will include a copy of that. Sometimes staff does not receive applications, but rather will receive recommendations and a resume. This agenda item was posted on the web yesterday. Also, this agenda item is in the "Front Desk" book which is available to the public for viewing. If staff receives an application – it is included in the packet. If staff receives a resume – it is included in the packet.
- Commissioner DePuy suggested citizens who are interested are aware they can contact Ms. Coble for information.
- Ms. Coble indicated she has answered many phone calls of that nature in the past and is certainly more than happy to continue to assist the public with any questions they may have regarding these or any other matters as she has over the years.

Appointments

1. Adjustment and Appeals Board

- Commissioner Proctor recommended Clay Campbell

Commissioner Grippa moved, seconded by Commissioner Winchester to appoint Mr. Clay Campbell to the Board of Adjustment and Appeals. Motion carried 6-1, with Commissioner Rackleff opposed.

Commissioner Winchester moved, seconded by Commissioner Grippa to set the effective date for Mr. Campbell's appointment as August 31, 2006 and Mr. Henry Rye will continue to serve until that date. Motion carried 6-1, with Commissioner Proctor opposed.

2. Architectural Review Board

- Commissioner Sauls moved, seconded by Commissioner DePuy to appoint Dr. Frances Ventre, Mr. Jason Hight, and Mr. Walt Marder. Motion carried 7-0

3. Bradfordville Historic School House Board of Directors

Commissioner DePuy reappointed Mr. Don Whitehead
Commissioner Grippa reappointed Ms. Mary Alma Lang
Commissioner Proctor reappointed Mr. Jim Godfrey
Commissioner Proctor reappointed Mr. Pleas Strickland
Commissioner Sauls reappointed Mr. Bill Roberts
Commissioner Thaelle reappointed Mr. George Henry
Commissioner Winchester reappointed Mr. Larry Block

4. Code Enforcement Board

Commissioner Grippa reappointed Ms. Betsy Henderson
Commissioner Winchester appointed Mr. Mark Rodrique

5. Enterprise Development Zone Agency Board of Commissioners

Without objection, the Board appointed Ms. Regina Davis, Mr. Eugene Telfair, and reappointed Mr. Ken Barber

6. Fort Braden Community Center Board of Directors

Commissioner Grippa reappointed Ms. Teresa Bush
Commissioner Rackleff reappointed Ms. Phyllis Adams
Commissioner Sauls reappointed Ms. Barbara Brown
Commissioner Thaelle reappointed Sam Bruce

7. Housing Finance Authority

Commissioner Winchester appointed Joe Bufkin

8. Minority/Women Business Enterprise Committee

Commissioner DePuy appointed Mr. Eddie Kilpatrick
Commissioner Sauls reappointed Ms. Patricia McGowan
Commissioner Thaelle reappointed Ms. Carmen Green

9. Planning Commission

Without objection, the Board reappointed Mr. Terrence Hinson

10. Science Advisory Committee

Commissioner Grippa continued the appointment until the August 22, 2006 Board Meeting

Scheduled Public Hearings 6:00 p.m.

39. Second and Final Public Hearing to Adopt an Ordinance Amending Chapter 5 of the Leon County Code of Laws, Relating to Building and Construction Regulation

- County Attorney Thiele presented the item to the Board.

Commissioner Sauls moved, seconded by Commissioner Rackleff to approve Option 1: Conduct second and final hearing and adopt proposed Ordinance amending certain sections of Chapter 5 of the Leon County Code of Laws. Motion carried 5-0, with Commissioners Grippa and Thaeil out of Chambers.

40. Continuation of First and Only Public Hearing to Adopt a Proposed Ordinance Regarding an Amendment to the Official Zoning Map to Change the Zone Classification from the R-3 (Single-Family Detached, Attached Two-Family Residential) Zoning District to the OR-2 (Office Residential-2) Zoning District for Property Located Between the Lakewood Village Industrial Park and the Autumn Woods Residential Subdivision (RZ #531)

- County Administrator Alam indicated Wayne Tedder, Director of Planning would be making a presentation addressing this item because of the number and complexity of issues involved. County Administrator Alam also pointed out that Christine Coble, Agenda Coordinator was distributing photos of the site to each Commissioner, the County Attorney, County Administrator and Board Secretary for the public record that Mr. Tedder would be discussing during his brief presentation.
- Wayne Tedder, Director of Planning stated this is a very complex rezoning matter. Mr. Tedder gave a detailed history of the case, including the fact that code enforcement did cite the property owner with a few violations of the environmental management ordinance. He explained the areas and zonings on the map as he spoke to this issue. Mr. Tedder stated he cannot tell the Board why the gray strip of mixed use area was placed where it was. It follows no rhyme or reason – he can only make assumptions as to why it was zoned as it was. There are discrepancies Mr. Tedder detailed. He reported there are encroachments throughout the entire plat. If the intent was to have a buffer,

somehow it got lost. Mr. Tedder informed the Board there are other issues that occurred a long time ago – like the platting of lots within the buffer area.

Mr. Tedder relayed the applicant's actions in detail. The issues the public will likely address primarily will be the loss of vegetation. Mr. Tedder reported clearly there was a 100 ft buffer area on this request site and some of it is gone – this is a major concern.

- Commissioner Winchester confirmed with Mr. Tedder that Mr. Ross has fenced out 37 ft of his property.
- Mr. Tedder stated other concerns he is hearing from citizens concern lighting. The lighting is in an area permitted for that type of light. Mr. Tedder stated there are also issues regarding noise. He explained where the line zoned for this type of noise is located and indicated that drainage easement is another concern.

Mr. Tedder spoke to the code enforcement issues – there were citations issued as previously mentioned. He stated the public is asking why the code enforcement board has not taken any action at this point. He reported the reason no action has been taken yet is because there is a pending application – that is a rezoning application.

Mr. Tedder went over other matters including buffers and vegetation, light and industrial activity in detail.

Mr. Tedder reported the Planning Commission did recommended denial of this request. In addition they directed the Planning Department to bring back a study on buffering. The buffering required by code is only 30 ft. Mr. Tedder stated this entire industrial plat should be designated as industrial in the future land use category. He reported the County Attorney also has concerns about this matter – there is a statement in the agenda packet saying the Board must find that since the earlier rulings on the previous rezoning application there has been a 'substantial change of circumstance' relating to the subject matter with which the ruling was concerned sufficient to prompt a different or contrary determination. Mr. Tedder reported the Board is required to state what has significantly changed since the last time the rezoning application was brought before them.

Mr. Tedder voiced that perhaps he was not as clear as he needed to be on the last rezoning application. He stated though that the fact of the matter is we have an inappropriate zoning district on this piece of property as well as other properties within this industrial plat. As keeper of the Official Zoning Atlas, Mr. Tedder professed he wants the zoning atlas to mean what it says. He reviewed the intent of the zoning and the designation of the property. There was an opportunity to rezone this area as 'open space' which would have preserved the buffer as long as the zoning district stood in place. Mr. Tedder did not see that

as the intent because it was designated as R-3. That issue has to be rectified. If it is the intent of this Board to maintain a 100 ft buffer within this area then he suggests that all the area be rezoned to 'open space'. If the Board takes this action there will be some nonconformities created. There is a significant amount of encroachment within the 100 ft buffer area.

Mr. Tedder acknowledged this goes back to the question – what are the standards in place in the zoning code. For light industrial uses it is a 30 ft buffer. For heavier industrial uses it is probably about a 100 ft buffer depending on some of the characteristics of the adjoining use. Mr. Tedder reported he was very comfortable recommending this area be rezoned to light industrial as his last staff report recommended. The Board did not feel comfortable with that. Mr. Tedder stated the Board did not feel that light industrial usage should be located next to residential and he believes he stated 'on the record' would he rezone properties light industrial adjacent to low density residential – the fact of the matter is the Comprehensive (Comp) Plan allows that – but would he personally want that. That answer would be no. However, he has to do what the law says in front of him. The law in the Comp Plan allows light industrial development adjacent to low density residential. The recommendation he came up with to eliminate the potential for light industrial uses was an OR2 category. Option 2 recommends rezoning a portion of the property to OR2. The last 30 ft of which is the buffer that he can require as part of any development application in this circumstance can be zoned 'open space' because it has to be a buffer area per code. He reported that essentially staff's recommendation is Option 2.

Mr. Tedder emphasized that whatever decision the Board makes will be a policy decision on how staff deals with the rest of this division. Mr. Tedder wants to ensure that this is considered as 'part of the record' as it will give him direction on future requests. He informed the Board there will be some problems. Mr. Tedder went over the legal accesses for the property and encroachments.

- Commissioner Proctor complimented Mr. Tedder on his forthrightness and his candor. He hopes this is a new beginning with staff regarding the kind of candor Mr. Tedder expressed. Commissioner Proctor asked the District Commissioner, Commissioner Winchester for his leadership and voice on this potentially volatile matter.
- Commissioner Rackleff stated he started out prepared to vote for Option 1; however he asked Mr. Tedder what his recommendation is. Is it still to deny.
- Mr. Tedder advised staff's recommendation is Option 2.
- Commissioner Sauls stated her record reflects the recommended Option is Option 1 and asked where that recommendation came from.
- Mr. Tedder advised that was the Planning Commission's recommended Option. Typically staff forwards those recommendations to the Board and there should have been a note designating there was a difference between staff's recommendation and that of the Planning Commission.

- Commissioner Sauls then referenced the need for the 'substantial change of circumstances' in this matter and asked to hear from the speakers.

Board discussion ensued over whether there had been a 'substantial change of circumstances'.

- County Attorney Thiele advised the Board since this was a rezoning matter it is a quasi-judicial hearing and technically witnesses should be sworn in.
- Commissioner Proctor asked anyone desiring to speak on this matter to come forward to be sworn in.
- Board Secretary Diane Norvell, as a notary public swore in all speakers including Mr. Tedder to comply with the rules and procedures regarding quasi-judicial proceedings.

Speakers:

7 Speakers deferred their time to other speakers opposed to the rezoning

- Shann Lawson Davis, 415 Tired Creek Road representing the applicant gave a history of the stop work orders, violations, and permits the applicant has received regarding this property and stated he has complied and acted within the law regarding his permits. As Mr. Tedder stated, the precedent regarding the encroachment has been set for the buffer area. She thinks this rezoning request is a 'win win' for everyone as outlined in option 2 with the various zonings and uses allowed for each and the 30 southern most ft in open space, the other 70 ft in office residential, which doesn't allow light industrial. She then replied to concerns expressed by residents and stated Mr. Lawson has tried to be a good neighbor.
- Elvin Kever, 4581 Autumn Woods Way referred to the petition with 75 signatures of residents of Autumn Woods and Autumn Woods Estate opposing the rezoning. He is strongly opposed to the rezoning and asked that the Board once again deny the rezoning and restore the buffer. The Planning Commission has voted twice to deny the rezoning. He thanked Mr. Lawson for installing the fence. Lights and sounds are still not blocked though. The fence only does so much. Mr. Kever showed pictures of what he is talking about. Mr. Kever gave the photos to the Board Secretary so they will become part of the public record on this matter.
- Elaina Kever, 4581 Autumn Woods Way stated the Planning Commission has denied this request twice citing that a 30 ft buffer is inadequate between residential and heavy industrial zoning. Although the developer's business is light industrial the zoning is heavy industrial. She asks the Board to deny the rezoning and maintain the character and integrity of the Autumn Woods neighborhood.
- Bruce Benson, 4609 Autumn Woods Way stated at the last meeting held at City Hall it was brought up to Wayne Tedder that the original 30 ft buffer zone was created between industrial and light office – not between industrial and

residential. He also has complaints about extremely loud, consistent noise that often wakes him up. The noise and the buffer are not a match.

- Wilburn Cockrell, 4621 Autumn Woods Way stated a third of his view and 100% of the noise he experiences has changed within a few months. He showed pictures that had been vegetation that is now clear cut to the bare ground since the hearings started. He objects to the lights, loud noise – there is no buffer fence buffering him. He has an issue with visual pollution, being awakened by noise of heavy equipment. He asked the Board to please prevent the above mentioned from happening for the current and future residents.
- Rowdy Lawson, 1306 Leewood Drive, the applicant in this matter pointed out the space that has been cleared under a permit is zoned industrial. He stated there is no heavy equipment there now and there hasn't been any out there for weeks. His lawn crew did make a mistake clearing the area residents spoke to earlier. He stated everything has been done by the book. He accidentally cleared a small amount of underbrush. They have done everything they can – put up an 8 ft fence to try to make everybody happy. Their office hours are from 7:00 a.m. to 4:00 p.m. Monday through Friday when most people are at work. It is not true that trucks are making all kinds of noise late at night.
- Commissioner Proctor asked Wayne Tedder what code enforcements were pending based on the outcome of the rezoning request.
- Wayne Tedder pointed to an area where there was clearing of trees and placement of gravel. Since then, the gravel has been removed.
- John Kraynak, Growth and Environmental Management (GEM) stated that in addition to the gravel that area was heavily vegetated. The GEM Department issued an addendum to the permit to require that vegetation be put back to make the buffer thicker, they held off on requiring that and did not send it to the Code Enforcement Board pending the Commission's decision tonight. GEM submitted the plans to put in additional trees and wax myrtles to create a heavier visual screen.

Mr. Kraynak discussed the matter and believes all work requested has been completed by the Applicant.

- Commissioner Winchester stated this has been a longstanding and difficult issue. He complimented Wayne Tedder on the presentation he made of a complex land use issue. The reality is the Board has to figure out a way to make a decision tonight. Commissioner Winchester stated he is going to make a professional land use recommendation to the County Commission. Option 2 is the most appropriate land use recommendation for this property given the unique circumstances and background with this particular plat industrial subdivision done over thirty years ago.

Commissioner Winchester moved, seconded by Commissioner DePuy, to approve Option 2 with additional language regarding the substantial change circumstance: Conduct the first and only public hearing and adopt a proposed Ordinance amending the Official Zoning from the R-3 (Single Family Detached,

Attached Two Family Residential) to the OS (Open Space) district for the southernmost 30 ft. of the parcel, and to the OR-2 (Office Residential-2) district for the remainder of the parcel and make findings of fact that there has been a substantial change of circumstances regarding the subject site since the Board's previous denial of the rezoning of this site, and that the substantial change of circumstances include but not be limited to the fact that this is an inappropriate zoning district as testified by the Planning Director and that the request represents a lesser intense zoning than is there today. Motion carried 6-1, with Commissioner Thaeil opposed.

Lengthy Board discussion ensued regarding the Planning Commission's decision, the buffer, zoning uses, industrial and residential plats, location of plat uses and categories.

- County Attorney Thiele pointed out that one of the problems with this matter is that in the 1970's and early 1980's Leon County did not use site plans for purposes of review. The County used plats to do what site planning should have done then and does today. County Attorney Thiele reported when this zoning was done they used a plat which was a poor substitute for site development plan approval.

Wayne Tedder addressed the issue of the 100 ft strip.

Board discussion ensued regarding buffer standards, legal responsibilities v. moral responsibilities, what would be done different today, impact to the neighborhood.

- Commissioner Thaeil asked if Commissioner Winchester would be willing to sit down with Mr. Lawson and the neighbors again.
- Commissioner Winchester stated he has met with the neighbors and Mr. Lawson several times and believes it is time to make a decision.

One of the speakers emphasized that Commissioner Winchester has only met with him one time.

Board discussion ensued.

Chairman Proctor passed the gavel to Vice-Chairman DePuy.

41. First and Only Public Hearing to Adopt a Proposed Ordinance Regarding an Amendment to the Official Zoning Map to Change the Zone Classification from RA (Residential Acre) Zoning District to the R-1 (Single Family Detached Residential) Zoning District on Property Located on Larchmont Lane (RZ #536)

- County Administrator Alam presented the item to the Board.

Speaker:

Scott Matteo, 3974 Calle de Santos, engineer on the project stated the developer builds quality houses. The staff report indicates everything is consistent with the zoning code and Comprehensive Plan.

Commissioner Grippa moved, seconded by Commissioner Thael to approve Option 1: Conduct the first and only public hearing and adopt a proposed Ordinance amending the Official Zoning from the RA (Residential Acre) zoning district to R-1 (Single Family Detached Residential) based upon the findings of fact and conclusions of law set forth in this Agenda Request and any evidence submitted at the Hearing hereon. Motion carried 6-0, with Commissioner Proctor out of Chambers.

42. First and Only Public Hearing to Adopt a Proposed Ordinance Regarding an Amendment to the Official Zoning Map to Change the Zone Classification from C2 (General Commercial) Zoning District to OR-2 (Office Residential-2) Zoning District on Property Located on Louvenia Drive (RZ #544)

- County Administrator Alam presented the item to the Board.

Commissioner Thael moved, seconded by Commissioner Winchester to approve Option 1: Conduct the first and only public hearing and adopt a proposed Ordinance amending the Official Zoning from the C-2 (General Commercial) zoning district to OR-2 (Office Residential-2). Motion carried 6-0, with Commissioner Proctor out of Chambers.

43. Consideration of "Sister County" Budget Proposal

- Commissioner Rackleff stated it looked to him like all the funding requested on this item was for travel expenses and he could not support this. He stated it was poorly thought out.
- Commissioner Grippa stated he could support some of the proposal and commended Commissioner Proctor on his efforts to develop a sister county relationship. Commissioner Grippa made several suggestions and then made a motion. He also asked if there were funds left in the economic development budget that could be brought before the board on a case by case basis for whatever items were not included in the funding covered in the motion.

Commissioner Grippa moved, seconded by Commissioner DePuy to approve \$15,000 for a student exchange program monitored by the County, with students from all types of backgrounds coming before the Board for approval on a case by case basis; \$5,000 for Board liaison and travel, with any additional

funding for travel be taken for a Commissioner's travel budget. Motion carried 5-2, with Commissioners Thael and Rackleff opposed.

There was board discussion on funding for this proposal.

- Commissioner Grippa asked a question for the record – When the Board took a delegation to Wisconsin and Austin, were the Commissioners all reimbursed by County funds.
- County Administrator Alam reported yes.

ADD-ON:

44. Consideration of Whether to Authorize the County Attorney's Office to Engage and for Leon County to Join in Potential Florida Hotel Occupancy Tax Litigation

- County Attorney Thiele reported his office was approached a Tallahassee law firm and an Illinois based law firm to join with them as potentially the lead plaintiff in a class action lawsuit they are pursuing with regard to the Hotel Occupancy Taxes and what they believe to be an underpayment of those. The offer is for his office to join in as lead plaintiff on a contingency fee basis. If there was no recovery they would not pay anything. If there is a recovery they would negotiate a contingency fee contract.
- Commissioner DePuy asked for clarification of this issue which the County Attorney provided.

Commissioner DePuy moved, seconded by Commissioner Thael to approve Option 1: Authorize Leon County to join in litigation with various internet travel companies regarding their handling of the Florida Hotel Occupancy Tax, and authorize the Chairman to execute any Contingency Fee Agreement on behalf of the County.

- Commissioner Grippa asked what firms were asking our County Attorney's Office to join them and asked if the Attorney General was already seeking a settlement or moving forward on the County's behalf in this matter.
- County Attorney Thiele stated the Attorney General was not moving forward on this matter to his knowledge.
- Commissioner Grippa asked if the Board could ask the County Attorney's Office to come back with any official action that has been taken by the Chief Financial Officer and/or the Attorney General's Office. Also, he asked if the Board needed to waive the rules to move forward on this item since it was not on the agenda.
- Commissioner Proctor stated he thinks it would be appropriate for the Attorney General's Office to handle this matter and not Leon County, unless this is a matter specific to our County.

- County Attorney Thiele reported the reason this is not a purely statewide issue is because it only affects those local governments that have adopted the 'bed tax'.
- Commissioner DePuy asked if there was not a time consideration regarding filing this suit.
- County Attorney Thiele reported the law firms involved want to file this action within a week or so and the County would lose the opportunity to be the named lead plaintiff if they do not act this evening.
- Commissioner Proctor asked what the advantage of being the lead plaintiff was – do we get more back if there is a recovery and has anyone checked to see whether there is anything to recover.
- County Attorney Thiele reported that yes usually the lead plaintiff would get more money back and that yes there is something to recover.
- Commissioner Grippa asked if there was any possibility where the County would end up having to spend money on this.
- County Attorney Thiele reported that yes this is a possibility if the case was found to be 'without merit'.

Commissioner DePuy stated he accepts Commissioner Grippa's suggestion that the County Attorney's Office bring back the contingency contract and maximum attorney fee agreement in writing as a friendly amendment to his motion. The amended motion carried 7-0.

- County Attorney Thiele asked if he could discuss one additional item he needs a formality vote on. The Board has previously approved and Leon County has entered into a settlement agreement with Wakulla county on the NG Wade case. The resolution of this issue with Wakulla county has caused the other parties to essentially 'fold up'. All of the plaintiffs have settled and the lawsuit has been dropped. County Attorney Thiele just needs the Board to ratify the County's participation in a wholesale settlement – where there is no payment of any monies whatsoever from Leon County.

Commissioner Sauls moved, seconded by Commissioner DePuy to ratify the agreement reached by the County Attorney's Office where there is no payment of any kind required from Leon County in the N.G. Wade case involving several plaintiff's of which Leon County was one. Motion carried 7-0.

- Commissioner Proctor congratulated County Attorney Herb Thiele on his success on the NG Wade issue.

ADD-ON:

45. Request by Richard Kearny for Approval of Recording a Plat which will be a Replat of a Portion of Lot 5 of Bannerman Corner Subdivision Upon Final Review and Approval by Staff

- County Administrator Alam presented the item to the Board.

Commissioner Sauls moved, seconded by Commissioner Thael to approve Option 1: Accept the proposed plat and authorize staff to record it in the Public Records upon staff's final review and approval. Motion carried 7-0.

- Commissioner Grippa indicated he would like to see the plat prior to approving the proposal.
- Commissioner Proctor stated there was too little information on this matter to vote on it.
- County Administrator Alam assured the Board this proposal simply divides one plat into two.
- David McDevitt, Director Growth and Environmental Management stated this proposal complies with all the County standards even though he has not seen the plat; he has seen the site plan.
- Commissioner Grippa asked if the motion could stipulate that if Public Works did not approve of the plan this matter would come back before the Board.
- Commissioner Sauls stated that was her understanding all along.

Board discussion ensued.

Citizens to Be Heard on Non-Agendaed Items (6-minute limit)

Speakers:

George Lewis asked when Mr. Campbell's appointment to the Board of Adjustment and Appeals (BOAA) is effective. The County Attorney confirmed as of today his appointment is effective. Mr. Lewis reported that according to the BOAA's policy Mr. Campbell would not be able to vote at the upcoming BOAA meeting.

Commissioner Winchester moved, seconded by Commissioner Grippa to make Mr. Clay Campbell's appointment to the Board of Adjustment and Appeals effective August 31, 2006. Motion carried 6-1, with Commissioner Proctor opposed.

- Commissioner Proctor expressed serious concern over this BOAA Policy stating he had never heard of a member of any Board not being able to vote as soon as they were appointed. For example, a new member of Congress can vote as soon as they are elected. He stated these rules sound archaic and asked the County Attorney for clarification.
- County Attorney Thiele reported they happen to be engaged in a 'trial' and the new member would not have seen the witnesses or the demeanor of the

witnesses nor would he have heard the testimony that is cumulative in this case. Mr. Campbell would be eligible to vote on all new matters – it is simply this one matter Mr. Campbell could not vote on.

Mr. Lewis then asked about another member of the BOAA who sits in the 'swing seat' that rotates between the City and the County. Mr. Lewis reported the website reflects the appointment as the County's when it should show it as the City's.

- Christine Coble, Agenda Coordinator stated Mr. Douglas' appointment to the BOAA Board has been officially rotated to the City.

Commissioner Thaeil moved, seconded by Commissioner DePuy to extend the meeting 15 minutes until 11:15 p.m. Motion was made without objection.

Discussion Items By Commissioners

Commissioner Winchester

Thanked the Board for their patience with him and thanked staff and the entire community for their prayers and support during his father's illness. He will be working hard to finish out his term and appreciates everyone's cooperation and especially thanks County Administrator Alam.

- Commissioner Proctor stated the entire Board loved Commissioner Winchester and appreciates the difficult time he has been going through and that he has the Board's total support and he conducted himself admirably tonight.

Told Commissioner Proctor he is doing a great job as Chairman and appreciates how he has put his arms around all of Leon County. Enjoyed watching him grow as he knew he would. He has gone far above and beyond the standards of Chairman.

Commissioner Thaeil

Reported there is a proposed residential development by the Ghazvini's that is in an environmentally sensitive area – there is a sinkhole on that property. Has had discussion with them asking if they would be willing to discuss selling the property to the County instead of developing it. County has some water quality monies available under Blueprint, if the County could leverage some Florida Community Trust dollars to purchase the approximately 80 acres.

Without objection, asked staff to look into purchasing this property.

Regarding CASA 12 – they have provided information the Board requested them to bring back for the Board's review regarding possible assistance with funding toward a building.

Commissioner Sauls

Commissioner Sauls moved, seconded by Commissioner Grippa to reconsider at the Budget Hearings an increase in the Cultural Grant Program funding for the Tallahassee Museum of History and Natural Science by \$90,000 which is the same level of funding as the Mary Brogan Museum (\$150,000). Motion carried 7-0.

- Commissioner Winchester stated he was glad Commissioner Sauls brought this matter up. It is time for this Museum to be on equal footing. Just like the salary issue between TPD and the Sheriff's Dept. These issues should be equally funded.

Commissioner Sauls moved, seconded by Commissioner Grippa to have staff prepare a Resolution for Mr. Bill Montford, who is retiring as the Leon County Schools Superintendent and is a former County Commissioner. The motion was made without objection.

Commissioner Proctor

Gave staff a letter from the Department of Environmental Protection that talks about the County's needs for a campaign for hurricane season.

Received a letter today from the City Manager that lists some of the questions raised by Commissioners regarding the healthcare sales tax. The County Administrator met with the Target Issue Committee on June 27, 2006. The City had outlined a process that the County would inform the Target Issue Committee first on matters and the Target Issue Committee would then report to the City Commission. There is nothing in that letter indicating that the City opposes a referendum for a sales tax for healthcare. It does say the purpose is to ascertain whether or not an agreement might be reached that would allow the City Commission to endorse/support it. Thinks this is a positive move on the City's part. Looking forward to our staff's response to the first set of questions the County has received from the City. The County Administrator will provide a copy to each Commissioner of his response to the questions raised by the City.

Regarding the St. Joe proposed development –

Requested the Board meet with the community of the Southside before they submit the DRI seeking permitting for the St. Joe's proposed development. Requested staff to answer questions the business and residential community

have regarding technical terms, timelines, and issues like what the DRI process is on July 27, 2006 at the Fairgrounds. Request was made without objection.

Commissioner DePuy

Commissioner DePuy stated he was contacted by the DISC Village and told Mr. Alam and Mr. Rosenzweig he needs to readdress a shortfall on some funding. This is a public safety issue. They provide 24/7 security for juveniles and the money appropriated does not allow them to continue that service in the next fiscal year.

Commissioner DePuy moved, seconded by Commissioner Grippa to request consideration of funding for the DISC program in the upcoming budget approval for the next fiscal year in the amount of \$40,000 - \$50,000 for the DISC Village Juvenile Assessment Center. Motion was made without objection.

Commissioner Thael called for a point of information.

Commissioner Thael asked if Alan Rosenzweig was going to provide the amount of additional revenue the County will have post July 1st or the lack of revenue. Commissioner Thael wants to know if the County has made more money than they thought we were going to make.

County Administrator Alam stated the County did make additional money and his office will be distributing the budget tomorrow with the exact amount.

Commissioner Grippa moved, seconded by Commissioner DePuy to extend the meeting to 11:30 p.m. Motion carried 7-0.

Commissioner Grippa

Requested approval to use \$500 from his Commission Budget to assist with funding for the 2006 Dizzy Dean League 10-year old All-Stars Team. Request was made without objection.

Requested approval to use \$500 from his Commission Budget for funding for the Florida Impact Annual Summer Celebration. Request was made without objection.

Commissioner Grippa moved, seconded by Commissioner Winchester to waive the rules to reconsider previous action taken by the Board regarding the additional one-cent Tourist Development Tax. Motion carried 7-0.

Commissioner Rackleff moved, seconded by Commissioner Winchester to rescind previous Board action regarding the one-cent Tourist Development Tax and hold a Public Hearing on the one cent Tourist Development sales tax to

support the funding of the Performing Art Center on August 22, 2006 at 6:00 p.m.

- Commissioner Rackleff asked if this was in lieu of the workshop.
- Commissioner Proctor asked if this was legal and why the Board needed to rescind their previous action.
- Commissioner DePuy indicated these 11:30 p.m. motions made on major issues are not in anyone's best interest but he is ready to address whatever is brought up. Many citizens know he supports the Performing Arts Center and that he is in favor of the additional penny tax. He stated he has not seen a plan regarding raising the money for this venture except for promises to go to the legislature and philanthropists to ask for grants. That is why he asked to have a workshop to outline how the County plans to pay for the Center over the next 30 or 40 years, so he is not in favor of this motion.
- Commissioner Thael stated he concurred with Commissioner DePuy since the Board – does not know how much the Center is going to cost, how it will be operated, have not seen a budget. There should be some kind of direction and giving the industry that is going to be taxed an opportunity to inform the Board of their views on this tax. Therefore, he does not support the motion either.
- Commissioner Proctor asked the Alan Rosenzweig what he recollected the Mayor said at the Mayor/Chair meeting yesterday regarding the City's posture when the Chair asked the Mayor what the City would be doing in support of Performing Arts.
- Mr. Rosenzweig stated he understood they had set aside the site and that was all.
- Commissioner Proctor asked if they had wrestled with long term funding or made any other commitment besides the Johns Building.
- Mr. Rosenzweig again stated there was no further discussion.
- Commissioner Proctor stated this was a project he believed the County should work with the City jointly on and as of yesterday the City had no intent to commit to a sustained funding of the Performing Arts Center.
- Commissioner Grippa stated, for the record, this motion is for a Public Hearing, not for a vote.
- Commissioner Sauls asked if the Workshop had been scheduled yet.
- Christine Coble, Agenda Coordinator reported a Workshop was scheduled for September 19, 2006 from 12:00 to 1:30 p.m.

Board discussion ensued.

Commissioner Rackleff moved an amended motion to schedule the Workshop on the Addition one-cent Tourist Development Tax for Tuesday, August 22, 2006 from 1:30 – 3:00 p.m. Motion carried 7-0.

Commissioner Grippa wants to make it clear he opposes the healthcare sales tax, and doesn't believe some of the statutes have been met in relation to

hospitals. He thinks that using \$150,000 in taxpayer money for a public education campaign regarding the healthcare ordinance is reckless.

Commissioner Grippa moved, seconded by Commissioner Winchester to rescind the Board's previous action regarding the expenditure of \$150,000 for a public education campaign on the Healthcare Sales Tax. In addition, direct staff to bring back a public education plan detailing how the monies will be spent.

Commissioner DePuy offered a friendly amendment to Commissioner Grippa's motion to consult the County Attorney's office on every step on the way, make decisions and give legal opinions as to the can and cannot be said, and what can and cannot be done in advocating for or against this issued.

Commissioner Grippa accepted the friendly amendment and restated his motion: to rescind the \$150,000 appropriated for the public education campaign, have staff bring back a plan with an expenditure at the August 22, 2006 Board Meeting, and within that plan have the definition of advocacy vs. information, and have the County Attorney sign off on everything. Motion carried 4-3, with Commissioners Proctor, Rackleff and Thael opposed.

Board discussion ensued.

There being no further business to come before the Board, the meeting was adjourned at 11:45 p.m.

The next Board of County Commissioners Meeting is scheduled for Tuesday, August 22, 2006 at 3:00 p.m.

ATTEST:

Bill Proctor
Chairman

Bob Inzer
Clerk of the Court