**BOARD OF COUNTY COMMISSIONERS**
**LEON COUNTY, FLORIDA**

**ATTORNEY/CLIENT MEETING**
**January 16, 2007**
**1:00p.m.**

**THE BOARD CONVENED IN CHAMBERS**

The Board of County Commissioners of Leon County, Florida met in Chambers on January 16, 2007 at 1:00 p.m. with Chairman DePuy presiding. The Board met prior to attending an attorney/client meeting where only the Commissioners, the County Attorney, Asst. County Attorney, County Administrator and Court Reporter were allowed to participate. This meeting was conducted strictly in accordance of the requirements set forth in Section 286.011(8) Florida Statutes and was properly noticed.

Present were Commissioners Thaell; Sauls; Dailey; Rackleff; Proctor; Desloge. Also present were County Attorney Herb Thiele; County Administrator Parwez Alam; Assistant County Attorney Laura Yeomens and Secretary Diane Norvell.

**County Attorney Thiele reported:**

Today's meeting has been called to discuss:

Case# 2000-CA-003003 and the second lawsuit filed against the County on Friday is Case # 2007-CA-133 - *Marianna Oaks vs. Leon County and the Board of County Commissioners*. Both of these are petitions for writ of certiorari. They both relate to the same project and virtually the same application. Because of the published advertisement those retiring behind closed doors will only be focusing on the first case.

He stated as the Commission knows the County received a settlement proposal from counsel for the plaintiff's presented to the Board last Tuesday. The Board instructed the County Attorney's Office to advertise for an Attorney/Client Meeting which is what they are doing today.

These meetings are authorized as an exemption to the normal public meeting requirements as it is set forth in Florida Statute Section 286.011(8).

Before retiring behind closed doors the following is required:

1) Confirm the County Attorney has requested instruction with regard to the settlement offer from the Board and the Board voted to agree to have the

Attorney/Client Meeting. The discussions must be solely confined to settlement negotiations or strategy with regard to this case – Marianna Oaks.

2) The Court Reporter will be present in the 'closed door' meeting.
3) Mr. Thiele needs to announce twice the parties present, now and in the closed door meeting. The parties present at the "Open part of the Meeting" are:

   County Administrator Parwez Alam, County Commissioner John Dailey, County Commissioner Bryan Desloge, County Commissioner Bill Proctor; County Commissioner and Chairman Ed DePuy; County Commissioner and Vice Chairman Jane Sauls; County Commissioner Cliff Thaell, County Commissioner Bob Rackleff along with the County Attorney Herb Thiele and Laura Yeomens, Assistant County Attorney.

   The above listed, plus the Court Reporter – Catherine Wilkinson, from Wilkinson & Associates, will be the only persons in the 'closed door' session.

4) County Attorney Thiele is required to estimate the length of the 'closed door' meeting. He estimates it will last approximately two hours and they will return by approximately 3:00 p.m. At that point they will resume the meeting in Open Session. Then the Chairman's obligation is to take any comments and gavel the Meeting closed.

   With that having been said they are prepared for the Attorney Client portion of the meeting whenever the Chairman is ready.

   Chairman DePuy asked if there were any comments or questions from his colleagues.

Commissioner Rackleff reported he circulated a copy of a statement regarding his objections to this meeting. He read the letter stating why he objected to this meeting:

"1. This reconsideration of our original unanimous decision in October has no public purpose and is, in fact, solely because the applicant hired lobbyist Frederick Bateman who met with our chairman illegally and ex parte in violation of Florida Statutes to overturn that decision. Our county attorney has repeatedly advised us that such ex parte communications in quasi-judicial proceedings are illegal and expose all subsequent decisions by this commission to reversal by a court.

2. This special meeting and attorney-client meeting have been called solely for the convenience of the applicant and to the serious disadvantage of the

public who have already been barred from commenting in open meeting on January 9 – and are barred again today. They will have no opportunity to commenting legally until January 23.

3. This secret attorney-client meeting is an inappropriate venue for such a fundamental question of public policy as our legal ability to deny approval of a subdivision plans. It is appropriate only in consideration of settlement proposals that involve specific money damages – and not fundamental public policy decisions.

4. I object to the unnatural power over our county commission by lobbyist Batemen to persuade a majority to disregard the public interest to the advantage of narrow private interests – most notably in the recent cases of Waste Management, Arbor Properties, and now Marianna Oaks. I especially object to the open contempt that lobbyist Batemen has shown to members of the public who have the temerity to disagree with him during meetings.

5. Finally, I remind everyone that the applicant was advised three months ago to resubmit an amended application that responded to the objections raised then – which, in fact, could have been successfully concluded by now. Instead, he has sued the county and thus wasted our time and efforts in this unnecessary and illegal proceeding.

I will attend this meeting, under protest, to protect the rights of the citizens of this county.'

For the record, Commissioner Proctor asked the County Attorney in his opinion regarding any of the four points raised by Commissioner Rackleff which of these in his legal opinion makes it illegal or unethical for the Board to be entering into a closed meeting with him, upon his advice.

Mr. Thiele stated none of the issues raised provide a legal impediment to having the closed door meeting.

Commissioner Proctor confirmed there is no legal basis for any of those participating regarding entering into this meeting.

*For the record,* County Attorney Thiele noted for the record it is currently 1:10 p.m. The parties listed above adjourned to the 'closed door' meeting.

**THE BOARD RECESSED TO THE CLOSED DOOR MEETING AT 1:10 P.M.**

**THE BOARD RECONVENED IN CHAMBERS AT 3:27 P.M.**

***County Attorney Thiele reported it is now 3:27 p.m. they have concluded the portion of the closed door attorney client meeting.***

County Attorney Thiele reported they are back in the open meeting for any concluding remarks by the Chair and to gavel the meeting closed.

Chairman DePuy thanked County Attorney Thiele for his astute and succinct legal advice during the closed door meeting. As a result of his advice the Board will reject the proposed settlement offer from the applicant for Marianna Oaks subdivision. The Board has instructed the County Attorney to enter into further negotiations with the applicant and neighbors in the area and return with those results at a future date.

On Tuesday evening there is a Public Hearing agendaed for Marianna Oaks. There will not be any action taken at that time. Commissioner DePuy wants to make sure all the parties involved are aware the Board is going to wait for the results of the County Attorney's negotiations prior to taking any further action. There will be no need for a public hearing at the upcoming Tuesday meeting.

County Attorney Thiele reported *for the record* they have returned to Chambers with the same persons who entered the meeting which include County Administrator Alam; Commissioners Dailey, Proctor, Desloge, DePuy, Sauls, Rackleff and Thaell, County Attorney Herb Thiele, and Assistant County Attorney Laura Yeomens.

Commissioner Rackleff asked the Chair for clarification - if the public wishes to appear at the Public Hearing already advertised for next Tuesday, will they have an opportunity to be heard.

Commissioner DePuy stated it is certainly the publics right to appear as citizen's to be heard; but the Board is not taking any action on the proposed Marianna Oaks subdivision.

**The meeting in Chambers was adjourned at 3:35 p.m.**

C.E. DePuy, Jr.
Chairman

ATTEST:

Bob Inzer
Clerk of the Court