

**BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
REGULAR MEETING
March 27, 2007**

The Board of County Commissioners of Leon County, Florida met in regular session on March 27, 2007 at 3:00 p.m. with Chairman DePuy presiding.

Present were Commissioners Sauls; Dailey; Rackleff; Proctor; and Desloge. Also present were County Attorney Herb Thiele; County Administrator Parwez Alam; Director of Finance David Reid; and Board Secretary Diane Norvell. Absent: Commissioner Thaeil

Invocation and Pledge of Allegiance

The Invocation was provided by Reverend Tom Borland, Faith Presbyterian Church, and the Pledge of Allegiance was led by Commissioner John Dailey.

Awards and Presentations

Resolution

Chairman DePuy presented a Resolution to Marcia Hilty-Reinshuttle recognizing the Second Judicial Circuit Guardian ad Litem Program and designating April 2007 as National Child Abuse Prevention Month.

Commissioner DePuy committed our vigilance especially during the month of April.

Ms. Hilty-Reinshuttle accepted on behalf of her staff nearly 735 children abused and neglected in this area and most especially her volunteers – they are the best this community could offer.

Resolution

Commissioner Bill Proctor asked Commissioner Sauls and Commissioner Rackleff, graduates of Florida High School to join him as he presented a Resolution congratulating the Florida State University School (Florida High) Girls Basketball Team on their Class 3A State Basketball Championship. In addition, Commissioner Proctor recognized Florida High Coach Kelly for being named Florida's Class 3A Coach of the Year. Coach Kelly emphasized the young ladies were praised for their performance both on and off the court and reported they represented Leon County extremely well.

Presentation

Ms. Peggy Brady, Executive Director of the Council on Culture and Arts (COCA), entertained and informed the group with a creative and appealing presentation on the proposed "Arts on Gaines" project, which will also include Railroad Square Art Park, Performing Arts Center, and FSU's Master Craftsmen Program. COCA is working with Artspace, a leading non-profit consultant and developer for cultural arts projects. She mentioned what a gain new revenue through new venues not yet possible due to lack of meeting and performing art space could mean to Leon County – seated dinner meetings, small expos, presentations – with the Arts on Gaines the Boys Choir of Tallahassee will have the permanent facility it needs to expand its positive impact on the youth of our community. The Tallahassee Ballet could utilize their space on a daily basis. She spoke at length about the project and the spaces it would provide and went over the next steps involved.

The Board thanked Ms. Brady for her undying devotion.

Consent

ACTION TAKEN:

Commissioner Desloge moved, seconded by Commissioner Sauls, to approve staff recommendations on the remainder of the Consent items. The motion carried 6-0, with Commissioner Thael absent.

1. Approval of Minutes: February 27, 2007 Attorney-Client Meeting, and, February 27, 2007 Regular Board Meeting

The Board approved Option #1: Approve the minutes of the February 27, 2007 Attorney-Client Meeting and the February 27, 2007 Regular Board Meeting.

2. Approval of Payment of Bills and Vouchers Submitted for March 27, 2007 and Pre-Approval of Payment of Bills and Vouchers for the period of March 28 through April 9, 2007

The Board approved Option #1: Approve payment of bills and vouchers submitted for approval for March 27, 2007 and pre-approval of payment of bills and vouchers for the period of March 28 through April 9, 2007.

3. Ratification of Board Actions Taken at the March 13, 2007 Workshop on Leon County Primary Healthcare Program

The Board approved Option #1: Ratify actions taken at the March 13, 2007 Workshop on Leon County Primary Healthcare Program.

4. Ratification of the Termination of the Groundskeeping Contract with Don Hensley Landscaping and Lawncare

The Board approved Option #1: Ratify the termination of ground services contract with Don Hensley Landscaping and Lawncare, effective March 13, 2007.

5. Approval of a Utility Easement to the City of Tallahassee for the Woodville Community Center

The Board approved Option #1: Approve granting of utility easement to the City of Tallahassee for electrical services to the Woodville Community Center, and authorize the Board Chairman to execute.

6. Approval to Allocate \$204,802 from the Jail Diversionary Account to Provide Increased Funding for Electronic Monitoring of Pretrial Defendants

The Board approved Options #1 and #2: 1) Approve the Resolution and Budget Amendment Request to transfer \$204,802 from the Jail Diversionary Account to the Supervised Pretrial Release budget to provide funds to lease electronic monitoring equipment for defendants, add two Supervised Pretrial Release Specialists to manage the increased caseload, and close the current Sunday scheduling gap; and 2) Direct staff to continue to track electronic monitoring utilization and report to the Board if resources warrant adjustment in order to meet future caseload demands and to maximize the utilization of electronic monitoring to help alleviate jail population.

7. Adoption of a Resolution Authorizing the Conveyance of 0.35-Acre Parcel of Property and Sanitary Sewer Easement in Favor of the City of Tallahassee

The Board approved Option #1: Adopt the Resolution authorizing the conveyance of a County-owned 0.35-acre parcel of property and a Sanitary Sewer Easement to the City of Tallahassee.

8. Authorization to Reject Offer from Adjacent Landowner and Sell County-Owned Surplus Property on Mosley Street to the City of Tallahassee for the Amount of \$1,050 and Adopt Resolution of Intent to Convey County Property

The Board approved Option #1: Reject offer from adjacent landowner, and authorize the sale of the Mosley Street surplus property to the City of Tallahassee for the amount of \$1,050, and adopt the Resolution of Intent to Convey County Property, and authorize the Chairman to execute.

9. Approval to Award Bid to Flint Equipment Company in the Amount of \$419,500 for the Purchase of a Steel-Wheeled Landfill Garbage Compactor

The Board approved Option #1: Approve the awarding of bid to Flint Equipment Company in the amount of \$419,500 for the purchase of a steel wheeled landfill garbage compactor.

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

Speakers:

Ben Girtman, 2907 Abbotsford Way reported what a success a toxic waste pick up had been. After talking with a number of staff members and starting a toxic waste pick up and holding an annual meeting where waste management brought a trailer so that paints, pesticides, tires and numerous other items could be picked up. Perhaps the Board could consider establishing one day a month toxic waste events or waste drop off locations. He asked the Board to make the dump sites easier for citizens to access especially with the cost of gas.

Commissioner DePuy stated we need staff to be more responsive and let people know there will be sites set up throughout the County. They could access the County's web page for this information.

Commissioner Sauls was very glad Mr. Girtman brought this issue before the Board. She has been talking to Mr. Alam and staff having something along these lines set up once a month at various locations. She is glad to hear a citizen bring up the need and point out the participation will be better with easier access.

Speaker:

Reverend Foutz – Requested the Board look into designating the Old Lincoln High School as an Historic Preservation site. Leon County High School is getting ready to celebrate 100 years. He needs the Board's help in preserving this great landmark.

General Business

10. Approval of Modification to the Board's Calendar Canceling the Regularly Scheduled Meeting on August 28, 2007 and the August 30, 2007 Joint City/County Public Hearing on Cycle 2007-2 Comprehensive Plan Amendments

Mr. Alam presented the item to the Board and spoke to the modifications of the Calendar and the options the Board may want to consider.

Commissioner Sauls moved, seconded by Commissioner Rackleff, to approve Option #2: 2) Modify the Board's calendar to reflect the cancellation of the August 28, 2007 regular meeting and the retention of the August 30, 2007 Joint City/County Public Hearing on Cycle 2007-2 Comprehensive Plan Amendments. Motion carried 6-0, with Commissioner Thael absent.

11. Adoption of a Revised Board Workshop Schedule

Commissioner Sauls moved, seconded by Commissioner Rackleff, to approve Option #1: Adopt the revised Board workshop schedule.

Commissioner Proctor asked if this revised schedule included the regional workshop the Board had talked about organizing.

Vince Long, Deputy County Administrator indicated staff is working to schedule a regional meeting soon. It would really be more than a workshop as Mr. Alam indicated. It would probably be a half day meeting.

Motion carried 6-0, with Commissioner Thael absent.

12. Expirations, Vacancies and Appointments: Contractors Licensing and Examination Board, Educational Facilities Authority, Housing Finance Authority, Lake Jackson Sports Council, Primary Healthcare Implementation Advisory Board, Science Advisory Committee, and Water Resources Committee

Ms. Christine Coble, Agenda Coordinator announced the current appointments that needed to be made, by whom, and by what procedure per Chairman DePuy's request:

Contractors Licensing and Examination Board

Commissioner Sauls reappointed Mr. Stephen Hodges, Sr.

Educational Facilities Authority

Commissioner Desloge appointed Mr. Randy Guemple.
Commissioner Rackleff appointed Ms. Anne Peery.

Housing Finance Authority

Commissioner Sauls appointed Mr. Jeffrey Askins.

Lake Jackson Sports Council

Commissioner Rackleff continued the appointment.

Primary Healthcare Implementation Advisory Board

Commissioner DePuy appointed Mr. Martin Plevak.
Commissioner Dailey appointed Mr. Spencer Bowen

Science Advisory Committee

Commissioner DePuy reappointed Mr. Sean McGlynn.
Commissioner Desloge reappointed Mr. Deron Lawrence.

Water Resources Committee

Commissioner Desloge confirmed the appointment of Dr. Pamela Hall.

Chairman DePuy reconvened the meeting at 5:40 to allow time for Citizens to be Heard at this point in the meeting instead of at the end of the scheduled 6:00 p.m. Public Hearings since there were a number of public hearings scheduled.

Citizens to be Heard on Non-Agendaed Items (3-minute limit)

Speakers:

Colonel Wilson Barnes, 1949 Setting Sun Trail made his third appearance regarding the same issue – the questionable termination of Ms. DJ Johnson, Veteran Service's Officer for Leon County for 1 and ½ years. Ms. Johnson was an excellent employee until she got a new supervisor according to the new supervisor. Also Reverend William Foutz, and Robert Palmore spoke on behalf of Ms. Johnson's reinstatement. Mr. Palmore, Lieutenant Commander in U.S. Navy spoke about his father's death last year – a veteran of the armed forces and two world wars died in Jan. leaving behind a wife and 2 sons both who continue to proudly serve our country in Iraq and Afghanistan – He could not emphasize enough how difficult it is to fill out all the forms required by the Veterans Association along with all other forms involved from everywhere else upon the death of a parent. The person they spoke with Mike Matulis incorrectly informed him of the benefit amounts

and told him they could not have a copy of his father's records and told him the other info was available on the VA Website which was incorrect since they were sitting in front of it. The Casualty Assistance Officer suggested they talk to another V.A. Office since the info received from Mr. Matulis was wrong. Felt that they 'lucked out' when they became aware of Ms. D.J. Johnson's service – expert assistance in filling out proper forms, she spent over 4 hours thoroughly going through his father's records. They walked out knowing things were being taken care of properly for their mother. Since this happened it has been discovered that other families have been misinformed by Mr. Matulis .

He realizes returning Ms. Johnson to her position may be a moot point. But he is there to inquire as to how Mr. Matulis can remain in his position. And to express to the Board how critical it is the Veterans have a good advocate. Mr. Matulis was derelict in his duties. The matters that need handling are very important and require knowledge, compassion, and understanding.

Commissioner Proctor spoke to an incident that occurred earlier involving a Veteran suffering from Post Traumatic Stress Disorder and asked to be kept informed of the situation.

Commissioner Dailey reported how good it was to see Lt. Colonel Palmore since they grew up together. Also promised the Board would look into this matter.

Mr. McGonical, WW II Veteran expressed similar comments and questioned the reason for Ms. Johnson's resignation.

There was lengthy Board discussion on this issue.

Scheduled Public Hearings 6:00 p.m.

13. First and Only Public Hearing to Adopt an Ordinance Amending Chapter 2, Leon County Code of Laws, Deferred Compensation Plan

Commissioner Sauls moved, seconded by Commissioner Rackleff, to approve Option #1: Conduct the first and only public hearing and adopt the proposed Ordinance amending Chapter 2, Leon County Code of Laws, Deferred Compensation Plan. Motion carried 6-0, with Commissioner Thaell absent.

14. First and Only Public Hearing to Adopt an Ordinance Implementing Remedial Comprehensive Plan Amendments Amending the Urban Fringe Category of the Future Land Use Map to Allow No More Than 81 Single-

Family Detached Units On Parcels 12-02-20-602-0000 and 12-11-20-202-0000; Adopting an Amendment to the Capital Improvement Element of the Comprehensive Plan Regarding Financial Responsibility for the Construction of Water and Sewer Infrastructure for the Properties

Speaker:

Bob Cambric, representing applicant Danny Miller, stated his support for the proposed Ordinance.

Commissioner Proctor moved, seconded by Commissioner Desloge, to approve Options #1, #2, and #3: 1) Conduct first and only public hearing and adopt amendment to the Future Land Use Map of the 2010 Comprehensive Plan; and 2) Conduct first and only public hearing and adopt amendment to the Capital Improvement Element of the 2010 Comprehensive Plan and 3) Conduct first and only public hearing and adopt Ordinance implementing remedial Comprehensive Plan Amendments amending the Urban Fringe Category of the Future Land Use Map of the 2010 Comprehensive Plan. The motion carried 5-1, with Commissioner Rackleff opposed, and Commissioner Thaeff absent.

15. First and Only Public Hearing to Adopt an Ordinance Amending Chapter 10, Article XI, of the Leon County Land Development Code, § 10-1560 and § 10-1561 Amending Completion of Infrastructure

Commissioner Rackleff moved, seconded by Commissioner Sauls, to approve Option #1: Conduct first and only public hearing and adopt an ordinance amending Chapter 10, Article XI, §§ 10-1560 and 10-1561, respectively. Motion carried 6-0, with Commissioner Thaeff absent.

16. First and Only Public Hearing to Adopt an Ordinance Amending Chapter 11, Article IV of the Leon County Code of Laws Relating to Local Business Tax Receipts

Commissioner Proctor moved, seconded by Commissioner Dailey, to approve Option #1: Conduct the first and only Public Hearing and adopt a proposed Ordinance amending Chapter 11, Article IV of the Leon County Code of Laws, relating to the Local Business Tax Receipts. Motion carried 6-0, with Commissioner Thaeff absent.

17. Second and Final Public Hearing Regarding a Proposed Ordinance Amending the Land Development Code to Establish Regulations for Rural Small-Scale Nurseries

Speaker:

Carey Freeman, 113 Thompson Circle owner of small nursery on Meridian Road, spoke in support of the ordinance.

Commissioner Dailey moved, seconded by Commissioner Desloge, to approve Option #1: Conduct the second and final Public Hearing and adopt the proposed Ordinance amending the Leon County Land Development Code to establish regulations for rural small-scale nurseries. Motion carried 6-0, with Commissioner Thaeil absent.

18. First and Only Public Hearing on the Erin's Ridge Type "C" Site and Development Plan

Commissioner Sauls moved, seconded by Commissioner Desloge, to approve Option #1: Conduct the first and only Public Hearing and approve the proposed Type "C" Site and Development Plan for the Erin's Ridge Subdivision, subject to those conditions recommended by the Development Review Committee, based on the findings of fact, conclusions of law, and conditions of approval, as set forth in the recommendations of the Development Review Committee. Motion carried 5-0, with Commissioner Dailey out of Chambers, and Commissioner Thaeil absent.

19. First and Only Quasi-Judicial Public Hearing on a Proposed Ordinance Amending the Official Zoning Map to Change the Zone Classification from the LP (Lake Protection) Zoning District to PUD (Planned Unit Development) Zoning District on Property Located at 3221 North Monroe Street

County Administrator Alam presented the item to the Board. Mr. Alam distributed information on the economic impact of the proposed Wal-Mart.

County Attorney Thiele reminded the Board since this is a quasi judicial hearing witnesses will need to be sworn in and Commissioners will need to disclose their ex-parte communications.

Commissioners reported their ex-parte communications for the public record.

Board Secretary, Diane Norvell, representing the Clerk and in her function as a notary public swore in a large group of people who expressed an interest in testifying, in accordance with the rules of a quasi-judicial proceeding.

Speaker:

Ms. Clifton Lewis expressed grave concerns and serious regrets regarding the clear-cutting of trees at Bucklake Road. They have insisted on protecting the trees and the water. Hopes there is some way the trees can be replanted.

Commissioner Proctor informed the Board that Ms. Lewis was the recipient of an award at the recent Martin Luther King Foundation Event and he is glad to hear Ms. Lewis again.

Commissioner DePuy pointed out that Attorney Linnan presented him with her speaker card and 9 other speaker cards from speakers indicating they will 'donate' their time to her. He asked if she would need all of the other time represented and she stated she would need half of that time. Commissioner DePuy reviewed the volumes of speaker cards noting he has a card from Bob Pannell with 9 or 10 speakers donating their time to him and asked him if that means he expects to have 30 minutes to speak. He indicated his group has a presentation and would probably need that much time if not more.

Commissioner Desloge had requested a presentation by staff on this item.

Staff presentation

Zach Galloway, Planning Department, provided a summary of the item, the actions of the Board of Adjustment and Appeals and the Planning Commission, and the conditions for approval of the zoning classification change. He referred to Page 6 of the Agenda Item. He stated that concerns raised include stormwater management facilities, traffic, noise, whether this proposal meets with the general consistency of the Comprehensive Plan, and the ownership of the property. There are many issues to be worked out yet, but Mr. Galloway said the planning department believes they can be. Mr. Galloway went over the history of the project including the DRC, GEM, Public Works and the 16 additional conditions citizens requested be included. He gave a comprehensive detailed history of the item and the PUD.

Speakers:

Several speakers expressed major concerns over this development. *Several speakers filled out cards and 'gave their time' to other speakers. Many speakers spoke at great length.*

Speakers opposed to this development who spoke on the issue were:

Bob Fulford, Nancy McGrath, representing Friends of Lake Jackson, Jim Cavanagh, Rebecca Cobb, Bob Pannell, President of the North Monroe Community Alliance, Inc, Bill Howard, Julia St. Petry, Tom Kwader, Hydro-geologist, Becky Subrahmanyam, Louis St. Petry distributed a handout. Mr. George Lewis, representing the Friends of Lake Jackson.

County Attorney Thiele indicated there needed to be a procedure put in place regarding the 'loaning' or 'waiving' of time by some speakers to give to others. As a parliamentarian it was understood no one could loan time to anyone otherwise hundreds of hours could potentially be amassed by people coming to Chambers and filling out cards and giving their time to other speakers. He indicated it was going to be difficult for him to track who is getting what time from whom to speak. He expressed concern over the due process rights of the Applicant and those opposed that 'more than their fair share of time' is allocated.

Some of the reasons for opposition to the item were:

Traffic problems, negative environmental impacts on Lake Jackson, stormwater issues, noise, inappropriate issuance of the Previous Land Use Conformity Certificate (PELUC), trees bordering property, easements for the ravine, surrounding vegetation. Almost each speaker was extremely concerned with the environmental impacts this development would have on the land it is being built on and the stormwater issues, pond issues, Lake Jackson issues. There was concern whether or not Walmart had a permit for clearcutting. Several presentations were made by various groups opposing this development with detailed concerns, maps, and technical information. North Monroe Community Alliance made a presentation. Dr. Kwader, Hydro-geologist reviewed the stormwater management on the site. He reported the water level in Lake Jackson is dropping too low due to sinkholes. He believes building ponds is a good solution to this problem. The volume of traffic is not decreasing enough even with speedbumps being put in. Also, dealing with 18 wheelers going to and from WalMart. Suggestions were made there were grounds to file lawsuits against this development.

Speaker:

George Lewis, representing the Friends of Lake Jackson, requested the Board address the concerns including the following and reported the Board had the power to impose any conditions they need to impose to make this item appropriate for public safety and convenience:

Mr. Lewis addressed the following issues:

- He asserted the ownership of the property is in question.
- A major storm near the Walmart site would leave an area unprotected, no matter how small
- Endorsement of the pre-testing of ponds
- Tie together Stormwater Pond #2 with Stormwater Pond #1
- Require joint ownership of conservation easement between Wal-Mart and County so there is dual control
- Require a plan for remediation if problems occur with stormwater ponds
- Review PUD Ordinance requiring parcels be divided by boundary

Mr. Lewis presented a hand out detailing each recommendation and articulated each item comprehensively.

Commissioner comments on issues raised by speakers

Commissioner Proctor reported since he has been a Commissioner there has been a problem with water in Lake Jackson. Mr. Kwader reported that was an excellent point and he would like to return on another day and speak to the Lake Jackson issue. Mr. Kwader gave figures regarding rainfall deficit, and the sinkhole deficit. Commissioner Proctor discussed the issue at length including the lake's natural vegetation and aquatic life. Mr. Kwader discussed the issue at length answering several questions and offering some solutions.

Commissioner Rackleff thanked Dr. Kwader for his input since he is not being paid but is making these analyses out of a sense of civic duty. He asked Dr. Kwader about percolation in the ponds, especially the 5th pond. Dr. Kwader discussed this issue, however the ponds need to pass the test the engineers will decide to use. They discussed other related issues at length.

Commissioner Sauls asked Dr. Kwader about the question Commissioner Proctor asked in regard to how we could get water back into Lake Jackson. She asked if putting a berm around that sink be another possibility. He thinks the sinkholes should be plugged for the best effect and explained why.

Commissioner Dailey reported he met with Dr. Kwader regarding Lake Jackson and the sinkholes. He reported looking forward to bringing back ideas to pursue resolving issues with Lake Jackson. He discussed the issue.

The Board took a five minute recess.

Speakers who spoke in favor of the item:

Nancy Linnan, Carlton Fields, representing Wal-Mart, had 9 other speakers donate their time for her presentation. Ms. Linnan made a thorough presentation including a number of technical aspects to the PUD, the history of the project, the number of acres involved, the process from the very beginning up to now of the application, addressing citizens concerns, and basically articulated each step of the process of this application including dates. She reported Walmart agreed to 23 additional conditions that she described. She reported the PELUC Certificate could not be appealed and was final. She spoke at length about every aspect of the project. She submitted all documents involved *for the record* to the Board Secretary.

Commissioner Proctor asked questions about the water in Lake Jackson and how it can be protected by keeping the water out of it.

Ms. Linnan reported they will not be keeping the water out of it and described the process in detail.

Commissioner Desloge asked Ms. Linnan to go over the specifics of the Hastings property and she did.

Commissioner Dailey asked Ms. Linnan a number of questions *for the record*:

Q represents Commissioner Dailey's questions/A represents Attorney Linnan's responses.

Q. Asked about the impervious surface –

A. She reported it will be reduced – the existing by approximately 8%.

Q. Holding ponds – wants it put *on the record* that Walmart is committed to putting up a 'trash screen' on the gentelman's pond she spoke of earlier and also the maintenance of the ponds.

A. She reported they are responsible for the maintenance of the 2 ponds they are building plus the pond not on their property and Mr. Marshall gets to approve the trash rack itself.

Q. Current standards on the holding pond – 50 year storm? And you are increasing to the final development the 100 year storm standard.

A. Under Lake Protection it is 50 year they are taking it to 100 years.

Q. Before the Sam's building is torn down you have to build that holding pond, test it, make sure it works?

A. With one caveat – they may have to take down some or all of the building and grade the site in order to build the ponds properly. Nothing they haven't convinced staff is necessary.

Q. Before operation commences – you have to re-test it again.

A. Yes, and pass

Q. If at any point the ponds do not work, does the County have in writing it is Walmart's responsibility to fix it.

A. No question.

Mr. Dailey finished that line of questions but added he would have more during discussion.

Commissioner Rackleff posed a number of questions to Attorney Linnan also.

Q. Commissioner Rackleff asked about the tax avoidance strategy by Walmart to transfer ownership of its buildings and property to an REIT in another state – the Walmart store then pays rent on the building which goes out of state and then is returned to the corporation in the form of dividends which REITs are required to disburse every year. Is this going to be owned by an REIT – who will actually own it.

A. 10 to 20 years from now she does not know and does not think Walmart could be restrained from doing something like that. The conditions go with whoever owns the land. Right now in all discussions - of which there have been many – in part because of what Mr. Lewis has been saying – it will be owned by Walmart AIG. It may be transferred to Walmart East LLC wholly owned subsidiary of Walmart, Inc. – there are no plans beyond that.

Comment –Commissioner Rackleff reported this makes a difference in the corporate tax liability of Walmart in Florida and this is why he is asking this question regarding ownership.

Q. Can you assure him this will not become a part of this tax avoidance scheme.

A. I cannot say that – because I do not know. But in all discussions to date that has never come up. However 10 years from now she does not know what Walmart is going to do with that property – other than the County is protected.

Commissioner Desloge acknowledged Tallahassee is a special place. He made these points: We have an existing building, we're going to have less building, more property – there is a 23 million dollar economic impact . The citizens have done an excellent job of raising the bar and managing to include the 23 additional requirements. People may not like Walmart but in the end it may be better than an alternative. He supports it. Thanks for all the work the citizens have done.

Commissioner Proctor asked the County Attorney according to what we have set forth as the legal process for approval for this applicant to proceed are there any known deficits for this Commission that would object to the recommendation to grant approval.

The County Attorney stated no.

Commissioner Proctor then addressed staff noting there have been a lot of comments made by a number of citizens who have taken time to come to the meeting. In the large number of citizens that have spoken has staff identified any basis for which the Board should – in particular regarding some of Mr. Lewis' comments – at least hesitate and wait to incorporate some of the recommendations made. He referred to the number of questions the District Commissioner posed. Is there any reason the Board should back away from endorsing the recommendation staff has given.

Staff – considering all the conditions applied staff feels confident with its recommendation.

Commissioner Proctor acknowledged both from legal counsel and staff advice he hears no reason why this project should not move forward. He defers to the District Commissioner for a recommendation.

Commissioner Rackleff called for a point of information

He reminded the Board Dr. St. Petry wanted to address the Board.

Speaker:

Dr. St. Petry disagreed with Ms. Linnan – there are 7 properties being amalgamated 6 are conforming now only one is nonconforming and also the Previously Established Land Use Conformity (PELUC) violates the Leon County Comprehensive Plan. The object of the plan is to allow 'existing uses' this is an expansion of the use from a 13 hour day members only club to a 24/7 super Walmart. Ms. Linnan stated the PELUC is final and cannot be overturned; however the Board can deny the rezoning application. Mr. Lewis spoke to the ownership of the property which is still in debate. The Applicant is not the owner – that needs to be resolved prior to the Board taking any action on this which is called for in the Board's own rules. There is no binding commitment. The PUD Ordinance requires the applicant include a binding commitment from all the property owners to develop the property in accordance with the approved PUD concept. Walmart's PUD narrative does not contain one. It even says – if and when the property is developed. Wants the binding commitment to be part of this paperwork before the Board acts on the application. He made other points regarding hours of operation and also disagrees with Ms. Linnan and does not think the property will retain all the light if they shine it down it

will reflect up. When the sun shines on the moon and we are on the dark side of the earth the moon reflects back – Light does not follow Walmart's rules. He is speaking of scientific fact.

The conservation easement has been discussed the County requires the easement be part of the application, and part of the environmental impact analysis approval with conditions. They are going to submit for the record documentation of chapter and verse where that is in the County's requirements. They request that needs to be part of that documentation before the Board acts on this request – this is called for again in the County's own rules.

Soil permeability has been discussed – the core borings to date do not clearly demonstrate – (understand more have been done but haven't been made public) – Dr. Kwader has not seen them – were going to suggest additional borings be required and to require split samples – ½ sent to a lab of their choice and recommend Walmart pays for those samples. If Walmart will not pay their organization is willing to. Request the environmental permit not be issued unless the numeric data from the core borings demonstrates a high probability of proper functioning.

No emergency overflow for pond 2 – that is essential.

Maintenance of stormwater ponds – volume recovery. Log of activities. What happens if one or both ponds fail.

Quality of water discharge – applicant retain log. Meets class 2 drinking water standards.

Way application is written – applicant could seek a Comp Plan Amendment to redesignate from Lake Protection and expand the site – think this is improper – suggest not allowing them to seek a Comp Plan Amendment so they could expand from 101,000 sq ft bldg. They start small then increase.

The standards do not include the recommendations the Board is going to make tonight – these need to be in the final PUD document.

The County Administrator has allowed to deviate from the standards in minor areas – they suggest any minor deviations those who live within 500 ft need 2 weeks notice and there should be no minor deviations that would relax the BOAA conditions put on the PELUC order.

Sheet C4 of the demolition plan shows more than 100 trees are to be removed. Sheet C7 shows Walmart will alter the grades in certain areas where the ground is presently stabilized.

Curious as to how Walmart is going to provide \$23 million into this community with less traffic on North Monroe St.

Commissioner DePuy stated *for the record* people on all sides of this issue were allowed many more minutes that is the Board's rules. He noted he bent the rules for everyone.

Chairman DePuy announced the Public Hearing on this matter was closed.

Commissioner Dailey thanked everyone involved. Has spent a large amount of time on this issue.

Commissioner Dailey moved, seconded by Commissioner Sauls, to approve Option #1, as amended: Conduct the first and only Quasi-judicial public hearing and adopt the proposed Ordinance amending the Official Zoning Map from the LP (Lake Protection) zoning district to the PUD (Planned Unit Development) zoning district, based upon Planning Commission recommendation, the findings of fact included within this agenda, and conclusions of law made by the Board of County Commissioners and any evidence submitted at the Hearing hereon. In addition, in future transfer of title of the ravines, if to Leon County only, it shall not require an amendment to this Planned Unit Development (PUD).

Commissioner Rackleff discussed the amendment and the motion with Commissioner Dailey.

County Attorney Thiele confirmed that includes the conditions set forth.

Commissioner Rackleff discussed his problem with this issue – we repeal the Lake Protection Ordinance and replace it with a PUD that is improvisational. He asked the County Attorney if there was another way to achieve this without changing the Lake Protection Ordinance. They discussed the matter.

Commissioner Dailey discussed the stormwater standards with Commissioner Rackleff.

Commissioner Rackleff discussed the matter at length.

Commissioner Dailey discussed the matter at length.

Commissioner Sauls named the positive aspects of the issue including the 23 conditions included. She commended those involved in making the conditions including GEM, DRC, and the Planning Commission. She also commented on the protection of the ravines.

Commissioner Desloge discussed the matter and applauded Commissioner Dailey for the work he has put into this.

Motion carried 5-1, with Commissioner Rackleff opposed and Commissioner Thaeil absent.

Speaker:

John Gibby, 4887 Gum Road spoke about the Leon County Transfer Station. Stated the Board made promises. This was a very important promise. This place stunk. He gave a history of the problem. The new director has made a big difference and the area does not stink anymore. He is concerned with land use issues – waive development fees for comp plan amendments, etc. Staff has not been waiving those fees for the last five years. They owe \$20,000 - \$50,000 to his neighborhood. The Board instructed staff to do something they are not doing. Stormwater – another major concern. The floodplain was supposed to be revised but nothing has been done. Begging for help. Please direct staff to follow through with the wishes the Board approved in 2002. Went through 20 meetings trying to mitigate effects of the transfer stations – now they are wanting to rescind all the progress made and this is just not fair. He provided documentation.

County Administrator Alam recommended the Board direct staff to bring back an agenda item at the next meeting explaining these issues. Some of the issues are correct and need to be addressed.

Commissioner Rackleff moved, seconded by Commissioner Desloge to direct staff to bring an agenda item to the Board at the April 24, 2007 Regular Board meeting to address Mr. Gibby's concerns. Motion carried 6-0, with Commissioner Thaeil absent.

Commissioner Proctor suggested people should ask how much any damage to this small piece of property should actually be contributed to one building – Walmart, especially since they have not even begun breaking ground.

Discussion Items by Commissioners

Commissioner Rackleff

On Behalf of Commissioner Thael

Requested two Resolutions - 1 for Public Works Week and - 1 for Earth Day 2007 on behalf of the Solid Waste Recycling Program – both requests were made without objection.

Commissioner Desloge

Would like to request County staff touch base with City staff and the schools while there may be a chance to do something with sidewalks – perhaps while it is under construction the sidewalk program could be accelerated.

Requested a Resolution for James McGlynn recognizing his acceptance at the United States Naval Academy at Annapolis. Request was made without objection.

Thanked Chairman DePuy, Commissioner Thael and County Staff who attended the Miccosukee Community Center meeting. Staff did an excellent job putting it together. Can they update the plan on the existing Community Center for any needed repairs. The current plan is 2 or 3 years old.

Commissioner Desloge moved, seconded by Commissioner Dailey to have staff bring back an agenda item that provides a report on just what the County's role is relative to addressing mental health issues in Leon County.

Commissioner DePuy offered a friendly amendment to include addressing the mentally ill population inside the jail.

Commissioner Desloge accepted the friendly amendment.

Commissioner Dailey asked to go on the record to make sure within the scope of this matter it is mentioned that the state has some responsibility in this matter for covering some of the costs of the

mentally ill that are incarcerated. Would like info from Sheriff to ensure State is covering their responsibilities as well.

Commissioner Desloge indicated he believes the Apalachee Program is the 'state match'.

Commissioner DePuy acknowledged this is an ongoing concern of the Public Safety Coordinating Council he Chairs and they are meeting with Apalachee and other providers regarding this very issue.

Motion carried 6-0, with Commissioner Thaeil absent.

Commissioner Desloge requested –for Christine Coble, Agenda Coordinator regarding committee assignments to provide some idea of members' race, sex, age, in regard to being able to track this information. Ms. Coble indicated they cannot require certain information but on the actual application there is a place where they can provide race/gender/age. They complete a minority/disabled report annually that is turned into the Governor's Office. Their policy of course is to always try and get a diverse membership.

Commissioner Proctor

Commissioner Proctor moved, seconded by Commissioner Sauls, to approve the following appropriations from his Commissioner budget: 1) New St. John African Methodist Episcopal Church - \$200 for Celebrate Our Youth 2007 2) PyExpress Allstars - \$400 for 12th Annual Hoops of Fire Men's Basketball Tournament and 3) Tallahassee Zeta Archonettes - \$150 for Sixth Annual Stomp Fest 2K7. This amount would total \$750.00 Motion carried 6-0, with Commissioner Thaeil absent.

Recognize the Rickards Symphonic Band with a Resolution. Request was made without objection.

Discussed the Board's need to recognize the critical need of the Woodville Highway. If the County could downsize the land requirement they could see positive growth in the Woodville area. Mentioned the emergency evacuation route aspect and the critical need for the County to discover a way to open up that artery.

Would like the Board to consider again the renaming from Orange Ave back to Capital Circle calling that Southside Blvd.

Commissioner Proctor moved, to agenda an item changing the name and notifying those who would be affected, where we might get their buy-in, of a certain section of Woodville Highway naming it Southside Boulevard.

Motion failed for lack of a second.

Asked the Board to lend attention to Woodville Highway in the near future.

Commissioner Sauls

No additional comments.

There being no further business to come before the Board, the meeting was adjourned at 10:02 p.m.

C.E. DePuy, Jr.
Chairman

ATTEST:

Bob Inzer
Clerk of the Court