

Board of County Commissioners

Minutes of

November 18, 2004

The Board of County Commissioners met in a **Regular Meeting** in the auditorium of the School Board Administration Office at 7:00 p.m. Commissioner George Skinner opened with prayer. The Pledge of Allegiance to the Flag of the United States of America followed.

In Attendance:

Commissioners: Jennifer Flinn, Dewey Weaver, George Skinner and Elizabeth Porter. Commissioner Williams was absent.

Others: County Manager Dale Williams, County Attorney Marlin Feagle, Asst. County Manager Lisa Roberts, and Deputy Clerk Sandy A. Markham.

I. Alice Mangle - Press Ruth Road

Mr. John Crawford spoke for his grandmother (Ms. **Alice Mangle**) who lives on Press Ruth Road. He reported a neighbor (no name provided) is pumping water from their property onto his grandmother's property and causing flooding. Mr. Crawford and Mrs. Mangle have attempted to resolve the matter with the neighbor, who they say is rude and very uncooperative. Mr. Crawford took the matter to Suwannee River Water Management, who in return sent the neighbor notice that pumping water onto someone else's property is a violation of state law. According to Mr. Crawford, the neighbor has disregarded the notice and continues to pump water onto Ms. Mangle's property. The Board was asked to intervene.

Mr. Marlin Feagle concurred the neighbor's actions are against the law. The County cannot enforce state law, and therefore has no authority to intervene unless the neighbor's actions are causing a county road to flood. Mr. Feagle stated this predicament would best be handled by filing a civil law suit, or by calling the law next time it happens.

While on the subject of **Press Ruth Road**, Commissioner Flinn described how the road has become a popular cut through from Price Creek to Hwy. 252. For that reason she requested staff have a county engineer do an assessment of the road to determine the cost for paving.

II. Snider Property

Attorney Todd Doss addressed the issue of Mr. & Mrs. **Ken Snider's** flooded property located on Tabernacle Glen. Mr. Doss contended it was inadequate ditch

maintenance that caused the property and house to flood during the hurricanes. "Since that time, the Sniders have attended each commission meeting searching for answers," Mr. Doss said.

Mr. Doss reported that after meeting with Commissioner Flinn and Mr. Dale Williams in the prior week, there has still been no work to correct the Snider's problems. He also told the Board that he has not received a reply to the County's Insurance Adjuster's visit of October 9th. "So, here we are 71 days after the Sniders were flooded out of their home. They've been told things were going to be done, but nothing has been done." Mr. Doss said it was his understanding from the meeting with Commissioner Flinn and Mr. Williams that the Pastor of Tabernacle Glen would be contacted regarding the needed ditching, but to date no one has called the pastor. He reminded the Board this would be the Snider's fourth request for assistance.

Commissioner Flinn asked Mr. Dale Williams why the pastor had not been contacted. He responded the work will begin on Monday, and the information needed to converse with the pastor was received only today. Commissioner Flinn asked that the pastor be contacted without delay.

III. Public Hearing - Amendment to the Alcohol Ordinance.

Mr. Marlin Feagle discussed the **Alcoholic Beverage Ordinance**, which will prohibit those under 18 from entering an establishment which derives the majority of its income from the sell of alcoholic beverages. The primary amendment to the order is Section 7 - Patronage and Employment Age Restrictions. Mr. Feagle expressed concern that local businesses may justifiably challenge Section 7 of the amended ordinance. Once the amended ordinance is approved and filed with the Secretary of State, local businesses will be put on notice, and will be required to immediately terminate underage employees. There are six exceptions: Restaurants, active full time military personnel, persons in hotels, bowling alleys, law enforcement and rescue workers, and other necessary essential service people such as vendors. Mr. Feagle explained to the commissioners that after a diligent search with the Beverage Department and with other counties around the state, he was unable to locate anyone who uses an ordinance such as the one being proposed.

The public hearing opened and closed without the public offering input.

Motion by Commissioner Flinn to approve the ordinance. Second by Commissioner Porter.

Discussion:

Commissioner Weaver asked how likely it is that Section 7 will be legally challenged. Mr. Feagle replied, "Since this ordinance may be the first of its kind, if adopted, we'll be either on the cutting edge of being smart, or on the cutting edge of becoming ignorant. But, at some time, I believe there's a strong likelihood that Section 7 will be challenged." Commissioner Weaver said that while he doesn't believe a person

under the age of 21 should be in that type of establishment, he's hesitant to support something that may cost the taxpayers in legal fees.

Commissioner Flinn differed stating there is always the possibility of resistance to change. "I think we are on the cutting edge of something positive, and I feel Columbia County will be recognized as a leader by passing this type of ordinance," She said. She contended if passed, others would likely follow in Columbia County's footsteps to protect the youth of their county.

Commissioner Weaver asked Commissioner Flinn, "Can you tell me how many incidents are documented with the Sheriff's Department or Police Department with this type of problem?" Commissioner Flinn responded with a question, "Do we wait until there are problems with youth being arrested and dying on the streets before we fix the situation, or should we be leaders and prevent this from happening? If one life is saved because of this ordinance, it's preventative."

There was a call for the vote. The motion carried unanimously. **See attached ordinance.**

IV. **Building & Zoning** - By County Planner Brian Kepner

Subdivisions - Minor Subdivision Final Plat Approval:

SD 0156 - Countryside Estates was pulled by Mr. Kepner .

SD 0110 (SD 0161) - Overpass Meadows - District I. Mr. Kepner advised there is a typo in the number. It should be #0161 and not 0110.

Motion by Commissioner Flinn to approve. Second by Commissioner Weaver. The motion carried unanimously.

Subdivision - Final Plat Approval:

SD 0156 - Country Side Estates - District IV. Mr. Kepner stated the developers have not provided the required documentation. The item was pulled.

V. **Consent Agenda**

(1) Indigent Burial – ICS Cremations, Inc. – Mary Madlyn Bass, Deceased
- \$500.00

(2) Utility Permit – Bell South Telecommunications – NW Lake Jeffery Road

(3) 9-1-1 Addressing – Naming of Found Unnamed Roads – SW Lazy Acres

- (4) Nextel WIP Lease Corp. and Columbia County – Entry and Testing Agreement
- (5) Proposal for Columbia County/ Management Development Process - Phase II
- (6) Veterans Service – Salary Adjustment – With Promotion
- (7) 9-1-1 Dispatch – Request that the designated paid holidays for Christmas Eve and Christmas Day be the day on which each falls
- (8) Columbia County Emergency Medical Services and Ortivus, Inc. – Technical Support Agreement – Billing Services - \$3,480.00
- (9) Columbia County Emergency Medical Services and Lake City Community College – First Amendment to the Clinical Education Agreement
- (10) Minute Approval – Board of County Commissioners – Regular Meeting – October 21, 2004
- (11) Minute Approval – Board of County Commissioners – Special Meeting – November 3, 2004
- (12) Utility Permit – BellSouth Telecommunications – CR250 (Lake Jeffery Road)
- (13) Department of Community Affairs – Disaster Relief Funding Agreement
- (14) Columbia County School Board Agreement for Use of School Facilities – Administrative Complex Auditorium – Commission Board Meetings
- (15) Music Construction, Inc. – Contract Agreement – Construction of Railroad Spurs – New Millennium Site
- (16) Emergency Management Department – Emergency Communications Equipment Purchase – Hasty's Communications - \$27,676.00
- (17) Bid Award – Bid No. 2004-10 Phase One County Road 252 – Anderson Columbia Company, Inc. - \$833,709.25

Motion by Commissioner Weaver to approve. Second by Commissioner Flinn.

There was a call for clarification on items 3, 7, and 13. Mr. Dale Williams assisted with clarification.

The motion carried unanimously.

VI. EMS Privatization

Prior to the 03-04 fiscal year the Board authorized a request for proposal for countywide emergency medical services privatization. A RFP was prepared and submitted in accordance with the Board's motion. The three proposals received were: American Ambulance of Central Florida, American Medical Response, and Century Ambulance. Mr. Dale Williams, Purchasing Director Ben Scott, EMS Director Rusty Noah, and a member of the local union was appointed to a review committee for the purpose of reviewing the proposals and to ascertain whether there would be any benefit in the county exploring privatization of EMS. The committee unanimously concurred that there was no financial benefit whatsoever to Columbia County to privatize. With that, it was agreed by the committee that there was no need to proceed with reviewing the other components. The Board was provided with an analysis of the financial component of the proposals. Staff recommended none of the proposals be awarded and responders to the RFP be notified that Columbia County has elected to withdraw consideration of the proposal.

Motion by Commissioner Weaver to accept staff recommendation. Second by Commissioner Flinn. The motion carried unanimously.

VII. Revisit of Settlement Offer on Eminent Domain Proceeding (Goodson)

By way of eminent domain and an *Order of Taking*, the County was able to acquire right-of-way property for the bypass road. The specific parcel is directly across the street from Redbud Enterprises, in the southeast corner of the quadrant. There continues to be a dispute as to the total amount of compensation. A settlement offer of \$7 ,000 was previously submitted to the Board of County Commissioners for consideration, but was ultimately rejected.

Mr. Williams said he believes the owner of the property has now changed hands. The property is still within the family, but is being managed by a different family member. The offer has been reduced from \$7 ,000 to \$69,000. A deposit of \$,000 has already been placed into escrow by Columbia County for the purchase. As was the case in the original offer, the offering price does not include the cost of expert witness or legal fees. Following discussion, the motion was made:

Motion by Commissioner Weaver to deny offer to settle, and to offer to purchase the property for \$,000. Second by Commissioner Flinn. The motion carried unanimously.

VIII. County Reorganization

Appointment to Chair - Per Section 2.7 of the Columbia County Charter, a commissioner is to be appointed as chairperson on the third Thursday following the first Monday in November.

County Manager Williams stated there are no policies or administrative codes that direct a specific method for appointment. Historically, the Board has always appointed the vice chairperson as the chair, and then looked to the commissioner serving the longest and who has not yet sat in the chair to be the vice chairperson. If the Board chooses to follow

that same format, Commissioner Weaver would be the next chairperson and Commissioner Flinn would serve as vice chair. He asked the Board for appointments.

Commissioner Skinner noted he was passed over when he became part of the Board, because of what some felt was a lack of sufficient experience. The commissioner expressed he does not feel it is fair for a commissioner, when they are up for reelection, to have to deal with the duties and responsibilities of being the Chair, while dealing with the responsibilities of a campaign. Commissioner Weaver responded that he and Commissioner Flinn will run for re-election at the same time.

Commissioner Porter stated she presumes the procedure is a rotating responsibility, and it rotates equally among the commissioners. Being new on the Board, she asked each of the commissioners on the Board if they had already served in the position of vice chair and chair. Commissioner Porter learned that each of the commissioners have served in both the chair and vice chairs position except for Commissioner Flinn, who has served in neither.

She then inquired of Commissioner Flinn, "Experience? Do you have any as chair or vice chair on any committees?" Commissioner Flinn responded she gained her experience as a Chairperson when Governor Jeb Bush appointed her to chair his workgroup on guardianship and the developmentally disabled in the JES Case. Commissioner Porter asked Commissioner Flinn why she was not currently serving as vice chair. Commissioner Flinn responded she did not know why, but that she was passed over last year. When asked if she feels qualified to serve as the Chair or Vice Chair she responded affirmatively, and noted that she also served as Vice Chair of Rural Caucus for Florida Association of Counties, which is a state legislative committee for all county commissioners for the entire State of Florida

Motion by Commissioner Porter, "Since District IV has not been recently represented, and since Commissioner Flinn was passed over for vice chair even though she has substantial experience as chair, I'd like to move that she be appointed as the Chair. Second by Commissioner Flinn.

Commissioner Weaver said that he and Commissioner Flinn disagree on the authority and responsibilities of the Chair. He said, "For that reason, and nothing personally against Commissioner Flinn, I can't support that motion. We just have different opinions." Commissioner Porter asked if the authority and responsibilities of the Chair are written. The response was that responsibilities of the chairperson are outlined in Robert's Rules of Order.

The motion carried 3-1 with Commissioner Weaver voting in opposition.

Appointment to Vice Chair

Motion by Commissioner Flinn to appoint Commissioner Porter to serve as the Vice Chair. Commissioner Porter respectfully declined the offered position due to lack of experience.

Motion by Commissioner Porter to appoint Commissioner Weaver be the Vice Chair. Commissioner Weaver respectfully declined the offered position stating he is currently serving as Vice Chair.

Motion by Commissioner Flinn to appoint Commissioner Ronald Williams as Vice Chair. Second by Commissioner Weaver. The motion carried unanimously.

IX. Building Permit - Havard Family

Staff continues to study what the law requires of counties when issuing permits, and when the county can legally withhold issuance. Until the County has LDR's that give more precise guidance, Mr. Dale Williams advised that he has instructed the Columbia County Building Department to not issue permits on property known to flood.

There is a case at hand where a permit has been applied for by Aileen Havard to build on a lot located in Elm Acres located South of 252. The subject lot is not within Zone A of the Flood Hazard Boundary Maps, yet it is personally know by many to have flooded at least 2/3 of its entire surface area during recent hurricanes. Mr. Williams told the Board if they find that they cannot legally withhold issuance of permits for these types of properties, there are other protective measures that can be taken such as: Requiring them to adhere to additional building standards, and having the owners sign an affidavit that they understand there is personal knowledge that the subject property has been affected by flood to some degree in the past. Board direction was sought.

Former Commissioner James Montgomery agreed that portions of the land being discussed has experienced flooding, but does not feel the area that the house is being built upon will be affected by flooding.

Commissioner Porter expressed she is not in favor of telling someone they can't develop their property, but feels the county should take necessary steps to protect themselves, and to offer sufficient information and words of caution to homeowners and buyers. She said if a property has suffered any type of flood, it should be a requirement that this information is disclosed to potential buyers.

Mr. Feagle said such a form has been generated. There is a notification that the county isn't responsible. It will also put them on notice that per the land development regulations, they aren't to flood their neighbors, and are required to make disclosure to future purchasers.

While on the subject of floods, Mr. Williams shared statistics provided by the local FEMA office that to date, there have been 3,04 individual applications for assistance. Of the 3,04 applications, approximately 2,500 have been approved for assistance to some degree. The total financial assistance paid to date is \$3,699,393.

United States National Military Cemetery

Commissioner Skinner provided Mr. Marlin Feagle with a copy of a Baker County resolution dealing with the new location of the United States National Military Cemetery. The commissioner said, "I think they're asking us to support the cemetery's new location to be at the Olustee Battlefield site ." Mr. Feagle reviewed the resolution stating it is simply a resolution expressing desire. Mr. Williams explained this to be a competitive situation as both Duval and Baker County have proposed that their county be the site of the cemetery. Baker County is asking Columbia County to support Baker County for the site.

Motion by Commissioner Flinn to adopt a resolution in support of the National Military Cemetery being placed at Olustee. Second By Commissioner Porter. The motion carried unanimously.

X. Clay Electric Permit - Mixon Road

Roosevelt Dicks, and Sam and Judy Robinson have filed a petition challenging the installation of a 1900 foot power line being installed in Mixon Road. A road one mile South of CR 240. According to Attorney Todd Doss, there are numerous problems with the application. He pointed out the permit was never actually issued to Mr. Dicks, and the permit was then wrongfully extended. "The land owners in the area never received notice of the plans to install the power line."

Mr. Doss informed the Board that Mr. Dicks was illegally performing the work, as he is not licensed to carry out this type of work, and is not an employee of the permittee (Clay Electric).

Mr. Doss acknowledged the adjoining property owners would like for the area to remain undeveloped. However, because the road has a history of washing out with as little as one to two inches of rain, they feel an electrical line in the center of any road known to wash out presents a safety hazards. Mr. Doss reported when the cable was laid, property safety procedures were not adhered to. He shared pictures with the Board supporting his comments, and reflecting what he believes is negligence.

The landowners feel the only reason the line is being laid in the middle of the road is that Roosevelt Dicks and the Robinsons would not willingly provide Mr. Dicks with an easement to run power into the Dicks development. With that, a utility permit was applied for and issued allowing the line to be installed in the middle of the road. Mr. Doss said the Clay Electric engineer expressed that he'd never encountered a three-phase line being run underground in the center of a road. Finally, on behalf of the adjoining property owners, Mr. Doss expressed concern that there may be a conflict of interest with Mr. Brad Dicks, who serves as chairman of the Planning and Zoning Board and who takes part in having the utility permits issued.

Commissioner Weaver asked if the road was a dead end or loop road, and if the waters wash "across" the road. The response was that the road is a loop road and the rain washes across the road.

Currently, the conduit pipe is in place, but the line has not been run through. Roosevelt Dicks, and Sam and Judy Robinson request that the utility permit be revoked, and that the Board not allow the line to be installed.

In reviewing the utility permit, Commissioner Skinner said it did not appear the Board had ever approved the permit, that he had not signed off on the permit, and that he did not recall ever reviewing it. Mr. Doss agreed, "The Chairman's signature would have been required, but is not reflected. Another defect within the permit is that it doesn't reflect a time frame in which the permit would be valid. It appears the application was on 8/16/04. However, there is no indication as to when this could possibly have been done. Again, that raises concern of it being extended," Mr. Doss said.

Mr. Marlin Feagle said the Board approved this permit on 9/2/04, and that the signed original is on file with the Road Department.

Commissioner Flinn commented the Chair's signature would be required not only on the original, but also the subsequent permit. She expressed that if the Chairman of the Board of Adjustment (Brad Dicks) signed off on his own permit, that would be a huge conflict of interest.

In an effort to dispel rumors heard, Commissioner Flinn stated she's been informed by her constituents that on Wednesday, prior to Brad Dicks spontaneously approaching the Board at the conclusion of Thursday's regular Board meeting, Brad Dicks was conducting work on the subject property. "If that is true, he was working on an expired permit. Is that true Marlin?" Mr. Feagle responded that the County actually notified Mr. Dicks on Wednesday, prior to the meeting on Thursday, that he was working on an expired permit. "So, technically, I suppose he was working on an expired permit," Mr. Feagle responded. Commissioner Flinn stated, "There's no excuse for Mr. Dicks to be working on an expired permit, because he's chairman of the board that issues those permits; He's Chairman of the Planning and Zoning Board. He of all people is aware that you can't conduct the work with an expired permit." Commissioner Flinn noticed in the pictures provided that a county road had been blocked off and was without access in order for Mr. Dicks to carry out his work. She explained it is her understanding that in order for the road to be temporarily closed, Mr. Dicks needed to request approval of the Board of County Commissioners. Further that there are rules in place for notifying area residents of the closure. She asked Mr. Feagle if it was legal for Mr. Dicks to close off the road without approval and notification. Mr. Feagle answered that the request should have been brought before the commissioners, and access must be provide for. Mr. Doss concurred with Mr. Feagle and added that the permit states the work was to be done in accordance with the Federal Manual Law on Uniform Traffic Control. Commissioner Flinn asked that Mr. Dicks be notified that his permit has expired. Mr. Williams acknowledged the request. Mr. Williams said, "The Permittee is Clay Electric, and there are issues of who actually performed the work. There are safety issues and yet the work was not inspected." Mr. Williams said he wasn't certain if Clay Electric would step in and conduct the safety

inspections, since he is not familiar with their process. Mr. Williams and Mr. Feagle will speak with Howard Mott, DeWitt Law and engineers of Clay Electric to explain the issues and determine what if anything can or needs to be done to rectify the situation. For clarification, Mr. Williams informed Mr. Doss that the original permit is signed, but that he doesn't believe the subsequent extension of the permit was ever signed. At this time, all work will cease and the matter will be tabled.

XI. Citizen Input - H.L. Sistrunk

Regarding the Havard property discussed earlier in the meeting, Mr. Sistrunk requested clarification of location and situation. Mr. Dale Williams explained there are two adjoining lots; one has an existing house, which is a repetitive flood property. The second lot has no structure, but an individual has applied for a permit to build a home on the lot. It was decided if the County is not able to refuse the permit that the landowners at least be put on notice that the property floods. Therefore, they are building at their own risk and should take precautions. Retention ponds may be helpful, but cannot be required by the county. Mr. Sistrunk suggested all culverts in the county be cleaned out, and in the future ditches be dug deeper.

Mr. Sistrunk feels even after the substantial upgrade of the recording system, the tape recordings of the Board meetings are still unacceptable. He asked Mr. Feagle if he could take the county to small claims court over the sound system. Mr. Feagle responded that as a general rule small claims court was for the purpose of seeking monetary damages not to exceed \$5000.

XII. Citizen Input - Wayne Williams

He congratulated the newly elected commissioners and those being reelected. He also wished former commissioner James Montgomery who was in attendance the very best in his future endeavors.

He mentioned having read an article featured in the Lake City Reporter last week regarding Ichetucknee Springs, the location of its basin, and the dangerous nitrate levels. He told the Board, "The article said 'they' didn't know that the basin was all the way up here. That's not true, because when the spray fields were established almost 20 years ago, a committee was formed and headed up by Dr. Fritz Fountain, and we told them back then it was up there, but they didn't listen. That water could have been pumped out into the forest, North of Lake City. But, instead, they've put it down here." He encouraged the Board to do whatever is necessary to protect the Ichetucknee, and to do so aggressively.

Regarding the spray fields, Mr. Dale Williams recalled the Board of County Commissioners in place 18-20 years ago voting against allowing the City to place the spray fields off of Sisters Welcome Road. Nonetheless, the spray fields were put in place after the City of Lake City filed suit in Circuit Court and prevailed. Regarding the current nitrate levels mentioned in the article, the State would like to see the County's first goal be ensuring they are not contributing to any increase in the current problem.

The State has provided codes to the County that will help with planning issues needing to be considered.

"Jim Stevenson, the Save Our Suwannee Group, and other such like minded people believe that if the County takes these precautions, they can in return get the legislature to fund the appropriate regulatory agencies to do the study needed to determine exactly what needs to be done with that existing spray field, and containing the leaching nitrates. Again, the first step is to make sure we're not adding to the problem. As the Chairman stated, it's a long-term plan."

Mr. Wayne Williams said it was his understanding when the spray fields were originally being discussed that the City had the option of purifying the waters and allowing them to drain in to Alligator Lake, but opted against that. Mr. Wayne Williams expressed it is unfortunate that the City elected to not use their common sense when making decisions regarding the spray fields.

Commissioner Porter said attended the recent meeting Mr. Wayne Williams read about in the Lake City Reporter. "I talked with Mr. Stevenson, and he mentioned to me that he thought that something that may be as much, or more of a problem would be the families, the residences out Hwy. 242, and the septic systems out there. He indicated that that could potentially be more of a problem than the spray fields." The Commissioner said she'd like for one of the goals of the Board to be to extend sewer down Hwy. 47 and I-75, and hopefully the citizens in that area would then be able to tie into the public sewer system.

There being no further business, the meeting adjourned at 8:05 p.m.

ATTEST:

George Skinner, Commi

P. DeWitt Cason
Clerk of Circuit Court

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Board of County Commissioners