

**FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
FRANKLIN COUNTY COURTHOUSE ANNEX
SEPTEMBER 1, 2009
9:00 AM**

MINUTES

Commissioners Present: Joseph Parrish – Chairman, Bevin Putnal – Vice Chairman, Pinki Jackel, Cheryl Sanders, Noah Lockley

Others Present: Marcia Johnson – Clerk of Court, Alan Pierce – Director of Administrative Services, Michael Shuler – County Attorney, Linda Phillips – Finance Clerk, Michael Morón – Board Secretary, Renee Stone – Deputy Clerk.

Call to Order (9:07 AM)

Chairman Parrish called the meeting to order.

Prayer and Pledge (9:07 AM)

There was a Prayer was followed by the Pledge of Allegiance.

Payment of County Bills (9:08 AM)

Motion by Lockley, seconded by Putnal, to approve payment of the County's Bills as presented; Motion carried 5-0.

Approval of the Minutes – Regular Meeting: August 18, 2009 (9:09 AM)

Motion by Putnal, seconded by Sanders, to approve the minutes of the August 18, 2009 meeting; Motion carried 5-0.

Mr. Wesley Tice – Introduction of Dr. Ivan Backerman, physician assisting the Health Department (9:09 AM)

Mr. Tice was not in attendance.

Marcia M. Johnson – Clerk of Courts – Report (9:09 AM)

Mrs. Johnson presented the following items for discussion and/or approval.

1-Regarding the request of the Lanark Village Association for reimbursement of \$6,270.91, my office contacted the County's Auditing Firm, Carr, Riggs, and Ingram, as directed. Based on that conversation, the County is not obligated to pay this reimbursement because we never had any agreement to pay the total bills for lights - the County received budget requests each year from the Lanark Village Association and those budgeted amounts were approved and paid in full each year. On April 7, 2009, the board approved a motion to pay for the lights directly with the expense coming out of the Parks & Recreation Department's budget. The Association's last budget request approved was for \$5,164.00 for the county's fiscal year of October 1, 2008 through September 30, 2009, and the check for that amount was forwarded to them in December 2008. Additionally, the County has been paying the bill for the lights since March of 2009 from the Parks & Recreation budget - a total of \$2,158.31 thus far.

Bill Snyder, representing Lanark Village Association, addressed the Board concerning the importance of the street lights in Lanark Village and explained that the area which has the street lights, the old military base housing section, is certified as C24 (80% or more retirees). He said having these lights is vital to the safety of the elderly residents of Lanark Village and asked that the Board continue to pay this bill for the Association. He said these residents do not have County funded boat ramps or parks so it wouldn't hurt to take the money out of the Parks & Recreation budget for them.

Commissioner Jackel asked if Lanark Village is the only community in the County that had this designation and Mr. Pierce explained how a community becomes a licensed retirement community. Mr. Pierce added that from his memory the Village didn't meet the requirement and by survey not all of the residents wanted to be considered a retirement community because there weren't enough retirees moving into the area.

Commissioner Putnal and Mr. Pierce discussed the agreement between the County and the Lanark Village Association. Mr. Pierce said that when the agreement was made initially the County supported the lighting and sidewalk maintenance but the County never agreed to pay the full price and eventually the County took over payment because the Association couldn't afford to pay the bills. He said in his opinion the past due money reflects the amount that the Association owed for their part.

The Board and Ms. Dot Bless discussed how the Association came up with their figures and Mrs. Johnson said she believed the budget request submitted by the Association might not have been enough to cover the expenses but she couldn't reimburse them without prior Board approval.

Commissioner Sanders said in 1998 an agreement was made between Kendall Wade, who was the Clerk of Court at that time, and a previous commissioner to give \$3,687 to the Association each year for their lighting expense because they received no County funding for parks and recreation. She believed the presented shortfall was caused by the increase in electricity costs through the years and the Association has not been able to keep up.

Ms. Bless said the County was paying the monthly bill at this time so this will be the Board's final payment to the Association.

Mrs. Johnson informed the Board that this reimbursement was going to have to be paid out of Reserves. Commissioner Putnal discussed concerns with using budget money for unexpected things and Chairman Parrish questioned the requested amount.

Commissioner Lockley wanted to know how many other lights the County paid for and Mr. Pierce said some at County boat ramps, but in other areas the city pays for the street lights. The Board and Mr. Pierce discussed the need for street lights at bus stops.

Motion by Sanders, seconded by Jackel, to approve reimbursement to the Lanark Village Association in the amount of \$6,271.00 for past lighting bill shortfalls; Motion carried 4-1, Lockley opposed.

2-For information, the hospital's sales tax collections for June 09 was \$174,988.78, and we received an additional amount of \$25,583.13 for out-of-county collections for April, May, and June 2009. One-half of the collections goes to the Hospital's Operating account and one-half goes to the Hospital's Capital account. The balance in the capital fund is \$960,515.92. The Hospital's operating account had a balance of \$270,968.87 for the month ending July 2009.

3-I'd like to remind the Board of the dates for the public hearings on the budget. The first budget hearing is set for 5:15 p.m. on Wednesday, September 9th and the final hearing is set for 5:15 p.m. on Monday, September 28th.

4-When working on inventory of property, my office makes an effort to remove obsolete or unused property. We will be submitting a full list at a later date, but I am requesting your permission to remove a Dell computer, property #A004371, from the records. It is an older computer that was upgraded to accommodate new software requirements, and I'd like to donate it to Mrs. Tamara Allen in Carrabelle for use at a museum, if they still have need for it.

Commissioner Jackel said the new library in Eastpoint might need some of the equipment.

Motion by Sanders, seconded by Putnal, to remove the Dell computer, property # A004371, from the County's inventory and authorize the donation of this computer to Tamara Allen for the Carrabelle Historic Museum and Carrabelle Cares; Motion carried 5-0.

Department Supervisor Report

Hubert Chipman – Superintendent of Public Works (9:36 AM)

Mr. Chipman asked the Board for permission to purchase an inmate truck for the Road Dept. before the September 30th deadline and Commissioner Putnal suggested that the Road Dept., Solid Waste and Mosquito Control departments work together to order the vehicles needed for their individual departments.

Dewitt Polous, Mosquito Control, said the issue had been finding a truck that is available for purchase and delivery by the September 30th deadline but they were still in the process of trying to locate what they need.

Motion by Sanders, seconded by Putnal, to authorize vehicle purchases for Road Dept., Solid Waste & Mosquito Control before the Sept. 30th deadline; Motion carried 5-0.

Commissioner Sanders asked that the Road Dept. address the shoulders of the roads that are to be paved in Carrabelle and Lanark Village and also said that the ditches needed to be cleaned out after the recent heavy rain.

Commissioner Putnal said the recent heavy rains had caused standing water in the parking area at the Old Beach in Carrabelle and had begun to smell sour and that mosquitoes were breeding in it and he this to be cleaned up. Mr. Polous said he was going there to exterminate the area once he left the meeting.

There was further discussion on resolutions on this and several other standing water issues. Commissioner Sanders said the forestry roads that lead onto Highway 67 have some broken pipes, which was causing a drainage issue and asked that Mr. Chipman contact Jim Lindquest, Department of Forestry, to address the problem.

Motion by Sanders, seconded by Putnal, to direct Mr. Chipman to contact Jim Lindquest, Department of Forestry, to assess the problem with drainage from forestry roads leading onto Highway 67; Motion carried 5-0.

Chairman Parrish asked Mr. Chipman to fill in a drop off area, in front of Lombardi's, with lime rock or asphalt and said there were broken palm trees along the circular drive at the hospital and asked Mr. Chipman to have his crew tidy up that area.

Commissioner Jackel said there is a major mess on St. George Island (SGI) with standing water in a hole on 6th Street at Mason Bean's home and it needed to be taken care of before the paving project began. She also mentioned the portion of the bike path, located in front of the Lighthouse, on SGI that had standing water in a hole and had not been repaired and said there is a lot of foot and bicycle traffic in that area so it needed to be taken care of as soon as possible.

Commissioner Jackel thanked Mr. Chipman for doing a good job taking care of standing water on Gorrie Drive after the storm last Friday.

Mr. Mahan said the ABC School had contacted the Franklin County Traffic Safety Committee and asked for help with a traffic jam at the school location. He said the Committee made a decision to ask the County for assistance in taking care of the situation and that Mr. Rothwell recommended moving the parking area for teachers and adding an additional parking area behind that one. Mr. Rothwell presented a map of the parking area and said one of the issues was parents parking and getting out of vehicles to pick up their children.

Chairman Parrish asked what the plan for this project involved and Mr. Rothwell said the new parking area would be filled with lime rock and milling then if DOT granted the funds to repave Bluff Road he would like to combine this small parking area with that project.

Commissioner Jackel asked if this was County or school property and wanted to know who was going to bear the expense of this project. Mr. Rothwell said it was some of both and he expected either the Board or the school would pay the expenses and expected the cost to be close to \$3,000.

Commissioner Putnal asked Mr. Rothwell to ask the school to help with the cost of the project and Mr. Rothwell said he will get with Mr. Chipman to get an estimate.

Chairman Parrish asked that Mr. Mahan provide the information of cost to the County before a decision is made.

Motion by Lockley, seconded by Sanders, to approve the planning of changes to parking area and drop off for the ABC school with estimates being presented to the Board and the School Board; Motion carried 5-0.

Van Johnson – Solid Waste Director (9:57 AM)

Fonda Davis, of the Solid Waste Dept., addressed the Board.

Mr. Davis asked for approval to purchase a utility vehicle and permission to hand down an old vehicle to Animal Control but Commissioner Sanders said they had already been given permission to make vehicle purchases earlier in the meeting.

Commissioner Jackel asked how the Workforce employees were doing and Mr. Davis said things were going good but that one of the employees had left and not returned.

Commissioner Lockley wanted to be sure the position was filled.

Commissioner Jackel mentioned abandoned trailers at the SGI Boat Ramp and asked Mr. Davis to keep an eye on these trailers for possible removal.

Commissioner Jackel mentioned a sunken boat at the Eastpoint Boat Ramp at a previous meeting and said it hasn't been removed yet. Mr. Rothwell said he has contacted FWC and two of the boats have been removed but the third boat will have to be removed by FWC.

Commissioner Putnal mentioned the Ordinance pertaining to blocking the boat ramp and Mr. Pierce said the Ordinance covers floating, not sunken boats.

Mr. Rothwell asked Attorney Shuler if the Ordinance allowed for the Sheriff's Office or Public Works to remove the boat immediately and Attorney Shuler said there was already a plan in place to work with FWC to remove the boat and that he would set up a public hearing concerning the proposed Ordinance if directed to do so by the Board.

Mr. Rothwell said he had the contact name and phone number for FWC and he would call to have the posting ordered but it would take at least a week to a week and a half once it was posted.

Commissioner Sanders asked Mr. Davis if there had been an increase of household garbage being put in the recycling bins that were moved to the City Complex in Carrabelle. Mr. Davis said there was less garbage in them now than when they were at the other location. Commissioner Sanders asked Mr. Davis to remove some vines that were growing around the Lanark Village recycling area and she asked if a fence had been installed at the Alligator Point recycling area, which Mr. Davis said had not, so she asked that he take care of that also.

Commissioner Lockley believed the bear proof bins were a safety concern for the public. He said the bears were going to start getting in homes to find food if they can't get it out of the bins.

Chairman Parrish mentioned a pile of debris and a large limb at Lombardi's that needed to be removed. He said the pavilions there were looking good and asked when the picnic tables and grills would be installed. Mr. Davis said the grills had been ordered and the picnic tables were being built.

Dan Rothwell – County Engineer (10:06 AM)

1. BOARD ACTION: City of Carrabelle Road Pavement Cut of Gulf Avenue (CR30): Staff requests approval to allow the City of Carrabelle to open cut Gulf Avenue (CR30) to replace and relocate dual corrugated metal pipe (CMP) with reinforced concrete pipe (RCP) of the same diameter approximately 25' west of the current location. The cuts are to be approximately 20' W x 30' L and the new RCP will be embedded in flowable fill per FDOT specifications. The existing CMP locations will be replaced with-embankment material conforming to FDOT specifications material and the standard Franklin County road cut repair will be used. Compaction tests will be required during construction and must meet or exceed FDOT compactions standards. (See attached sketch).

Mr. Rothwell said if the standard embankment compaction is used for this project it will be 12 – 15 PSI unconstrained compression strength, but flowable fill is 100 PSI minimum and exceeds what is normally expected from DOT.

Mr. Rothwell presented a sketch showing work to be done on the culverts.

Commissioner Sanders said Ms. Judy Sands owned the property to the west of the project and she had concerns about the impact on her property and wanted to be sure that it isn't compromised in any way so the Commissioner asked that Mr. Rothwell be allowed to be a liaison for Ms. Sands. Mr. Rothwell said he will be sure that her concerns are addressed and resolved.

Motion by Sanders, seconded by Putnal, to authorize the cut in pavement for Gulf Avenue in Carrabelle, contingent upon Ms. Sands' approval; Motion carried 5-0.

2. Alligator Drive – in the area of Clemmons & Tom Roberts Rd, where a 12' foot drop is located - DOT Temporary traffic barriers & signage.

Mr. Rothwell said he had spoken with Brooks Concrete and did some research on DOT temporary traffic barriers. He said the DOT traffic barriers are 2'8" tall, 22 1/2" wide and weigh 1,600 lbs each but he can get a substitute traffic barrier that is 24" tall, 24" wide and weighs 6,000 lbs for \$20 each. He said the area calls for 950' that needs to have some type of protection because there are five places from the previous storm that have undermined part of the paving so he would like to get these barriers up. Mr. Rothwell said he could make the installation and signage consistent with DOT specifications but the barrier would not be DOT rated because it did not have reinforcing steel. He said the DOT barriers were good for up to 55 MPH and this area is signed at 15 MPH. He said he was concerned about asphalt breaking off and 14" of the road would be taken up but there would be signs and reflectors installed to mark the area.

Chairman Parrish said his only concern was with the consequences of putting that much weight on the asphalt because if it erodes any at all, this might actually cause it to break off due to the weight of the barrier but Mr. Rothwell didn't believe it would break off due to the weight and said his concern was with 4 or 5 pockets that the Road Dept. tried to fill with crushed oyster shells but could not get any compaction. He believed these barriers would bridge the small areas of concern and it should prevent any accidents.

Commissioner Sanders was concerned about public safety with the drop off at these roads. The Board and County Staff discussed the impact of narrowing the driving lane and also the liability to the County if an accident occurred.

Attorney Shuler recommended waiving the bid policy because this was considered an emergency situation.

Motion by Sanders, seconded by Putnal, to authorize installment of barriers & signage at the drop off on Alligator Drive, re-shift driving path, contingent upon recommendation of Mr. Pierce and Attorney Shuler and to waive the bid policy; Motion carried 5-0.

Commissioner Lockley told Mr. Rothwell about "No Trespassing" signs that are installed in a public access area at a St. Joe property hunting club on CR 30A. He said there was an agreement with the leaseholder that they would not block these areas from public access. Mr. Pierce presented a map to the Board showing what has been done as far as posting "No Trespassing" signs. He said the roads, known as 8 Mile & 10 Mile are open but the signs make it appear as though the road is closed and it is not. He said there is a boundary between the private property and public access.

Commissioner Putnal and County Staff discussed ownership and usage of the 8 Mile property. Chairman Parrish said Attorney Shuler needed to research all aspects of the County's public usage of this property.

Motion by Sanders, seconded by Lockley, to direct Attorney Shuler to research the County's use of these roads and permissions for usage; Motion carried 5-0.

3. East & West Gorrie Drive Shoulder Work:

The Road Department has completed extensive work on the south side of East & West (E&W) Gorrie Drive to relieve many drainage issues. Several areas will need additional work prior to the road resurfacing project.

4. Peachtree Road Drainage Plans:

Staff has completed the drainage plans for the east side of Peachtree Road drainage plans. The project will be very difficult to execute as there is only 1.50' of change of elevation over 2255' of ditch section which is 0.07% slope where a minimum design slope would usually be 0.5% slope.

Pam Brownell – Emergency Management Director (10:30 AM)

Mrs. Brownell had no items for Board action.

Information Items:

1. August 27, 2009 met with Bernadette Halloran the general manager for the St. George Island Plantation to discuss storm debris issues associated with the Plantation.

2. August 28, 2009 the sheriff's office and property appraiser office met with me at the EOC to work on re-entry plans for the county.

3. I will be attending a meeting this afternoon with TCD to discuss how they can support the Emergency Management Office during activation.

4. The Emergency Management office has scheduled a CEMP meeting for September 08, 2009 at 9:00 am.

5. 911 communications meeting scheduled for September 09, 2009 at the Franklin County Sheriff's Office at 9:00 am.

Bill Mahan – County Extension Director (10:31 AM)

Mr. Mahan had no action items for the Board.

Commissioner Putnal said he spoke with Capt. Craig Duval, FWC, about oyster harvesting licenses, saying the State is behind on issuing the actual licenses so license holders only have a 30 day temporary and Capt. Duval said he had asked his officers to not write citations for expired temporary licenses.

Commissioner Sanders said letters needed to be written to Charles Bronson at the Dept. of Agriculture and also to FWC.

Motion by Putnal, seconded by Lockley, to write letters to the Charles Bronson at the Dept. of Agriculture and Chairman Barreto, of the Florida Fish and Wildlife Commission, asking that the Oyster Harvesting licenses are issued; Motion carried 5-0.

Public Hearing – To consider rescinding Ordinance No. 96-14 (Peddler’s Ordinance) (10:35 AM)

Mr. Pierce addressed the Board concerning the issues with the current ordinance and suggested adopting a revised Ordinance that says there will be no peddling and will impose a penalty to anyone not in accordance with the Ordinance. He asked the Board to continue the hearing until Sept. 15th meeting at 5:30 PM.

Attorney Shuler said this would be the time for the Board to give him ideas of what penalties to impose and if so directed he will draft a revised ordinance, provide to the Board and be sure a copy is on file at the Clerk’s Office.

Mr. Pierce read Ordinance No. 96-14.

Motion by Lockley, seconded by Putnal, to continue the public hearing to Sept. 15th at 5:30 PM; Motion carried 5-0.

Recess (10:39 AM)

Chairman Parrish called for a recess.

Reconvene (10:52 AM)

Chairman Parrish reconvened the meeting.

Alan Pierce – Director of Administrative Services – Report (10:52 AM)

1- Inform the Board that Mediacom is changing the channel line-up and apparently raising rates.

Commissioner Sanders asked if the Board had any control over the rate increase and Mr. Pierce said the telecommunications industry was regulated by the Federal Government and the State of Florida has taken the franchise requirements from the County so to his knowledge there was no action the County could take.

Chairman Parrish said someone should write a letter of opposition to whoever took over the franchise and controls the rates.

Motion by Putnal, seconded by Sanders, to write a letter to Mediacom opposing the rate increase; Motion carried 5-0.

Rex Pennycuff, Eastpoint, said he believed there was a stipulation that Mediacom had to provide the minimum service channels because their signal blocked the free access channels and asked that it be researched. He said in the beginning the local access channels were \$7 and they are now \$30 per month.

2- Inform the Board that the Chairman Barreto of the FWC has responded to the Board's letter requesting assistance on having the net ban definition revisited. Quoting from the letter, "The issue of net limitations was brought before the Commission's current Commissioners in June of 2008 at a regular Commission meeting in Dania Beach, Florida. During this meeting Commission staff detailed a comprehensive history of net regulation in Florida and presented the Commission with options for actions that the Commission could take in the future including supporting an amendment to the Florida Constitution. The Commission made no decision as to changing our current net regulations. The position of the agency is to not actively pursue or support Constitutional amendments that have direct impact on the mission of the Commission."

Mr. Pierce read a portion of a reply from FWC to a letter he had written previously. Commissioner Lockley wanted to know who to go to above FWC and Mr. Pierce said he had written a letter to the Governor with no response and Attorney Shuler said the other option would be to contact the Legislative Delegation. Chairman Parrish suggested asking other coastal communities to offer their support in this net ban issue. Commissioner Lockley also wanted to ask the Florida Association of Counties to get involved.

Motion by Lockley, seconded by Putnal, to send a second letter to the Legislative Delegation regarding the net ban and also include input from surrounding coastal communities; Motion carried 5-0.

3- Inform the Board that DOT has issued the Notice to Proceed for both the resurfacing of Avenue A in Eastpoint and C30 in Carrabelle. Board action to award the engineering services to Preble-Rish.

Commissioner Sanders expressed concerns regarding the choice of engineering services and feeling like someone is being left out.

Commissioner Putnal also said he wanted to be able to keep both firm's services, Preble-Rish and Bailey Bishop & Lane, available to the County and also wanted to know about using the County Engineer.

Mr. Pierce said DOT will not reimburse the County Engineer for his services because he is paid by County salary.

Commissioner Putnal asked why both engineering firms couldn't split the job and Mr. Pierce said because Preble-Rish is the general engineering firm of record and Bailey Bishop & Lane weren't around when RFQ's went out on these projects.

Motion by Lockley, seconded by Putnal, to award engineering services to Preble-Rish; Motion carried 5-0.

4- Inform the Board that the Sheriff asked the Chairman to sign the grant that had been discussed at a budget hearing but not yet submitted. The grant is the Narcotics Task Force grant and it is for \$106,255. This is the grant that in part pays for some cell phone usage and the Sheriff said at the budget hearing that if the grant is awarded he would be able to reimburse the county for cell phone usage by using the grant proceeds instead of tax dollars.

Motion by Sanders, seconded by Putnal; to approve the Chairman's signature on the Narcotics Task Force grant; Motion carried 5-0.

5- Show the Board copies of the bid documents DOT is requiring to be read by contractors bidding on the sidewalk projects. Each sidewalk project has rules and guidelines that when stacked up are over an inch thick.

DOT has agreed to following schedule: Design/construction bids due Sept. 14, and opened Sept. 15 at the Board meeting. The Board will direct staff and the Inspecting engineers to review the bids and make a recommendation. DOT is requiring that the winning bid MUST be the low bid. DOT has specifically disallowed local contractor preference. On Sept. 15, the Board will open the bids, assign them for review. The bids need to be awarded by Sept. 30 so the contractors will have a full 90 days to build the projects as the completion date is Dec. 31, 2009. DOT took 9 months to develop the plans and specifications and has allowed 90 days for construction.

The Board does not have another meeting between Sept. 15 and Sept. 30 so either it needs to agree to hold a special meeting between Sept. 28 and Sept. 30, or direct staff to award the bid based upon recommendations from the engineers. That decision does not need to be made today, but it will need to be made on Sept. 15. Board direction.

Motion by Sanders, seconded by Putnal, to hold a special meeting regarding sidewalk bids before the final budget hearing on September 28, 2009 at 4:00 PM; Motion carried 5-0.

6- The Gulf Coast Workforce Board is also receiving Stimulus funds. According to Ms. Kim Bodine, Executive Director, the Workforce Board's Two Year Service Plan must be amended by all the counties served by the Workforce Board. I have copies of the 80 page document and I have asked Ms. Bodine for a summary. This is the summary: "The Gulf Coast Workforce Board provides services to the citizens of Franklin County in the form of employer services, welfare reform, youth services, and job training. The Local Workforce Services Plan, which is provided to the state, has been updated to describe the goals and strategies for implementing services and activities in response to the ARRA Act of 2009. Approval of the plan is required by each county's chief elected official."

Ms. Bodine could not be here today but she says she is available for questions. She plans to make it to a future Board meeting. Board direction.

Chairman Parrish said he had been attending the Workforce meetings on a regular basis and he has not seen anything out of place with the service plan.

Commissioner Lockley said the vacant Workforce employee position needed to be filled and Mr. Pierce said he had not been aware of the vacant position until this meeting.

Motion by Sanders, seconded by Putnal, to table this matter until Ms. Bodine appears before the Board; Motion carried 5-0.

7- Remind the Board that Chairman will be attending the Public Service Commission meeting on Sept. 8 in Tallahassee to urge the Commission not approve a rate hike for Progress Energy. Commissioner Lockley has asked that one item the Chairman question is that if the proposed rate hike is to pay for new generating capacity, which it is, then all the customers who are going to receive this electricity should pay for it. That is since Progress Energy is a regional utility it is very likely electricity generated in Florida is going to be used in other states, and those other customers should have to pay their share.

Chairman Parrish said there had been some confusion on the dates and wanted to be sure of the actual date of the Progress Energy hearing and Mr. Pierce said he will find out and ask to have the Chairman put on the agenda to speak.

There was further discussion about the affects of the increased rates to the community.

8- Inform the Board that Rep. Bembry has responded to the Board's request for a time table on the construction of the Franklin Work Camp. According to Mr. Wendel Whitehurst, Director Region 1, Dept. of Corrections, the project is currently in the design phase and construction is scheduled to begin April or May 2010, with an anticipated completion date of August 2011.

Commissioner Sanders believed that when Mr. Bembry was here he said it was going to be 45 days and she wanted to be sure that he doesn't let that money go.

9- Remind the Board that its next Board meeting is the fall night meeting, so the Sept. 15th Board meeting will start at 5PM. The last night meeting of the year will be Dec. 15, also starting at 5 PM. The Board has not made any decisions about night meetings beyond this year.

Commissioner Sanders said the night meetings were going to continue unless, at some point, there was no public participation.

10- Board action to request waiver of matching funds for Indian Creek FRDAP application. Because Franklin County is a Rural Area of Critical Economic Concern we are eligible to request a waiver. Otherwise, the county must provide a cash match.

Commissioner Sanders said she hoped the County is requesting a waiver on any matching funds that they qualify for.

Mr. Pierce said they will do the best application for this FRDAP and said he had spoken with Representative Bemby at the Rotary Club meeting and said he was somewhat doubtful on the FRDAP so they would have to wait and see how it goes.

Motion by Sanders, seconded by Jackel, to request waiver of matching funds for Indian Creek FRDAP; Motion carried 5-0.

Commissioner Jackel asked if there was going to be a pre-bid conference before the construction and design of the sidewalks began. Mr. Pierce said there was going to be a pre-construction requirement.

Commissioner Jackel asked Mr. Pierce if he thought he needed to have a pre-bid conference as complicated as the instructions looked but Mr. Pierce said there wouldn't be enough time for a pre-bid conference but they had handed out the packets to bidders.

Commissioner Jackel said at the last meeting this project was split between two engineering firms but it had come to her attention that one of the firms could not do the work because of work that had been done subsequent to the project being submitted and she wanted to know if the Board needed to revisit and award the other portion of that work to the firm that the Board awarded the work to on St. George Island.

Mr. Pierce said he made an improper statement earlier by saying that Preble-Rish could be a designing engineer on this project because they had done so much work on this project on behalf of the County that they were ineligible to be a designing engineer.

Mr. Pierce said the contractor is going to have to get an engineer to help with the design aspect of the project.

Commissioner Jackel said she believed DOT had made this project as complicated as they could for building a sidewalk.

There was further discussion on this matter.

Commissioner Putnal said he didn't agree with the State increasing fees on services and none of the benefits trickling down to the local counties and Commissioner Sanders said she saw it as an unfunded mandate.

Commissioner Sanders asked Mr. Pierce about the framework for a TIGER grant for Alligator Point to protect a section of road that can't be removed on Alligator Point.

Mr. Pierce said he had been working on this project with Audrey Hendricks, Governance, and Preble-Rish to apply for the TIGER, Transportation Investment Generating Economic Recovery, Grant that will protect the section of road that can't be moved, but they are also waiting to hear from FEMA to see what they are going to do about this same section of the road.

Mr. Pierce said there are funds that can't be used because they are waiting on FEMA approval.

Motion by Sanders, seconded by Putnal, to direct Mr. Pierce to write a letter to the Federal Legislative Delegation to have FEMA respond to issues with Alligator Drive on Alligator Point and send a copy to Craig Fugate, FEMA Director; Motion carried 5-0.

T. Michael Shuler – County Attorney – Report (11:28 AM)

1. SunTrust Mortgage, Inc. v. Diversified Executive Crestview Et Al. (09-421-CA)

The lender has filed a foreclosure lawsuit. One million dollars is owed on the Note and Mortgage, which was recorded on January 11, 2007 at book 924, page 742, public records of Franklin County, Florida. Franklin County's \$42.00 fire tax lien is recorded in book 969, page 434, public records of Franklin County.

The County's fire tax lien is inferior to the bank's lien and there is no economic reason to contest the lawsuit.

BOARD ACTION: I recommend that the board authorize me to accept service of process, not answer the lawsuit, and allow a default to be entered against the county by the court. This means that the county will not collect the fire tax owed on this property now, but will collect the tax in future years against the future owners of the property.

Motion by Sanders, seconded by Lockley, to allow default to be entered, but to have the new owners pay the assessment; Motion carried 5-0.

Sanders asked how many foreclosures are in the county and Attorney Shuler said he wasn't sure but the County is on pace to break the record from 2008 for the number of foreclosures by a significant margin.

2. Job Classifications

Attached is the draft amendment to your job classifications. The proposed changes are underlined and provide that inmate supervisors/equipment operators II receiving incentive pay who transfer to another job which does not include any pay raise shall retain their incentive pay. Lucy Turner and I have each approved the amendment.

BOARD ACTION: I recommend that the Board amend its job classification to make the written policy conform to your decision on August 18, 2009.

Commissioner Jackel asked if any of the salaries had been changed and Attorney Shuler said the only change being made was the underlined portion at the bottom of the page but everything else is the current policy which has been in place for years. He said the Finance Office had related to him that the current job classification policy is outdated and does not reflect what employees are presently being paid but he had not been authorized to make any changes to that so he made none, he only added the additional information. Commissioner Jackel wanted to know why the corrections weren't made at the time the change was made and Attorney Shuler said it was because he was not authorized to change any of the information but did ask that he be allowed to update the incorrect information.

Chairman Parrish explained that Attorney Shuler used the only policy in place, even though it was outdated, to amend the policy.

Motion by Putnal, seconded by Lockley, to approve the draft amendment to job classifications for the Road Department, and to update the current policy with the current salary information; Motion carried 4-1, Jackel opposed.

3. Airport Hanger Grants

On 8/18/09, the Board approved the award of the airport hanger grant, and asked me to review the bids to confirm whether all the bidders had due notice of and opportunity to include the tap fees in their respective bids.

Addendum Number One to the bid explicitly required all bidders to include tap fees in their bids and each bidder submitted with their bids a sheet indicating that they had received and carefully examined Addendum Number One, as well as the other bid specifications.

I have not reviewed the bids for any purpose other than to confirm that the tap fees were an explicit requirement of the specifications and that each bidder had due notice thereof and opportunity to include the cost of tap fees in their bid.

BOARD ACTION: None recommended. The bid has been let to the lowest responsive and responsible bidder (Shumaker)

4. Ben Withers, Inc. v. Franklin County (09-173-CA)

Ben Withers sued the County over a dispute regarding the new airport entry road. The dispute has two issues: (1) payment of \$19,059.00 upon completion of the job and (2) whether the county made \$32,756.20 in change orders to the job. A total of \$51,815.20 is therefore at issue in the case, plus interest, attorney fees, expert witness fees and court costs.

I have the opportunity to settle the case for the discounted total of \$43,626.15 using DOT grant funds and, if approve by the Board will avoid the expense of trial. I recommend that we settle. Mr. Rothwell and Mr. Mosteller have confirmed the availability of the grant funds.

In part, I recommend settlement not only because grant funds are available, but also because of litigation expenses. Your former airport engineer URS, whose expert testimony is critical to the case as the engineer of record, has submitted an estimated cost of \$23,185.00 to testify in this matter. It is my understanding that his expert witness fee cannot be paid with the DOT grant funds.

BOARD ACTION: I recommend that the Board authorize me to settle this lawsuit for the amount of \$43,626.15 and authorize the chairman's signature on the mutual release to be executed by the parties.

Commissioners Putnal and Sanders opposed paying the contractor because they threatened to sue the County and didn't believe there was a case.

Attorney Shuler explained that the dispute involves an amount of \$19,000 for work that was authorized by the County, which has been disputed as to whether they have completed the work, but once they complete the work they will be paid out of grant funds. He said on the other hand there is an amount that is in dispute between the contractor and the County, which consists of two components, earthwork totaling approximately \$27,000 and road striping in the approximate amount of \$5,000, so the disputed total is roughly \$32,000. Attorney Shuler said the County presently has an opportunity to use grant funds at a 25% discount to settle this

disputed portion of the lawsuit and grant funds will also be used to pay the \$19,000 so that is how he got the total of the \$43,626.15 settlement. He said the cost of the expert witness fees were what were driving this lawsuit and the economics of the situation were what made him determine that the Board should settle with the contractor because grant funds could not be used to pay the expert witness fee.

Commissioner Jackel asked Attorney Shuler if he could appeal to the court on relief on charges the expert witness wants to charge and he didn't believe so because it would be the County's witness.

Chairman Parrish made the point that at some point these grant funds may not be available to pay this settlement so the County would be responsible.

Commissioner Jackel wanted to know where these funds came from and Attorney Shuler said they were remaining funds from the airport road construction.

Commissioner Sanders said all the contractor had to do was finish the job to get paid but wanted to know if the amount of the change orders were correct and Attorney Shuler said that as the dispute, he didn't agree with the settlement but was looking at the benefit to the County by agreeing to it.

Commissioner Jackel wanted to know why the insurance carriers would not defend the County in this action and Attorney Shuler said because of previous disputes with Mr. Withers and boat ramp projects.

Commissioner Putnal wanted to be cautious of giving in to those who threaten lawsuits and wanted to know if a clause could be included in future contracts that if the contractor has been involved in a lawsuit with the County they are not eligible to bid for the project and Attorney Shuler said it would have to be on a case by case basis but that the County could look at a contractor's work experience and reputation before hiring them. Chairman Parrish agreed with Commissioner Putnal but said he was also concerned about the cost to the County if the dispute was not settled.

Motion by Lockley, seconded Sanders, to approve a settlement with Ben Withers in the amount of \$43,626.15, which will be paid out of grant funding for the airport road construction project; Motion carried 5-0.

Commissioner Jackel said it had brought to hers and the Board's attention that a new appraisal had been done on the airport property that the County agreed to purchase from Dan Garlick, and the appraisal came back at \$459,000 for 51 acres, which would be \$9,000 per acre, and she expressed concerns about the County's agreement to give Mr. Garlick a charitable donation letter along with the purchase amount. She didn't believe that the purchase met the requirements for the donation letter because this new appraisal put the value of the property less than the previous appraisals and wanted to withdraw from the contract the portion of the agreement to give Mr. Garlick the charitable donation letter.

Attorney Shuler said it was Mr. Garlick's responsibility to prove his claim of charitable donation to the IRS, if he chose to submit one, but the County would not be responsible for what was submitted by Mr. Garlick, he would pay any penalties. He said the County's only obligation

would be to sign an acknowledgement saying they bought the property at a certain price per acre but any action taken by Mr. Garlick to claim a donation would be his sole responsibility. Commissioner Jackel said she understood that but that it wasn't the County's responsibility to give a gift letter to everyone they do business with. She said the exchange for the Lombardi property fits the description and parameters of what the Board intended to do but this exchange does not because the new appraisal is for the exact amount that the Board said they would pay for the property. She said anyone can claim that their property is worth anything they want to the IRS but as far as asking for a Board letter she doesn't think this meets the requirements and believed Mr. Garlick should not get a letter of donation.

Attorney Shuler said the Board is bound by the contract but he would ask Mr. Garlick if he was willing to change the portion concerning the charitable donation letter.

Commissioner Putnal asked what the donation letter consists of and Attorney Shuler explained that it allows the property owner a tax credit for the difference in the purchase price and the actual market value of the property. Commissioner Jackel asked if the terminology of the contract with Mr. Garlick had the purchase price of the property at \$9,800 per acre with the actual purchase price of \$9,000 per acre with a charitable donation letter of \$48,000 and Attorney Shuler said he believed that was correct.

Commissioner Lockley wanted to know who ordered the appraisal, Commissioner Jackel said according to the appraisal information Ted Mosteller had ordered it and Commissioner Sanders asked why this appraisal was ordered. Attorney Shuler said the appraisal was ordered by the FAA because only one previous appraisal was done on a total of 51 acres.

Commissioner Putnal asked if Mr. Garlick was receiving any money from the County and Attorney Shuler said it was 100% grant money.

There was further discussion about the responsibility of Mr. Garlick to provide information to the IRS concerning the donation letter and the County's responsibility, if any, for the amount of the charitable donation letter.

Motion by Jackel, seconded by Sanders, to withdraw Board action to grant charitable donation letter in the amount of \$48,000 to Dan Garlick for the purchase of the airport property; Motion carried 3-2, Parrish, Lockley opposed.

Commissioner Jackel said she spoke to Tommy Spates, DOT, about the ongoing problem of the pilings in the Bay. She said this is a serious issue and the County can't seem to get the State to pay any real attention to this matter and there have already been a couple of boating accidents out there and she believed this is an issue of critical public safety concern because this could cause a serious, possibly life threatening, accident. She said Mr. Spates assured her that crews would be out marking pilings so when she saw the crews out there she stopped and asked if they were marking the pilings and they said they were not, they were only marking the alignment of the old bridge and they were not putting any buoys or attaching to existing pilings. She said she contacted Attorney Shuler and expressed her concerns with this issue. Attorney Shuler said he had made contact with General Counsel's office at the DOT and spoke with Carl Johnson, concerning the pilings matter and had a phone conference set up to speak with representatives of the DOT. He said it was previously believed that Boh Bros.

Construction, bridge contractor, made the specifications to cut the pilings off instead of removing them but he found out that Boh Brothers Construction had complied with the contract and DOT set the specifications to cut the pilings off, possibly a foot and a half below the surface of the water.

Commissioner Putnal said the State should be helping with this problem and he has been trying to get the State to remove the pilings since the bridge was completed.

Attorney Shuler said the preliminary estimate he received from DOT is approximately \$700,000 to cut the pilings below mud level or pull them out.

Commissioner Jackel said Mr. Spates is noncommittal as far as talking about the removal of the pilings but because of recent accidents they have to be removed. Attorney Shuler said they are not committing to removing the pilings at all.

Commissioner Jackel said she would report back to the Board

Chairman Parrish said he wanted the DOT to be aware of the liability issues in this matter.

Commissioner Sanders said when lives are lost it will get DOT's attention.

Commissioners' & Public Comments (12:12 PM)

Commissioner Sanders mentioned the disciplinary hearing set for 1:30 PM today for the Road Dept. employees and asked if it could be done in an executive session but Attorney Shuler said it was a public forum.

Commissioner Putnal asked Mr. Pierce about looking into extending the Clam Lease project to where the oyster lease used to be. He said the Clam Lease at Alligator Harbor had been such a success that it might create more jobs if it was extended.

Commissioner Sanders said the salinity was not right in the oyster lease area but the salinity was right in the Turkey Point area.

Motion by Putnal, seconded by Sanders, to send a letter to DACS and the Dept. of Agriculture to reassure the promise to offer more submerged leases for clam aquaculture in the Turkey Point area and other areas that meet salinity requirements for clam leases; Motion carried 5-0.

Adjourn (12:16 PM)

There being no further business Chairman Parrish adjourned the meeting.

Joseph A. Parrish, Chairman FCBCC

Attest:

Marcia M. Johnson, Clerk of Courts