

**FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING  
FRANKLIN COUNTY COURTHOUSE ANNEX  
FEBRUARY 21, 2012  
9:00 AM**

**MINUTES**

**Commissioners Present:** Pinki Jackel – Chairman, Joseph Parrish, Noah Lockley, Cheryl Sanders

**Commissioner Absent:** Bevin Putnal – Vice Chairman

**Others Present:** Alan Pierce – Director of Administrative Services, Michael Shuler – County Attorney, Michael Morón – Board Secretary

**Call to Order (9:02 AM)**

Chairman Jackel called the Meeting to order.

**Prayer and Pledge (9:03 AM)**

There was a Prayer followed by the Pledge of Allegiance.

**Payment of County Bills (9:04 AM)**

**Motion by Lockley, seconded by Sanders, to approve the payment of the County's Bills as presented; Motion carried 4-0.**

**Department Supervisors Report**

**Hubert Chipman – Superintendent of Public Works (9:04 AM)**

Mr. Chipman had no items for Board action.

Commissioner Jackel asked Mr. Chipman to verify that St. George Island will be ready for the Chili Cook-Off next weekend.

Chairman Jackel thanked Mr. Chipman for installing the parking bumpers and putting down milled asphalt at the Eastpoint Cemetery.

Chairman Jackel asked Mr. Chipman to look at the painted stop sign and stop bar on South Bayshore Drive on St. George Island.

Commissioner Sanders stated that the Forest Service will be contacting Mr. Chipman regarding problems with beavers throughout the County.

**Van Johnson – Solid Waste Director (9:07 AM)**

Fonda Davis had no items for Board action.

**Pam Brownell – Emergency Management (9:07 AM)**

Mrs. Brownell had no items for Board action but submitted the following information items.

*Action Items: None*

*Information Items:*

- 1. February 10-12 was the finale training session for the Franklin County Community Response Team (CERT). We now have a total of 14 CERT members and I am in the process of scheduling a Train the Trainer class so we can sustain our CERT program.*
- 2. The Geo-magnetic storm workshop on February 13, 2012 at the EOC at 10:00am was very educational for the agencies that attended it. We hope to have a better attendance at the next workshop on February 27, 2012 at 10:00 am at the EOC.*
- 3. The Florida Department of Forestry met with local fire departments to discuss the Franklin County Community Wildfire Protection Plan on February 13, 2012 at 10:00am hosted at the EOC. The Forestry is now in the process of working with our local United Fire Fighters organization to reschedule this meeting due to lack of attendance.*
- 4. February 8, 2012 Joyce Durham did a Natural Disaster program at the First Baptist Christian School.*
- 5. February 16, 2012 Joyce Durham and I met with the Leon County EOC director to discuss evacuation and sheltering plans for the upcoming season.*
- 6. February 17, 2012 Joyce Durham did a Natural Disaster program at the ABC school.*
- 7. Joyce Durham worked a re-entry booth at the H. Cola on February 18, 2012.*
- 8. The Emergency Management office will attend the Local Emergency Planning Council in Tallahassee on February 22, 2012 at 10:00am in Tallahassee.*
- 9. Pamela Brownell will attend the Building Coastal Community Resilience Workshop schedule for February 23, 2012.*
- 10. Emergency Management is conducting a position specific training class for the agencies that respond in the field on February 23, 2012 at 6:00pm-9:00 pm located at the EOC.*

Chairman Jackel asked Mrs. Brownell to update the Board on the upcoming control burn on St. George Island. Mrs. Brownell explained that the burn was cancelled due to the weather. Chairman Jackel asked that Spring Break is considered when planning any future burns.

Mrs. Brownell stated that she will have the Division of Forestry contact Chairman Jackel concerning this matter.

**Bill Mahan – Extension Office Director (9:09 AM)**

Mr. Mahan had no items for Board action but discussed the following items from his report.

*Franklin - UF IFAS Updates*

*Miner/Chimney Bees – I have received a number of calls the past few weeks about “swarms” of bees coming out of holes in the ground and flying around people’s homes. I visited with several homeowners and confirmed that the bees are Miner/Chimney bees. These are native, solitary ground bees. They are not aggressive or defensive, they rarely sting. However, they are known to bite, if they are handled roughly. So don’t! They are important plant pollinators and their populations have been increasing the past few years. They are emerging from the ground early this year because of the “warm” weather we have been having. If you have any question, or need additional information about them, please give me a call.*

*FL Fish & Wildlife Commission (FWC)*

*FWC Meeting Results – During the FWC’s February 7 – 9, 2012 in Tallahassee. The following rule changes were adopted:*

- *Gulf of Mexico Gag Grouper, Adoption of Federal Standard – The FWC manages marine fish from the shore to nine nautical miles in the Gulf of Mexico. The Gulf of Mexico Fishery Management Council manages Gulf of Mexico waters farther than nine nautical miles out. The following changes will make state gag grouper management efforts the same as recent federal gag grouper management efforts in the Gulf of Mexico: setting the recreational open season from July 1 through Oct. 31 and lowering the minimum commercial size limit from 24 inches to 22 inches total length. The Commission also authorized Chairman Kathy Barco and Executive Director Nick Wiley to issue an executive order opening gag grouper season in the state waters off Taylor, Jefferson, Wakulla and Franklin counties, including Apalachicola Bay and Indian Pass. This gag grouper recreational season, if implemented, will open harvest in state waters during April, May and June, and close harvest in those waters during the July-to-October season. These changes will better align fishing opportunity with fish availability. “I think we have to be sensitive to the economic side and the natural resource side,” said Commissioner Charles W. Roberts III. “I don’t think there is anybody here, especially in this room, who would like to jeopardize gag grouper. This isn’t an easy decision. We have to rely on the data we have available and make good decisions.”*
- *Oysters – The Commissioners also approved a measure that will allow the harvest of oysters for seven days a week in Apalachicola Bay. Previously, harvest was not allowed on Fridays and Saturdays from June 1 through Aug. 31 and on Saturdays and Sundays from Sept. 1 through Nov. 15. The measure will go into effect June 1. This increased harvesting*

*opportunity comes in response to management changes in 2010 by the Florida Department of Agriculture and Consumer Services that require oyster harvesters to deliver their oysters by a specified time of day during the warmer months of the year. The seven-day work week will allow Apalachicola Bay oyster harvesters the ability to make up for time lost in harvesting because of the new earlier delivery times*

- *Black Bear Management Plan – The FWC is moving ahead on its plan to manage and conserve Florida black bears so they are never again at risk of extinction. With the bear population rebounding from about 300 to 3,000 over the past 40 years, the FWC recognizes Florida’s conservation success with bears and recommends the state’s largest land mammal be removed from the threatened species list.*

*Commissioners also gave tentative approval to a proposed FWC rule that would make it unlawful to injure or kill bears, continuing protections similar to the ones granted to bears as a state threatened species. The rule additionally commits the FWC to working with landowners and regulating agencies to guide future land use to be compatible with objectives of the bear plan.*

*The draft plan proposes:*

- *Seven bear management units (BMUs) to reflect areas where Florida’s black bear populations are concentrated. The units would offer the opportunity for local input on managing bear populations and habitat. For example, the Central BMU, based in Ocala National Forest, has the largest estimated population of about 1,000 bears; the East Panhandle BMU encompasses Apalachicola National Forest, with roughly 600 bears; and the South Central BMU in Glades and Highlands counties has about 175 bears.*
- *Creation of “Bear Smart Communities” in areas of high bear activity. A “Bear Smart Community” would involve its residents, businesses, public agencies and schools in educating people about how to live in bear country and respond appropriately to human-bear conflicts.*

### **Curt Blair- Chamber’s Recommendation for New Appointment to the Board (9:11 AM)**

Mr. Pierce presented Item #1 of his report.

*1- Board action for Ms. Beverly Hewitt to be appointed the Apalachicola Chamber of Commerce representative to the TDC. She is replacing Mark Friedman. The TDC has reviewed Ms. Hewitt’s qualifications and has determined she is qualified to serve.*

**Motion by Parrish, seconded by Lockley, to appoint Beverly Hewitt as the Apalachicola Chamber of Commerce representative to the Franklin County Tourist Development Council; Motion carried 4-0.**

### **Report - Airport Committee on FBO and New Hanger Bids (9:12 AM)**

Mr. Pierce presented Item #3 of his report.

*3- Airport update- The Airport Advisory Committee recommends the Board enter into negotiations with Sky High Apalachicola as the new FBO at the airport. The Committee would have Sky High use the existing FBO building. The Committee recommends that all the proposals for use of the new hanger be rejected and re-advertise. The concern was that some of the firms wanting to use the new hanger offered to increase their proposed rent, but this was done after all the proposals had been opened and discussed. Based upon previous direction from the Board, AIATC has signed a 3 month extension so unless the extension is cancelled AIATC is entitled to be the FBO until April 30. Board discussion.*

The Board and Attorney Shuler discussed this matter further. Commissioner Sanders and Attorney Shuler discussed an out clause from the 90 day agreement with AIATC.

Attorney Shuler discussed #9 from his report.

#### *9. Airport*

*Attorney Joe Silva has sent a letter to me demanding that the county engage in good faith negotiations to extend the lease by an additional ten year period. A copy of his letter is attached. We will take this up for action at the next board meeting.*

The Board and Attorney Shuler discussed this item further.

Commissioner Parrish recommended rejecting all bids submitted for the hangar and didn't think it was a good idea to proceed with this action.

Ted Mosteller, the Airport Manager, explained why the Airport Committee wanted to reject all of the bids for the hangar.

Attorney Shuler provided additional information and the Board discussed this matter further.

Mr. Mosteller corrected the record stating that the name of the company for the FBO is Fly High Apalachicola, not Sky High.

Commissioner Parrish suggested looking at the proposed lease before any action is taken by the Board.

The Board discussed rejecting the bids for the hangar and FBO versus selecting from the current bidders.

Commissioner Lockley expressed concerns of agreeing to a contract that is too long and a possibility that the new FBO doesn't provide any new jobs, which is the situation with the current FBO.

Mr. Pierce suggested negotiating a shorter contract for better results.

Commissioner Parrish expressed some of his concerns with a new FBO and a long contract. He also discussed the bidders now knowing each others' numbers.

Chairman Jackel asked the representatives for Fly High Apalachicola to address the Board and discuss their plans for the Airport.

Mr. Karel Van Der Linden and his wife Mari-Elena, representatives of Fly High, addressed the Board and discussed one of their current FBO's at an airport in North Carolina, which they said

was a similar situation as the Apalachicola Airport. They also discussed marketing the area through various media outlets and explained that their goal is to have at least 11 employees on staff, which would be mostly local.

Commissioner Lockley and the representatives specifically discussed when they would have the 11 local employees on staff.

The Board and the Fly High Representatives discussed staffing the FBO and also the goals of the company.

Commissioner Sanders asked how Fly High became interested in the Apalachicola Airport and the representatives discussed their experience with FBO at other airports.

Commissioner Parrish wanted their assurance that they would be available, if needed, by the Board since their home base is in Lexington. The representatives explained how they respond to issues at their other locations.

Commissioner Lockley discussed the importance of selling fuel for the FBO business.

The representatives stated some of the other issues that are important to make the FBO service and the airport successful.

Commissioner Parrish and the representatives discussed the accessibility of the Airport for emergency situations, such as the Medevac Air Ambulances.

Chairman Jackel thanked the representatives of Fly High Apalachicola for addressing the Board this morning.

**Motion by Sanders, seconded by Parrish, to accept recommendation of the Airport Committee to award the FBO services at the Airport in Apalachicola to Fly High Apalachicola, contingent upon successful negotiations for a contract with the Attorney Shuler; Motion carried 3-1, Lockley opposed.**

The Board discussed the proposals for the Hangar.

Chairman Jackel stated that she would like to have the opportunity to review the proposals for the Hangar one more time before a decision is made.

Attorney Shuler recommended that the Board allow him the opportunity to negotiate for the Hangar, as with the FBO.

The Board discussed this matter further.

**Motion by Parrish, seconded by Sanders, tabling this item until the March 6, 2012 Meeting, when the Board will select a proposal for the hangar; Motion carried 4-0.**

**Recess (10:10 AM)**

Chairman Jackel called for a recess.

**Reconvene (10:28 AM)**

Chairman Jackel reconvened the Meeting.

**BOA – Report (10:28 AM)**

Mr. Pierce presented the items from the Advisory Board of Adjustment report.

*The following recommendations were made by the Advisory Board of Adjustment at their meeting held February 1, 2012:*

*1 - Approve a request for a variance to construct a rock retaining wall within the Critical Habitat Zone on Lot 7, Block Y, Peninsular Point, Alligator Point as requested by DEC Engineering, agent for Angelo Petrandis.*

*2 - Approve a request for a variance to construct a rock retaining wall within the Critical Habitat Zone on Lot 8, Block Y, Peninsular Point, Alligator Point as requested by DEC Engineering, agent for Finley & Jean McMillan..*

*3 - Approve a request for a variance to construct a rock retaining wall within the Critical Habitat Zone on Lot 9, Block Y, Peninsular Point, Alligator Point as requested by DEC Engineering, agent for Lonny Ellingworth.*

**Motion by Sanders, seconded by Lockley, to approve Items 1 – 3, as recommended by the Advisory Board of Adjustment; Motion carried 4-0.**

**Marcia M. Johnson – Clerk of Courts – Report (10:29 AM)**

Mrs. Johnson had no report for the Board.

**Alan Pierce – Director of Administrative Services – Report (10:29 AM)**

Mr. Pierce presented his report to the Board.

*1- Board action for Ms. Beverly Hewitt to be appointed the Apalachicola Chamber of Commerce representative to the TDC. She is replacing Mark Friedman. The TDC has reviewed Ms. Hewitt's qualifications and has determined she is qualified to serve.*

This item was discussed earlier in the Meeting.

*2 – Inform the Board that the cutting of 4<sup>th</sup> St in Eastpoint was done by Eastpoint Water and Sewer District. It was done in the US 98 ROW. The road cutting and ditch work are being supervised by Transfield Services in accordance with their contract with DOT. I informed Transfield of the Board's objections to 4<sup>th</sup> St being cut without Board approval, and about the Board's safety concerns for the deep ditch the District has dug along the side of the road. I am waiting a response back from Transfield.*

*I did receive a draft Letter of Credit from the District that Mr. Allen said his Board would be reviewing at their next meeting.*

Commissioner Sanders commented on the removal of the sidewalk in this area. Commissioner Parrish stated that he received public complaints regarding this project. He asked Mr. Pierce to contact someone for a solution regarding the complaint. Chairman Jackel explained that Clay Kennedy, of Preble-Rish, is looking at that area for a solution, which will probably result in re-paving that area.

*3- Airport update- The Airport Advisory Committee recommends the Board enter into negotiations with Sky High Apalachicola as the new FBO at the airport. The Committee would have Sky High use the existing FBO building. The Committee recommends that all the proposals for use of the new hanger be rejected and re-advertise. The concern was that some of the firms wanting to use the new hanger offered to increase their proposed rent, but this was done after all the proposals had been opened and discussed. Based upon previous direction from the Board, AIATC has signed a 3 month extension so unless the extension is cancelled AIATC is entitled to be the FBO until April 30. Board discussion.*

This item was discussed earlier in the Meeting.

*4- Board action to approve Final Change Order (Change Order No. 4), Reconciliation of Quantities for Corporate Hanger. The Changer Order has been approved by the engineers and the Airport Manager, Ted Mosteller.*

**Motion by Sanders, seconded by Parrish, to approve Final Change Order (No. 4) Reconciliation of Quantities for Corporate Hangar; Motion carried 4-0.**

*5- Board action for Chairman to sign Notice of Award to C.W. Roberts for the CR 67 Bridge approach contract.*

**Motion by Sanders, seconded by Lockley, to approve Chairman Jackel's signature on the Notice of Award to C.W. Roberts for the CR 67 Bridge approach contract; Motion carried 4-0.**

*6- Inform Board that Ms. Kim Barnhill is now the new acting administrator for the Franklin County Health Dept. From the brief message I received I believe Ms. Barnhill will continue in her role as Jefferson County Director while she is acting director here.*

*7- Inform Board that the FWC did respond to the Board's comments about the Gag Grouper rules, and the FWC did create a Florida season for 4 counties, including Franklin, for the time April through June.*

Mr. Pierce and Commissioner Sanders discussed the location of the upcoming FWC Commission meeting.



*8- Inform Board that the FWC has announced tentative dates for applying for construction grants for Abercombie Boat Ramp and the St. George Island Bathroom project will be April 9- June 8. Mark Curenton will be working on the applications for both projects.*

Chairman Jackel asked that extra attention is paid to the deadlines for this project.

*9- Board direction on a sunken boat at the sand ramp on St. George Island. The boat has been sunk for about a month. It is not currently in the way, but high water could shift the boat causing major problems for everyone trying to use the ramp. The boat is approximately 20 feet long and is probably 75 feet from land in the middle of the lagoon.*

Chairman Jackel asked that County Staff first try to locate an identification number on the boat and send a letter to the owner asking that they remove the boat.

**Motion by Parrish, seconded by Sanders, to contact owner of boat and assist, if necessary, in moving the boat; Motion carried 4-0.**

*10- Inform Board that by Order of the Governor (Executive Order 12-10), the Governor has ordered a review of all 1634 special districts in the state. The Office of Policy and Budget will conduct the examination.*

*11- Inform Board that the Northwest Florida Water Management District will be holding a public hearing on Feb. 23, at 1:10 PM at its offices in Havana to present its 5 Year Land Acquisition Plan. The 5 Year Plan does not include any new acquisitions in Franklin County so there are no proposed changes in the county.*

*12- Inform the Board that DEP did grant a time extension until March 21 to the county regarding the Notice of Violation issue on Alligator Point. I am arranging a site visit with DEP and the county's consultant, Mike Dombrowski, to go over the issue.*

*13- Commissioner Lockley asked that I make some inquiry into how other rural hospitals have established billing offices as it has been a discussion the Board has had ever since the two local banks were closed by the FDIC. I spoke at length with Doctor's Memorial CEO Mr. Richard Huth, in Perry, Florida. He has been the CEO of Doctor's Memorial for 3 years and was very informative. He offered to come to a Board meeting and discuss with the Board what he has learned about running a rural hospital. Doctor's Memorial is under a lease agreement with TMH.*

**Motion by Sanders, seconded by Lockley, to send a letter and email to Hospital Board directing them to expedite the process of creating a local billing office, and discuss it at their next Hospital Board meeting; Motion carried 4-0.**

The Board discussed this matter further.

*14- Franklin County Librarian Glenda Ondracek requests Board permission to advertise to fill the vacancy created by the departure of Ms. Suzanne Creamer. The position is a permanent, part-time, position, with a recommended hourly salary of \$10/hour, and up to 26 hours per week of employment.*

Commissioner Sanders discussed concerns and asked that Ms. Creamer's departure is investigated further.

**Motion by Sanders, seconded by Lockley, to table this item and direct Mr. Pierce to investigate Ms. Creamer's resignation; Motion carried 4-0.**

*15- Commissioner Parrish was in Washington, DC, attending to county business during the first week of February regarding the BP oil spill, and also the oyster industry. On the BP oil spill, it appears that Congress is making progress in directing money to the impacted counties. The House passed the RESTORE Act which stipulates that for the state of Florida, "75% of the funding shall be applied to the 8 disproportionately affected counties..." of which Franklin is one, and the remaining 25% will be distributed around the state. The amount of funding is being negotiated between federal officials and BP.*

*The Senate is expected to vote on a similar bill within 2 weeks.*

Commissioner Parrish discussed the details of his Washington, D.C. trip. He said the group was heard, well received and said he believed they had a positive impact at this meeting.

Chairman Jackel suggested that a Letter of Support should be sent to Senator Nelson.

**Motion by Parrish, seconded by Lockley, to send a Letter of Support and Thank You to Senator Nelson for his continued support of this issue; Motion carried 4-0.**

*16- Chairman Jackel met with Congressman Southerland, USACOE representatives, and DEP representatives on Feb. 13 to discuss the need to dredge the Eastpoint Channel. DEP appears ready to accept the commitment made in 1983 to allow "one more time open water disposal." This means the spoil material will be placed on the Eastpoint breakwater and solves a major problem of where to put the spoil. The USACOE is looking into the funding opportunities.*

Chairman Jackel commented further on the meeting. She said Jeff Littlejohn, of DEP, assured that the County would have a permit within 6 months and then will be put back on the Corps' discretionary fund for projects. The Chairman also discussed some of the reasons this project has been put off for so long.

Commissioner Sanders thanked Chairman Jackel for her efforts on this item and provided some history on the dredging of the Eastpoint Channel.

17. Board action for a change order for energy efficiency in Carrabelle

**Motion by Sanders, seconded by Parrish, to approve change order for energy efficiency project at the Carrabelle City Complex; Motion carried 4-0.**

The Board discussed this project with Mr. Pierce.

Chairman Jackel asked that Mr. Pierce verify that supplies are purchased locally as much as possible.

The Board and Mr. Pierce discussed the replacement of the windows at the Courthouse.

18. Board action to approve Mr. Richard Dunkin and Leon Lathan to trap hogs and coyotes on airport property. The Airport Advisory Committee reports that the animals are a risk to airplanes and need to be removed. Board action is to allow the two individual 30 days to trap the animals.

The Board and Attorney Shuler discussed this matter further.

**Motion by Parrish, seconded by Lockley, to allow Leon Latham and Richard Duncan on the Apalachicola Airport property to trap hogs and other wild animals, with a 30 day time limit and to comply with all State hunting rules and regulations; Motion carried 4-0.**

19. Provide the Board with a letter of appreciation from the Apalachicola Chamber of Commerce for the Board's support in getting in the Sports Illustrated Swimsuit edition.

20. Board action to direct Mr. Pierce to write a letter to any entity holding a key to the back gate of the airport and remind them the gate must remain locked. Mr. Mosteller has reported that the gate is being left open after working hours and on weekends.

**Motion by Sanders, seconded by Parrish, to write a letter to the holders of Airport gate keys asking that they provide better gate control at the Apalachicola Airport; Motion carried 4-0.**

**Michael Shuler – County Attorney – Report (11:12 AM)**

Attorney Shuler presented his report to the Board.

*Action Items*

1. 2012 Annual County Attorney Conference

*I request approval to attend the 2012 Annual County Attorney Conference in Orlando, Florida to be held June 20-22, 2012.*

*The County Commission annual conference also occurs at that same time and location.*

*BOARD ACTION REQUESTED: Approval to attend the 2012 annual county attorney conference in Orland, Florida.*

**Motion by Sanders, seconded by Parrish, to allow Staff to make arrangements for Board and County Attorney to attend the 2012 Annual County Attorney Conference in Orlando and approve travel and expenses; 4-0**

*2. Larry Troy and Angela Troy v. Joanna McCall, Charles McCall and Franklin County.*

*The Troys have filed suit against the neighbors and the county.*

*BOARD ACTION REQUESTED: I need authority to accept service of process of the lawsuit.*

*A summary of the suit follows:*

*Count One of the complaint asserts that Franklin County has allowed unlawful development in the critical habitat zone ("CHZ") in violation of our zoning code and that we have unlawfully allowed lights on the McCall's dock in violation of the Dock Ordinance.*

*The Troy's allege that the county wrongfully allowed the McCall's to conduct the following activities contrary to the zoning code:*

- a. Build a fence within the CHZ;*
- b. mow/spray chemicals within the CHZ;*
- c. have fire pit within the CHZ;*
- d. plant new vegetation within the CHZ;*
- e. place rocks and boulders within the CHZ;*
- f. erect a pole within the CHZ that has a "No Trespassing" sign on it.*

*The County's position is that it timely caused the McCall's cease certain activities within the CHZ that are disallowed by the zoning code, but not others. The Troy's position is that all the activity is against the code. For example, the McCall's were required to cease mowing/spraying within the CHZ. The remaining allegations are not violations of the zoning code.*

*The Troy's allege that the Dock Ordinance is violated because the McCall's had Progress Energy install a light on an existing power pole in the right of way. The light is not on the dock. The county maintains that no Dock Ordinance violation occurred because the light is not installed on the McCall's dock. The McCall's were required to remove the underwater lights on their dock.*

Chairman Jackel commented on this item.

**Motion by Parrish, seconded by Sanders, to accept service; Motion carried 4-0.**

### 3. Travel Reimbursement Policy

*This item was tabled from your last meeting. I need board direction on how to apportion the in-state and out-of-state travel expense for break-feast, lunch and dinner. Based on the current \$39 travel per diem, the present break down is 18% for break-feast; 31% for lunch and 51% for dinner.*

*As an aside, the 2012 IRS travel rate is \$46.00, which means, if the board desires, instead of raising the in-state rate from \$39 to \$50, you may want to consider simply passing a policy that the in-state travel will adjust annually based on the annual IRS travel rate. This would make in-state travel consist with your existing policy on mileage, which adjusts annually based on the IRS guidelines. It would be difficult for anyone to argue with the use of such a standard and will reduce the general travel expenses from the proposed new policy of \$50.00 per day and will also not result in additional taxable income to those county employees who travel.*

*Out of state travel is extremely limited and a policy of \$75.00 per day is not too far out of line with the federal out of state travel policy.*

**BOARD ACTION REQUESTED:**

- a. What does the Board desire to do regarding in-state travel reimbursement?*
- b. What does the Board desire to do regarding the out-of-state travel reimbursement?*
- c. How does the Board desire to apportion the travel reimbursement for meals?*

This item was deferred to the next meeting.

### 4. Calvin, Giodarno and Associates ("CGA") v. BP

*The Board tabled this issue at the last meeting. The essential facts are that Franklin County hired CGA to manage the county's response to the Deep Water Horizon Oil Spill. CGA requests that Franklin County join with them in a lawsuit in Tallahassee to collect approximately \$400,000.00 for an oil skimmer staged in Franklin County. BP has refused to pay for the oil skimmer and has removed the lawsuit filed by CGA from Franklin County state court to Federal Court in Tallahassee.*

*The contract between the county and CGA was an "at-risk" contract which provided that CGA would get paid when the county was reimbursed by the responsible party.*

*The contract further provided that the county would in good faith assist CGA in collections by filing a lawsuit in Franklin County which CGA would join as lead counsel.*

*We are required by the contract to assist CGA by filing suit in Franklin County. To date, Franklin County has not filed suit to assist CGA in collection of the amount owed for the oil skimmer as required by our contract with them.*

*If we do not join with CGA in the Federal District Court in Tallahassee, or file suit in Franklin County, we will be in breach of our contract and subject to damages from which the "at-risk" nature of our contract will not protect us. The damages CGA would seek most likely will be the amount that they billed BP; to wit: about \$400,000.00. CGA likely prefers a direct suit against us, as opposed to BP*

*Since BP removed CGA's lawsuit to Federal District Court in Tallahassee, they will surely remove to Tallahassee any suit which we file in Franklin County. Meaning that the county will be in court in Tallahassee anyway.*

*In my opinion, the venue provision of the contract does not supersede our contractual obligation to assist CGA in good faith to collect money it alleges is owed to it by BP. Therefore, the county must either file a lawsuit in Franklin County to collect from the responsible party, or, alternatively or join with CGA in the Federal District Court in Tallahassee. Your risk of damages for breach of contract if you do not take either course of action is substantial. I recommend joining the suit in Tallahassee.*

*There is no provision in the contract which allows the county to require CGA to pay your attorney fees.*

*Note: a copy of my 2/15/12 email to CGA is attached.*

*BOARD ACTION REQUESTED: For administrative convenience, it makes more sense to join CGA in Federal District Court instead of starting a new lawsuit in Franklin County. Given the contract terms, you are required either to join the existing suit in Tallahassee or file suit in Franklin County and then ask CGA to join as lead counsel. In either event, CGA will be lead counsel and will bear the responsibility for the vast majority of the expenses and attorney fees. Failure to take either course of action will open the county to substantial risk of damages for breach of contract. Damages for that breach sought by CGA most likely will be in the amount allegedly owed for the oil skimmer; to wit: \$400,000.00. This is an undue risk that can be avoided with modest expense by joining the litigation in Tallahassee.*

Chairman Jackel and Attorney Shuler discussed CGA paying for the County's legal expenses in this litigation.

Commissioner Sanders stated that she never considered filing a case in Federal Court when she voted to approve the contract.

Attorney Shuler explained why the case was moved to Federal Court, which he said was not the fault of CGA but of BP.

Commissioner Sanders expressed concerns of the cost of legal fees to the County.

Chairman Jackel and Attorney Shuler discussed the outcome if CGA doesn't win the suit and if the County does or doesn't join the litigation.

Attorney Shuler explained the litigation process further. He said the County asked CGA to provide the skimmer to protect the natural resources of the Bay in the event the oil made it here.

Commissioner Parrish commented on this matter further and stated that he is in favor of supporting CGA because they did what the Board asked them to do in order to prepare for the oil spill.

Commissioner Lockley explained that the County did ask CGA to obtain the skimmer for the County and he also supported joining litigation with CGA.

Commissioner Sanders asked if this is the only payment that has been denied and what was the County's role with assisting for the other reimbursements. Attorney Shuler discussed.

Mr. Pierce stated that other items were disallowed but this is the only large outstanding amount.

Commissioner Sanders asked if CGA already paid out the \$400,000 but Attorney Shuler could not verify this.

Attorney Shuler stated that the most the County should pay is about \$75,000 in legal fees. The Board and Attorney Shuler discussed the cost of not joining CGA.

**Motion by Parrish, seconded by Lockley, to join CGA in litigation with BP; Motion carried 4-0.**

#### *5. County Wide Parking Ordinance*

*The present parking ordinance does not make it violation for parking in the county right of ways, except in designated parking areas. I am told that the Sheriff requires that the ordinance be amended before he can take action against people parking in the right of ways of county road, except in designated parking areas.*

**BOARD ACTION REQUESTED:**

*Permission to schedule a public hearing to discuss amending the parking ordinance.*

Chairman Jackel stated that parking is a problem through-out the County, especially at boat ramps so she objected to changing the wording of the Ordinance to make parking more restrictive.

Attorney Shuler suggested making parking available everywhere except where designated as a no parking area.

Commissioner Parrish stated why it is necessary to restrict parking in certain parts of the County.

Commissioner Sanders asked that a representative from the Sheriff's Department come to the next meeting to discuss this matter further.

Commissioner Parrish asked for additional information on this matter before the Board takes action.

Jim McCoy, President of Alligator Point Taxpayers Association explained that Alligator Point has a serious problem during the summertime with parking, trash pickup, and bathrooms. He stated that he is working with the Sheriff's Department on the parking problems, but the Sheriff needs Board action to change the Ordinance to enforce parking.

#### *Informational Items*

#### *6. TDC Spending Plan*

*Unless directed otherwise, it is my intent to schedule the ordinance adoption of the TDC spending plan for the second meeting in March 2012.*

#### *7. Highway Patrol Station Property ( two and one-half acres, more or less)*

*I today (2/17/12) received a letter from the State requesting that we release a deed restriction limiting use of the highway patrol station to that purpose only and that the building be built within one year. They want the county to release the restriction so that they can sell the 2.5 acre, more or less, parcel. We will take this up for action at the next board meeting.*

**8. DOAH Appeal re: Alligator Point Rock Revetment**

*DOAH granted an extension until April 6, 2012. Unless we reach a final settlement with them before that date, the county will either have to file an appeal of their Notice of Violation or seek another extension.*

**9. Airport**

*Attorney Joe Silva has sent a letter to me demanding that the county engage in good faith negotiations to extend the lease by an additional ten year period. A copy of his letter is attached. We will take this up for action at the next board meeting.*

**10. Tri-State Water War**

*Florida and Alabama this week filed their request for Certiorari review of the Eleventh Circuit ruling, which stated that Atlanta can use Lake Lanier for municipal water uses.*

**11. BP Oil Spill Claims**

*Attached is a letter from the firm of Hinkle and Foran requesting that you engage them to make a claim against BP for alleged losses in our Small County Surtax and the Gas Tax. They say the offer is no risk to the county for fees or costs unless they collect. They want 20%.*

*You have previously indicated that you have no desire to pursue such claims, so I have not communicated with them.*

**12. Road Department Public Record Request**

*Attached is a letter from a law-firm requesting public records concerning the alleged use of county equipment on private property to blockage an access easement. My reply is attached. I spoke with the attorney and said he is satisfied with my reply to his public record request.*

*I have checked with Mr. Chipman and he advises that county equipment was not used.*

**13. Possible State Offsets of Florida Medicaid for Nursing Home Care (this is not hospital related)**

*Attached for your information is an email from the Florida Association of Counties concerning pending legislation wherein the State may enact a law compelling counties to "re-pay" allegedly outstanding Medicaid bills for nursing home patients sent by them to the counties. The counties have objected on a number of grounds, including that the state sent the county a Medicaid bill for a non-resident. There is no much money (around \$400 million) dollars that the state may enact a law that says the counties have to pay whatever amount they say is due and, if unpaid by the county, the state will offset revenue sharing. A copy is attached for your review.*



*The county attorney association, along the FAC, is monitoring this bill.*

### **Supplemental Report**

#### **1. Hospital By-Laws**

*Last meeting the Board approved the by-laws for the hospital, but did not specify the dollar amount above which all contracts would have to be brought to the county for approval. Cindy Drapal and I jointly recommend that all contracts below \$100,000.00 be approved by the hospital and that all contract in excess of \$100,000.00 must have county approval. The current contract with Omnicell has been previously discussed with the Board by Cindy and will not be brought back to the Board. This is the contract for the medication dispensing machine that she believes will qualify for up to 75% grant reimbursement once it becomes "meaningful use" certified.*

*BOARD ACTION: Motion approving the contract cap in the by-laws.*

Commissioner Sanders asked for a lower cap on contracts.

Commissioner Parrish and Attorney Shuler discussed that all contracts would be reviewed by the County Attorney. Attorney Shuler stated that this is a policy decision, not a requirement in the by-laws.

The Board discussed implementing a lower cap.

**Motion by Parrish, seconded by Sanders, to approve a cap of \$50,000 on all vendor contracts for Weems Hospital and anything over \$50,000 to come before the Board for approval; Motion carried 4-0.**

#### **2. E-verify**

*E-Verify is a federal law which requiring that federally funded projects must verify the citizenship of employees and vendors. This is in an effort to reduce illegal immigration and the employment thereof.*

*Since this involves the qualification of employees, the Clerk's office will log-onto the federal website to set-up and administer E-Verify system, unless you direct otherwise.*

*BOARD ACTION: None requested.*

### **Commissioners and Public Comments (11:54 AM)**

Commissioner Lockley would like language in the Airport's contract with the new FBO for a time limit to create new jobs at the airport.

Attorney Shuler said this item would be covered in the contract.

Chairman Jackel stated that judges are needed for the Chili Cook-Off. She asked that anyone who is interested to call Jay Abbott at 653-6462.

Chairman Jackel stated that she is glad Susan Harden will be staying at Weems East.

Commissioner Sanders thanked the Board for their support with funding Weems East.

Commissioner Sanders extended condolences to the family for the passing of Chairman Jackel's father in law.

Chairman Jackel shared some of her father in law's life history.

Commissioner Sanders thanked William Scott, of the County's Veterans Affairs Office for his services to the veterans of the County.

Clay Kennedy, of Preble-Rish, asked for Board action to sign a permit application for docks at the Abercrombie Boat Ramp.

**Motion by Sanders, seconded by Lockley, to approve application for a dock permit at the Abercrombie Boat Ramp; Motion carried 4-0.**

Bruce McCormick, representing ARTIC, a company bidding on the Airport Hangar, asked the Board to allow him to elaborate on his proposal which was submitted for the hangar. Chairman Jackel asked that Mr. McCormick wait until he is contacted by the Board to discuss his proposal further when, or if, the other companies are interviewed.

**Motion by Lockley, seconded by Parrish, to interview all companies which submitted bids on the Airport Hangar at the next meeting; Motion carried 4-0.**

**Adjourn (12:06 PM)**

There being no further business, Chairman Jackel adjourned the Meeting.

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Pinki Jackel, Chairman-FCBCC

Attest:

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Marcia M. Johnson, Clerk of Courts