

MINUTES OF THE REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS  
HELD SEPTEMBER 21, 2000  
BOARD CHAMBERS, THIRD FLOOR, ESCAMBIA COUNTY COURTHOUSE  
223 PALAFOX PLACE, PENSACOLA, FLORIDA  
(5:30 p.m. - 7:46 p.m.)

Present: Commissioner D. M. "Mike" Whitehead, Chairman, District 1  
Commissioner Willie J. Junior, Vice Chairman, District 3  
Commissioner Thomas G. "Tom" Banjanin, District 4  
Commissioner Michael T. "Mike" Bass, District 2  
Commissioner Wilson B. Robertson, District 5  
Honorable Ernie Lee Magaha, Clerk of the Circuit Court  
Mr. Thomas L. Forrest, Interim County Administrator  
Mr. David G. Tucker, County Attorney  
Ms. Marilyn Gingrey, Deputy Clerk to the Board

CALL TO ORDER

Chairman Whitehead called the Regular Meeting of the Board of County Commissioners to order at 5:30 p.m., in Board Chambers, third floor, Escambia County Courthouse, 223 Palafox Place, Pensacola, Florida. He said Commissioner Bass would lead the invocation and Commissioner Banjanin would lead the Pledge of Allegiance to the Flag.

ADOPTION OF THE AGENDA

Upon inquiry from Chairman Whitehead, Commissioner Robertson said he had no items to add to the agenda.

Commissioner Banjanin said he had one item to add to the agenda concerning a proposed eco-tourism area to be located on Pensacola Beach.

Commissioner Bass said he had one item to add to the agenda concerning a proposed archaeological investigation at the site of the future County parking garage.

Commissioner Junior said he had one item to add to the agenda concerning Milestone holding ponds.

Chairman Whitehead said he had one item to add to the agenda concerning an emergency purchase.

Motion made by Commissioner Junior, seconded by Commissioner Bass, and carried unanimously, adopting the agenda as prepared and duly amended.

#### APPROVAL OF MINUTES

Motion made by Commissioner Junior, seconded by Commissioner Bass, and carried unanimously, approving the Minutes of the Regular Board Meeting held August 3, 2000.

#### DROPPING A PUBLIC HEARING RELATIVE TO QUINAVISTA SUBDIVISION

Chairman Whitehead said the 5:34 p.m. Public Hearing for consideration of the petition to vacate several road rights-of-way in Quinavista Subdivision had been dropped from tonight's agenda (action taken later in the Meeting; see Page 6).

#### WRITTEN COMMUNICATION

##### 1. Discussion Concerning Request to Speak During Written Communication

Chairman Whitehead said Mr. Kerry Culligan and Mr. Jim Veal, representing Citizens Planning Responsibly, had requested that the Board drop from tonight's agenda their written request to address the Board during Written Communication concerning issues related to the Land Development Code (LDC) and the Citizen's Land Development Code Review Committee.

APPROVAL TO WAIVE THE READING OF LEGAL ADVERTISEMENTS

Motion made by Commissioner Robertson, seconded by Commissioner Banjanin, and carried unanimously, with the Honorable Ernie Lee Magaha, Clerk of the Circuit Court advising that the 5:34 p.m. Public Hearing had not been advertised, waiving the reading of the legal advertisements and accepting, for filing with the Board's Minutes, the certified affidavits establishing proof of publication for the following four (4) Public Hearings:

- A. The 5:31 p.m. Public Hearing, advertised in the Pensacola News Journal on September 7, 2000, for consideration of adopting an Ordinance creating the Northcreek Drive Road Improvement Municipal Services Benefit Unit (MSBU);
- B. The 5:32 p.m. Public Hearing, advertised in the Pensacola News Journal on September 10, 2000, for consideration of adopting an Ordinance concerning the designation of Brownsville and Englewood areas as Urban Infill and Redevelopment Areas;
- C. The 5:33 p.m. Public Hearing, advertised in the Pensacola News Journal on September 10, 2000, for consideration of adopting an Ordinance relating to the establishment of a special revenue fund entitled the Inspections Fund; and
- D. The 5:35 p.m. Public Hearing, advertised in the Pensacola News Journal on September 7, 2000, for the purpose of receiving input on the proposed use of Bureau of Justice Assistance, Local Law Enforcement Block Grant 2000, Program grant funds (Escambia County Sheriff's Office, \$582,641; City of Pensacola, \$158,423).

ADOPTING AN ORDINANCE CREATING THE NORTHCREEK DRIVE MSBU

Motion made by Commissioner Junior, seconded by Commissioner Bass, and carried unanimously, after being advised by Chairman Whitehead that there were no speakers for the 5:31 p.m. Public Hearing, adopting an Ordinance (Ordinance Number 2000-41) creating the Northcreek (a.k.a. North Creek) Drive Road Improvement Municipal Service Benefit Unit (MSBU) for the purpose of reengineering and reconstructing the roads contained in the District; defining the boundaries of said District; providing for the

governing of said district by the Board of County Commissioners; providing for legislative findings, authorizing the use of a non-ad valorem special assessment to defray the costs of reengineering and reconstructing the roads in the District based on a fair and reasonable apportionment of the cost to specially benefitted properties; providing for the use of the uniform method of collection prescribed by Section 197.332, Florida Statutes (1999); providing for no exemptions to the levy; identifying the duties of the Escambia County Clerk of the Circuit Court, Tax Collector, and Property Appraiser; providing for severability; providing for inclusion in the Code of Ordinances of Escambia County; and providing an effective date; and made the following four (4) findings of fact:

- A. The proposed Northcreek Drive Road Improvement Municipal Benefit Unit has met the criteria established by the Board of County Commissioners in Escambia County Municipal Benefits Units Guidelines and Procedures for an MSBU;
- B. Lots in the District are specially benefitted since road improvements increase the market value of an individual lot, provide individual lot owners more convenient access to their lots and increase the ability of lot owners to develop their land;
- C. The non-ad valorem special assessments levied represent a fair and reasonable apportionment of the cost of the special benefit received by each lot and do not represent a fair share of the cost of general governmental service provided to residents in the unincorporated areas of Escambia County; and
- D. Lots which do not receive a special benefit have been and shall be excluded from the non-ad valorem special assessment for road paving.

FIRST PUBLIC HEARING HELD AND SECOND PUBLIC HEARING SCHEDULED  
RELATIVE TO THE BROWNSVILLE AND ENGLEWOOD REDEVELOPMENT AREAS

Chairman Whitehead said there were no speakers for the 5:32 p.m. first Public Hearing, for consideration of taking the following action, as amended, to add Section 2, and amend Section 5:

- A. Conduct the first of two (2) Public Hearings for consideration of adopting an Ordinance, of Escambia County, Florida, amending Part II of the Escambia County Code of Ordinances (1999), the Escambia County Comprehensive Plan, as amended; providing for an amendment to Chapter 7, "Future Land Use Element" to add Policy 7.A.3.8 titled "Urban Infill and Redevelopment Area" (designating the Brownsville and Englewood Redevelopment areas as Urban Infill and Redevelopment Areas, in conformance with Chapter 163.2514[2], Florida Statutes) and to amend the Future Land Use Map; providing for a copy on file; providing for severability; and providing for an effective date, with the following two (2) amendments:
- (1) Section 2 (added to read): *In accordance with the authorization set forth in Section 7.06, "Amendments" of the Escambia County Comprehensive Plan, Section 7.05.A of the Escambia County Comprehensive Plan, the map titled Year 2000 Generalized Future Land Use Map, Escambia County, Florida, as prepared by J.E. Dorman and Associates, Inc., and dated January 1993, as amended, and is hereby further amended as shown on the attached map to delineate the Brownsville and Englewood Urban Infill and Redevelopment Areas; and*
  - (2) Section 5 (amended to read): *This Ordinance shall take effect as provided by law.*
- B. Approve transmittal of the amended Ordinance to the Florida Department of Community Affairs for review; and
- C. Schedule the second of two (2) Public Hearings for November 2, 2000, at 5:47 p.m.

Motion made by Commissioner Junior, seconded by Commissioner Bass, and carried unanimously, approving the recommendation.

ADOPTION OF AN ORDINANCE RELATING TO THE ESTABLISHMENT OF THE INSPECTIONS FUND

Motion made by Commissioner Bass, seconded by Commissioner Banjanin, and carried unanimously, with Chairman Whitehead advising there were no speakers for the 5:33 p.m. Public Hearing, adopting an Ordinance of the Board of County Commissioners of Escambia County, Florida, relating to the establishment of a special revenue fund entitled the Inspections Fund; adding Section 1-14-6 Code of Ordinances related to the

provisions governing the Inspections Fund; providing for severability; providing for inclusion in the Code; providing for an effective date.

DROPPING A PUBLIC HEARING RELATIVE TO QUINAVISTA SUBDIVISION - Continued

Motion made by Commissioner Robertson, seconded by Commissioner Bass, and carried unanimously, dropping the 5:34 p.m. Public Hearing for consideration of taking the following action regarding the petition to vacate several road rights-of-way in Quinavista Subdivision, upon being advised by Chairman Whitehead that the Petitioner, James Mahon, had requested that the following staff recommendation be dropped:

- A. Approve or Deny the petition, to vacate several road rights-of-way in Quinavista Subdivision, subject to a utility easement being retained over said rights-of-way being vacated, if the petition to vacate is approved;
- B. Accept the Hold Harmless Agreement, subject to approval of the petition to vacate; and
- C. Adopt the Resolution to Vacate, subject to approval of the petition to vacate.

(Discussion held earlier; see Page 2.)

ACCEPTANCE OF INFORMATION CONCERNING THE BUREAU OF JUSTICE ASSISTANCE LOCAL LAW ENFORCEMENT BLOCK GRANT 2000

Motion made by Commissioner Bass, seconded by Commissioner Robertson, and carried unanimously, with Chairman Whitehead advising there were no speakers for the 5:35 p.m. Public Hearing, accepting, for filing with the Board's Minutes, the Grant Projects outlined by the Escambia County Sheriff's Department, allocating \$582,641, and the City of Pensacola Police Department, allocating \$158,423, with projects to be funded by the Bureau of Justice Assistance Local Law Enforcement Block Grant.

CHAIRMAN WHITEHEAD RELINQUISHED THE CHAIR TO COMMISSIONER BASS.

C/W AGENDA REVIEW WORKSHOP REPORT - Presented by Commissioner  
Michael T. "Mike" Bass, Chairman

I. CONSENT AGENDA

1-27. Approval of Various Consent Agenda Items

Acting Chairman Bass said the Committee of the Whole (C/W) met on September 12, 2000, and there were twenty-seven (27) items on the Consent Agenda.

Motion made by Commissioner Whitehead, seconded by Commissioner Junior, and carried unanimously, approving the C/W Consent Agenda as follows:

1. Adopting the Resolution approving Supplemental Budget Amendment Number 318, Law Enforcement Trust Fund 121, in the amount of \$71,000, to recognize revenues from forfeiture collections into the Law Enforcement Trust Fund budget, for equipment procurement and provision of education and prevention resources.
2. Adopting the Resolution approving Supplemental Budget Amendment Number 334, in the amount of \$2,000, General Fund 001, to recognize the fines collected for the unlicensed/unpermitted citations issued by the Competency Board staff, as related to the construction industry.
3. Adopting the Resolution approving Supplemental Budget Amendment Number 335, in the amount of \$344,524, Civic Center Fund 409 and Tourist Development Fund 108, to recognize the forgiveness of the temporary loan of Tourist Development Tax Funds to The Pensacola Civic Center, to cover the operation deficit, and to recognize the corresponding appropriation.
4. Adopting the Resolution approving Supplemental Budget Amendment Number 336, in the amount of \$38,671, Workers' Compensation and Health and Life Insurance Fund 509 and Economic Development and Industrial Park Fund 415, to recognize the interest for the advance to Fund 415 from Fund 509, which was needed to purchase approximately 355 acres for a third commerce park, with interest payments due annually from the date of the loan, and the corresponding appropriation.

5. Adopting the Resolution approving Supplemental Budget Amendment Number 339, Local Option Sales Tax II Fund 351, in the amount of (\$57,600) to recognize a reduction in revenue available from the Regiment Drive Hazard Mitigation Grant and to reduce appropriations accordingly, relative to purchase of 7911 Regiment Drive property (\$100,000 was budgeted; only \$42,400 received).
6. Adopting the Resolution approving Supplemental Budget Amendment Number 343, Transportation Trust Fund 175, in the amount of \$349,256, to recognize reimbursements from the Local Option Sales Tax II Fund 351 for operations related to the Open Graded Cold Mix program and to appropriate these funds to cover overtime and operating costs associated with this program in the Public Works Department.
7. Taking the following action regarding the Environmental Protection Agency (EPA) Brownfields Pilot Project (Palafox Corridor):
  - A. Adopting the Resolution approving Supplemental Budget Amendment Number 344, in the amount of \$100,000, Other Grants and Projects Fund 110, to recognize an increase in the EPA Brownfields Pilot Project Grant;
  - B. Approving a two-year extension of the EPA Brownfields Pilot Project Grant, in the amount of \$100,000, supplemental funding for the Brownfields Pilot Project, due to EPA issuing a two-year extension of the initial grant awarded in July, 1998; and
  - C. Authorizing the Chairman to execute any documents related to the acceptance, execution and Amendments to this Grant.
8. Taking the following action regarding the Environmental Protection Agency (EPA) SuperFUND Recycling Pilot Project Grant (relocation of current residents of the Escambia Arms Apartment Complex):
  - A. Adopting the Resolution approving Supplemental Budget Amendment Number 345, in the amount of \$28,250, Other Grants and Projects Fund 110, Cost Center 230209, to recognize an increase in the EPA Grant, due to EPA extending the Grant through September, 2001;
  - B. Approving a one-year extension of the EPA Grant, in the amount of \$28,250, supplemental funding for the Project; and
  - C. Authorizing the Chairman to execute any documents related to the acceptance, execution and Amendments to the Grant.

9. Adopting the Resolution approving Supplemental Budget Amendment Number 346, in the amount of \$68,737, Local Option Sales Tax Extension II Fund 351, to recognize unanticipated revenue as per the Settlement Agreement between University Parkway Developers, L.C. and Escambia County, approved by the Board of County Commissioners on February 4, 1999, relating to the University Parkway Widening and Realignment Project (Contract PD 97-98.97), as reimbursement from various contractors and utility companies for work that is being performed as part of the construction phase of County engineering projects, and to adjust the Fiscal Year 1999-2000 appropriation for these funds accordingly.
10. Adopting the Resolution approving Supplemental Budget Amendment Number 347, in the amount of \$4,452, Transportation Trust Fund 175, to recognize unanticipated revenue associated with the engineering services provided to the Environmental Resources Department, billed quarterly, and to adjust the Fiscal Year 1999-2000 appropriation for these funds accordingly.
11. Adopting the Resolution approving Supplemental Budget Amendment Number 348, in the amount of \$278,348, Local Option Sales Tax II Fund 351, to recognize unanticipated revenue from the Escambia County Utilities Authority (ECUA) for work performed as part of the construction phase of the Crystal Wells Paving and Drainage Project, Phase 2, Contract PD 98-99.30, approved by the Board on September 16, 1999, and to adjust the Fiscal Year 1999-2000 appropriation for these funds accordingly (\$750,606 was borrowed from Muldoon Road Project, Phase 2, and funds associated with the reimbursement will be transferred back into the project).
12. Approving the *"Agreement for the Housing of Inmates"* between Okaloosa County and Escambia County for the housing of Okaloosa County inmates at the Escambia County Road Prison to accommodate overcrowding at Okaloosa prison and to maximize the Escambia County Road Prison capacity with inmates of the particular classification required for assignment to road maintenance squads.
13. Authorizing the Chairman to sign two (2) Quitclaim Deeds for property adjacent to property owned by the Estate of Katie Holman, known as two (2) triangular pieces of property that have been fenced in as a fractional part of Block 103, located east of the St. Louis and San Francisco Railroad (Alabama and Gulf Coast Railway) and south of Pottery Plant Road (Fairfield Drive), Oakcrest Subdivision.

14. Approving an increase in the BellSouth Telecommunications, Inc., Frame Relay Service Agreement Number FR60M010297 from \$57,925 to \$84,080 to extend the current Wide Area Network (WAN) to support the relocation of the Building Inspections Department and to include the additional locations of the Animal Shelter, Parks & Recreation, Fire Services, Mosquito & Rodent Control, and Solid Waste Departments.
15. Taking the following action concerning 2000/2001 State Housing Initiatives Partnership (SHIP) Agreement with Rural Development, f/k/a Farmers Home Administration and Rural Economic and Community Development:
  - A. Approving the Agreement, with the U. S. Department of Agriculture providing a maximum of \$125,000 in SHIP Program funds to support moderate housing rehabilitation activities in conjunction with Rural Development's Section 504 Home Repair Program, subject to availability of SHIP funds currently budgeted in Fiscal Year 2000-2001 Fund 120/2000 SHIP Program Cost Center: 220438 and 2001 SHIP Program; and
  - B. Authorizing the Chairman to execute the Agreement and all project-related documents as required to implement the project.
16. Taking the following action concerning the 2000/2001 State Housing Initiatives Partnership (SHIP) Agreement with the West Florida Regional Planning Council (WFRPC):
  - A. Approving the 2000/2001 SHIP Emergency Home Repair Project Agreement with WFRPC to provide \$540,000 in SHIP Program funds to support emergency housing repair activities, and to provide SHIP administrative funds for the project, subject to availability of SHIP funds budgeted in the Fiscal Year 2000-2001 SHIP Fund 120;
  - B. Authorizing the Chairman to execute the Agreement and all project related documents as required to implement the project; and
  - C. Authorizing the Office of the Clerk of the Circuit Court to record the (Interlocal) Agreement in the Official Records of Escambia County.

17. Taking the following action regarding utilization of Escambia/Pensacola State Housing Initiatives Partnership (SHIP) Program funds:
  - A. Approving Agreements with Participating local lenders committing a total of \$725,000 for down payment and/or closing cost assistance for SHIP-eligible, low and moderate income home buyers, noting that the participating lenders for 2001 are Bank of America; SunTrust Bank, Northwest Florida; Compass Bank; Synovus Mortgage Corporation/Bank of Pensacola; AmSouth Bank of Florida; SouthTrust Mortgage Corporation; Citizens & Peoples Bank; Whitney National Bank; Peoples First Community Bank; First South Bank; Access Mortgage Corporation; and First Horizon Financial Corporation (subject to availability of SHIP funds budgeted in Fiscal Year 2000-2001: SHIP Fund 120 - Cost Centers: 220474/1999 SHIP; 220438/2000 SHIP;
  - B. Approving an Agreement with Pensacola Habitat for Humanity, Inc., in the amount of \$300,000, to partially finance the construction of new homes for occupancy by SHIP-eligible, very low and low income families (subject to availability of SHIP funds budgeted in Fiscal Year 2000-2001: SHIP Fund 120/2001;
  - C. Approving an amendment with Pensacola Habitat for Humanity, Inc., to extend the term of the existing 1999-2000 SHIP Agreement through January 31, 2001, to allow units committed and under construction as of September 30, 2000, to be completed and occupied in accordance with SHIP requirements;
  - D. Authorizing the Board-appointed Escambia/Pensacola Local Housing Partnership, with concurrence of the County Administrator and Pensacola City Manager, to reallocate up to ten (10%) percent of available 2000/2001 SHIP down payment/closing cost assistance funds between the Participating Lenders as required to meet the demand for SHIP assistance; and
  - E. Authorizing the Chairman to execute the Agreements, Amendment, and all related documents required to implement the projects.
18. Approving an Agreement with Loaves and Fishes Soup Kitchen, Inc., detailing the utilization of the 2000 Emergency Shelter Grant (ESG) in the amount of \$95,060, for the period from October 1, 2000, through September 30, 2001, to support operational costs of the Loaves and Fishes Homeless Center located at 257 East Lee Street, and authorized the Chairman to execute the subject Agreement and all related documents required to complete the project (subject to availability of ESG funds in Fiscal Year 2000-2001 Other Grants and Projects Fund 110/2000 ESG).

19. Approving the 2000 Community Development Block Grant (CDBG) funded Fair Housing Services Contract with Escambia-Pensacola Human Relations Commission (HRC) providing a total of \$18,500, for the period from October 1, 2000, through September 30, 2001, for the 2000/2001 Fiscal Year, and authorized the Chairman to execute the contract and all documents required to implement the contract (subject to availability of CDBG funds in Fiscal Year 2000-2001 CDBG Entitlement Fund 129/2000).
20. Approving the 2000 Community Development Block Grant (CDBG) funded contract with Escambia County Council on Aging, Inc., in the amount of \$45,000, for continuation of the Rural Elderly Assistance Program for the period October 1, 2000, through September 30, 2001, subject to availability of CDBG funds incorporated into the Fiscal Year 2000-2001 County Budget, and authorized the Chairman to execute the contract and related documents necessary to implement the project (subject to availability of CDBG funds currently budgeted in FY 2000-2001 CDBG Entitlement Fund 129/2000).
21. Scheduling a Public Hearing for October 5, 2000, at 5:32 p.m., to consider the petition to vacate the ten-foot wide alleyways running north and south, and east and west, in Block 102, Figland Park Subdivision, as petitioned by Carpenter's Campers.
22. Scheduling a Public Hearing for October 5, 2000, at 5:33 p.m., to consider the petition to vacate a one-foot wide, non-access easement running along Lot 7, Block I, on Henegar Drive, Crystal Creek 1st Addition Subdivision, as petitioned by D. R. Horton, Inc.
23. Taking the following action regarding the delegation of authority for stormwater permitting to Escambia County Engineering Department by the Florida Department of Environmental Protection (FDEP):
  - A. Approving the request, to be submitted to the FDEP, to allow the County to petition to accept the delegation of authority from FDEP to permit all non-County, new development relative to stormwater management; and,
  - B. Authorizing the County Engineer to sign any documents necessary to proceed with this process.
24. Taking the following action concerning speed limits for roadways with speed humps, to match the design speed of the speed humps:
  - A. Adopting a Resolution to reduce the speed limit on Helms Road, between Sasser Lane and Woods Road, from thirty-five (35) miles per hour to twenty-five (25) miles per hour;

- B. Adopting a Resolution to establish a speed limit of twenty-five (25) miles per hour on Limerick Lane from Chemstrand Road to Music Lane; and
  - C. Adopting a Resolution to reduce the speed limit on Paul Street, between Border Street and Dogwood Drive, from thirty (30) miles per hour to twenty-five (25) miles per hour.
25. Taking the following action regarding ten (10) Railroad Resolutions/Agreements with the Florida Department of Transportation (FDOT) and CSX Transportation:
- A. Adopting the Resolution for *Grade Crossing Traffic Control Devices and Future Responsibility* for new signals with gates at Salters Lake Road;
  - B. Approving a *Railroad Reimbursement Agreement - Grade Crossing Traffic Control Devices* for new signals with gates at Salters Lake Road;
  - C. Adopting the Resolution for *Grade Crossing Traffic Control Devices and Future Responsibility* for new signals with gates at Brickyard Road, North;
  - D. Approving a *Railroad Reimbursement Agreement - Grade Crossing Traffic Control Devices* for new signals with gates at Brickyard Road, North;
  - E. Adopting the Resolution for *Grade Crossing Traffic Control Devices and Future Responsibility* for new signals with gates at Brickyard Road, South;
  - F. Approving a *Railroad Reimbursement Agreement - Grade Crossing Traffic Control Devices* for new signals with gates at Brickyard Road, South;
  - G. Adopting the Resolution for *Grade Crossing Traffic Control Devices and Future Responsibility* for new signals with gates at North Barth Road, North;
  - H. Approving a *Railroad Reimbursement Agreement - Grade Crossing Traffic Control Devices* for new signals with gates at North Barth Road, North;
  - I. Adopting the Resolution for *Grade Crossing Traffic Control Devices and Future Responsibility* for new signals with gates at Daffin Street;

- J. Approving a *Railroad Reimbursement Agreement - Grade Crossing Traffic Control Devices* for new signals with gates at Daffin Street; and
  - K. Authorizing the Chairman to sign the Agreements (and Resolutions).
26. Adopting, on the Board's own motion, a Resolution prohibiting trucks, many en route to the Beulah Landfill, on Rebel Road from Mobile Highway to Nine Mile Road.
27. Taking the following action concerning a Traffic Signal Maintenance Agreement with the Florida Department of Transportation (FDOT) and the Alabama & Gulf Coast Railway, L.L.C., for signals located at the intersections of Palafox Street (SR 95) and Texar Drive (SR 752), and Texar Drive and "E" Street:
- A. Adopting the Resolution for *Synchronization of Grade Crossing Traffic Control Devices and Future Responsibility*;
  - B. Approving a *Railroad Reimbursement Agreement - Synchronization of Grade Crossing and Crossing Traffic Control Devices*; and,
  - C. Authorizing the Chairman to sign the Agreement and Resolution.

## II. COMMITTEE DISCUSSION

### 1. Acceptance of an Information Report Concerning Drainage Repair Projects

Motion made by Commissioner Whitehead, seconded by Commissioner Junior, and carried unanimously, accepting , for filing with the Board's Minutes, the Information Report dated September 1, 2000, from Cindy W. Anderson, P.E., County Engineer, concerning the amendment to an In-Kind Contribution, Cooperative Agreement (United States Department of Agriculture Natural Resources Conservation Service) and Operation and Maintenance Agreement for Wilde Lake Road, Highway 297A, Wishbone Road, and Eight Mile Creek Road, Agreement Number 68-4209-9-204 dated December 17, 1998, for drainage repair projects due to extensive damage during Hurricane Georges on September 28, 1998, noting that the funding for the projects was originally approved for

\$460,000.00, and that the Cooperative Agreement was amended to include additional eligible costs of \$141,009.32 associated with the improvements.

2. Approval Concerning Nuisance Abatement Lien

Motion made by Commissioner Robertson, seconded by Commissioner Junior, and carried unanimously, due to a possible misunderstanding between staff and the property owners, disregarding and waiving the Lien relative to property located on the southeast corner of Molino Road and Highway 95A, owned by Eric T. and Hazel Fillingim, as outlined in an Information Report dated August 29, 2000, from Gregg Welstead, Chief, Environmental/Code Enforcement Division, concerning the Nuisance Abatement Lien of the subject property.

3. Acceptance of Information Concerning Perdido Key Lodging Units and Permitted Uses

Motion made by Commissioner Whitehead, seconded by Commissioner Junior, and carried unanimously, accepting, for filing with the Board's Minutes, copies of pages 3-16, 3-17, 6-48, and 6-49, of Escambia County Ordinance 96-3, the Land Development Code (LDC), which reference definitions of hotels and motels, lodging units on Perdido Key, and permitted uses in the PRPK, Planned Resort Perdido Key District, and which contain inserts showing the proposed inclusion of a time-share unit definition, relative to a proposed Convention Center and Destination Resort for Perdido Key which would contain time-share units, as presented (during the C/W Meeting) by Ms. Sally Bussell, attorney representing several citizens.

4. Approval Concerning New Facilities/Locations for County Offices

Acting Chairman Bass said Item 4 was a recommendation that the Board take the following action concerning new facilities/locations for County Offices and the funding sources for same:

- A. Direct staff to explore the possibility of providing office space for the Property Appraiser as well as the Supervisor of Elections, in the former Ordon's Menswear building/property, located on the corner of Intendencia Street and Palafox Place, and tie that in with the construction of the adjacent parking garage, with a report back at the October 10, 2000, C/W Meeting;
- B. Direct staff to research the cost of purchasing the building located on the corner of Baylen Street and Government Street in which Northwest Florida Legal Services is presently located; and
- C. Accept the Information Report dated September 11, 2000, from Benjamin A. "Steve" Stevens, Interim Director, Office of Management and Budget, containing impact and possible solutions to requests for purchase of new facilities, renovations, land and projects, and potential funding sources for same, to include under "New Facilities/Project" the Pensacola Beach Fishing Pier Extension funding, approved at the September 7, 2000, Regular Board Meeting, which commitment was needed by September 15, 2000; and the additional \$250,000, for a total of \$500,000, for the Snoezelen Project.

Commissioner Whitehead said he would request that the Board consider Items "A" and "B" separate from Item "C."

Motion made by Commissioner Junior, seconded by Commissioner Banjanin, and carried 4-1, with Commissioner Whitehead voting "no," taking the following action concerning new facilities/locations for County Offices and the funding sources for same:

- A. Directing staff to explore the possibility of providing office space for the Property Appraiser as well as the Supervisor of Elections, in the former Ordon's Menswear building/property, located on the corner of Intendencia Street and Palafox Place, and tie that in with the construction of the adjacent parking garage, with a report back at the October 10, 2000, C/W Meeting; and

- B. Directing staff to research the cost of purchasing the building located on the corner of Baylen Street and Government Street in which Northwest Florida Legal Services is presently located.

Motion made by Commissioner Whitehead, seconded by Commissioner Robertson, and carried unanimously taking the following action concerning new facilities/locations and the funding sources for same, as follows:

- C. Accepting the Information Report dated September 11, 2000, from Benjamin A. "Steve" Stevens, Interim Director, Office of Management and Budget, containing impact and possible solutions to requests for purchase of new facilities, renovations, land and projects, and potential funding sources for same, to include under "New Facilities/Project" the Pensacola Beach Fishing Pier Extension funding, approved at the September 7, 2000, Regular Board Meeting, which commitment was needed by September 15, 2000; and the additional \$250,000, for a total of \$500,000, for the Snoezelen Project.

5. Approval Concerning DRC Ad Hoc Committee Report Recommendations

Motion made by Commissioner Whitehead, seconded by Commissioner Junior, and carried unanimously, approving staff to provide at the October 5, 2000, Regular Board Meeting, for final action, the recommendations of the Building Industry Association of West Florida (BIA) as well as those of the original DRC Committee (Development Review Committee Ad Hoc Committee), in terms of legislative changes that would be needed, relative to a review of the DRC Ad Hoc Committee recommendations contained in an eight-page report entitled, "Development Review Committee Ad Hoc Committee Report Recommendations", as requested by Ms. Elisabeth Barber, at the September 12, 2000 C/W Meeting.

6. Discussion Concerning CSL Update Concerning Proposed Convention Center to be Located on Pensacola Beach

Acting Chairman Bass said Mr. William A. Neron, Assistant County Administrator, had advised the C/W that an update from CSL International (Convention, Sports and

Leisure International) concerning a proposed conference center to be located on Pensacola Beach would not be forthcoming until later in the month and, scheduling of a Special Board Meeting might be necessary.

7. Approval Concerning County Attorney's Salary

Motion made by Commissioner Whitehead, seconded by Commissioner Junior, and carried unanimously, taking the following action relative to the County Attorney's salary:

- A. Approving to amend the Fiscal Year 2000-2001 Budget to include a salary increase to \$120,000 per year for County Attorney Tucker, and authorized an amendment to the applicable Ordinance (Ordinance 96-40 establishing a formula to determine the annual compensation of the County Administrator and the County Attorney); and
- B. Scheduling a Public Hearing for the October 5, 2000, Regular Board Meeting at 5:34 p.m. for consideration of the Ordinance amendment.

8. Discussion Held Concerning Proposed Parking Garage on Pensacola Beach

Acting Chairman Bass advised that the C/W held the discussion concerning a proposed parking garage on Pensacola Beach upon being advised by Mr. William A. Neron, Assistant County Administrator, that a report from the Santa Rosa Island Authority (SRIA) would be scheduled for the October 10, 2000, C/W Meeting relative to the construction of a proposed parking garage on Pensacola Beach, the necessity of which is a result of construction of a holding pond in the main parking lot to curtail the stormwater runoff problem in Little Sabine Bay.

9. Approval Concerning 6% COLA for Unclassified Employees

Motion made by Commissioner Whitehead, seconded by Commissioner Robertson, and carried unanimously, approving the 6% COLA (Cost of Living Adjustment) for Unclassified Employees, excluding the County Administrator and the County Attorney.

10. Held Formal Presentation of the GIS

Acting Chairman Bass said the C/W briefly discussed the status of the GIS (Geographic Information System) and held the formal presentation by GIS staff until the October 10, 2000, C/W Meeting, at which time it would be presented and discussed before consideration of the Consent Agenda, specifically addressing overall costs and whether or not the project has been handled in a timely fashion.

ACTING CHAIRMAN BASS RELINQUISHED THE CHAIR TO COMMISSIONER WHITEHEAD.

COUNTY ADMINISTRATOR'S REPORT - Interim County Administrator Thomas L. Forrest

I. CONSENT AGENDA

1-30. Approval of Various Consent Agenda Items

Interim County Administrator, Thomas L. Forrest said there were thirty (30) items on the County Administrator's Report Consent Agenda. He said Item 30 had been amended to correct the date from June 1, 2000, to July 1, 2000.

Commissioner Banjanin said he would like to hold Items 11 and 25 for discussion.

Chairman Whitehead said Mr. William Hodgins had requested that Item 25 be held as he was en route to the Meeting; however, had not yet arrived.

Motion made by Commissioner Bass, seconded by Commissioner Junior, and carried unanimously, approving the County Administrator's Report Consent Agenda, as amended, excluding items 11 and 25, as follows:

1. The Board:

- A. Adopting a Proclamation proclaiming October 1-7, 2000, as "4-H Week" in Escambia County; and

- B. Ratifying the Proclamation expressing appreciation to Mr. Ted Hendry for fifteen years of faithful and dedicated service to the United Way and citizens of Escambia County.
2. Taking the following action concerning Amendment Number 3 to the 1999-2000 State Housing Initiatives Partnership (SHIP) Agreement with West Florida Regional Planning Council (WFRPC), entitled "*Amendment #3 to 1999/00 Interlocal Agreement Concerning SHIP Affordable Homeownership Project*":
    - A. Approving Amendment Number 3 to the 1999-2000 SHIP Emergency Home Repair Project Agreement between Escambia County and West Florida Regional Planning Council (WFRPC) to provide an additional \$150,000 in SHIP funds to support emergency housing repair activities in Escambia County, and to provide SHIP administrative funds for the project, with funding available in Fund 120/1998, 1999, and 2000 SHIP Grants, Cost Centers: 220437, 220474 and 220438;
    - B. Authorizing the Chairman to execute the Amendment and all project-related documents as required to implement the Amendment; and
    - C. Authorizing the Office of the Clerk of the Circuit Court to record the Amendment in the Official Records of Escambia County.
  3. Approving the name change on the "*Certificate of Public Convenience and Necessity (COPCN)*" previously awarded to Escambia County Emergency Medical Services from Escambia County Emergency Medical Services to Escambia County Department of Public Safety, due to the integration of Fire Services and Emergency Medical Services into the Department of Public Safety, in order to eliminate the need for issuance of a separate COPCN to Fire Services.
  4. Taking the following action regarding the Emergency Medical Services Fee Schedule, as requested by Janice R. Kilgore, CEM, Public Safety Director, in her September 11, 2000, Memorandum to the Board:
    - A. Adopting a Resolution adjusting the schedule of fees specific to mileage and adding a standby rate for high school football events; establishing a provision that authorizes the Public Safety Director to write-off individual patient accounts that have an aggregate total of less than one-thousand dollars (\$1,000) when the situation warrants administrative attention and this type of action; providing for an effective date of October 1, 2000;

- B. Approving a reduction in the mileage rate from \$5.65 to \$5.25 (based upon the newly-published Medicare fee schedule effective January 1, 2001, with said reduction to align Escambia County's fees with the Medicare reimbursement); and
  - C. Approving adding a \$150 per event fee up to four (4) hours and \$25 per hour fee for every hour over the four (4) hours for ambulance standby support at area high school events.
5. Taking the following action regarding the Emergency Medical Services grant application effective October 1, 2000, through September 30, 2001, in the amount of \$68,140.06:
- A. Adopting a Resolution of the Board of County Commissioners certifying certain monies received for use in Fiscal Year 2000-2001 from the Emergency Medical Services (EMS) Trust Fund, as the Escambia County Emergency Medical Services' Award, shall be used to improve and expand the County's pre-hospital EMS System; providing such monies shall not supplant existing budget allocations; providing for an effective date; and
  - B. Authorizing the Chairman to sign the *"Request for County Grant Distribution (Advance Payment) Emergency Medical Services (EMS) County Grant Program"* application and all related documents.
6. Amending the Board's action of July 6, 2000, relative to the Agreement between Escambia County and the State Department of Community Affairs, Division of Emergency Management, as follows:
- A. Approving to change the Contract Number from 00RM-E\*-01-27-22-001 to 01RM-38-01-27-22-001 on the Agreement between Escambia County and the State Department of Community Affairs, Division of Emergency Management to provide funding for the development of a marketing plan for Project Impact implementation in Escambia County to include outreach to residents, outreach to the private sector and regional coordination; and
  - B. Approving to change the *"Budget and Scope of Work"* due date from June 30, 2000, to September 30, 2000.

7. Taking the following action relative to the Florida Fish and Wildlife Conservation Commission Environmental Education grant known as the "*Perdido Key Growth, Development and Habitat*" project, with said project being a comprehensive communications plan to educate Northwest Floridians about the relationships between population growth and development and habitat loss and fragmentation:
  - A. Accepting the Environmental Education grant from the Florida Fish and Wildlife Conservation Commission (FFWCC) in the amount of \$100,000;
  - B. Approving the "*Grant Agreement General Terms and Conditions*," between Escambia County, and the FFWCC (to begin upon execution by both parties, and ending on December 3, 2001); and
  - C. Authorizing the Chairman to execute any documents related to the acceptance, execution and amendments to this grant.
8. Accepting, for filing with the Board's Minutes, a copy of a two (2) page Information Report dated September 20, 2000, from Mr. Keith Wilkins, Chief, Community Redevelopment Agency (CRA) concerning Escambia County's proposed Tree Ordinance.
9. Adopting the Resolution approving Supplemental Budget Amendment Number 366, General Fund 001, in the amount of \$46,000, to recognize revenue associated with the internal billing of fuel charges to Non-General Fund departments and to appropriate funds from this revenue and from Reserves for Operating into the Fuel Distribution budget.
10. Approving the Santa Rosa Island Authority's (SRIA) Fiscal Year 2000-2001 Budget, as approved by the SRIA on August 9, 2000, and received by the Board on September 1, 2000.
12. Approving and authorizing the Chairman to execute the "*Certificate of Need*" for Onyx Environmental Services, L.L.C., d/b/a Onyx Environmental Services, with no expiration date, in order to change an existing Certificate of Need due to Onyx Environmental Services having purchased Advanced Environmental Technical Services, L.L.C.
13. Approving and authorizing the Chairman to execute the "*Certificate of Need*" for Waste Management of Alabama, Inc. - Mobile/Baldwin, a Division of Waste Away Group, Inc., with no expiration date, in order to change an existing Certificate of Need with Waste Management of Northwest Florida no longer servicing Escambia County.

14. Taking the following action regarding the VISA Purchasing Card Program:
  - A. Approving the cancellation of the VISA Purchasing Card Program Agreement with SunTrust Bank, N.A., effective January 1, 2001; and
  - B. Approving the utilization of the State of Florida VISA Purchasing Card Services Contract Number 973-120-97-1, with Bank of America, N.A.
  
15. Awarding a contract, PD 99-00.86, "*Demolition of Jail Annex, 1700 West Leonard Street,*" to Virginia Wrecking Company, Inc., the lowest, most responsive and responsible bidder, in the amount of \$142,399 for base bid, with funding available in Cost Center 540205. (Approved 5-0)
  
16. Awarding term contract number PD 99-00.70, "*Job Order Contract for Construction and Renovation under \$250,000,*" for a period of twelve (12) months, after which the County may renew the contract for up to an additional twenty-four (24) months to the following eighteen (18) vendors:

Bob Taylor, Inc.	MMI Mechanical Contractors, Inc.
Construction Masters, Inc.	Motes Construction, Inc.
F & M Electric, Inc.	Southern Value Construction, Inc.
F. E. Booker Company	Spiderman's Professional Services, Inc.
Greg Williams Electric Co., Inc.	The Boyd Plumbing Company, Inc.
Gulf Coast Building Contractors, Inc.	Total Construction of Northwest Florida, Inc.
Jerry Toler Construction Company, Inc.	Trammel Construction Company, Inc.
Johnny Pitts Construction	W.A.M. Construction, Inc.
Larry Hall Construction, Inc.	W. R. Johnson, Inc.
  
17. Awarding task order driven contract number PD 99-00.57, "*Planning Services for Escambia County,*" for a period of twelve (12) months, after which the County may renew the contract for up to an additional twenty-four (24) months, to the following six (6) vendors:

EDAW, Inc.	Solin and Associates, Inc.
HDR Engineering, Inc.	RPA Group, Inc.
Herbert Halback, Inc.	HSA Consulting Group, Inc. (f/k/a Hamilton Smith & Associates, Inc.)
  
18. Awarding unit price contracts for PD 99-00.75, "*Installation of Chain Link Fencing and the Purchase of Chain Link Fence Materials,*" to A-1 Hurricane Fence Industries, Barrier Fence Company and Champion Contractors Incorporated, for the period of one (1) year, with two, one-year optional extensions, with funding available in various cost centers and object codes.

19. Awarding a unit price contract for PD 99-00.73, "*Ferry Pass Drainage Improvements*" to Nelson Mechanical Contractors, Inc., the apparent responsive and responsible low bidder, for a total bid amount of \$783,521.75, with funding available in One Cent Local Option Sales Tax Extension (LOST II) Fund 351.
20. Scheduling a Public Hearing for October 5, 2000, at 5:49 p.m., for consideration of adopting an Ordinance of Escambia County, Florida, amending Part III of the Escambia County Code of Ordinances (1999), the Land Development Code of Escambia County, Florida, as amended, relating to the protection of white sand on Santa Rosa Island and Perdido Key; amending Article 6 "Zoning Districts," sections 6.05.04, 6.05.06, 6.05.08, 6.05.13, 6.05.13.01, 6.05.13.02 and 6.05.13.03 relating to landscaping to make consistent with proposed changes to Article 12, amending Article 12, "Coastal Management Conservation"; Section 12.01.01, Design Standards in Areas Adjacent to Shoreline Protection Zone; amending Section 12.05.01, "Purpose and Finding"; providing for applicability to Santa Rosa Island and Perdido Key and exempting for a period of eight months the Santa Rosa Island Authority Gulf beach dredging project; authorizing the Neighborhood and Environmental Services Department to differentiate allowable soil materials for Gulf front primary dune, interior and sound front areas; amending Section 12.05.02 "Definitions"; amending Section 12.05.03; amending Section 12.05.04; clarifying corrective actions regarding depth of contaminated materials; amending Sections 12.05.05 and 12.05.07; creating a new Section 12.05.06; providing for preapproval process; amending Section 12.06.00 "Dune Restoration"; amending Article 13 "Santa Rosa Island Authority Development Regulations," Section 13.14.00 "Landscaping and Acceptable Soils"; providing for severability; providing for inclusion in the Code and providing for an effective date.
21. Authorizing the Chairman, as the County's representative, to sign the "*Grant-in-Aid Agreement for the Civil Traffic Infraction Hearing Officer Program*," (Agreement made among Office of the State Courts Administrator, Escambia County Board of County Commissioners and the First Circuit) acceptance documents, amendments and request for payment or other related documents as may be required (with estimated revenues from the administrative fee, and expenditures associated with this program included as part of the proposed budget for Fiscal Year 2000-2001, in Fund 110, Cost Center 410512).
22. Taking the following action regarding the purchase of a parcel of property, which has a manufactured home located on it, for a holding pond for the drainage improvements associated with the Pen Haven Drainage Project:

- A. Authorizing staff to negotiate the terms for purchase of one (1) parcel of property located at 4426 Lillian Highway offering \$70,000, which is \$8,000 more than the County's appraisal value of \$62,000;
  - B. Authorizing the Chairman to sign all documents needed to complete the purchase; and
  - C. Authorizing the payment of the documentary stamps because the property is being used for a governmental purpose, which will benefit the County by having property to place a needed holding pond in the Pen Haven area.
23. Taking the following action concerning the agreement between Escambia County and Sportsman of Perdido, Inc., relating to the reimbursement of the design and construction of certain drainage and other improvements to Perdido Bay Country Club Estates, with the County to pay a lump sum, fixed fee of \$7,025 for the design, with funding available in Fund 192, Master Drainage Basin Number XI:
- A. Approving the agreement between Escambia County and Sportsman of Perdido, Inc. (contractor), at a cost of \$7,025; and
  - B. Authorizing the Chairman to sign the agreement between Escambia County and Sportsman of Perdido, Inc., relating to this project.
24. Taking the following action regarding the final plat of Molino Ridge Estates, First Addition, a three-lot residential subdivision developed by Wilber E. Hendrix, located on the east side of U. S. Highway 29, and one-half mile south of Molino Road:
- A. Approving the final plat of Molino Ridge Estates, First Addition, for recording, subject to final sign-off by the Engineering Department and the Department of Growth Management; and
  - B. Approving and authorizing the Chairman to sign a Subdivision Agreement, including the appropriate surety for private drainage improvements, if applicable.

26. Taking the following action concerning the acquisition of three (3) easements needed for the newly-refurbished Hope Drive Drainage System:
  - A. Authorizing staff to negotiate the terms and conditions of the easements needed to complete the Hope Drive Drainage System; and
  - B. Accepting the donated easements on the day of delivery of the documents to the Chairman or Vice Chairman, to acknowledge the Board's acceptance at that time.
  
27. Adopting a Resolution, pursuant to Florida Statutes Chapter 154.06, authorizing and fixing fees for certain services rendered by the Escambia County Health Department, with the Health Department having provided various medical, dental and environmental health services to the citizens of Escambia County since 1821, with the demand for and cost of providing some of the services having increased.
  
28. Authorizing eight (8) hours of administrative leave with pay for employees who voluntarily participate in the United Way's "Annual Day of Caring," on Friday, October 6, 2000, with Workers' Compensation Insurance to be extended to County employees involved in this event, noting that the Annual Day of Caring event is a premier "hands-on" opportunity to help people and agencies to perform much needed volunteer projects at local non-profit organizations, with volunteers to perform many tasks including the repair of playground equipment at local day care centers, reading to children in local elementary schools, stocking shelves at a local food bank, and delivering meals to the home-bound elderly.
  
29. Taking the following action concerning a real property purchase of approximately 18.54 acres from the Martine's Corporation and Escambia Trade Center, Limited:
  - A. Approving the purchase of approximately 18.54 acres located at North "W" Street and Marcus Pointe Drive for \$1,740,000, subject to legal sign off;
  - B. Authorizing the County Attorney to prepare and the Chairman to execute all necessary documents required to effectuate the sale; and
  - C. Authorizing the payment of closing costs by Escambia County to include Title Search and Title Insurance costs.

30. Taking the following action concerning *"Amendment #1 to the Delta Dental Administration Services Contract between Delta Dental Insurance Company and Escambia County, Florida for the provision of certain services to Escambia County for the County's employees' Dental Benefit Plan"* (PD 99-00.35):
  - A. Approving to amend the Agreement with Delta Dental Insurance Company providing for the option and cost for Delta Dental Insurance Company to prefund dental claims on behalf of Escambia County, at a charge of \$0.25 per enrollee per month or approximately \$360 per month; and
  - B. Approving the revised Administrative Charges Agreement to reflect the additional administrative charges.

(Additional discussion held later in the Meeting, see Page 48.)

11. Scheduling a Public Hearing for Consideration of the Perdido Key Resort Convention Center and Parking Facility TIF

Motion made by Commissioner Bass, seconded by Commissioner Robertson, and carried 4-1, with Commissioner Banjanin voting "no," authorizing to schedule and advertise a Public Hearing for October 19, 2000, at 5:31 p.m. for consideration of adopting an Ordinance creating the Perdido Key Resort Convention Center and Parking Facility (Tax Increment Financing [TIF]).

ANNOUNCEMENT

1. Discussion Concerning Tropical Storm Helene

Chairman Whitehead said Interim County Administrator Forrest and Ms. Janice R. Kilgore, Public Safety Director, had the following information to provide concerning Tropical Storm Helene:

- A. Interim County Administrator Forrest said County Offices would close tomorrow, Friday, September 22, 2000, due to Tropical Storm Helene's 7:00 - 8:00 a.m. projected landfall; and

- B. Ms. Kilgore said Tropical Storm Helene's track had shifted slightly to the east of Escambia County; however, due to the unpredictable nature of tropical storms, precautionary measures were being taken; i.e., the closure of Escambia County Schools and County Offices, the opening of Emergency Operations Center's citizen information lines at 6:00 p.m., and the opening of two emergency shelters at 8:00 p.m., noting that no mandatory evacuation orders had been issued.

COUNTY ATTORNEY'S REPORT - County Attorney David G. Tucker

- I-1. Approval Concerning Frontier Insurance Company  
and  
II-1. Receipt of Information Report Concerning Frankenmuth Mutual Insurance Company Relative to Unisys Leasing Corporation's Computer System

County Attorney Tucker said the Consent Agenda Item 1 was a recommendation that the Board approve authorizing the County Attorney's Office to initiate whatever legal process and/or litigation was necessary to recover \$225,000 in forfeited bail bond judgments from Frontier Insurance Company. He said the For Information Item 1 was an Information Report dated September 21, 2000, from the Florida Supreme Court, concerning Frankenmuth Mutual Insurance Company v. Ernie Lee Magaha, as Clerk of the Court of Escambia County, Florida, and as Successor to Joe A. Flowers, Comptroller, Escambia County, and Escambia County, Florida.

County Attorney Tucker said his Office had received the opinion of the Florida Supreme Court concerning the Frankenmuth Mutual Insurance Company v. Ernie Lee Magaha, as Clerk of the Court of Escambia County, Florida, and as Successor to Joe A. Flowers, Comptroller, Escambia County, and Escambia County, Florida, relative to Unisys Leasing Corporation's computer system. He said the Case was on appeal in the 11th Circuit Court of Appeals, the Federal Appeals Court, located in Atlanta, Georgia, and because the Case dealt with areas where there was no controlling precedent and because

Florida law was unclear, the 11th Circuit Court of Appeals requested an advisory opinion from the Florida Supreme Court. County Attorney Tucker said the Florida Supreme Court did not have the authority to apply the law to the facts and decide the Case; however, it was requested to advise the Federal Appeals Court regarding Florida law relative to the issue. He said the 11th Circuit Court of Appeals decision stated that the Florida Supreme Court accepted and adopted the County's legal position as the correct analysis of Florida law; however, because the Federal Appeals Court did not ask the Florida Supreme Court to apply the law to the facts of this Case, it would not do so, thus, the Case would be sent back to the Federal Appeals Court for a final determination.

Upon inquiry from Commissioner Bass, County Attorney Tucker said it might take months, perhaps years to close this issue, and he commented further.

The Honorable Ernie Lee Magaha, Clerk of the Circuit Court, said he would congratulate County Attorney Tucker and his staff for a job well done.

Motion made by Commissioner Junior, seconded by Commissioner Bass, and carried unanimously, approving the County Attorney's Report, as follows:

I. FOR CONSENT

1. Approving to authorize the County Attorney's Office to initiate whatever legal process and/or litigation was necessary to recover \$225,000 in forfeited bail bond judgments from Frontier Insurance Company (Action taken later in the Meeting; See Page 30); and

II. FOR INFORMATION

1. Receiving the information report dated September 21, 2000, from the Florida Supreme Court, concerning Frankenmuth Mutual Insurance Company v. Ernie Lee Magaha, as Clerk of the Court of Escambia County, Florida, and as Successor to Joe A. Flowers, Comptroller, Escambia County, and Escambia County, Florida.

I. FOR CONSENT - Continued

1. Approval Concerning Frontier Insurance Company - Continued

Commissioner Junior said he would like the Board to hold Item 1 of the County Attorney's Report, and discussion followed.

Motion made by Commissioner Junior, seconded by Commissioner Robertson, and carried unanimously, reconsidering the County Attorney's Consent Agenda as follows:

1. *Approving to authorize the County Attorney's Office to initiate whatever legal process and/or litigation was necessary to recover \$225,000 in forfeited bail bond judgments from Frontier Insurance Company.*

Motion made by Commissioner Junior that the Board hold this item in order to get additional information from the County Attorney.

County Attorney Tucker said a couple of years ago the legislature changed the law and entrusted the County with the responsibility of collecting judgments from forfeited bail bonds. He said Frontier Insurance Company had approximately \$225,000 in forfeited insurance, and when a bail bond company had a large unpaid judgment, the Sheriff's Department was supposed to send a notice to the rest of the State advising that the insurance company was no longer allowed to issue bonds in the State. County Attorney Tucker said his Office had inquired with Mr. Wells, the Sheriff's legal counsel, as to whether or not the notice had been sent, and Mr. Wells advised that Frontier Insurance Company was defunct and no longer wrote bonds in the State of Florida; therefore, there was no need to proceed with the notice. He said his Office had learned today that Frontier Insurance Company was not defunct and was writing bonds in Leon County and, although they were having trouble with their Florida operation, they had assets in New York. County Attorney Tucker said he would like approval to initiate whatever legal process was

necessary to recover the \$225,000 in forfeited bail bond judgments; however, because there was a difference between what he was requesting and the information obtained from the Mr. Wells, he wanted to bring it to the attention of the Board.

Motion made by Commissioner Bass, seconded by Commissioner Junior, and carried unanimously, authorizing the County Attorney's Office to initiate whatever legal process and/or litigation was necessary to recover \$225,000 in forfeited bail bond judgments from Frontier Insurance Company.

CLERK OF THE CIRCUIT COURT'S REPORT - Clerk of the Circuit Court  
Honorable Ernie Lee Magaha

I. CONSENT AGENDA

1-3. Approval of Various Consent Agenda Items

Motion made by Commissioner Junior, seconded by Commissioner Robertson, and carried unanimously, approving the Consent Agenda as follows:

1. Taking the following action relative to acceptance of Reports/Disposition of Property:
  - A. Accepting, for filing with the Board's Minutes, the following three (3) Reports prepared by the Clerk's Finance Department:
    - (1) Payroll Expenditures as of Payday September 15, 2000, in the amount of \$1,232,775.50;
    - (2) Disbursement of Funds from August 31, 2000, to September 6, 2000, in the amount of \$1,456,584.44; and
    - (3) Tourist Development Tax Collections for the month of August, 2000, reflecting July returns; and
  - B. Approving the disposition and reinstatement of the fixed assets referenced in the Memorandum dated September 21, 2000, from Wanda M. McBrearty, CPA, CGFO, Deputy Finance Director.

2. Adopting the Resolution establishing the fee and budget status for the Clerk of the Circuit Court for Fiscal Year 2000-2001 setting forth the payment process for the General Fund allocation.
3. Approving, due to the Lien having been satisfied by payment in full, cancellation of the Lien dated November 4, 1999, recorded in Official Records Book 4489, Page 1914, in the amount of \$1,182.10, for cleanup work under Nuisance Abatement Ordinance Number 97-36, for property owned by Theodore Lattimore, and located at 1533 Kyle Drive.

## PUBLIC FORUM

### 1. Discussion Concerning Northcreek Drive Road Improvement MSBU

Mr. John Glenn, Northcreek Circle, said he would like to thank the Board for adoption at tonight's 5:31 p.m. Public Hearing, an Ordinance creating the Northcreek Drive Road Improvement Municipal Service Benefit Unit (MSBU). He said he would also like to thank Ms. Cindy W. Anderson, P.E., County Engineer, Mr. Robert R. McLaughlin, Chief, Construction Management, and Ms. Brenda (Radcliffe) Chestnutt, Office of Management and Budget (OMB) Analyst, for assisting the Northcreek residents in understanding the MSBU process and handling the details. Mr. Glenn said staff did an excellent job and were very "citizen friendly."

### 2. Approval Concerning Stipulation Order for Non-Binding Mediation

Mr. Robert Beasley, Attorney representing Destination, Inc., said he was seeking a possible closure to the pending court case between Destination, Inc., and the County and he requested that the Board authorize County Attorney Tucker to sign a Stipulation Order, relative to Escambia County entering into non-binding mediation with Destination, Inc. He said any mediated Agreement that resulted after conferring would come before the Board for approval.

Commissioner Bass said he thought mediation was a reasonable request, and he so moved.

Motion seconded by Commissioner Robertson.

Commissioner Junior said mediation would serve no purpose, and he commented further.

County Attorney Tucker said because the Case was a certiorari proceeding, there was enough factual information to enter into mediation and there was certainly no harm in mediating; however, a resolution might not be reached. He said he did not have a recommendation either for or against entering into non-binding mediation.

Commissioner Junior said the matter was a land use issue and the County had a land use plan. He said a problem would still exist in this situation if something was mediated and the Intervenors did not agree with the mediation; therefore, it was his opinion the court should solve the matter.

Mr. Beasley said the Land Development Code (LDC) was unclear in certain areas and, because the court decision could be months or years down the road, mediation would allow the parties to come together and discuss the issues, and he commented further.

Upon inquiry from Commissioner Banjanin, Mr. Beasley said his client had filed a \$9 million claim against the County in order to meet the thresholds of time in which a petitioner had to file a claim. He said rather than "sleep on those rights," they filed the claim within the specified time frame. Mr. Beasley said the alternatives were numerous; i.e., whether they prosecuted the claim, continued with a petition for a writ of certiorari in the court, or entered into mediation and resolved the matter. He said he was attempting to open up every avenue and there was nothing to say that a mediated agreement would

not include dropping the \$9 million claim, or dismissing the petition, and discussion followed.

County Attorney Tucker said he did not have the authority to bind the Board during mediation. He said any mediated agreement would come back to the Board for consideration during a public meeting. County Attorney Tucker said common ground may not exist and mediation might reach an impasse, and discussion followed.

There being no further discussion, Chairman Whitehead called for the question, and the motion carried 4-1, with Commissioner Junior voting "no," approving, relative to the request of Mr. Robert Beasley, Attorney representing Destination, Inc., authorizing County Attorney Tucker to sign a Stipulation Order, relative to Escambia County entering into non-binding mediation with Destination, Inc. (Discussion held later in the Meeting; See Page 39.)

3. Approval Concerning Flooding Problems on Midas Place

Mr. Andrew K. Blewer, Midas Place, said four (4) years ago the residents of Midas Place began experiencing flooding problems.

Upon inquiry from Commissioner Robertson, Chairman Whitehead said Midas Place was a private road located in the Saufley Field Road/Bellview area.

Mr. Blewer said Midas Place flooded when water ran off County-owned Midas Road and across Muldoon Road. He said the flooding problems currently experienced by the Midas Place residents had not been caused by hurricanes Erin, Opal, and Georges. Mr. Blewer said he had requested that the County-owned ditches located along Muldoon Road be cleaned out; however, weeks had passed and nothing had been done.

Chairman Whitehead said several factors contributed to the flooding on Midas Place. He said a Code Enforcement issue existed with neighboring property, with said

property having historically served as a retention area because it contained an old gravel pit. Chairman Whitehead said the property was recently sold and the new owner filled in the property. He said a question was raised as to whether it was done properly and Code Enforcement staff issued the property owner a citation, with a ten (10) day order for the problem to be corrected. Chairman Whitehead said Escambia County had responded to Mr. Blewer's concerns in an appropriate manner, and he commented further.

Mr. Blewer said a pipe located underneath their private road which ran across to the adjacent property, with said pipe having been in place for more than thirty years. He said the adjacent property owner dammed the pipe, causing the water to back up onto Midas Place.

Chairman Whitehead said, legally, water could not be dumped onto someone else's property.

Mr. Blewer said the County, via Midas Road, was discharging water across Muldoon Road onto Midas Place.

Chairman Whitehead said he visited the area after the last rainfall, and saw no evidence of flooding, although he saw areas where the water had puddled alongside the roadway. He said the County's Muldoon Road Area Drainage Project, which was near completion, would correct any problems associated with the Midas Place situation, and he commented further.

6:20 P.M. - COMMISSIONER BASS LEFT THE MEETING TEMPORARILY.

Chairman Whitehead said the County could not solve the private water problem which was associated with the adjacent property owner, and discussion followed.

6:21 P.M. - COMMISSIONER JUNIOR LEFT THE MEETING TEMPORARILY.

Mr. Blewer said the County's Land Disturbing Permit, as outlined in Section 4.01.04 of the LDC, stated that Land Disturbing Permits may not be issued unless the County Engineer had reviewed and approved the stormwater management plan for the site. He said he had unsuccessfully attempted to obtain a copy of the approved stormwater management plan.

6:23 P.M. - COMMISSIONER BASS RETURNED TO THE MEETING, and COMMISSIONER JUNIOR RETURNED TO THE MEETING.

Upon inquiry from Mr. Blewer, Ms. Cindy W. Anderson, P.E., County Engineer, said that section of the LDC had changed in order to allow property owners to obtain a Land Disturbing Permit for minor modifications that would not impact adjacent property owners. She said the Land Disturbing Permit had a handwritten account of what the landowner needed to do and, typed along the bottom of the Permit, was the statement that there could be no negative impact on adjacent property.

Commissioner Robertson said it was his understanding that when a landowner filled in and leveled his property, the County would only be able to find out after the fact that the landowner had in fact dumped water onto his neighbor's land and at that time the County would require the property owner to correct the problem.

Mr. W. Gregg Welstead, Interim Assistant County Administrator, said the Land Disturbing Permit in question was issued in December, 1999, to a Mr. Williams, relative to the site plan he had submitted. He said the site plan showed approximately one-quarter of the lot which was a gravel pit, would be filled, with the underbrush on the remainder of the property to be removed. He said Mr. Williams removed much more than the underbrush and Code Enforcement staff had required Mr. Williams apply for a stormwater

permit and, to date, he had not applied. Mr. Welstead said Mr. Williams was under a ten (10) day compliance order, or the County would abate the order.

Upon inquiry from Commissioner Junior concerning what Mr. Blewer was requesting, Mr. Blewer said in addition to clearing the ditches along Muldoon Road, the County should consider requiring the adjacent property owner to comply with County Code. He said he would question why the County waited to act until after citizens had damage before it acted.

Commissioner Robertson asked if someone owned or purchased a piece of property that had a large pit, or had over the years become a drainage basin for private or public roads, was the property destined to remain a drainage basin, or did the property owner have the right to fill in the property and, if the filling in of the property caused water to back up onto the roadway or onto the neighbors, was the property owner obligated to alleviate the stormwater problem?

Ms. Anderson said according to the LDC, anyone developing property was required to manage the stormwater. She said that was not only the stormwater the property owner generated by virtue of their development, but any water that was running onto that development.

Upon inquiry from Chairman Whitehead, County Attorney Tucker said, as a matter of real property law, a property owner could not discharge water from his land onto someone else's land; however, if the discharging was done for enough years, then through either adverse possession or prescription, the right to discharge water might be an acquired right, and he commented further.

Commissioner Bass said the Board needed to instruct staff to meet with Mr. Blewer and come back with some answers.

Chairman Whitehead said the question of what had happened in the past was almost moot because there was now an order for the adjacent property owner to abate the problem. He said the Board needed to find out why the Order had fallen through the cracks.

Commissioner Bass said the two major issues were to resolve the problem and what action the Board could take in terms of passing a law that would inhibit that sort of thing in the future, and he so moved.

Motion seconded by Commissioner Robertson.

Commissioner Junior said he would request that Engineering staff advise the Board what was needed to correct the drainage problem.

Ms. Anderson said the situation would improve when Code Enforcement abated the problem on the adjacent lot. She said Muldoon Phase III, which was completing design, although it would not go onto the private property of Midas Place, would provide Midas Place a positive discharge for its stormwater which was being placed along Muldoon Road, and lengthy discussion followed.

Commissioner Banjanin said he would amend the motion to include that the Board ask Interim County Administrator Forrest to send a crew out to Midas Place as quickly as possible and determine what contribution the County was making to the water problem and, if there was debris in the ditch, remove the debris, have someone meet with Mr. Blewer, and get something done so that public water was not part of the flooding problem.

Commissioner Bass said he would accept the amendment to his motion.

Mr. Blewer said the majority of the flooding was caused by the water that ran off Muldoon Road.

Upon inquiry from Commissioner Bass, Mr. Blewer said he would provide the Board with photographs of water along the roadside of Midas Place.

There being no further discussion, Chairman Whitehead called for the question, and the amended motion carried unanimously, taking the following action:

- A. Approving to instruct staff to follow-up and report back to the Board concerning an abatement order issued to the adjacent property owner;
  - B. Directing staff to report back to the Board concerning how to legally prevent such situations from recurring; and
  - C. Directing the Interim County Administrator to send a crew out as quickly as possible to meet with Mr. Blewer relative to run off from County lands and/or roadways and the associated flooding problem, and determine what contribution the County plays in the flooding of Midas Place, and if necessary, clean out the ditches contributing to the problems that are located alongside County roadways.
2. Approval Concerning Stipulation Order for Non-Binding Mediation - Continued

Mr. John Glenn, Northcreek Circle, said the Board's earlier approval allowing County Attorney Tucker to sign the Stipulation Order relative to Non-Binding Mediation with Destination, Inc., was a mistake (see Page 32). He said after thirty (30) hours of hearings with the Board of Adjustment, Destination, Inc's., transfer of density request was denied and, because of that, Destination, Inc., filed suit against the County. Mr. Glenn said Destination, Inc., then sought and received vested rights for 213 dwelling units on Lots 76 and 105, Gulf Beach Subdivision, with the vested parcels located across the street from the property that was the subject of Destination Inc's., lawsuit against the County. Mr. Glenn said he would

question what there was to mediate. He said he had concerns regarding Destination Inc's., attempt to transfer density on Perdido Key properties via its lawsuit against Escambia County.

4. Discussion Relative to Citizen's Concerns

Mr. Gary Sansing, East Jackson Street, said the County had a lot of problems. He said he had concerns regarding funding, and planning. He said the Board was not listening to staff; there were "hidden agenda"; and the Commissioners needed to slow down; develop plans; and listen to staff, and he commented further.

COUNTY ADMINISTRATOR'S REPORT - Continued

I. CONSENT AGENDA - Continued

25. Approval Concerning Encroachment of Fences on Chicago Avenue and Chicago Court

Chairman Whitehead said the Board would now consider Consent Agenda Item 25 of the County Administrator's Report, as Mr. Hodgins was now present. He said staff had made the following recommendation regarding the encroachment of fences on Chicago Avenue and Chicago Court:

- A. Direct the property owner of 2700 Chicago Court (William George Hodgins, Jr., and Brenda Hodgins) to remove the wood fence within four (4) feet of the back of curbing on Chicago Court;
- B. Direct the property owner of 2701 Chicago Court (Patrick Pinsonneault and Herseim Pinsonneault) to remove the wood fence within four (4) feet of the back of curbing on Chicago Court;
- C. Approve the "*Hold Harmless Encroachment Agreement*" between the County and William "Bill" George Hodgins, Jr., and Brenda Hodgins, 2700 Chicago Court, permitting the Hodgins to continue to encroach no more than five (5) feet into the Chicago Court right-of-way with fences and landscaping, and to continue to encroach no more than fourteen (14) feet into the Chicago Avenue right-of-way with fences and landscaping; and

- D. Approve the "*Hold Harmless Encroachment Agreement*" between the County and Patrick Pinsonneault and Herseim Pinsonneault, 2701 Chicago Court, permitting the Pinsonneault's to continue to encroach no more than five (5) feet into the Chicago Court right-of-way with fences and landscaping, and to continue to encroach no more than five (5) feet into the Chicago Avenue right-of-way with fences and landscaping.

Upon inquiry from Commissioner Junior, Ms. Cindy W. Anderson, P.E., County Engineer, said rather than moving the fence back to the property line, staff's recommendation ensured that the fence remain within the Florida Department of Transportation (FDOT) guidelines for residential roads at the posted speed limit, and it was considered safe. She said staff's recommendation represented a compromise, and discussion followed.

Motion made by Commissioner Robertson, seconded by Commissioner Junior, that the Board allow the fence to remain.

Mr. William (Bill) George Hodgins, Jr., Chicago Court, said he wished to express both his sincere thanks and gratitude and also for his neighbors, the Pinsonneault's, and he commented further regarding opposition to his annual Christmas light extravaganza.

There being no further discussion, Chairman Whitehead called for the question, and the motion carried unanimously, approving to allow the fence to remain relative to staff's recommendation that the Board take the following action regarding the encroachment of fences on Chicago Avenue and Chicago Court:

- A. Direct the property owner of 2700 Chicago Court (William George Hodgins, Jr., and Brenda Hodgins) to remove the wood fence within four (4) feet of the back of curbing on Chicago Court;
- B. Direct the property owner of 2701 Chicago Court (Patrick Pinsonneault and Herseim Pinsonneault) to remove the wood fence within four (4) feet of the back of curbing on Chicago Court;

- C. Approve the *"Hold Harmless Encroachment Agreement"* between the County and William "Bill" George Hodgins, Jr., and Brenda Hodgins, 2700 Chicago Court, permitting the Hodgins to continue to encroach no more than five (5) feet into the Chicago Court right-of-way with fences and landscaping, and to continue to encroach no more than fourteen (14) feet into the Chicago Avenue right-of-way with fences and landscaping; and
- D. Approve the *"Hold Harmless Encroachment Agreement"* between the County and Patrick Pinsonneault and Herseim Pinsonneault, 2701 Chicago Court, permitting the Pinsonneault's to continue to encroach no more than five (5) feet into the Chicago Court right-of-way with fences and landscaping, and to continue to encroach no more than five (5) feet into the Chicago Avenue right-of-way with fences and landscaping.

(Additional discussion held later in the Meeting; See Page 55.)

ITEMS ADDED TO THE AGENDA - COMMISSIONER WILSON B. ROBERTSON

Upon inquiry from Chairman Whitehead, Commissioner Robertson said he had no items to add to tonight's agenda.

ITEMS ADDED TO THE AGENDA - COMMISSIONER THOMAS G. "TOM" BANJANIN

1. Approval Concerning Request for Eco-Tourism/Preservation Area for Pensacola Beach

Commissioner Banjanin said he would request that the Board add to the Local Option Sales Tax (LOST) proposed project list the creation of an eco-tourism natural preservation area on the County-owned 372 acres located on Pensacola Beach, and that the Board designate \$2.5 million from any additional funds the Board was able to collect in the future, over what was already committed for other projects, and he so moved.

Commissioner Robertson said he would question how the Board could consider this request without backup.

Motion seconded by Commissioner Bass.

Commissioner Robertson said the Board should not vote on this matter without backup.

Chairman Whitehead it would be inappropriate for the Board to consider constructing anything on the 372 acres of land without the appropriate public discussion and input. He said the residents presumed the land would be preserved in perpetuity.

Commissioner Banjanin said he was proposing a walkway system, and he commented further.

Commissioner Bass said the Board had constructed Park East on the same parcel of property, and the development of the north side would simply be added to the list of projects if there were additional LOST funds.

Chairman Whitehead said he had not seen a proposed plan or budget relative to this request.

Commissioner Banjanin said he did not want the 372 acres to be used for development and making it a preservation area would be the only way to preserve it, and discussion followed.

Commissioner Bass said he had concerns regarding resurfacing roadways and, as he saw this request, it was simply a listing among important projects, should the County have excess LOST funds. He said eventually the Board would have to prioritize the projects on the list, and fund them in order of priority. Commissioner Bass said adding the eco-tourism/preservation area to the list was not endangering the money flow because it was simply a listing.

Substitute motion made by Commissioner Junior, seconded by Commissioner Robertson, that the Board refer this matter to the C/W for further discussion.

There being no further discussion, Chairman Whitehead called for the question, and the substitute motion carried unanimously.

Chairman Whitehead said the substitute motion now became the main motion.

There being no further discussion, Chairman Whitehead called for the question, and the main motion carried unanimously, approving to refer to the October 10, 2000, Committee of the Whole (C/W) Meeting, Commissioner Banjanin's request that the Board designate \$2.5 million from excess Local Option Sales Tax (LOST) collections, for the creation of an eco-tourism/preservation area to be constructed on the County-owned 372 acres located on the Santa Rosa Sound, Pensacola Beach.

ITEMS ADDED TO THE AGENDA DURING THE MEETING - COMMISSIONER MICHAEL T. "MIKE" BASS

1. Approval Concerning Archaeological Investigation at the Site of the Future County Parking Garage

Commissioner Bass said on August 8, 2000, he received correspondence from Judith A. Bense, Ph.D., Director, Archaeology Institute, University of West Florida (UWF), requesting that the Archaeology Institute be permitted to perform an archaeological investigation at the site of the future County parking garage currently under construction at the corner of Baylen Street and Main Street. He said Dr. Bense had inadvertently sent the request to him, thinking he was the Board Chairman; however, he was out-of-town from August 2, 2000, through August 18, 2000, and her letter had been lost in the process. Commissioner Bass said Mr. Richard P. Morette, DelGallo-Morette Construction Company, advised he would pull back the asphalt from the existing parking lot and actually dig holes for the Archaeological Institute to investigate this site, which the Institute believed was the site of the original Panton, Leslie and Company Trading Post, (later known as the John Forbes Company) which was very famous on the frontier. He said he would like to refer the matter to staff to see if they could work out a two (2) week hiatus on the parking garage construction in order to allow

the archaeological investigation, and add \$10,000 to the project for that purpose, and he so moved.

Commissioner Junior said this project was too critical to refer it to staff; therefore, he would move that the Board authorize staff to work with the construction firm and with Dr. Bense, and authorize the \$10,000.

Commissioner Bass said he would drop his motion and second Commissioner Junior's motion.

Ms. Jean A. Kassab, Interim Assistant County Administrator, said the Board might rephrase the motion and, not state a fixed amount for staff to negotiate based upon the contract, because there might be delaying costs within the contract, unless Commissioner Bass had already had a previous discussion with Mr. Morette that the \$10,000 was in line with his contract with the County.

Commissioner Bass said Mr. Morette showed a willingness to delay the construction; however, they had not discussed delaying costs.

Ms. Kassab said she would suggest a change to the motion to authorize staff to negotiate a fee or an additional cost for the two (2) week delay, so as not to exceed \$10,000.

Commissioner Junior said the \$10,000 was for the UWF Archaeological Institute.

Ms. Kassab said she was sure there were provisions in the contract that would require the County to absorb costs for delaying the project for two weeks. She said workers were on-site preparing to install the underground utility work and staff would need to discuss with Mr. Morette whether his company would be able to absorb this or whether the County would be required to pay liquidated damages.

Commissioner Robertson said if the Board extended the contract for the time, then it would not need to pay liquidated damages, and lengthy discussion followed.

Commissioner Junior said he would clarify that the motion included directing staff to meet with Mr. Morette relative to liquidated damages, or whatever the construction delay costs might be, with part of the motion being to authorize the \$10,000 for UWF.

Commissioner Bass said it was his intent that the County would not have to absorb liquidated damages.

Chairman Whitehead said he would suggest that the Board approve the \$10,000 along with the ten (10) day extension to the contract if the contractor needed the extension and, if it went beyond that, staff would bring it back to the Board, and discussion followed.

Upon inquiry from Deputy Clerk Gingrey, Chairman Whitehead restated that the motion was to approve \$10,000 funding for UWF for the archaeological project, granting up to a ten (10) working day extension for the contract should the contractor need that to mitigate the time associated with the excavation, with anything beyond that relative to damages, would be brought back to the Board at a special meeting.

Ms. Kassab said, after comments, she would attempt to contact Mr. Morette tomorrow concerning additional costs, if any, and bring it back to the Board at its *Second Public Hearing Regarding the Fiscal Year 2000-2001 Budget*, scheduled for September 25, 2000.

There being no further discussion, Chairman Whitehead called for the question, and the motion carried 4-1, with Commissioner Robertson voting "no," taking the following action:

- A. Approving to direct staff to meet with Mr. Richard P. Morette, DelGallo-Morette Construction Company, concerning a ten (10) working day construction hiatus on the County's parking garage which is under construction at the corner of Baylen Street and Main Street, with staff to bring back to the Board, at a Special Meeting, if necessary, concerns related to associated costs and damages; and
- B. Approving to authorize \$10,000 funding for the UWF Archaeology Institute's project, and approving to grant up to a ten (10) working day extension for the parking garage contract should the contractor need the extension to mitigate the time associated with the excavation.

ITEMS ADDED TO THE AGENDA - COMMISSIONER WILLIE J. JUNIOR

2. Approval Concerning Surplus County Property

Motion made by Commissioner Junior that the Board, as requested by the Honorable Bonnie Jones, Supervisor of Elections, approve declaring the desk, circa 1954, used by the late Joe Oldmixon, former Supervisor of Elections, as surplus County property due to the desk not having any salvageable value, and approve donating the desk to Mr. Oldmixon's widow Jean.

County Attorney Tucker said if the desk must be declared surplus property prior to donating the desk to Mrs. Oldmixon.

Motion seconded by Commissioner Bass, subject to legal sign-off.

There being no further discussion, Chairman Whitehead called for the question, and the motion carried unanimously, taking the following action:

- A. Approving to declare as surplus County property, the desk (circa 1954) used by the late Joe Oldmixon, former Supervisor of Elections, due to the desk not having any salvageable value; and
- B. Approving to donate the desk to Mr. Oldmixon's widow Jean, as requested by the Honorable Bonnie Jones, Supervisor of Elections, subject to legal sign-off.

(Additional Action taken later in the Meeting; See Page 54)

COUNTY ADMINISTRATOR'S REPORT - Continued

I. CONSENT AGENDA - Continued

30. Discussion Concerning Amendment to the Delta Dental Insurance Contract - Continued

Commissioner Junior said he would request an explanation concerning the *"Amendment #1 to the Delta Dental Administration Services Contract between Delta Dental Insurance Company and Escambia County, Florida for the provision of certain services to Escambia County for the County's employees' Dental Benefit Plan"* (PD 99-00.35), approved by the Board earlier in tonight's Meeting (see page 27).

Upon inquiry from Commissioner Junior, Ms. Jean A. Kassab, Director, Administrative Services, said staff had recommended the Contract with Delta Dental be amended to add \$0.25 per enrollee per month because the County had asked them to provide the cash up front to cover the cost of paying the claims as opposed to the County providing the cash up front. She said Delta Dental provided the cash up front, and there would be a loss of interest income to Delta Dental for paying the County's self-insured claims.

Upon additional inquiry from Commissioner Junior, Ms. Kassab said the process was that the County would have given Delta Dental a deposit of \$53,000 that they would have held in a bank account from which Delta Dental would have paid claims and, at the end of each month, they would have provided a reconciliation at which time the County would have replenished the \$53,000. She said rather than handle it that way, staff was proposing that Delta Dental provide the funds, out of their corporate cash account, and on behalf of the County, pay the claims, and at the end of each month the County would pay the invoice.

Ms. Kassab said Escambia County was under a self insurance plan and the County set how much it was willing to pay for different types of services, and Delta Dental was administering the County's plan. She said a few employees had indicated differences in bills, with Delta Dental using the explanation, "reasonable and customary rates" based on what the area dentists charged for different types of services. Ms. Kassab said there have been a few differences between what Delta Dental used as a reasonable and customary rate table compared to the County's former dental provider. Ms. Kassab said there was a lot of discussion about that causing a problem, but the County had the ability to tell Delta Dental what percentage of reasonable and customary expenses it would pay.

Upon inquiry from Commissioner Junior, Ms. Kassab said at the time the agreement was approved, the Board had not received a full copy of the Delta Dental contract. She said after the Board's approval, the contract was approved and had Legal sign-off.

Upon additional inquiry from Commissioner Junior, Ms. Kassab said she would as a courtesy, send anything with monetary connotations to the Clerk's Office, and discussion followed.

ITEMS ADDED TO THE AGENDA - COMMISSIONER JUNIOR - Continued

1. Approval Concerning Acceptance of Milestone Subdivision Holding Ponds

Commissioner Junior said he had before him a Special Warranty Deed dated September 11, 2000, referencing the Milestone project conveying to the County two (2) holding ponds that the Board agreed to accept. He said the Board, at its April 27, 2000, Meeting, took the following action concerning the Milestone holding ponds; Developer, Nine Mile Ranch, Inc.:

- A. *Accepted for permanent County maintenance the two (2) holding ponds (Parcel E, Phase 2 and Parcels B and C, Phase 3) located in Milestone Subdivision, subject to verification that the ponds were constructed in accordance with the regulations that existed at the time of construction;*
- B. *Approved obtaining maintenance information, etc. for the holding pond pumps;*
- C. *Approved obtaining hold harmless and indemnity agreements from the developer relative to the two (2) Milestone holding ponds.*

Commissioner Junior said, based on the Board's April 27, 2000, action, he would question whether or not the conditions had been met. He said prior to signing the Special Warranty Deed, he would request additional information to assure him that the conditions had been met.

Ms. Cindy W. Anderson, P.E., County Engineer, said the ponds met the standards at the time they were constructed and all the warranty information had been received in its entirety. She said the ponds met the Code at the time they were constructed, the warranty information had been received, and Legal advised there was no need for a hold harmless or indemnity. Ms. Anderson said, for that reason, staff had provided the Clerk's Office with all the necessary documents from the developer.

Commissioner Junior said until the Board changed its motion, that motion stood, and a hold harmless was required.

Chairman Whitehead said the Board's motion was "open ended" to state that anything else that was needed, like a hold harmless, or anything that was required at that time, the Board would ask for that as well.

Motion made by Commissioner Junior that the Board hold on signing any Special Warranty Deed until such time as the Board was clear on the action that was to be taken.

Chairman Whitehead called for a second to the motion.

Motion seconded by Commissioner Banjanin.

Upon inquiry from Commissioner Robertson, Commissioner Junior said certain people had not agreed with accepting the pumps when the matter had been discussed; therefore, the Board agreed to only accept the holding ponds if certain conditions were met, with said conditions including a hold harmless indemnity agreement from the developer, and the Board did not have that agreement.

Ms. Margaret Stopp, Assistant County Attorney, said the Land Development Code (LDC) stated that if the Board accepted a retention pond by deed, there was no need for a hold harmless agreement. She said the provision in the Code also stated that once the County obtained the Warranty Deed for the property, the pond would be accepted for maintenance, and she commented further.

Commissioner Junior said he was not interested in interpretations of the LDC. He said the tapes of the April 27th Meeting needed to be reviewed. Commissioner Junior said if the Board changed the rules of the game, there needed to be some provision citing that there was no need to obtain a hold harmless agreement.

Commissioner Bass said the Warranty Deed had been signed and recorded.

Deputy Clerk Gingrey said the Warranty Deed had not been recorded; however, it had been signed.

Commissioner Bass said he would have to yield to the specific verbiage on the tape, and he recalled the life of the pumps had been discussed.

Chairman Whitehead said a hold harmless would not address the life of the pumps. He said his recollection was that the Board was asking for anything else that would have been required at the time the pumps were put into place and hold harmless was used as an example. He said Commissioner Junior's interpretation was correct, and if an interpretation was made relative to a requirement for a hold harmless and the Board found that the requirement was no longer present based upon the attorney's response, then the Board could simply delete the requirement with a motion.

Substitute motion made by Commissioner Robertson, seconded by Commissioner Bass, that the Board, based upon the attorney's recommendation, approve deleting the hold harmless aspect and let staff continue on because the issue had dragged on long enough.

Commissioner Junior said this matter was subject to previous Board action, and if a previous Board action said this was to be done, some kind of motion rescinding that previous Board action was needed.

County Attorney Tucker said he would suggest that the matter be sent to the Committee of the Whole (C/W) because, obviously, if staff misunderstood what the Board directed, then it needed to be fixed.

Commissioner Robertson said he would change his substitute motion to refer this matter to the C/W.

Substitute motion seconded by Commissioner Bass.

Commissioner Junior said he would drop his original motion.

Chairman Whitehead said the Board should also direct the County Attorney's staff to go back and review the tapes.

County Attorney Tucker said his Office would not take any steps to further the acceptance of the Special Warranty Deed, pending the discussion at the C/W.

Commissioner Bass said he would call for a point of order.

Upon inquiry from Commissioner Bass, County Attorney Tucker said under Florida Statutes, deeds did not have to be recorded to be executed; however, an unrecorded deed might or might not have validity depending upon how it was being challenged or used. He said a recorded deed would be given greater priority.

Commissioner Bass said he would question whether or not the developer could take the Special Warranty Deed to court and say that the County had already accepted the ponds.

Deputy Clerk Gingrey said the Clerk's Office held the original Special Warranty Deed.

There being no further discussion, Chairman Whitehead called for the question, and the motion carried unanimously, taking the following action concerning acceptance of the holding ponds located in Milestone Subdivision:

- A. Referring the matter to the October Committee of the Whole (C/W) Meeting for additional discussion and/or information, pursuant to the County Attorney's Office review of the audio tape of the April 11, 2000, C/W Meeting, relative to the following April 27, 2000, Board action:
  - (1) *Accepting for permanent County maintenance the two (2) holding ponds (Parcel E, Phase 2 and Parcels B and C, Phase 3) located in Milestone Subdivision, subject to verification that the ponds were constructed in accordance with the regulations that existed at the time of construction;*
  - (2) *Approving to obtain maintenance information, etc. for the holding pond pumps;*
  - (3) *Approving to obtain hold harmless and indemnity agreements from the developer relative to the two (2) Milestone holding ponds.*

- B. Holding the recording of the Special Warranty Deed in abeyance, pending the October 10, 2000, C/W discussion.

ITEMS ADDED TO THE AGENDA - COMMISSIONER JUNIOR - Continued

2. Approval Concerning Surplus County Property - Continued

County Attorney Tucker said earlier in tonight's Meeting, the Board took the following action:

- A. *Approved declaring as surplus County property, the desk (circa 1954) used by the late Joe Oldmixon, former Supervisor of Elections, due to the desk not having any salvageable value; and*
- B. *Approved donating the desk to Mr. Oldmixon's widow Jean, as requested by the Honorable Bonnie Jones, Supervisor of Elections, subject to legal sign-off.*

County Attorney Tucker said he would request that the Board rephrase its action to state that pursuant to Section 274.06 of Florida Statutes, that the desk be determined to have no commercial value and therefore the Commission wished to donate it to Mrs. Oldmixon.

Motion made by Commissioner Junior, seconded by Commissioner Robertson, and carried unanimously, approving to rescind action taken earlier in tonight's Meeting.

Motion made by Commissioner Junior, seconded by Commissioner Robertson, and carried unanimously, approving, in accordance with Florida Statutes 274.06, that the desk (circa 1954) used by the now deceased Joe Oldmixon, former Supervisor of Elections, has been determined to have no commercial value and the Board wished to donate the desk to Mr. Oldmixon's widow Jean.

ITEMS ADDED TO THE AGENDA - COMMISSIONER D. M. "MIKE" WHITEHEAD

1. Acceptance of Information Report Concerning FEMA Project

Motion made by Commissioner Junior that the Board accept, for filing with the Board's Minutes, the Information Report dated September 18, 2000, from William A. "Bill" Neron, Acting County Administrator, filed in accordance with Escambia County Code of Ordinances, Section 46-93, Emergency Purchases, advising of the Acting County Administrator's approval of the \$65,216 purchase of FEMA Project 1249-002, to raise a generator and two chillers at the Sheriff's Administration Building, with said purchase exceeding fifty-thousand dollars (\$50,000), and required to be reported at the next regularly scheduled Board Meeting.

Upon inquiry from Commissioner Robertson, Ms. Jean A. Kassab, Interim Assistant County Administrator, Administrative Services, said the County had been awarded a Mitigation Grant by the State of Florida, and because of the date the information was received and the deadline to procure the item, staff was requesting approval as an "emergency purchase."

There being no further discussion, Chairman Whitehead called for the question, and the motion carried unanimously, approving to accept the Information Report.

COUNTY ADMINISTRATOR'S REPORT - Continued

I. CONSENT AGENDA - Continued

25. Approval Concerning Encroachment of Fences on Chicago Avenue and Chicago Court - Continued

Mr. William "Bill" George Hodgins, Chicago Court, said he had a question for County Attorney Tucker (relative to action taken earlier in the Meeting concerning the fences on Chicago Avenue and Chicago Court; see Page 40.)

Chairman Whitehead said County Attorney Tucker had left the Meeting and was on his way to the Emergency Operations Center (ECO) for a Meeting concerning Tropical Storm Helene; therefore, Mr. Hodgins was welcome to submit his request in writing.

Mr. Hodgins said perhaps the Board could answer his question regarding the hold harmless agreement, and whether or not the homeowners would receive a copy of the executed agreement.

Chairman Whitehead said staff would mail Mr. Hodgins a copy of the agreement, and discussion followed concerning intimidating comments made toward Mr. Hodgins by select neighbors, with Chairman Whitehead advising that County Attorney Tucker would not be able to give private legal advice to Mr. Hodgins and the matter might proceed to become a civil matter.

ADJOURNMENT

There being no further business to come before the Board, Chairman Whitehead declared the Regular Meeting of the Board of County Commissioners adjourned at 7:46 p.m.

BOARD OF COUNTY COMMISSIONERS  
ESCAMBIA COUNTY, FLORIDA

By: 

D. M. "Mike" Whitehead, Chairman

ATTEST:

ERNIE LEE MATGAPPA  
CLERK OF THE CIRCUIT COURT

  
Deputy Clerk

Approved: November 2, 2000