

Regular Meeting
August 11, 2016
Tiger Point Community Center
Gulf Breeze, Florida

The Board of County Commissioners of Santa Rosa County, Florida, met in Regular Session on the above date with the following members present: Chairman Lane Lynchard, Robert “Bob” Cole, Don Salter and Rob Williamson. Also present were the Assistant Public Works Director (Glenn Bailey), Clerk of Court (Donald C. Spencer), Administrative Assistant (Emily Spencer), County Administrator (Tony Gomillion), County Attorney (Roy Andrews), County Engineer (Roger Blaylock) and Budget Director (Jayne Bell). Lynchard called the meeting to order at 9:00 a.m. The meeting was opened in prayer by Pastor Jim Waters, Friendship Baptist Church. Those present joined in the pledge of allegiance to the flag.

First on the agenda, Lynchard moved approval without objection of the minutes of the July 19, 2016 Budget Workshops for the Constitutional Officers and Board Departments and the July 28, 2016 Regular and Special Meetings.

Next, Lynchard moved approval without objection of the agenda as amended.

Economic Development Committee – Lynchard & Williamson

1) 3rd Annual Dead Pirate Color Run

Discussion of approval of the color run aspect of the Special Event Application resubmission from the Krewe of Karibbean to host the 3rd Annual Dead Pirate Color Run 5K Run/Walk on October 22, 2016. Lynchard moved approval without objection.

Julie Morgan, Tourist Development Council Director, said she provided information on the powder sediments that will be utilized for the color run. She said color runs are done worldwide. Morgan said color runs may be out of the norm for Navarre because of the beach aspect and the sand. She said that is where she sees the potential problem.

Mickey Hernandez, representing Krewe of Karibbean, said this event is will not be on the beach. He said it is on the highway and in the parking lot. Hernandez said the run will start and end in the boat launch parking lot. He said the event is not intended for any part of the beach. Hernandez said there are other runs in this area in Fort Walton Beach, Destin and Pensacola. He said it is a biodegradable corn starch powder that has color added to it. Hernandez said it does unfortunately get on the ground and unless a lot of money is spent for cleaning services it is left to rain or wind to try and clean it up.

Cole said he was more concerned when he thought it was on the beach. He asked at what point of the race will the color be applied. Hernandez said at the beginning and at the end. There was further discussion. Williamson asked how long the color cornstarch will remain on the ground. Hernandez said he did research but cannot find any indications on how long it lasts.

2) ASCS Sprint Car Double Header at Southern Raceway

Recommend approval of the Special Event Permit application from Southern Motorsports of Milton to host the ASCS Sprint Car Double Header on September 3 & 4, 2016. Variance requests:

- Request Variance to Noise Ordinance for Sunday, September 4, 2016 to be extended to 12:00 a.m. due to Monday being a holiday (Labor Day).
- Request Variance to the sale of alcohol (beer) on day of event, Sunday September 4, 2016.

Cole said he wants to emphasize 12:00 a.m. and to not go past this time. Lynchard moved approval without objection.

3) Southern 100 Late Model Race at Southern Raceway

Recommend approval of the Special Event Permit application from Southern Motorsports of Milton to host the Southern 100, TEN Thousand to win late model race event on October 27, 28 & 29, 2016. Variance requests:

- Request Variance to the sale of alcohol (beer) on rain date of event, Sunday October 30, 2016. Cole moved approval without objection.

4) Thursdays in the Park Concert Series

Recommend approval of the Special Event Permit application from the Navarre Beach Area Chamber of Commerce to host the annual Thursdays in the Park concert series. The concert series runs May 19, 2016 to September 8, 2016. Lynchard moved approval without objection.

Administrative Committee – Lynchard & Williamson

1) Conditional Use - Tiger Point Wastewater Treatment Facility

Discussion of request from the City of Gulf Breeze to modify the existing conditional use permit for the Tiger Point Wastewater Treatment Facility.

Gomillion said this has been a discussion point for some time relative to the City of Gulf Breeze's (the "City") request and discussions of their previously agreed to conditions of the conditional use. He said the City is asking to modify the conditions. Lynchard said there is information in the meeting back up documents as well as people here to speak on both sides of the issue.

Dave Smolker, Counsel for City of Gulf Breeze, said he is representing the City in seeking removal of certain conditions of a previously approved conditional use permit. He said the scope of the request is fairly narrow and is not to decide whether or not the conditional use permit should be granted. Smolker said the conditional use permit, for the Tiger Point Plant (the "Plant") expansion was approved in 2012 and there were 15 conditions. He said he was hired to evaluate the legality and enforceability of the conditions. Smolker said in a May 2016 letter provided to the Board of Commissioners and staff (on file), he concluded that a number of the conditions were not legally enforceable because they violate the Unconstitutional Conditions Doctrine. He said the Unconstitutional Conditions Doctrine announced by the U.S. Supreme Court states that a land use approval cannot be conditioned on requirements that are unrelated to the impacts of the proposed use. Smolker said he requests that a number of the conditions be removed. He said the staff report explicates the conditions that he is seeking to have removed and also underscores conditions believed to relate to the impacts of the proposed plant expansion. (Presentation in file)

Smolker said there are affidavits from Edwin "Buz" Eddy and others explaining the reasoning for the removal. He said there are also exhibits attached of an aerial showing the property along with a diagram showing the existing residential area from the Plant looking across the conditional use area. Smolker said there is a good natural buffer in place. He said the City will commit to enhancing the buffer. Smolker said the standard that applies is the competent substantial evidence standard. He said if the City puts forward competent substantial evidence as to why the condition should be removed then the City has met its burden.

William Dunaway, Attorney with Clark Partington, said he represents UPA (United Peninsula Association) in opposition. He asked if this is a quasi-judicial hearing for a new conditional use request from the City as in the application or is this procedure legislative. Andrews said this is a quasi-judicial matter and the proceeding will allow Dunaway to make his presentation.

Andrews said a quasi-judicial proceeding is similar to a court proceeding. He said a quasi-judicial proceeding is related to the specific matter/piece of property as opposed to a legislative determination which is a rezoning issue or a comprehensive plan amendment. He said the standard for a review of a decision made in a quasi-judicial circumstance is whether it complies with the essential requirements of law and whether those common competence of substantial evidence to support the determination that is made by the Board. Andrews said it is appropriate for the Board to make a decision today based on the evidence that is presented here. He said a requirement of the quasi-judicial proceeding is that it be based on the evidence

as presented in the hearing. Andrews discussed the procedures for the quasi-judicial matter. Lynchard asked Andrews to swear the witnesses.

Edwin “Buz” Eddy, City Manager of City of Gulf Breeze, said the City has operated the SSRUS (South Santa Rosa Utility System) in total since 1989. He said the City’s effort was to consolidate several utility systems in the south Santa Rosa area that were operating at less than environmental standards, less than complete efficiency and the process was completed in 1992. Eddy said this effort was endorsed by the Board of Commissioners and by FDEP (Florida Department of Environmental Protection). He said the City was granted a franchise to operate waste water utilities in the south Santa Rosa County area. Eddy said FDEP requires a CAR (Capacity Analysis Report) every year. He said FDEP states the City must have added treatment capacity in place by 2020. Eddy said over a 20 year period, the cost of operating an expanded waste water treatment plant at Tiger Point, opposed to Bergen Road, will save approximately \$22 million. He said conditions attached to the conditional use permit, to expand the Tiger Point treatment facility, were not part of the application or staff recommendation. Eddy said the City sought advice relative to the conditions and found the conditions are not legal because they have no relationship to the expansion of the treatment facilities. He said as a utility, spending the public’s money, it cannot go forward and spend money to comply with conditions that are not legal and unenforceable. Eddy said rebuilding the west course will cost the utility rate payers \$4 million and will result in a \$400,000 per year loss. He said the City is here today to request a modification to the conditional use permit that was issued in 2012. Eddy said the City is asking that the conditions associated with the waste water treatment plant expansion be related to the impacts of the Plant.

Dunaway asked Eddy if in January 2013, he received a letter from the County outlining the conditions placed on the conditional use approval. Eddy said yes. Dunaway asked if the letter had a timeline for the approval of the conditional use. Eddy said the timeline is inconsistent with the code relative for a conditional use permit for a utility company. Andrews said that part of the letter was in error. Dunaway asked Eddy when that information was propagated to the citizens and those in Tiger Point by the City or the County. Eddy said Dunaway will have to ask the County. Dunaway asked Eddy questions about the timing, negotiations and criteria of the conditional use permits for Tiger Point and Bergen Road.

Dunaway asked what was pressing about the time frame to get the approval for the conditional use in 2012. Eddy said the purchase of the golf course was pressing and the City had to start planning for expanding the waste water treatment plant either on Bergen Road or at Tiger Point. He said the City thought that the conditions were legitimate, as it turns out, with advice from the city attorney, the City cannot spend rate payer money to build a west golf course when it is not directly related to the impact of the Plant. Dunaway asked if the Board determines that the conditions are legitimate, having approved them in 2012, if the City will accept the authority of the Board. Smolker said whether the City accepts them is not relative to whether the conditions are legitimate. Eddy said he would take the conditions to the City council for endorsement.

Smolker asked Eddy if he testified that he had a discussion with A.J. Sutton via email. He asked if Sutton ever explain what the relationship was between the impacts of the Plant and the demands that he was making on the City. Eddy said no. Smolker asked Eddy if he believed that Sutton’s organization would oppose the Plant expansion if Eddy did not agree to Sutton’s demands. Eddy said yes. Smolker asked Eddy if he felt coerced or leveraged into agreeing to those demands. Eddy said yes. Smolker asked Eddy if the Gulf Breeze City Council ever approved the conditions that the City is seeking to remove. Eddy said no.

James “Jim” Anderson, Board Certified Civil Engineer for Baskerville Donovan, Inc., said he prepared the 2016 conditional use narrative. He said the narrative outlines how the conditional modified application is consistent with the conditional use code and Land Development Code. Anderson said the conditions discussed generally have no bearing from an engineering perspective on the expandability of the Plant and are not related to the conditional use application in itself. He said the conditions are separate from the application. Anderson discussed the conditions impact on the project.

Dunaway asked Anderson if he is under contract by the City of Gulf Breeze. Anderson said yes. Dunaway asked Anderson what information he has beyond the issue of engineering on

whether this will unduly adversely affect other property in the impacted area. Anderson said specifically none. He said generally, he visited dozens of treatment plants around the state in urban and rural settings. Anderson said he has seen many cases where thriving neighborhoods with high property values surround facilities. Dunaway asked Anderson, as an engineer, if it will be technically possible to build the expanded waste water treatment plant and meet the conditions. Anderson said yes.

David Hemphill, Landscape Architect and Project Manager for Baskerville Donovan, Inc., said as a landscape architect, he has been asked to describe the conditions that are needed to buffer a plan expansion from the adjacent neighborhoods. He said he is proposing to install a 100 foot buffer of *Elaeagnus Silverthorn* and Japanese Black Pine around two sides of the facility to buffer the existing residential uses from the facility and block the view to the expansion. He said existing vegetation will remain with the exception of any exotic invasive species.

Vernon Prather, City of Gulf Breeze Operations Consultant and overseer of the Tiger Point Wastewater Treatment Plant, said the Plant has been at its location for 56 years. He said over time he has endeavored to blend the Plant in with the surrounding neighborhood. Prather said any new plant will have similar or improved technology, better machinery and also attenuate any sound or lighting issues.

Dunaway asked Prather if he is familiar with the conditional use proposal of the Bergen Road expansion. Prather said yes. Dunaway asked Prather if it is correct that he was part of the process for the 2012 conditional use. Prather said yes. Dunaway asked Prather when he first became aware that the city manager had negotiated with the citizens and the Board of Commissioners had provided as part of the conditional use approval a series of conditions. Prather said he attended the meeting and also received the letter from the County with the conditions attached. Dunaway asked Prather if he made any effort to confirm with the city council that the City can meet the conditions required. Prather said no.

There was further discussion about the cost of building and operating a new plant on Bergen Road versus expanding the Tiger Point Plant, without rebuilding and operating the west course. Eddy said estimating for the purposes of demonstration, operating at Bergen Road versus expanding at Tiger Point will add about \$17.00 to the average waste water utility customer taking them from an average of about \$35.00 per month to an average of about \$52.00 per month.

Dunaway asked if the City sells its affluent discharge to customers. Eddy said there is a basic charge of \$6.00 per month for customers to use all the affluent they want. He said generally, if a developer puts the pipes in the ground at the contractor's expense the customers within the subdivision get the affluent for free. Eddy said the \$6.00 is calculated to off-set the cost of infrastructure but also citizens save on operating an irrigation pump every month and do not get the staining that often occurs on their properties. He said the utility is an enterprise fund of the City of Gulf Breeze and provides charges that equal the cost of operation.

Cole asked what the additional cost to the citizen will be if the utility expands at Tiger Point with the conditions in place. Eddy said he believes that the conditions are not legal and enforceable. He said if the utility is forced to build the west course, the estimated cost is a \$4 million capital expenditure and then a cost of \$400,000.00 per year. Eddy said he has no idea how to estimate the impact or cost of the condition for right of first refusal to an individual with regard to the driving range. Dunaway asked Eddy when he indicated that the utility was operated as an enterprise, if that is another word for a business. Eddy said it is government accounting and utilities are looked at as the money coming in has to balance with the money going out.

Don Richards, former president of UPA (United Peninsula Association), said he was called by Gulf Breeze City Manager, Eddy on behalf of the mayor and city council. He said Eddy asked for assistance in reducing the overwhelming animosity towards the rezoning/conditional use request for the Tiger Point Golf Course. Richards said he has every email communicated between Eddy, Mayor Zimmern, Councilmen and the attorney at that time, who is the current Mayor. He said Eddy explained the millions of dollars in savings as he has today. Richards said the City representatives talk about how poor they are in the City of Gulf Breeze but SSRUS (South Santa Rosa Utility System) produced \$1.75 to \$1.9 million in revenue above

costs that was turned over to the City in the last 3 to 5 years. He said SSRUS is a profit center for the City of Gulf Breeze. Richards said Eddy, on behalf of the City, the mayor and the council, agreed to the conditions. He said there were 2 conditions that Eddy had to go get someone else's approval on. Richards said Eddy returned and told Mr. Travis Tally, Mr. A.J. Sutton, Mr. Paul Stagner and himself that the City will agree with these 14 conditions. He said in the initial meeting, Eddy requested that the representatives compile a list of conditions that residents and businesses would be more amiable to, in supporting the limited conditional use request. Richards said Travis Tally prepared a list of 20 plus desired commitments and provided it to Eddy in late November. He said Eddy stated that most of the conditions should not be a problem to agree to and that he would communicate them to the mayor and city council. Richards said the Board of Commissioners did not come up with a single one of the requests. He said the agreements were publicly communicated and committed to in order to get everyone to agree because people bought property in this area wanting to back up to a golf course not a sewer treatment plant. Richards said on behalf of the residents and business surrounding Tiger Point Golf Club he respectfully requests that the Board of Commissioners rescind the previous grants of the purchase of Tiger Point Golf Club, let the City sell it. He said based on the renewal of the City's position for their failure to keep their word, as elected representatives of the citizens of Gulf Breeze, he is requesting a delay on the Board's ruling today on the conditional use permit while further legal options are explored. Richards said UPA has access to the original EPA (Environmental Protection Agency) documents from the original owners and he can assure the Board of Commissioners that the document states the spray field functions as a 36 hole golf course.

Smolker asked Richards what evidence he has that the city council of the City of Gulf Breeze ever approved the 15 conditions. Richards said he, Sutton and Talley met with the mayor at that time and Eddy, negotiated these exact things, shook on it and said they were looking forward to making this happen. Smolker asked if the 15 conditions ever presented to the full city council of the City of Gulf Breeze and approved by them. Richards said Smolker will have to ask his client. Smolker asked if Richards had evidence. Richards said he has emails indicating that the conditions were shared with the city council. Smolker asked Richards if he was representing a large homeowners association in the negotiations. Richards said 112 homeowners and 37 businesses on Highway 98. Smolker asked if in his negotiations he made it clear that if Eddy and the City did not agree to the 15 conditions that he would oppose the conditional use. Richards said no. Smolker asked if the conditions had not been agreed to would he have rallied a large number of people to come to the hearing to oppose the request. Richards said there was already a large crowd there and he did not have to rally anyone.

A.J. Sutton said every time he had a conversation with Eddy he told Sutton that he took the information back to the city council and it was approved. He said when Eddy approved the conditions, he said he took it back to the city council and the only thing that was of concern was the \$200,000.00 but it was also approved. Sutton said from a real estate perspective, he asked Darlene Hammond, Real Estate Broker, to write a letter about the current conditions and in the event the Plant is expanded, that it will continue to hurt property values (letter presented to Board and on file). He said he believes the homeowners in the community are totally opposed to the way the City is going about what they are trying to do.

Travis Talley said, at the time, he was acting president for the SRS HOA (Santa Rosa Shores Homeowners Association) which is the neighborhood that encompasses the entire area. He said the City presented the agreement as a "win-win" to make it better for the neighborhood and for the rate payers. Talley said it was his job to negotiate with the mayor and Eddy to an agreed upon deal that he could present to his association and get them on board for a project that would improve the community and be good for the rate payers. He said the City took on a commitment that they cannot fulfill and now need to sell the property and go to Bergen Road. Talley said it was an effort to save money that did not work. He said this agreement did not work for the community and has not been a positive experience. Talley said the community has never been approached to see how they and the City can work together on it.

Sutton said he, Richards, Talley and Stagner went to the mayor's office and met in the conference room to try and negotiate these issues. He said the mayor dismissed the meeting without conversation.

Larry Sessions said he is a neighbor in close proximity to the sewage treatment plant and to the Plant that the utility is proposing to expand. He said the City has vacated the contract and to change the terms of the contract, it has to be done with both parties. Sessions said the homeowners asked for 15 things to make the expansion palatable. Sessions asked that the Board not change any of those circumstances.

Linda West said she is a homeowner in the area. She said the City, with or without the authority to do what they did, sent a representative to the citizens to discuss the matter. West said the citizens should not be punished or held liable for working with and negotiating with a representative of the City, whom the citizens assumed had the authority to make these agreements. She said her request is that the Commissioners decide whether or not the citizens, who negotiated in good faith, should be allowed to either have these covenants upheld or vacate them totally and start the process over.

Tammy Harris said the neighborhood agreed on several conditions, that needed to be assured were going to happen, before it could support the conditional use permit. Harris said if the City now wishes not to uphold the conditions, then she asks that the County rescind the conditional use permit and let the City build on Bergen Road. She said the risk of the homeowners is their property values and the risk is more than the \$10 million or \$12 million when all the property values are considered. Harris said if the City does not want to meet the conditions then there is no longer a conditional use permit to expand their facility and the homeowners get to maintain their property values. She said the golf course can be sold.

Evelyn Hursie said as a resident of Tiger Point and the Fairways Subdivision any modification of these conditions will negatively affect the well-being and the property values of all the homeowners. She said she understands that at least two groups have been interested in buying the golf course and thinks the City should consider those two offers and move the Plant to Bergen Road. Hursie said she is heavily invested in Tiger Point as a homeowner and is concerned with any modification of the conditions. She said she understands that at least one of the potential buyers of the golf course will allow the 15 acres for the expansion of the Plant.

Rich Options said he lives within 500 feet of the Plant. He said every time the City has a meeting, the west course is cleaned up. He said golf clubs make money. Options said if the product is there and is managed properly, people come to play.

Clyde Anderson said it is primarily the people in Santa Rosa Shores that are concerned and he questions if some of the concerns are realistic. He said in other places there are sewage treatment plants in the middle of cities that do not cause a problem or affect the real estate values. Anderson said he is concerned about the action the Board of Commissioners might take that will increase the cost of the utility bills by \$17.00 per month to 6,200 people outside of Gulf Breeze proper. He said the 700 people of Santa Rosa Shores are really concerned about it but there are 6,200 people that will be affected by the increase.

Smolker asked Eddy if he checked a box, on the conditional use permit application, referring to the conditional use permit being good for 36 months. He asked if it was his understanding that he had to check that box in order for the application to be processed. Eddy said yes. Smolker asked if it is fair to say that the circumstances with the golf course changed after the City originally agreed to its reconstruction. Eddy said yes. Smolker asked Eddy if the City will abandon the Tiger Point Plant under any circumstance. Eddy said no. Smolker asked Eddy if he is aware of any complaints about noise, odor or otherwise negative impacts resulting from the existing plant. Eddy said the Plant in its current condition does not generate complaints. He said in the Plant's previous conditions, before technological improvements, there had been intermittent although not frequent complaints. Smolker asked Eddy if the existing 18 hole golf operation is profitable. Eddy said when the City operated it, no. Smolker asked Eddy if he had a golf course consultant who indicated that it will not be cost feasible to apply with the condition related to reconstruction of the west course. Eddy said yes.

Smolker said the issue is whether the City presented competent substantial evidence that the conditions the City is seeking removal of were unrelated to the impacts of the plant expansion. He said the City has presented the evidence with testimony, affidavits, exhibits and everything in evidence clearly establishes that the conditions are unrelated to the impacts of the Plant. Smolker said the opposition has not presented any competent testimony to the effect that these

conditions are somehow related to the impacts of the Plant. He said the U.S. Supreme Court and Florida Supreme Court set precedent that the Unconstitutional Conditions Doctrine prohibits the imposition of conditions that require expenditure of money, dedication of land or the making of improvements where they are unrelated to the impact of the proposed land use. Smolker said land owners should not be forced to accept unconstitutional conditions in order to obtain a land use approval that they are otherwise entitled to. He said he has established that this application was entitled to be approved without the conditions. Smolker said the courts have said that the land owner can accept the conditions even though they may be illegal and challenge them later. He said he does not see that it is unreasonable to remove the conditions because the residents were not entitled to demand these things in the first place. Smolker said the only reason the homeowners were able to secure the conditions was because they can appear as a large crowd at a hearing and vocally oppose the expansion of the Plant which is not a legitimate reason to make demands having nothing to do with the impact of the Plant. He said the ratepayers should not be subsidizing the golf playing opportunities or neighborhood improvement opportunities of a relatively small group of folks who in the final analysis who are seeking a windfall at the expense of the City. He said it is appropriate and required by law to remove the conditions. Smolker said the City is before the Board of County Commissioners because principal says the City has to exhaust administrative remedies by returning to the commission. He said the City asks that the County remove the conditions as requested.

Dunaway said Smolker's summation indicates that the situation was an indirect pressure from citizens to a vulnerable land owner who is seeking land use permissions from a county government and who somehow ended up in an unequal position. He said the idea that indirect or direct pressure from citizens can be labeled unconstitutional is baffling. Dunaway said it is citizenship for citizens to come together to present their concerns and fortunately the law provides an opportunity and the hearings for that. Dunaway said his concerns is that comprehensive plan goal 5.1 in policy 5.1.c.8 specifically says that the county shall continue to utilize the future land use amendments, rezoning conditional use and special exception approval processes to assure that new proposals for land uses are compatible with existing residential uses and will not significantly contribute to the degradation of residential neighborhoods. He said that is the comprehensive plan policy on which this process is based. Dunaway said those conditional use processes are then further laid out for the citizens and government in the Land Development Code. He said in the Land Development Code conditional uses are very clearly indicated that they are heard by the zoning board so the public can be notified. He said this process has not allowed for the proper notice to the citizens.

Andrews said the conditional use notification process does not require signs and mail out notices. He said in this case, the County treated the request to modify the conditional use permit as a rezoning and went above and beyond the Land Development Code requirements for notice in order to make sure that there would be the opportunity to have a hearing with the input from anyone interested.

Dunaway said the whole purpose of having a utility come before the Board of Commissioners as a conditional use request in a residential neighborhood is because the code recognizes that the Board of Commissioners needs an opportunity to hear from the people in the neighborhood as to what the impacts are and the Board of Commissioners gets to put in place conditions. He said that is the point of a conditional use. Dunaway said the Board of Commissioners places conditions to ensure that the action is going to be compatible. He said Smolker stated this issue is controversial and he differs in that he does not think there is anything controversial about this whatsoever. Dunaway said it is a routine process except for the fact that it is the City of Gulf Breeze who is making the application. He said one of the reasons the code acknowledges that certain criteria should be different than if this were a private landowner is that public and private utilities serve a public purpose. Dunaway said the question is one of process, procedure and fairness. He said the City came to the Board with a conditional use request, the county staff found that the criteria for the conditional use were not met and there was a negotiated process by which the City sought citizen input, support and assistance. Dunaway said those citizens rallied and did what citizens do, worked faithfully and with some understanding that agreements that they would make with their local government would be honored, upheld and binding, and entered the agreement. He said the Board sanctioned that agreement and put it in place in a letter sent January 2nd 2013 to the City outlining the conditional use approval putting in place a time line and clearly indicating what the Board approved. Dunaway said Smolker stated the Board needs to focus on the issue and says it is

not the actual conditional use. He said the actual use is not valid without the conditions being met. Dunaway said that is the very nature of the approval that the Board provided. He said the City has two avenues; Bergen Road with conditions or Tiger Point with conditions. Dunaway said as Eddy stated specifically the only issue is money. He said the legal argument presented by the City's attorney misses the important point of who the citizens were negotiating with. He said the citizens were not negotiating with a private landowner but with their City government. Dunaway said the conditions were not governmental exactions from a weak landowner. He said the conditions were specifically negotiated provisions by which the City obtained approval of the conditional use which they sought. Dunaway said the Unconstitutional Conditions Doctrine misses the point of the facts that resulted in this case. He said the nexus was created by the City and citizens that negotiated. Dunaway said the conditions are not arbitrary because they were negotiated. He said when the circumstances changed it requires the City go back through the process just like any other landowner would do. Dunaway said the citizens ask that the Board not modify the conditions and if the City is requesting a new use that the City is directed to go through the process to present their application to the zoning board and then make a recommendation from the zoning board to the Board of Commissioners with a staff analysis.

Smolker said the City does not believe it is required to go back to the Board because the City is asking for the removal of conditions and have demonstrated that the conditions are wholly unrelated to the impact of the project. He said the bottom line is that there has been no evidence to refute that these conditions are completely unrelated to the impacts of the project and there has been no testimony or evidence that there will be negative impacts from the operation of this Plant. Smolker said all indications are that it has minimal if any impacts on the surrounding area. He said for those reasons that the City respectfully requests that the Board grant the request and eliminate the conditions as requested.

Williamson asked Andrews to explain the reasons why the conditions will not be enforceable by the Board. Andrews said this conditional use was granted in 2012. He said in 2013 the U.S. Supreme Court decided the Kuntz case which made it clear that unconstitutional exactions were actionable. He said a local government can be held liable if they impose conditions that do not meet a rational nexus to the purposes that were implicated by the request. Andrews said that is roughly proportional to the impact of the development. He said these conditions were negotiated between third parties and then brought to the County and essentially agreed to by the County. Andrews said if the Board undertook to impose those conditions then there can be liability on the part of the Board unless the Board can find, based upon the evidence presented today, that the required exaction is related both in nature and extent to the impacts of the expanded affluent disposal expansion of the Plant. He said the County will be liable for imposition of conditions that are not constitutional.

Williamson said legally there is no way to change the outcome and legally the Board of Commissioners cannot keep the City from getting the conditional use permit or enforce any of the conditions that were previously agreed upon between the utility and the residents. He said that means that the Board of Commissioners cannot legally compel the City to live up to the promises that were made. Williamson said regardless of whether or not the Board of Commissioners may want the City to live up to those conditions, it is going to be up to the City to make it right. He said the City made these commitments and put forward a request and attached the conditions. Williamson said voting no today will not result in the properties being maintained any better, will not make the promises made become promises kept, will not lead to more dialogue and will probably only lead to more expenses that will be passed on to the rate payers anyway. He said he does not know that voting against this will be any more than political theatre when the outcome will be exactly the same.

Lynchard said in the interest of disclosure he has spoken to a couple of people who have testified today. He said he spoke with Richards and Sutton. Lynchard said he has spoken with the Mayor but not about the conditional use in the last 30 days. He said he does not believe he has spoken with Eddy in the last 30 days about the conditional use. Lynchard said there are two things the Board is "wrestling" with. He said there is the fact that a local government made commitments to another local government and to residents and then there is the legal aspect. Lynchard said the City made a commitment to the citizens and to the County in an open forum. He said the legal aspect is easy enough for those who have read the cases cited and reviewed the facts. Lynchard said Smolker mentioned the imposition of conditions by the

County. He said he takes exception to that because the conditions were not imposed by the County, they were presented to the County by the City and the residents then the County accepted it as a part of granting the conditional use. Lynchard said the Board did not come up with the list as a County and did not question that list as a County. He said the Board did not go through the rational nexus test because those were conditions that both the applicant and the opponents of the conditional use, at the time, had agreed to and presented to the Board. He said this was not something that the County imposed on the City. Lynchard said the County accepted the conditions that were presented. He said some of the conditions do meet the rational nexus test. Lynchard said the City has agreed to keep the 4 following conditions in place: The applicant requested to reduce the conditional use from 46 acres to less than 15 acres, cannot commit to any commercial operation on the property, commits to landscaping projects that shield treatment facilities from the neighborhood and commits to addressing any odor issues immediately.

Lynchard said he proposes that the Board make a finding that these 4 conditions mitigate the potential impacts of the expansion. He said the burden of these conditions are roughly proportional to the impact of the proposed expansion and the conditions are related both in nature and extend to the impact of the expansion. Lynchard asked if the City objects to any of those conditions. Smolker said the conditions are acceptable. **Lynchard moved approval without objection to the findings of fact.**

Lynchard said conditions 2, 5, 6 and 7 of the original conditions are all related to rebuilding of the west course. He said the City has made it clear that if the west course is rebuilt and opened tomorrow, it will not be profitable. He said the rate payers will have to subsidize the operation of the golf course.

Lynchard said the City does not have the authority to subdivide and sell off the property as anything other than a golf course. He said the City has recently taken measures to obtain equipment to maintain the west course. Lynchard said the City has the ability to sell the property retaining the 15 acres that they need for the expansion of the waste water treatment facility but the rest of the property is still available in case the City receives an offer that is acceptable. He said he understands that the City is having the property appraised right now and hopes that leads to discussions with the groups who are interested in purchasing the property. Lynchard discussed the reasons for the removal of the other conditions.

Lynchard said he would like to see the City or SSRUS (South Santa Rosa Utility Service) come up with some way to involve SRSHOA (Santa Rosa shores Homeowners Association) in the landscaping plan for the new plant. He asked that the mayor provide a copy of the plans to the SRSHOA beautification committee and then be willing to accept their input as the City develops the landscape buffer. Lynchard said the removal of the conditions allows SSRUS to expand at minimal cost without passing any additional costs on to the ratepayers.

Cole said he is disappointed that the City did not meet with UPA before returning to the Board of Commissioners. Cole said it comes down to legality versus a handshake. He asked for clarification on the access road. Salter said he talked to Sutton about a month ago and told him that it will come down to what is enforceable. He said the Board has to be careful about the decisions it makes. Lynchard said with regard to the road, he does not see any specific objection to allowing SSRUS a driveway and does not want to prohibit a direct route to the facility during construction otherwise there will be a lot of heavy traffic through community roads. Cole said he supports allowing an access road.

Andrews asked if the finding of fact is that conditions 1, 4, 12 and 13 remain as portions of the conditional use because they have a rational nexus and are roughly proportional to the impact. Lynchard said that is correct. Andrews asked Lynchard if the remainder of the conditions are removed. Lynchard said correct. Lynchard said he made a strong request that the City work with SRSHOA on the development of the landscaping plan buffering and otherwise for the expansion of the facility.

Lynchard moved approval without objection of the application as stated and revised.

Sutton said until the SRSHOA discusses the appeal process with their attorney, he will be open to discussions with the Board, county staff or the City.

2) Pace Fire Rescue District Request

Recommend request from Pace Fire for the inclusion of a non-binding referendum on the November 8, 2016 ballot related to the establishment of a "Legislative Fire District". Lynchard moved approval without objection.

3) Request from CareerSource Escarosa Board

Recommend approval of the below requests from CareerSource Escarosa:

- Resolution that allows 35% of the Title I funds to be allocated to individual training accounts.
- Designation of CareerSource Escarosa as a Direct Provider of Workforce Services.

Lynchard moved approval without objection.

4) Sick Leave Pool Modification Recommend acceptance of FY 2016/2017 Defense Recommend amendment to the Sick Leave Pool Policy. Lynchard moved approval without objection.

5) Alarm System - State Attorney's Office

Recommend approval of proposal submitted by Securadyne for alarm and monitoring services for the State Attorney's office. Lynchard moved approval without objection

6) Navarre Beach Lease Amendment Policy

Approval to direct staff to develop policy language requiring certain action steps in order for the Board to hear substantive Navarre Beach lease amendment change request. Lynchard moved approval without objection.

7) Social media archiving contract and proposed social media policy for commission district Facebook pages

Recommend approval of the social media archiving agreement with PageFreezer Software, Inc. in the amount of \$1248.00 annually and the approval of the Board of County Commissioners social media policy for official district commissioner social media sites. Lynchard moved approval without objection.

8) Enterprise Wide Risk Assessment Contract

Recommend approval of contract in the amount of \$23,600, with a travel budget not to exceed \$3,000, with CliftonLarsonAllen LLP for consulting services related to an Enterprise Wide Risk Assessment, as required by U.S. Treasury Department. Lynchard moved approval without objection.

9) Meeting List

Commission Committee	August 22	9:00 a.m.
MSBU Public Hearing	August 23	6:00 p.m.
Bagdad Architectural Advisory Board	August 24	8:30 a.m.
◦ Public Services Conference Room, 6051 Old Bagdad Hwy., Milton		
Parks and Recreation	August 24	5:30 p.m.
Commission Regular	August 25	9:00 a.m.
Commission Special – Rezoning Meeting	August 25	6:00 p.m.
Tourist Development North End Committee	August 29	8:30 a.m.
◦ Economic Development Office, 6491 Caroline St., Suite 4, Milton		
Tourist Development South End Committee	August 30	8:30 a.m.
◦ Navarre Visitors' Center, 8543 Navarre Parkway, Navarre		

Lynchard moved approval without objection.

10) State Emergency Operations Center information.

Cole said he toured the state emergency operations center in Tallahassee, Florida. He said he was impressed to see how the state interacts with each county from crime scene investigations to major disaster events. Cole said the State Emergency Operations Center is there to procure different items the County may need in an emergency event, all the different things we know are needed by our first responders and after a disaster.

11) Allocation to Jay High School FFA in the amount of \$5,000.00 for agricultural promotion. Salter said the funds will come from District 3 Recreation Funds. Salter moved approval without objection.

Cole said the County has 3 FFA locations. He asked if there is any interest in adding to not only a donation to Jay but perhaps a combined 2 district donation that will be used throughout the 3 FFA's. Salter said over the next few weeks, he will put something together to make sure that all 3 FFA's are looked at.

Engineer's Report

1) Property Purchase on Da Lisa Road

Recommend approval of purchase of 11.28 acres located at 6323 Da Lisa Road from Heaton Brothers Construction in the amount of \$115,000.00. Lynchard moved approval without objection.

Blaylock said funding for this project will come from landfill reserve.

2) Landfill Compactor Repairs

Recommend approval of the purchase of Landfill Compactor repair parts from Beard Equipment in the amount of \$11,925.95. Lynchard moved approval without objection.

3) Navarre Beach Kayak Dune Walkover

Recommend approval to award the bid for the Navarre Beach Kayak Dune Walkover to Floridian Construction in the amount of \$109,385.00 with construction to begin mid-November, 2016. Lynchard moved approval without objection.

Williamson said he was in the Tourist Information Center last week and people were filling out paperwork to get a brick at the park. He said the form stated that the purchase of the brick will go toward the maintenance of Navarre Park and that it was sponsored by the Navarre Chamber Foundation. Williamson said the proceeds are derived from the sale of items at a county park. He asked how can he find out how much has been collected and what the funds are going toward. Andrews said as a non-profit organization the financial records are available to the general public and any member of the foundation. He said the Board can request it. Williamson said his concern is the sources of revenue that are supposed to be going toward the maintenance of a county owned, tax payer funded and maintained park.

Public Services Committee - Cole & Williamson

1) Area 3 Transportation Impact Fees

Discussion of the approval of matching funds for the Tom King Bayou Pedestrian Bridge project and direct staff to review and provide a recommended list of projects in Area 3 that could move forward to design and bid. Cole moved approval without objection.

Gomillion said he recommends that the County look for projects that can be solidified on approximately \$300,000.00 of the remaining \$800,000.00 balance of the Area 3 Impact Fees. He said the second part is a qualified commitment to pursue the agreement with FDOT for the Tom King Bayou pedestrian bridge project using the remaining balance of \$500,000.00 as a match and then review that again once FDOT establishes their new 5 year work plan.

Cole asked does the clock start running once it is committed. Gomillion said if it is not put into the early years of the work plan he thinks the Board will want to reconsider the commitment.

2) West Florida Regional Planning Council Request to Increase Bay Area Resource Council (BARC) Funding. Discussion of request from Bay Area Resource Council (BARC) for an annual funding increase of \$10,000.00 to support their program.

Jenny Cook, West Florida Regional Planning Council and Coordinator of BARC, said during the 2014-15 fiscal year BARC took a loss and the program has taken a loss for a couple of years. Cook said BARC will be in a deficit again for fiscal year 2015-16. She said BARC is requesting more funds from Escambia and Santa Rosa County to more efficiently staff the BARC and give more staff time to pursuing programs. Cook said the contribution in 2005 was much larger then recessed with the economy but programs are coming back and there are several big projects planned. She said BARC is preparing to respond to an RFP (Request for Proposals) from the EPA (Environmental Protection Agency) for an estuary program for \$2.2 million to help start a program

in the area of Pensacola and the Perdido Bay. She said some of the request is to help BARC respond to the administrative costs associated with the RFP. Cook said most of the RFP application will be done in house but BARC will use a consultant if necessary to strengthen the application. She said BARC is looking into increasing the education programs and educational outreach. Cook said BARC wants to incorporate the public involvement team to get communities involved into improving quality of life.

Cole asked Cook if she has had any input from Escambia County. Cook said she received a letter of support but has not heard if it made it into the budget yet. Williamson asked Cook what was the larger results from the larger amount funds contributed in 2005. Cook said there was more education programs. She said the impact to Santa Rosa County is a grant for \$89,000.00 that teaches water quality and Bay Day that allows elementary students to interact with people from FDEP (Florida Department of Environmental Protection) and other agencies about environmental and safety issues. Cook said in the past BARC had several other programs such as sea grass awareness and restoration. She said there were technical projects that looked at low impact development, rain gardens and bioswales but at this time BARC does not have the staff money to pursue those programs. Williamson said he does not see the benefit to increase the amount of funding but if that benefit can be better articulated then maybe the County can go halfway. He said he will approve going from \$5000.00 to \$10,000.00 this year, to provide an opportunity to show more tangible benefits to Santa Rosa County to lay the foundation for further requests in subsequent years.

Lynchard asked if the increase in budget will be primarily used to develop the RFP for the estuary program. Cook said a large portion will be administrative costs because it will be a large application to put together. Lynchard said the RFP will be significant and if the County were fortunate enough to be awarded the estuaries program grant of \$2.2 million, it also sets the stage for funding in the out years. He said the estuary program will serve as a road map for future environmental projects coming from the other sources of funding associated with BP. He said the ultimate payoff will potentially be larger than the \$2.2 million. Lynchard said for that reason he will support the additional monies, in this coming fiscal year, to support the RFP effort. He said the estuaries plan will be a "home-run" for Escambia and Santa Rosa County.

Williamson asked if the County has any support to the response to the RFP through the county grants office or through Consultant Jeff Helms. Lynchard said the County tasked BARC with developing the RFP. Cook said BARC anticipates the RFP at the end of this year or very early 2017. Cook said the technical committee works with Jeff Helms who will be a part of the RFP but BARC is hoping to not outsource. Cole said in an effort to cut costs BARC just added a representative from Alabama's estuary program to speak, give pointers and show progress. Lynchard said he supports the additional funding for this coming fiscal year to support the effort to respond to an RFP that could be significant for future water quality projects. Gomillion asked Lynchard if he is suggesting a one year commitment then to review again. Lynchard said correct. Williamson said he will support the increase, given the comments about the RFP development.

Cole moved approval without objection of item 2 as written.

3) 2016 Escambia HOME Consortium Consolidated Annual Action Plan

Recommend approval of the 2016 Escambia HOME Consortium Consolidated Annual Action Plan for Housing and Community Development and authorization for Chairman to sign all related documentation. Cole moved approval without objection.

Public Works Committee - Salter & Cole

1) Heat Pump Replacement for Administrative Building

Recommend replacement of one (1) ten ton heat pump unit on the Administrative Complex roof by Wingate's Air Conditioning, Inc. at a cost of \$12,150.00, as the low bidder meeting specifications, based on comparison shopping, with funding from the Building Maintenance budget. Salter moved approval without objection.

Cole asked if there is any consideration, in the future, that the building maintenance department price out the equipment and then outsource the installation.

2) Madura Road Sidewalk

Recommend approval of the Madura Road Sidewalk Project to Gulf Coast Industrial Construction, LLC in the amount of \$74,700.00. The project is approximately 4150 long and is from Tiger Point Boulevard to East View Place. Funding will be from Area 3 Impact Fees as approved by the Board at the March 10, 2016 meeting. Salter moved approval without objection.

3) James M. Harvell Rd. Sidewalk

Recommend approval of the James M. Harvell Road Sidewalk Project to Gulf Coast Industrial Construction, LLC in the amount of \$23,186.40. The project is approximately 1300 long and is from Highway 87 to the existing sidewalk just east of Presidio Street. Funding will be from Area 3 Impact Fees as approved by the Board at the January 24, 2016 meeting. Salter moved approval without objection.

Budget & Financial Management Committee - Williamson & Salter

1) Budget Amendment 2016-165

Recommend Budget Amendment 2016 - 165 in the amount of \$72,306 to transfer funds from the District V Rec Fund to the Parks Department for a pour-in-place (PIP) surface for the Tiger Point Park playground as approved at the July 28, 2016 meeting. R. Williamson moved approval without objection

2) Budget Amendment 2016-166

Recommend Budget Amendment 2016 - 166 in the amount of \$21,293 to reallocate funds from the Contractual Services account to the Salary accounts to adjust for the Agriculture Best Management Practices grant position. R. Williamson moved approval without objection

3) Check Register

Recommend approval of the County Check Register. R. Williamson moved approval without objection

4) Budget Amendment 2016-167 recommend in amount of 5,000 from district 3 recreation funds in support t of jay high school FFA. R. Williamson moved approval without objection

Adjournment

There being no further business to come before the Board at this time, the meeting adjourned.

BOARD OF COUNTY COMMISSIONERS
SANTA ROSA COUNTY, FLORIDA

By: Lane Lynchard, Chairman

Attest: Donald C. Spencer, Clerk of Court

Special Meeting
MSBU Public Hearing
August 23, 2016

The Board of County Commissioners of Santa Rosa County, Florida, met in Special Session on the above date with the following members present: Chairman Lane Lynchard, Robert “Bob” Cole, Rob Williamson and Don Salter. Also present were the County Administrator (Tony Gomillion), Administrative Assistant (Emily Spencer), County Attorney (Roy Andrews), Budget Manager (Henry Brewton), and Budget Director (Jayne Bell). Lynchard called the meeting to order at 6:00 p.m. in the Board Room at the Santa Rosa County Administrative Center. The meeting was opened in prayer by Associate Pastor Dusty Roberts from First Assembly of God. Those present joined in the pledge of allegiance to the flag.

Lynchard said the purpose of this public hearing is to review all MSBU’s currently enforced, review all newly proposed MSBU’s, accept public comment, vote to continue the current MSBU’s and adopt all newly proposed MSBU’s.

1) MSBUs with No Changes- Fire

Lynchard said the following MSBU’s are continued with no changes in rates. He said the MSBU’s are listed in the Board’s agenda. He said this consists of Fire MSBU’s, and MSBU’s for paving and improvements as listed in the agenda (Attachment in file).

2) MSBUs with Changes- Lighting

Lynchard said the following MSBU’s are continued with a change and are listed in the agenda (Attachment in file).

3) MSBUs with Changes- Paving and/or Improvements (Attachment in file).

4) MSBUs that have ended

Lynchard said the following MSBU’s were completed during FY2015-2016.

- Elkhart Drive
- Joseph Circle
- Smuggler’s Cove

5) New MSBU- Avalon Estates Lighting (Attachment in file).

Lynchard moved approval without objection of the Avalon Estates lighting MSBU.

6) New MSBU- Duncan Ridge S/D Lighting (Attachment in file).

Lynchard moved approval without objection of the Duncan Ridge Subdivision lighting MSBU.

7) New MSBU- Camden Road Paving (Attachment in file).

Lynchard moved approval without objection of the Camden Road paving MSBU.

8) New MSBU- Polynesian Isles Canal System Maintenance Dredge and Repair of Community Boat Ramp (Attachment in file).

Lynchard moved approval without objection of the Polynesian Isles Canal System Maintenance Dredge and Repair of Community Boat Ramp MSBU.

9) New MSBU- Beach Restoration (Attachment in file).

Gary Buroker (President, Navarre Beach Leaseholder’s Association) said the leaseholders respectively ask the Board to consider “picking up” the entire local costs for the beach restoration, based upon the lease fees that have been paid since 2006-2014. He thanked the Board for ensuring the beach restoration was done in a very timely manner. Buroker also

thanked the Board for their hard work on receiving approximately \$8 million from the state towards this project.

Peter Burkett asked for clarification regarding the leaseholder's share of the project. Lynchard said the county, under the proposal outlined in the agenda, is paying half of the local share and the MSBU would contribute the other half of the local share. Burkett said he understands that there were quite a few years where the residents of Navarre Beach paid a lease fee of various amounts from \$250-\$4,500. He said at the same time the residents paid property taxes. Burkett said there were a number of years where both of those entities were paid and just recently the lease fee was reduced to \$250 per leaseholder. He said during those "double dipping" years, it seems to him that there was an enormous amount of dollars paid out from the beach versus what came back to the beach. Burkett said he feels the right thing to do is for the county to make up this difference and call it even. He said he is not suggesting this be the same discussion next time the beach requires renourishment but for the payment that is owed today. Burkett said it might behoove the county to "square-up" with the leaseholders and call it even after all of those years of paying both property taxes and leases. He said he is anxious to hear each of the Commissioners position and the reasoning behind their position.

William Leathers asked why he is paying for someone else's beach access. He said to be fair, this is something that everyone in the county should pay for.

John Lewis said he feels the county should pay for the beach restoration.

Janet Jacobson said she is against the MSBU and feels the county should pay its fair share. She said Navarre Beach residents are not the only ones using the beach.

Catherine Jaracz said she is against this MSBU. She said she thinks the county should pay for the beach restoration. She said she feels if the county needs more money than the county should put the toll booth back on the Navarre Beach Bridge.

Cherie Olsen said she owns lots on the Gulf. She said she is paying taxes and lease fees on land that she does not have any property on. Olsen said she is double taxed as well as paying water fees and has no access to any water, because the county will not let her turn off the water. She said everyone in the county uses this beach and everyone in the county should have to pay for it.

Ed Decoste spoke in opposition of the beach restoration MSBU.

Salter said now that the Navarre Beach leaseholders are paying property taxes and lease fees, he will support eliminating the MSBU for beach renourishment.

Cole said he wants to clarify that the Board is not setting a policy but dealing with this, this time alone. He said the Board needs to reserve putting a toll back on the bridge until a new bridge is needed. Cole said he has always been against the MSBU. He said he has been talking with Representative Broxson about the state taking responsibility for the beaches. Cole said he hopes those that like this idea, will reach out to their state representatives and help push it. He said he feels that every room in this state should pay \$1 a night beach restoration tax and then the state could designate what areas are being restored. Cole said he does see this as double taxation and the county should pick up the bill and moved forward as a county on a plan for next time.

Williamson said he will vote against the MSBU.

Lynchard said he will support removing the proposed MSBU. He said even with the MSBU in place, the county would be paying half of the cost of the MSBU from the general fund. Lynchard said the county paid tens of thousands of dollars to get the MSBU study done to show that there is a disproportionate benefit that accrues to the beach, for beach renourishment. He said it is not the same benefit that someone who lives on the mainland would receive. Lynchard said he is concerned about the precedent that the Board sets because the beach will have to be re-nourished 8 years from now and what does the Board do

then if it has adopted this policy, at least loosely, that the leaseholders on the beach do not contribute to the beach restoration other than through property taxes. He said this gives him some concern as the Board moves forward.

There was further discussion regarding lease fees being segregated and not being spent anywhere other than on Navarre Beach. Lynchard said the Board adopted this as a policy in 2015.

Lynchard moved to deny the beach restoration MSBU without objection.

10) New MSBU- Ponderosa Paving, Water and Sewer

Lori Potthoff spoke in opposition of the Ponderosa MSBU. She said she is being taxed for individual lots, when it is all one lot.

Duncan Potthoff said in 2008 the Board agreed that he only had to pay one MSBU. He said he is worried about his homestead which includes lots 19, 20, 21, and 22. D. Potthoff said he is not worried about his other four lots. He said he cannot afford \$135,000.00 over the next 15 years. He said he is in opposition of this MSBU. D. Potthoff said he has a proxy letter from his neighbor who could not make the meeting. He gave Gomillion this letter (Attachment in file). D. Potthoff said he feels the 2008 MSBU vote should be precedent. Lynchard asked Potthoff how many lots he has. D. Potthoff said 8 lots. Andrews said he thinks the calculations are based on a total of 9 lots, 8 of which are contiguous and one of which is essentially across the street. He said the four lots at least have been combined in one tax assessment that does not change the fact that there are four lots of record and that they are subject to be divided and sold as such. Andrews said the calculation of the MSBU's for the paving is based on the front footage on the lots. He said the water and sewer is per lot and the engineering and planning also is per lot and pursuant to the existing MSBU requirements, the amount of the petitions was met and the process is here for approval or not by the Board.

Cole asked Andrews if D. Potthoff gets a vote for each lot, since there is one contiguous lot. Andrews said D. Potthoff gets one vote under the procedure that the county has now. There was further discussion regarding the county's MSBU process.

Christopher Balog said he bought his property on Ponderosa Drive to build a residence in the next year or two. Balog said this is the first that he is hearing about the MSBU taxes and would like some guidance. Lynchard further discussed the MSBU process.

Dee Dee Lyle said she and her neighbor both lost their husband's 3 years ago. She said they are the residents that complained because an ambulance could not get down this road. Lyle said she would like clarification on this MSBU because she thought this was a "done deal". Lynchard discussed the history of this MSBU beginning in 2006.

Pat Husby said she wants the road to be paved quickly.

Michael Craighead said he has been trying since the late 80's to get this road paved. He further discussed the history of this project. Craighead said he has added fill dirt to the road and it washes away.

Linda Kerr said she lives on the corner of Woodlawn Beach Road and Ponderosa Drive. She said she does not access Ponderosa Drive but everyone uses her yard to get around the holes. Kerr said the road needs paving badly. She gave the Board information regarding her request for reducing her tax (Attachment in file). Kerr said she already has city water and the county is charging her again for city water. She said she does not mind helping pay for the road but does not feel she should be pay the same as those who use the road. Lynchard said corner lots are assessed at a different rate. She said the letter she received is for the same payment as everyone else.

Noah Malone said he is building a house on Ponderosa Drive and this road paving is needed badly. He said this is a public safety issue. He said the assessment will be almost twice what

he paid for his lot five years ago. He said if that is what it takes to get the road paved then the county needs to do it.

L. Potthoff gave Gomillion a petition of signatures of people who were not notified of this MSBU (Attachment in file).

D. Potthoff said in 2008 it was decided by the Board that he pay only one assessment. He asked if this is precedent. Lynchard said no because the MSBU's are based on road footage and not based per lot. Potthoff said he will sell his other four lots if he can just get help with the four that his house is on. There was further discussion regarding the Potthoff's assessment and situation.

Williamson said he is in favor of this MSBU because last year he advocated on behalf of this being delayed and postponed a year because he did not feel as though the notification was appropriate. He said there are others that have waited through no fault of their own on this project and another 12 months has gone by.

Salter said the MSBU process is citizen driven. He said the Board is not trying to force anything on anybody; it is what the majority of the citizens want in that particular area. He said he is going to support the MSBU.

Lynchard said this MSBU will make a huge improvement in the quality of life of the people that live on this road and will increase the value tremendously for the people who own undeveloped property there. He said he is going to support the MSBU.

Lynchard moved approval without objection of the MSBU.

11) Lynchard moved approval without objection of a resolution (No. 2016-31) establishing the 2016-2017 MSBU rates.

Public Forum

Patricia Hoag said appreciates the public parks along the beach. She said she does not live on the beach but would not mind paying for the beach. Lynchard said the renourishment will be paid for out of the general fund so everybody in Santa Rosa County is contributing. Hoag thanked Williamson for his districts improvement on Highway 98 in Navarre.

BOARD OF COUNTY COMMISSIONERS
SANTA ROSA COUNTY, FLORIDA

By: Lane Lynchard, Chairman

Attest: Donald C. Spencer, Clerk of Court

Regular Meeting
August 25, 2016
Milton, Florida

The Board of County Commissioners of Santa Rosa County, Florida, met in Regular Session on the above date with the following members present: Chairman Lane Lynchard, Robert “Bob” Cole, Don Salter and Rob Williamson. Also present were the Public Works Director (Stephen Furman), Clerk of Court (Donald C. Spencer), Administrative Assistant (Emily Spencer), County Administrator (Tony Gomillion), County Engineer (Roger Blaylock) and Budget Director (Jayne Bell). Lynchard called the meeting to order at 9:00 a.m. The meeting was opened in prayer by Pastor Fredrick Barrow, Cornerstone Christian Church. Those present joined in the pledge of allegiance to the flag.

Lynchard moved approval without objection of the agenda.

Lynchard said the Rezoning meeting scheduled for tonight has been canceled.

9:30 AM Public Hearings

1) Vacation of Property

Vacation of a portion of three parcels according to the map of Harold in Section 19, Township 2 North, Range 26 West, as requested by Earnest D. Polk, III. Lynchard moved approval without objection.

Sigrid Hawkins said the alleyway runs in the middle of her property that she has mortgaged. She asked how this vacation will affect her property value. Andrews said the vacation should enhance the value of her property. He said the vacated property will go to the adjacent property owner.

Presentations

Information Item:

Representatives from the Florida Department of Environmental Protection (FDEP), State Parks Division, will present a grant award in the amount of \$50,000 for the Floridatown Park FRDAP project.

Marshall Shaw (FDEP) said these funds are designed to pay for development of a walking trail, renovation of the existing pier, installation of a half basketball court, installation of historical signs, renovation of the bathroom facility and landscaping. He presented a check to the Board in the amount of \$50,000.00.

Economic Development Committee - Lynchard & R. Williamson

No Agenda Items.

Administrative Committee - Lynchard & R. Williamson

1) Navarre Beach Lease Amendments

Recommend approval of a November 1, 2016 deadline for Navarre Beach residential lease amendments to be eligible for the retroactive lease fee provision. Lynchard moved approval without objection.

Williamson asked how the county can enforce this amendment. Andrews said the county can take legal rights under the lease to have the lease holder pay or be evicted. He said he is in the process of notifying the residents that have lease arrearages that pre-date November 1, 2014. Andrews said this amendment makes it easier to deal with arrearages from 2015 and 2016.

2) City of Milton Request - Partial Release of Lien

Discussion of the approval of a partial waiver of lien as requested by the City of Milton for either the principal amount of the liens in the total amount of \$3,340.00 or the principal amount plus 50% of the outstanding interest in the total amount of (3,340.00 + 3,423.17) \$6,743.17. Lynchard moved approval without objection of the option of the principle amount, plus 50% of the outstanding interest.

Cole said he supports the total amount plus half of the interest. He said he feels it is fair that the county is made whole on these properties.

Lynchard asked if \$3,423.17 is the total amount of outstanding interest. Gomillion said that is 50%.

3) Annual Employee Flu Shots

Recommend Community Off-site Clinic Agreement with Walgreen Company for annual employee flu shots at several locations at no cost to Santa Rosa County. Lynchard moved approval without objection.

4) Bagdad Waterfronts Partnership LLC's Request to use Bagdad Mill Site Park

Recommend request by Bagdad Waterfronts Partnership LLC's to use the Bagdad Mill Site Park for Howl-O-Ween in the Park which will be an afternoon event for children on October 29, 2016. Lynchard moved approval without objection.

5) Navarre Chamber Foundation's Request to Waive Pier Fees for 1st weekend of October

Recommend approval of the waiver of pier entry fees on October 1st and 2nd, 2016 in support of "Take A Kid Fishing" and the "Navarre Fishing Rodeo". Discussion of offering a reduced fee for annual passes during that same weekend. Lynchard moved approval without objection of the waiver of pier entry fees on October 1st and 2nd.

Gomillion discussed the fee schedule.

Williamson said giving the timing of the event and being the start of the fiscal budget year this may be an opportunity to provide a limited discount that may help drive more people to the event. He said his suggestion is a 10% reduction for the annual pass on that day only. Blaylock said annual passes are purchased at the pier, the information is sent to his office and the pass is developed and sent back to the pier for distribution. He said the person can fish with their receipt when the pass is purchased.

Lynchard said his suggestion is, if the Board wants to consider offering a discount on the annual pass, do it on another weekend or day.

Williamson said he hopes that pier staff and event coordinators can work together to handle logistical issues. He asked when this can be discussed further.

Cole said he suggests Williamson consult with someone who is running this event, to find out if they can handle this. Williamson said he will get with the stakeholders and put it on the agenda for another time.

6) Cancellation - August Rezoning Meeting

Recommend cancellation of August 25, 2016 Rezoning Meeting due to no items scheduled for consideration. Lynchard moved approval without objection.

7) RESTORE "Pot 3" Project Identification

Recommend approval of the submission of the RESTORE "Pot 3" project list as recommended by the Grants Department. Lynchard moved approval without objection.

8) Meeting List

Tourist Development Council Board Meeting	September 1	8:30 a.m.
◦ Tiger Point Community Center, 1370 Tiger Park Lane, Gulf Breeze		
Commission Committee	September 6	9:00 a.m.
Marine Advisory	September 6	Cancelled
Public Hearing on FY16/17 Tentative Budget	September 6	6:00 p.m.
Commission Regular	September 8	9:00 a.m.
Flood Mitigation Plan Task Force Meeting	September 8	1:30 p.m.
◦ Public Services Conference Room, 6051 Old Bagdad Hwy., Milton		
Zoning Board Meeting	September 8	6:00 p.m.

Lynchard moved approval without objection.

Engineer's Report

1) Gulf Power Overhead Distribution Easement

Recommend approval of Gulf Power Overhead Distribution Easement to allow the installation, service, and maintenance of power poles at Central Landfill. Lynchard moved approval without objection.

2) John Deere Bulldozer Undercarriage Overhaul

Recommend approval of quote from Beard Equipment in the amount of \$13,627.02 for a complete undercarriage overhaul for the lease 850K John Deere Bulldozer used at Central Landfill. Lynchard moved approval without objection.

3) Water Quality Sampling/Analysis Proposal

Recommend approval of proposal from Dewberry Preble-Rish for performing field sampling and laboratory analysis of water samples from three landfills at an annual cost of \$44,235.00. Lynchard moved approval without objection.

4) Waste Tire Amnesty Events

Recommend approval of a Waste Tire Amnesty Program to allow residents to dispose of five waste tires each Saturday beginning August 27, 2016 through October 29, 2016. Lynchard moved approval without objection.

5) BearWise Grant Funding

Recommend approval for staff to apply for a BearWise Grant in the amount of \$150,000 with a 100% matching contribution from the Environmental Department Enterprise Fund for a total budget of \$300,000.00 and advertise a BearWise ordinance. Lynchard moved approval without objection.

Cole asked if the BearWise trash cans are mandatory. Andrews said having the can will be optional. He said the ordinance will require that residents either have BearWise trash can or put trash out only on the day of pick up.

6) Navarre Beach Wellhouse No. 2 Electrical Upgrades

Recommend award of contract to Bill Smith Electric, Inc. in the amount of \$199,735.00 for Navarre Beach Wellhouse No. 2 Electrical Upgrades. Lynchard moved approval without objection.

Williamson asked Blaylock if this is paid for by the utility. Blaylock said yes.

7) Peter Prince Runway Rehabilitation

Recommend bid award to Panhandle Grading and Paving, Inc., Base bid in the amount of \$1,085,858.95, plus bid alternate #3 (\$31,855.00) and bid alternate #4 (\$28,690.00) for a total cost of \$1,146,403.95. The percent share of project costs are 90% FAA, 10% County. Lynchard moved approval without objection.

Williamson asked if the county's portion comes from the enterprise that is the airport. Blaylock said yes.

8) Peter Prince Runway FAA Grant Agreement

Recommend approval of grant offer from FAA for the Peter Prince Runway Rehabilitation in the amount of \$1,149,411.00. The percent share of project costs are 90% FAA, 10% County. Lynchard moved approval without objection.

9) Holley Hills Final Plat

Recommend approval of Final Plat for Holley Hills, a 55 lot subdivision located in District 5. Lynchard moved approval without objection.

Williamson asked if the final plat requires sidewalks. Blaylock said no.

10) Holley Hills Paved Road and Drainage Maintenance

Recommend approval of Paved Road and Drainage Maintenance for Holley Hills, a 55 lot subdivision located in District 5. Lynchard moved approval without objection.

Public Services Committee - Cole & R. Williamson

1) Request for Abatement

Recommend approval for staff to proceed with the abatement bid process for the following properties:

- 3830 Diamond Street, Pace
- 5928 East Bay Boulevard, Gulf Breeze
- 4588 Mott Road, Milton
- 5363 Pecos Pass, Gulf Breeze
- 1201 Ramblewood Drive, Gulf Breeze
- 6328 Simpson Drive, Milton

Cole moved approval without objection.

Cole said he asked staff to look into foreclosures on previous properties and putting them out to bid. Andrews said the county would have to go forward with foreclosure of the lien. He said he is reviewing the properties that have had abatements to determine which ones will be cost effective. Cole said there needs to be enough value in the property to make it worthwhile to spend the funds. He said his suggestion would be to put any cost for the county as base reserve for the bid. Andrews said if the county goes through the foreclosure process then it will own the properties. He said he will go through the list with Cole to establish which properties will be worth considering.

Public Works Committee - Salter & Cole

1) Fence Contract Renewal

Recommend extending the current fencing contract with Santa Rosa Fence & More, LLC for one additional year at current pricing. Salter moved approval without objection.

2) Stand By Generator for Clerk of Courts

Recommend proposal from White Sands Electric, Inc., in the amount of \$18,885.00 for the installation of a 22 KW natural gas, stand by generator for the Clerk of the Court facilities at the Court House based on comparison shopping. Funding will be from the Capital Fund. Salter moved approval without objection.

3) Archie Glover repairs

Recommend proposal from FIDS Marine Contracting Inc. in the amount of \$3,616.00 for repair work at the Archie Glover Boat Ramp pier and channel markers. Funding for the project will be from Boater Registration Fees. Salter moved approval without objection.

4) Indian Hill Pipe Replacement

Recommend proposal from Principal Properties Inc. in the amount of \$37,268.00 for stormwater pipe replacement work adjacent to 3228 Indian Hills Drive based on comparison shopping. Funding will be from the Road and Bridge budget. Salter moved approval without objection.

5) Andrew Ct. Pipe Lining

Recommend proposal from Pensacola Concrete Construction Co., Inc. in the amount of \$29,374.23 for stormwater pipe lining work adjacent to 9872 Andrew Court based on comparison shopping. Funding will be from the Road and Bridge budget. Salter moved approval without objection.

6) Amended DOT Traffic Signal Agreement

Recommend approval of an amended DOT Traffic Signal Maintenance and Compensation Agreement. Salter moved approval without objection.

Budget & Financial Management Committee - R. Williamson & Salter

1) Budget Amendment 2016-168

Recommend Budget Amendment 2016 - 168 in the amount of \$36,000 to fund a budget request for technology from the State Attorney's office. The technology expenditures have exceeded the projected recording fee revenue by \$36,000. Florida Statute requires that Santa Rosa County fully fund these expenditures. Williamson moved approval without objection.

2) Budget Amendment 2016-169

Recommend Budget Amendment 2016 - 169 in the amount of \$115,000 to carry forward funds in the Landfill Fund for the purchase of 11.28 acres located at 6323 Da Lisa Road from Heaton Brothers Construction as approved at the August 11, 2016 meeting. Williamson moved approval without objection.

3) Budget Amendment 2016-170

Recommend Budget Amendment 2016 - 170 in the amount of \$74,700 to fund the Madura Road Sidewalk Project from Tiger Point Boulevard to East View Place with funding from Area 3 Impact Fees as approved at the August 11, 2016 meeting. Williamson moved approval without objection.

4) Budget Amendment 2016-171

Recommend Budget Amendment 2016 - 171 in the amount of \$23,187 to fund the James M. Harvell Road Sidewalk Project from Highway 87 to the existing sidewalk just east of Presidio Street with funding from Area 3 Impact Fees as approved at the January 24, 2016 meeting. Williamson moved approval without objection.

5) Budget Amendment 2016-172

Recommend Budget Amendment 2016 - 172 in the amount of \$20,700 to allocate funds required to cover expense of changeover to A911 system (network to support texting, video, etc.). Included in budget, however early startup of program and 10% increase over original budget figure utilized. Williamson moved approval without objection.

6) Budget Amendment 2016-173

Recommend Budget Amendment 2016 - 173 in the amount of \$2,000 to transfer funds from District IV Recreation Funds to the General Fund to install 1-100 amp power pole and 4-120 v outlets behind the Butterfly House. Williamson moved approval without objection.

Williamson said Cole suggested making this a 200 amp power pole. He said staff has determined that the price will double if it is a 200 amp power pole. Williamson said since there is a renovation planned at Navarre Park, the 200 amp power pole will be incorporated to the renovation.

7) Check Register

Recommend approval of County Check Register. Williamson moved approval without objection.

BOARD OF COUNTY COMMISSIONERS
SANTA ROSA COUNTY, FLORIDA

By: Lane Lynchard, Chairman

Attest: Donald C. Spencer, Clerk of Court