

DESOTO COUNTY BOARD OF SUPERVISORS

BOARD MEETING MINUTES

ALLEN LATIMER, PRESIDENT 2008 PRESIDING

March 4, 2008

A. CALL TO ORDER

The March 4, 2008, meeting of the DeSoto County Board of Supervisors was called to order by Supervisor Allen Latimer, Board President.

Sheriff Bill Rasco of the DeSoto County Sheriff's Department was present and did open the DeSoto County Board of Supervisors meeting in a regular session to hear any and all business to come before the Board. The following were present:

- Supervisor Jessie Medlin-----District 1
- Supervisor Eugene C. Thach-----District 2
- Supervisor Bill Russell-----District 3
- Supervisor Allen Latimer-----District 4
- Supervisor Tommy Lewis-----District 5
- W. E. Sluggo Davis-----Chancery Clerk
- Michael Garriga-----County Administrator
- Tony Nowak -----Board Attorney
- Sheriff Bill Rasco-----Sheriff

B. INVOCATION

Deputy Carl Hurt presented the invocation.

C. PLEDGE OF ALLEGIANCE

D. PLANNING COMMISSION

**DeSoto County Board of Supervisors
 Planning Agenda
 March 4, 2008**

PUBLIC HEARING

Residential Development Agreement – The Desoto County Board of Supervisors will consider the adoption of a Residential Development Agreement.

In the matter of adopting the Desoto County Residential Development Agreement.

Supervisor Lewis made a Motion to open the public hearing. Supervisor Russell seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

- FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
- SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
- THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
- FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
- FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Mr. McDougal stated that this document has been in the works for several months. The Planning Commission has reviewed it and made their comments and has now recommended it to the Board of Supervisors for their approval. The draft document was sent by mail to the Supervisors for their review earlier in the week.

Mr. McDougal then said that the purpose of this agreement is to establish a relationship between the developers and the County and to make sure that the items that are agreed upon during approval are completed. He went on to say that he would like to point out a few high points of the agreement. First, this will establish a procedure for completing public and private amenities and a time line for this completion. Second, this will require a Homeowners' Association to be formed at the appropriate time and it will also require the developer to pay into the Homeowners' Association fund. This document will also require the County Engineer and the County Planning Director to meet regarding the necessary requirements on each development as well as set up a time frame for the completion of the subdivision. The agreement would be entered into after the preliminary subdivision approval is granted.

Supervisor Medlin requested clarification on the in lieu fee for streets noted on page 9 of the draft document. Mr. McDougal responded that this would allow money to be set aside for streets to be installed at a future date. Supervisor Medlin commented that the developer should complete the internal streets of a subdivision. Mr. Nowak said that was the intent of this section of the document.

Supervisor Russell commented that the development agreement would make the developer responsible for starting the Homeowners' Association, paying a fee for each lot and putting the fees into an escrow account. Once a lot is sold then dues should be collected from the homeowner by the developer. The developer would remain the President until the Homeowners' Association takes over. Mr. McDougal asked how this might work if the lot was sold to a builder. Supervisor Russell responded that he would like to see the developer as responsible for maintaining the area either from the escrow account or his own money until the lots are sold to homeowners, if this can be done. He went on to explain that the County cannot go onto private property to maintain ditches and other features on private lots; the Homeowners' Association will have to be responsible for that kind of maintenance, and this is why it is important for the County to have a development agreement like the one proposed here. He noted that the Homeowners' Association could always be disbanded at a later date, when the lots are all sold and it's no longer needed, but it should be in place at the outset of the subdivision to address these types of issues.

Supervisor Russell asked if the \$50 administrative fee listed on page 11 would be a new policy and fee. Mr. McDougal responded that it would be; the County doesn't currently have this kind of policy.

Supervisor Thach said that he had received several calls from people who indicated they hadn't had enough time to fully review the draft. He said he would like to hear comments from them on the draft before moving forward with adopting it.

Supervisor Latimer noted that the times for construction activity on page 13 of the draft said that 6:00 p.m. would be the cut-off time. He asked if this could be revised as factors such as daylight hours and weather may need to be considered. Supervisor Russell asked if limiting construction to occur between dusk and dawn would be possible. Mr. McDougal responded that, yes, the language in the draft document was culled from agreements from other cities and counties and any changes deemed appropriate by the Board could be made to customize the document. Supervisor Medlin added that work on Sundays or later during daylight hours in the spring and summer in rural areas wouldn't warrant such tight restrictions as construction in established neighborhoods or where neighbors would be disturbed by construction activities.

Supervisor Thach said again that he would like to receive comments from those who were present to speak. Supervisor Lewis agreed that their time would be well spent receiving public comments before proceeding.

Mr. Sean Green of Dream Home Construction came forward to represent the views of the North Mississippi Home Builders Association. Mr. Green expressed concern that any added taxes or fees from the development agreement would be passed on to the builders as part of construction costs at a time when building costs are already high. He agreed that contracts are a good idea to make sure development happens appropriately and expressed interest in meeting with Board Attorney Mr. Nowak to review the document carefully. He stated that it was not widely known in the building community that this draft document would be considered and he would like to see the Board provide more time to review it with an assembled group to refine it before the Board takes action to adopt it. Supervisor Latimer agreed that this sounds like a sensible suggestion and recommended that the document be reviewed with Mr. Nowak as well as Mr. McDougal.

Supervisor Russell said he didn't see many added fees in the document and asked Mr. Green to clarify which fees he referred to. Mr. Green responded that any fees will likely be passed along to the builder and this may be a burden as builders are having trouble selling houses now. Mr. Green noted that it was unclear on page 16 of the document what the fees will be for the school district. Supervisor Russell said that that section referred not to a specific fee but rather resulted from a request by DeSoto County Schools to ask that developers talk with the schools to discuss donations, but this wouldn't be a mandatory requirement for donation to the school district.

Supervisor Thach said that it was the Board's interest that the County work with developers and thanked Mr. Green and the other builders present for giving their comments. Supervisor Latimer added that all parties seem to agree that there are challenges to development and that a development agreement is a good idea to help eliminate problems on the front end.

Supervisor Lewis asked if a date could be set for a committee to meet with Mr. Nowak and Mr. McDougal to discuss the development agreement. Mr. Green said he would like 60 days for the development community to

review the document before meeting. Mr. McDougal agreed that a meeting can be set and noted that this will require that public notice be given again.

Supervisor Latimer asked that the review not be postponed as the development agreement should be in place before the building season begins. He asked if Mr. Russell and Mr. Lewis would serve on the committee to discuss the development agreement with the development community. Supervisors Russell and Lewis agreed to serve on the committee.

Supervisor Russell said he would like to keep moving forward on refining the document and requested that the meeting of the committee occur within two weeks. Supervisor Thach said he thought the builders should be given more time if they need more than two weeks to review the draft document. Supervisor Russell noted that 80 percent of the text of the development agreement simply put into writing the practices the County already follows. Supervisor Latimer asked if it would be appropriate to carry this item over to the April Board meeting.

Ms. Mary Montieth came forward and noted that it would be helpful to have more than two weeks to review the document as she has over 500 members of the building community to work with and would like adequate time to get comments from them. She noted that this would be a good document in everyone's interest but more time is needed to review it.

Mr. Wayne Bartley came forward and said that many times there is fuzzy area between the responsibilities of the developers and the builders. If the developer does not fulfill his obligations, the builders are given stop work orders. He requested that the committee review the document from the perspective of the builders as well as the developers. Supervisor Thach acknowledged that this is the kind of thing that will need review by the committee. Supervisor Russell agreed and said that the development agreement should address these issues of responsibility of the developers and the builders as well as protecting the homeowners.

Mr. Gerald Davis came forward with several comments on the draft document. He pointed out a text error on page 9. He asked what will constitute conveyance as noted in the draft as he noted that it says that the sidewalks may not be installed by the developer until the houses are built but then states that sidewalks must be built prior to platting and recording the subdivision. Supervisor Russell acknowledged that this is not feasible. Mr. Davis suggested that maybe this should read "before final acceptance" instead of before platting and recording. Maybe bonds can be issued for these sidewalks that are not completed. He noted that the City of Horn Lake is requiring fees in lieu of sidewalks.

Mr. Davis asked what was meant by the phrase "duly bonded" on page 10 as most engineers are not bonded. He expressed concern that the document implies that anything that goes wrong with site drainage will be the responsibility of the certified engineer, which is a great burden on the engineers as they could be held liable for all future damages. He suggested that maybe they be required to sign a document that states the engineers have met the county standards. Mr. McDougal indicated that this had to do with watershed issues and asked if the floodplain ordinance didn't already address this issue for no net effect. Mr. Davis responded that he was not sure. Supervisor Russell said he thought this was consistent with the Phase II Stormwater regulations. Mr Davis responded that he thought those requirements dealt more with the quality of stormwater runoff and that most drainage systems are designed for a 25 year storm event and may not pass a 100 year event. He said he would be glad to certify that a drainage system design meets the county standards, but the county doesn't require design for a 100-year flood event and the document says the engineer would be responsible for "any damage."

Mr. Davis noted that a plan review fee of fifty dollars per lot, as noted on the bottom of page 10, could be a hefty price for some of the larger subdivisions. Supervisor Russell confirmed with Mr. McDougal that this would be a new fee that has not been previously assessed by the County.

Mr. Davis said that the language on page 11 says no landscaping would be allowed within utility easements, but this may need to be review for consistency with landscape buffer requirements. He also asked that the fees on page 16 be clarified for water system and traffic analyses as these are often already conducted by the developer and may not require that additional fees be charged by the county.

Mr. Hall Bridgeforth came forward and stated that most of his comments had been addressed by Mr. Green's statements. He said he thinks it important for the industry to give input on the document. He said he thought some of the items in the document would not be financially feasible for some of the developers in this area. He said that the developers are working to get better at addressing these issues, but the county needs to work with the developers to help them make a living.

Supervisor Latimer said the Board wants to work together with the development community and this review is just the first step. He noted that the committee will meet with Supervisor Russell, Supervisor Lewis, Board Attorney Mr. Nowak and Planning Director Mr. McDougal.

Mr. McDougal announced that the draft document will continue to be available for review on the County's website and copies are available from the Planning Commission Office.

Supervisor Thach made a Motion to carry over discussion for the draft residential development agreement to the meeting of April 21, 2008. Supervisor Medlin seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES

FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

APPEAL

Cedarview Country Crock d.b.a. BarbWires Restaurant has appealed the decision of the DeSoto County Building Official regarding pool tables in the C-1 zone.

In the matter of the Cedarview Country Crock d.b.a. BarbWires Restaurant appeal.

Mr. McDougal stated that this appeal is in reference to allowing pool tables in the establishment, known as BarbWires, located on Highway 305. He went on to say that the question regarding pool tables in this establishment was brought to his attention and under his authority as the DeSoto County Building Official, he made the interpretation that they were not allowed. Mr. McDougal explained that the property is used as a restaurant and when the original permit for use and occupancy was issued for a country grocery and restaurant, a condition was imposed that no pool tables be allowed, and this was written on the original permit years ago. His decision upheld the decision that was made by former Planning Director Mr. Merritt Powell when the permit for this establishment was originally issued.

He then said that his decision was appealed, by property owner Ms. Barbara Gatewood, to the Board of Adjustment. After hearing both sides, the Board of Adjustment denied Ms. Gatewood's appeal and upheld the decision of the Building Official.

Ms. Barbara Gatewood came forward and stated that she was appealing the decision of the Board of Adjustment. She said that in October 2007 she received a letter regarding the pool table in her grocery store. She spoke with Mr. McDougal and agreed to stop using the pool table and remove it from view. When the grocery store business began to decline and they could not make ends meet, they decided to convert their business into a restaurant. In December 2007, she spoke with Mr. Don Duncan regarding this change. She explained her plans and asked Mr. Duncan if the pool table would be allowed and if there would be a problem with adding another table. She then said that Mr. Duncan checked the zoning regulations and stated that he did not see a problem with having pool tables. Over Christmas they converted their business into a restaurant. She then received a second letter from the Planning Commission in January 2008; this letter stated that more complaints had been received regarding the pool tables and they should be removed from the establishment.

She went on to say that the complaints are coming from her neighbor Mr. Larry Vaughn. She explained to the Board that she has had problems with this neighbor and feels that these are personal complaints.

She then said that she and her husband are trying to make a nice place and they need the pool tables for added support. She stated that they do not have a lot of support from the long-time residents because they do not want a restaurant in the area; most of her customers are residents of the newer subdivisions in the surrounding area. Ms. Gatewood stated that Sheriff Rasco and his officers have been called to the business several times for false complaints. She feels that the neighbors only called on a recent Sunday because of the motorcycle traffic. There have not been any problems due to the pool tables. This is a restaurant serving meals to her customers, not a beer joint. She stated that she is unhappy with the label that her business has received by the neighbors.

Supervisor Medlin asked if she now had two pool tables. Ms. Gatewood said yes, she has recently added a second pool table, but the first table has been in the establishment for 6 or 7 years.

Sheriff Rasco said that there was an arrest made on one of the nights that officers were called to the location. Another visit was the result of complaints that people were urinating outside. On Sunday, they were called out because customers at Ms. Gatewood's establishment were outside drinking. Ms. Gatewood was asked to move her customers back inside with their drinks and she obliged. Sheriff Rasco went on to say that they are not harassing Ms. Gatewood, but it is their job to investigate any complaint that is received.

Supervisor Medlin then said that he has received calls from many of the residents in the area and it is not just one neighbor making complaints. He went on to say that the County has regulations that must be followed. He feels that Ms. Gatewood should have come to Mr. McDougal and discussed her plans to convert the business. Instead, the County was had to come to the establishment and force them to bring the building up to code.

Ms. Gatewood once again stated that she spoke with Mr. Duncan regarding these plans and thought that she had covered all her bases. Supervisor Russell then said that the first pool table has been there for years; he questioned why the table was there in the first place, when the original permit specifically stated that no pool tables would be allowed.

Supervisor Latimer then asked if there was anyone present to speak for or against the application.

Ms. Liz Sparrow came forward. She stated that she lives across the street from the establishment. She asked why Ms. Gatewood is so adamant about keeping the pool tables. She stated that the business does not appear to be a restaurant; there are advertisements for beer on the outside of the building. She said she believes this is a beer joint, not a restaurant. She then stated her concerns of what would happen when a fight breaks out and someone pulls a gun. She noted that the Sheriff has been out on frequent occasions regarding different problems. She said, on one occasion when the Sheriff's Deputies were called out for a noise complaint, the music was turned back up when they left the location. Ms. Sparrow then said that the residents do not need an establishment like this in their community. She has witnessed people urinating outside and changing clothes in the parking lot. She does not want a beer joint in her community and feels that the pool tables should be removed.

Pastor Joe Caldwell then came forward to speak. He stated that this issue began when Ms. Gatewood displayed a sign advertising a restaurant and "saloon" upon reopening as the new restaurant use. He then began receiving calls and complaints from his church members. He then called the Planning Commission and was told that Ms. Gatewood had permits for her establishment and the situation would be looked into. The reason that everyone is here today is the pool tables. There are two questions that the Board members should ask themselves when making this decision. First, what does the zoning ordinance say, and secondly, how necessary are the pool tables for a successful restaurant. He ended by saying; if Ms. Gatewood is forced to remove her pool tables then everyone within the county should have to remove theirs if that is the law.

Mr. Kenneth Orman said that he recognized that the decision is before this Board and it is up to them to enforce this law. He said he was very nervous on Sunday when the customers of BarbWires were leaving. His grandchildren were playing outside in the yard and there were people leaving the establishment after they had been drinking.

Ms. Gatewood came forward again to state that she does not feel that the pool tables are the real issue of complaint from her neighbors. She feels that her business has been branded as a beer joint and the people that visit her establishment have been branded as thugs. She stated that the customers that arrive on motorcycles include County Sheriff's Department Officers, airline pilots and decent members of the community. She went on to say that her food sales are up and her beer sales are down, which proves that her business is a restaurant not a bar. She then said that many of the people making these complaints have not been inside her business to see how nice it is.

Supervisor Russell stated that he is a small business owner himself and knows how hard it is to make ends meet, but the County must follow its regulations. There have been complaints from the neighbors and the Sheriff has confirmed that there have been problems. His suggestion to Ms. Gatewood is to meet with the neighbors and prove to them that she is going to be a good neighbor.

Supervisor Medlin then stated that the Desoto County Code Enforcement Officer, Steve Powell, has visited the other establishments that were named in Ms. Gatewood's complaint and is following through with this matter. Mr. Powell said that he has visited some of these establishments, but was waiting on the decision from the Board today before action was taken.

Mr. Tony Nowak, Board Attorney, stated that pool tables being allowed at this restaurant is the issue at hand. There has been a lot of discussion on whether this is a bar or a restaurant, but that is not the issue before the Board.

Supervisor Medlin made a Motion to uphold the Board of Adjustment decision to deny the appeal by Ms. Gatewood. He then stated that the pool tables should be removed from the establishment by 5:00 p.m. on Friday, March 7, 2008. Supervisor Russell seconded the Motion.

Supervisor Russell asked if pinball machines and arcade games will be allowed. Mr. Nowak stated that will be a decision to be made by the Board. Those are allowed in the C1 Commercial zoning under indoor recreation, which is a separate permitted use.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Mr. Nowak later stated that he would like to clarify the discussion he had with the Board while they were considering the action taken. Mr. Nowak reiterated that the Board could make a policy or regulation change to prohibit pool tables in the C-1 Commercial zone all together, but that would require a public hearing. However, that was not the question presented to the Board at this time. He went on to say that, by law, the County can still attach reasonable conditions to any permit that it issues, which is today's issue. It is clear that Ms. Gatewood's original permit was issued with a condition to prohibit pool tables; if she felt that this was not a reasonable condition to her permit she had the right to appeal that decision at the time the permit was issued, but the appeal period has since passed. Additionally, the Board could consider Ms. Gatewood's request as a request to remove the condition attached to the permit and determine if it still a reasonable condition in light of the changes in the neighborhood. He wanted to be sure that the basis for Mr. Medlin's motion was expressly stated in the minutes. Mr. Nowak then stated that Supervisor Medlin may wish to clarify his Motion to state the reason for denial.

Supervisor Medlin stated that his Motion was based on a finding that the condition that was attached to the original permit was and still is reasonable, as well as the fact that the time to appeal the condition as initially imposed has passed. Supervisor Russell seconded the Motion clarification.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

REZONINGS

Church Development Property (Valley Crossing) - (694) - Application is to rezone 94 acres from Agricultural to PUD. Subject property is located on the west side of Getwell Road and south of Brights Road, in Section 9, Township 3, Range 7 and is zoned Agricultural. (District 5)

Mr. McDougal presented the application to the Board. He then recognized Mr. Bob Dalhoff and Mr. Dean Thomas as being present to represent the application.

Supervisor Latimer asked if there would be a 2,000 square foot minimum home size and Mr. Dalhoff said yes. Mr. Dalhoff then explained that the original application was denied by the Planning Commission. They then made changes to the proposal and the applicant requested that it be remanded back to the Planning Commission. The Planning Commission then recommended approval of this application with the new changes. They have also met with the residents of Fountain Gate Subdivision and received their support for approval.

Supervisor Lewis asked if the pump station is going to affect the widening of Getwell Road. Mr. Dalhoff said that this issue will be addressed during the final design. Supervisor Lewis agreed that this will need to be addressed. Mr. McDougal added that the 40 feet will not encroach on the pump station, but 53 feet of right of way will.

Mr. Thomas then stated his reasons demonstrating change in the neighborhood. He said there are many new residential developments as well as a new sewer line in the area.

Mr. Thomas explained that this development has two different areas of use. Area 1 is 18.32 acres and is the Church area along Getwell Road. Area 2 is 79.10 acres of proposed residential use.

Supervisor Latimer asked if the homeowners in the subdivision will have use of the 8 acres of open space in Area 1. Supervisors Russell and Thach also asked for clarification of this issue. Mr. Thomas said that the use of this area by residents of the subdivision and other neighbors will be encouraged by the church. The only limitations to use will be on Sundays and during church functions, when the church will use the recreation area.

Supervisor Lewis then asked what will happen if the church ceases to exist. Mr. Thomas said that a church will be the only permitted use in this area if approved and if there is a change in the future, they will have to come back before the Board for approval.

Supervisor Russell asked if there is enough open space without the church to satisfy the requirements of a Planned Unit Development. Mr. McDougal said yes. Mr. Thomas explained that there will also be an asphalt walking trail and playgrounds at each end of the residential development.

Supervisor Lewis stated that he was concerned with how clear use of the church open space is stated. Mr. Dalhoff said that it is stated in the text of the Planned Unit Development that the residents would have access to this open space. Supervisor Lewis then said that there needs to be a clause for the church's protection, in case use by residents results in abuse or damage to the recreation area or the church use changes, so they can change their minds about letting the neighbors use it or make additional restrictions to the terms of its use.

Mr. Dalhoff said that these would be 20,000 square foot minimum lots with curb and gutter and sidewalks throughout the development.

Mr. Louis Cooksey, President of the Fountain Gate Homeowners' Association, thanked Supervisor Lewis for all of his help and concern for the interests of the Fountain Gate Subdivision residents. He then said that they have built a great relationship with the applicants and look forward to having this development as their neighbors.

Supervisor Lewis made a Motion to uphold the Planning Commission recommendation for approval finding there to be a change in the neighborhood and a public need for this rezoning, and these findings being made, the rezoning approval should be made conditioned upon the following stipulations:

1. Minimum required Finished Floor Elevations should be identified on the face of the plat for all flood plain lots.
2. Language regarding the church and homeowners' responsibility for the common area should be stated on the face of the plat to clarify that the church will reserve the right to revoke or restrict use of the recreation fields.

Supervisor Russell seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Forest Park (696) - Application is to rezone 236 acres from Agricultural -Residential to Planned Unit Development. Subject property is located on the east side of Polk Lane and north of Goodman Road, in Section 30, Township 1, Range 5 and is zoned Agricultural -Residential. (District 1)

Mr. McDougal presented the application to the Board. He noted that the applicant has agreed that any needed changes will be made based upon the results of the hydrology study currently underway in the area of this project. He then introduced Mr. Bob Dalhoff as being present to represent the application.

Supervisor Medlin asked for clarification about the text regarding the storage of junk vehicles. Mr. Dalhoff confirmed that this type of storage would not be allowed. Supervisor Medlin then asked for clarification about the Planning Commission's recommendation about phasing of the project. Mr. Dalhoff clarified that this was discussed by the Planning Commission and that they wanted to assure that there would be money available after Phase I to fund completion of the alignment of Forest Hill Irene as a boulevard and in the proposed location.

Supervisor Medlin asked if the proposed project would join into metro sewer service. Mr. Dalhoff confirmed that, yes, they have received confirmation from DCRUA that utilities are available for this project.

Mr. Dalhoff provided clarification of the intent of paved area near the industrial uses as being proposed for internal circulation only. He then presented the changes in use in the area to justify the proposed rezoning. He noted that there are new schools, new roads and roadway enhancements, new residential areas, industrial development and expansion of the airport nearby. He went on to present the features of the project including a potential greenbelt path system to access the schools from the proposed residential area.

Supervisor Russell asked if the developer intends to build the roads through. Mr. Dalhoff confirmed this saying that the roads will be needed for circulation to the project areas and all roads are part of the developer's proposal.

Supervisor Latimer noted that DeSoto Road provided the only access to the industrial uses. Supervisor Medlin then suggested that access to the industrial area of the project could be taken from Polk Lane, which is already a four-lane road serving industrial uses and built for truck traffic rather than from DeSoto Road where there are adjacent residences; he asked if a second access from Polk Lane could be added. Mr. Dalhoff agreed that this change could be made and may eliminate the need to construct DeSoto Road at an 80,000 lb. road capacity for truck traffic. Supervisor Medlin noted that he would like additional time to discuss this and other design features of this project.

Supervisor Russell said he was excited that the natural greenway could be part of the project. He asked if Jim Flanagan could be included in the discussion of the project to potentially connect the greenway and asphalt path all the way from Goodman Road to the schools. Mr. Dalhoff and Mr. McDougal agreed that this discussion could be pursued.

Supervisor Latimer asked if there was anyone present to speak for or against the application for rezoning.

Ms. Cindy Freeman came forward and asked for clarification on where this project would occur relative to her home on Polk Lane Cove. Mr. Dalhoff reviewed the exhibits and maps for clarification and said that additional development in the area may occur as this area continues to be in transition and will soon be annexed to the city. Supervisor Latimer added that this is a possibility, but other future plans for the area are unknown at this time.

Supervisor Medlin made a Motion to carry over this application until April 9, 2008. Supervisor Thach seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Whitaker Business Park (699) – Application is to rezone 14.65 acres from Agricultural -Residential to P-B. Subject property is located south of Kirk Road and east of Polk Lane, in Section 19, Township 1, Range 5 and is zoned Agricultural -Residential. (District 1)

Mr. McDougal presented the application to the Board and made note of the recommendations by staff and the Planning Commission. He then recognized Mr. Gerald Davis and Mr. Mark Whitaker as being present to represent the application.

Mr. Whitaker introduced himself and made his presentation on the concept for the uses and design of the proposed business park. He noted that the uses proposed would be consistent with light industrial uses as permitted in the County's M-1 zoning. The property is surrounded by the City of Olive Branch and the city has no objection to his proposal, which would provide a transition in design and uses between the industrial uses to the north and west and the residential and other uses to the east of this property.

Supervisor Medlin asked for clarification about the improvement of Kirk Road as it is a half section line road. Mr. Gerald Davis came forward and said that the City of Olive Branch is requiring 40 feet from the section line. He noted that Polk Lane is an 80-foot right-of-way and would be sufficient to service traffic related to this site. Supervisor Medlin asked if the resulting improvements to Kirk Road will result in four paved lanes at the end of the project. Mr. Davis said yes. Mr. Davis clarified the intent of the road width of Kirk Road with Supervisor Medlin, Mr. McDougal and County Engineer Andy Swims. He said they will do what is required to match the city's requirements for the development occurring across Kirk Road from this project.

Supervisor Medlin asked for clarification of the 21-foot wide interior road and if this was wide enough. Mr. Davis said this is intended for interior circulation only and should be sufficient to serve the project.

Supervisor Russell asked for confirmation that signs were posted on the site for the rezoning application. Mr. Davis and Mr. McDougal confirmed that signs had been posted at the site.

Supervisor Medlin asked about the parking areas proposed adjacent to the roadway and if the Planning Commission had recommended that these be allowed as proposed. Mr. McDougal said that the Planning Commission had paid special attention to this issue to be sure that adequate landscape buffer was provided and, ultimately, supported the parking layout as proposed so long as the buffer was addressed adjacent to the street.

Board Attorney Tony Nowak stated that the County's Comprehensive Plan didn't anticipate the fast rate of growth and development that has occurred in this area with large industrial tenants like Williams Sonoma and IDI moving in, which demonstrate that there has been change in the area to warrant the requested rezoning.

Supervisor Medlin made a Motion to uphold the Planning Commission recommendation for approval finding there to be a change in the neighborhood and a public need for this rezoning, and these findings being made, the rezoning approval should be made conditioned upon the following stipulations:

1. Kirk Road will be completed as a 40-foot right-of-way.
2. There will be trees and other large plantings added to the landscaping buffer.
3. There will need to be fire marshal approval of the interior circulation.
4. This approval will grant the requested variances in setbacks.

Supervisor Lewis seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Sunset Farms Lot 1 (700) – Application is to rezone 1.9 acres from Agricultural to C-4. Subject property is located north of Highway 304 and east of Tulane Road, in Section 9, Township 3, Range 8 and is zoned Agricultural. (District 5)

REQUEST BY APPLICANT TO CARRY OVER

Sunset Farms Lot 8 (701) – Application is to rezone a portion of lot 8 from Agricultural to C-4. Subject property is located north of Highway 304 and east of Tulane Road, in Section 9, Township 3, Range 8 and is zoned Agricultural. (District 4) REQUEST BY APPLICANT TO CARRY OVER

Mr. McDougal stated that the Planning Commission Office received a letter from the applicant requesting that these applications be carried over until the April 9, 2008 Board of Supervisors meeting. The applicant's letter indicated that he is working to meet with the neighbors before returning to the Board for their review of his application.

Supervisor Latimer made a Motion to carry over this application until April 9, 2008. Supervisor Lewis seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Madison Tract (702) – Application is to rezone 4.18 acres from Agricultural-Residential to C-1. Subject property is located north of Starlanding Road and west of Fogg Road, in Section 18, Township 2, Range 8 and is zoned Agricultural-Residential. (District 4)

WITHDRAWN BY REQUEST OF THE APPLICANT

Mr. McDougal stated that the Planning Commission Office received a letter from the applicant requesting that this application be withdrawn.

Supervisor Latimer asked if a Motion and vote were needed to withdraw the application and Mr. Tony Nowak, Board Attorney, said no.

MINOR LOTS

District 5

Leslie Minor lot (6710) - Application is for final subdivision approval of one (1) lot of 7.50 acres out of 10 acres. Subject property is located south of Wheeler Road and west of Tulane Road in Section 15, Township 4, Range 8 and is zoned Agricultural. (District 5)

Sims Minor lot (6712) - Application is for final subdivision approval of one (1) lot of 2.0 acres out of 10 acres. Subject property is located north of Byhalia Road and west of Laughter Road in Section 35, Township 2, Range 7 and is zoned Agricultural. (District 5)

Supervisor Lewis made a Motion to approve the applications above subject to staff recommendations. Supervisor Medlin seconded the Motion.

Wilson Hills Minor lot (6711) - Application is for final subdivision approval of three (3) lots of 4.14, 2.00, and 3.50 acres out of 9.99 acres. Subject property is located east of Laughter Road and north of Sunset Road in Section 25, Township 2, Range 7 and is zoned Agricultural - Residential. (District 5)

****MUST BE PLATTED AND RECORDED****

Mr. McDougal presented the application noting that a request is made for an access easement longer than 600 feet, which is the maximum length allowed by the Ordinance.

Supervisor Russell noted that the proposed rear lot (lot 3) is within the flood plain and that the applicant will need to raise the lowest finished floor elevation two feet or more to construct a home on this lot. Mr. McDougal confirmed that the applicants are aware of this issue and it was discussed at the Planning Commission meeting. He said that the flood plain issues will be addressed as part of permitting for construction of a house on this lot to the extent that the County has jurisdiction.

Supervisor Lewis asked for clarification of the total length of the easement. Mr. McDougal responded that it would be 690.70 feet in length. Supervisor Lewis then asked if the Planning Commission recommended approval of the application as proposed. Mr. McDougal said yes.

Supervisor Lewis made a Motion to approve the applications subject to staff recommendations that the lots and the easement be platted and recorded and to address flood plain issues per permit requirements of the County.

Supervisor Russell seconded the Motion.

APPROVED SUBJECT TO MEETING ALL STANDARDS OF THE FOLLOWING: DEDICATION OF PUBLIC ROAD RIGHT-OF-WAY, HEALTH DEPARTMENT APPROVAL.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN YES
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS YES

Other Items:

1. Draft Attendance Policy for Planning Commission

In the matter of adopting an Attendance Policy for the Planning Commission.

Mr. McDougal stated that, as requested by the Board of Supervisors, he had drafted an attendance policy for members of the Planning Commission, which proposes that five (5) missed meetings within a calendar year would result in dismissal of the Commissioner from their appointment after reporting the absences to the Board of Supervisors. He presented this draft policy to the Planning Commission for review and comment at their regular meeting of February 28, 2008; they supported the policy, but asked if he could provide a courtesy notice to members of the Commission upon a third missed meeting. Mr. McDougal agreed that this would be a good idea. Mr. McDougal also noted that if illness or other short-term personal business commitments arose which caused a member to miss five meetings, the individual could be reappointed to the Planning Commission by the Board of Supervisors at a later date.

Supervisor Medlin asked for clarification on the comments from Planning Commissioner Len Lawhon. Mr. McDougal replied that Mr. Lawhon had commented that the Planning Commission serves at the pleasure of the Board of Supervisors and that it was important that the members not be expected to police themselves on such matters, but rather to follow policies as set forth by the Board of Supervisors.

Supervisor Thach made a Motion to adopt the Attendance Policy of the Planning Commission as stated above, with a courtesy notice to be provided by the Director of Planning upon a third missed meeting. Supervisor Russell seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN NO
SECOND DISTRICT SUPERVISOR, EUGENE THACH YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL YES
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER YES
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS ABSENT

E. OLD BUSINESS

1. Sheriff’s Department – Purchase of Radios from Jail Phone Revenue

At the recommendation of the County Administrator, Supervisor Allen Latimer made the motion and Supervisor Eugene Thach seconded the motion to carry this item over until March 17th. The motion passed by a vote as follows:

Supervisor Jessie Medlin-----YES
Supervisor Eugene C. Thach-----YES
Supervisor Bill Russell-----YES
Supervisor Allen Latimer-----YES
Supervisor Tommy Lewis-----ABSENT

Later in the meeting, Sheriff Bill Rasco said the Sheriff’s Department is set up to go with a computer system that is compatible with all of the cities. He said the county set aside \$109,000 for the expenditure for the Smart Cop System. He said now they are not going to use that system because of the issues that occurred with the City of Southaven using Smart Cop. Sheriff Rasco said Smart Cop is not working and Southaven has several lawsuits. Sheriff Rasco said the county’s Eagle system is equipped to do the same job that Smart Cop is supposed to do. Sheriff Rasco said he does not mind using the \$109,000 that was budgeted to purchase laptop computers for the patrol cars. He said the Eagle system has a program that provides the technology, but it is uncertain if the cities will use the Eagle system. He said the Sheriff’s Department is waiting to make sure that the best decision is made on the purchase. Sheriff Rasco said the radios they are recommending buying will be outdated in two years. He said the EMA office has grant money in the amount of \$17,000 that can be added to the \$109,000 from the Sheriff’s Department toward the expenditure.

Supervisor Bill Russell said he appreciates the Sheriff looking at his budget and said the Board will support the Sheriff. Supervisor Allen Latimer recommended purchasing the radios instead of lease/purchase and using the \$109,000 and \$17,000 for the purchase. Sheriff Rasco said he prefers to lease/purchase the radios.

Supervisor Bill Russell made the motion and Supervisor Eugene Thach seconded the motion to amend the budget to move \$109,000 to the appropriate line item in the Sheriff’s budget, and to accept \$17,000 from the EMA grant, and to approve the purchase of the radios, and if necessary, to seek approval of the Wireless Communication Commission for the expenditure. The motion passed by a vote as follows:

Supervisor Jessie Medlin-----YES
Supervisor Eugene C. Thach-----YES
Supervisor Bill Russell-----YES
Supervisor Allen Latimer-----YES
Supervisor Tommy Lewis-----ABSENT

F. NEW BUSINESS

1. Board Attorney – Dr. Ruhl Contract

Board Attorney Tony Nowak reminded the Board of Supervisors that the jail physician, Dr. Gina Bray’s, contract expired at the end of January, 2008. The contract for the new physician was finalized to begin on March 1, 2008. Therefore Dr. Bray continued to work during the month of February. He said the new physician for the jail is Dr. Forster Ruhl. Mr. Nowak said the compensation for the new physician was rounded evenly to \$90,000 annually, which is a little over \$300 more than Dr. Bray’s contract. Mr. Nowak presented the contract to the Board of Supervisors for approval.

At the recommendation of the Board Attorney, Supervisor Jessie Medlin made the motion and Supervisor Eugene Thach seconded the motion to approve the contract between the

Board of Supervisors and Dr. Steven Ruhl for physician services at the DeSoto County Jail and authorize the Board President to sign the contract effective March, 1, 2008, according to the terms in Exhibit F.1. The motion passed by a vote as follows:

Supervisor Jessie Medlin-----YES
 Supervisor Eugene C. Thach-----YES
 Supervisor Bill Russell-----YES
 Supervisor Allen Latimer-----YES
 Supervisor Tommy Lewis-----ABSENT

See Exhibit F.1

2. Department of Road Management - Surplus Equipment Declaration & Internet Auction

Road Manager Russell Dorris said he recommended a list of items to declare as surplus and sell. Supervisor Jessie Medlin asked if we will have this equipment until the new equipment comes in. Mr. Dorris said yes.

Supervisor Medlin asked if we keep a spare boom truck. Mr. Dorris said yes.

At the recommendation of the Road Manager Russell Dorris, Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to approve declaring the following items as surplus and to authorize the equipment to be auctioned:

<u>Description</u>	<u>Serial No./VIN No.</u>	<u>Unit No.</u>
2003 Freightliner Boom truck LP	1FVABUAK94DM1	144
2004 Freightliner Boom truck	1FVABBAKX4HNO	145
JD6420 mowing tractor/batwind	LO6420H403443	661
JD6420 mowing tractor w/BM	LO6420H403343	662
Rasco RB48 Sweeper	4800-428	664
Rasco RB48 Sweeper	4800-428	665
Rasco RB48 Sweeper	4800-463	680
Rasco RB48 Sweeper	4800-466	693
JD6420 mowing tractor w/BM	LO3420H4386	667

The motion passed by a vote as follows:

Supervisor Jessie Medlin-----YES
 Supervisor Eugene C. Thach-----YES
 Supervisor Bill Russell-----YES
 Supervisor Allen Latimer-----YES
 Supervisor Tommy Lewis-----ABSENT

See Exhibit F.2

3. IT Department – Blackberry System Update

County Administrator Michael Garriga recommended obtaining a smart phone and a PDA with data for the IT Department to use as a learning tool to determine if other users could benefit from that technology.

Supervisor Bill Russell asked what the smart phone does that would be beneficial to the county. Mr. Garriga said this will allow real time transfers of emails to telephones. He explained that he uses his phone to retrieve emails and other communications when he is away from the office and it enables him to respond to inquiries immediately.

Sheriff Bill Rasco said, when he took office, the phones in the Sheriff’s Department averaged \$1,400 per month and they are now about \$400 per month.

Mr. Garriga said that cell phones are now a part of daily life and work and he does not think the public looks at cell phones as a luxury anymore. Mr. Garriga explained the technology that would increase efficiency through the data transfers.

At the recommendation of the County Administrator, Supervisor Bill Russell made the motion and Supervisor Eugene Thach seconded the motion to approve an upgrade to the plan for the IT Department cell phone service with Cellular South to a \$99 per month unlimited data voice text package. The motion passed by a vote as follows:

Supervisor Jessie Medlin-----NO
Supervisor Eugene C. Thach-----YES
Supervisor Bill Russell-----YES
Supervisor Allen Latimer-----YES
Supervisor Tommy Lewis-----ABSENT

G. EXECUTIVE SESSION

The executive session portion of these minutes is recorded under the portion of the minutes called "Executive Session".

H. OTHER

1. Grinder Contract

At the recommendation of the Board Attorney, Supervisor Eugene Thach made the motion and Supervisor Bill Russell seconded the motion to authorize the clerk to write a check for the final settlement including the last outstanding invoice in the amount of \$3,812.30, for a total settlement of \$35,312.30 with Grinder Corporation which was previously approved by the Board of Supervisors. The motion passed by a vote as follows:

Supervisor Jessie Medlin-----YES
Supervisor Eugene C. Thach-----YES
Supervisor Bill Russell-----YES
Supervisor Allen Latimer-----YES
Supervisor Tommy Lewis-----ABSENT

THIS the 4th day of March, 2008, these minutes have been read and approved by the DeSoto County Board of Supervisors.

Allen Latimer, President
DeSoto County Board of Supervisors