

**DESOTO COUNTY BOARD OF SUPERVISORS**

**BOARD MEETING MINUTES**

**ALLEN LATIMER, PRESIDENT 2008 PRESIDING**

**June 4, 2008**

**A. CALL TO ORDER**

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

Deputy Carl Hurt 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**

Supervisor Eugene Thach presented the invocation.

**C. PLEDGE OF ALLEGIANCE**

**D. PLANNING COMMISSION**

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

Peggy Linton, Community Development Director of the Community Foundation of Northwest Mississippi, presented the Board with information on “The Mississippi River and Greenways Symposium” to be held June 12, 2008 at the DeSoto Civic Center. Ms. Linton encouraged the Supervisors to attend the symposium. She then stated they have contracted Charles Flink of Greenways, Inc. to speak at the symposium about developing a strategic plan to move forward with the DeSoto County greenway.

Mr. Jim McDougal, Director of the DeSoto County Planning Commission, presented the Stormwater Report, Code Enforcement Report and Building Permits Report. He then stated according to Ray Laughter, DeSoto County Stormwater Coordinator, active stormwater non-compliance is going down. Supervisor Thach stated the reports show the number of permits issued is still down, only 300 so far this year. Supervisor Latimer asked how the Planning Commission budget is doing with the decrease in the number of permits issued. Mr. McDougal stated the later pages of the Building Permit Report were the receipts for 2007 and 2008.

**PUBLIC HEARING**

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

Supervisor Lewis excused himself from the discussion of this item.

Supervisor Thach 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 ABSENT

Supervisor Russell stated the Northwest Mississippi Home Builders Association worked with the committee on the Residential Development Agreement, and the Home Builders Association asked that the Board not vote on the Residential Development Agreement today. He went on to state that he appreciated the input from the Home Builders Association, that the committee learned a lot from them and was proud to have worked on the Residential Development Agreement with the Home Builders Association. Supervisor Latimer stated he wanted to thank the Board, the Planning Commission office and the Home Builders Association for the many hours they worked together on the Residential Development Agreement.

Mr. Jim McDougal presented an outline sheet for the Residential Development Agreement.

Supervisor Russell clarified that the Residential Development Agreement still includes public improvements and road bonds as well as private improvements, which is a new part of the agreement.

Supervisor Medlin asked for clarification on time limitations for completion of improvements. Mr. Tony Nowak, Board Attorney, advised the property would revert to original status if it was a conditional rezoning or subdivision approval, and the Board specified in its motion approving the rezoning or subdivision, the deadline to complete the work and the effect of failing to comply. Otherwise, the agreement addresses the subdivision approval and not the zoning. Per the agreement and the County's ordinance, the developer would have to return to the Board of Supervisors to request an extension of time for the subdivision completion and have the subdivision plans ratified if not completed in time.

Supervisor Medlin asked for clarification on item #8 if sidewalks also meant walking trails. Supervisor Russell responded yes that the walking trails are private amenities that would be completed when 50% of the lots in the development are owner occupied. Mr. Garriga clarified that walking trails are to natural areas and sidewalks are adjacent to roads.

Mr. Nowak advised that Board of Supervisor approval was needed for the in lieu payment for second lift of asphalt in the Residential Development Agreement if an in lieu arrangement were proposed by the developer.

Supervisor Thach asked if there are a maximum or minimum number of lots that determines whether a subdivision is required to have a Homeowners Association. Mr. McDougal stated it is not based on the number of lots but based on circumstances, and he referenced page 11 #1 of the agreement. Mr. Nowak advised the developer can ask the Board for a waiver of Homeowners Association and such waiver would be up to the Board.

Mr. McDougal described the Erosion Control Agreement as a document that can be used as an appendix to the Residential Development Agreement to bind the developer to stormwater measures. Supervisor Russell confirmed with staff that the Erosion Control Agreement can be used even when the Residential Development Agreement is not required.

Supervisor Medlin asked for clarification about the requirement for Homeowners Associations particularly how it relates to maintaining the ditches and underground drainage. He also stated the dues of the Homeowners Association would be too high if they had to take in the cost of the underground drainage. Supervisor Russell stated when a developer sets up a Homeowners Association, the County Engineer will assess the cost of annual and future maintenance of ditches, ponds and common areas that would be put in an escrow account. This would assure the County funds until the lots are sold. Supervisor Russell then stated that if the County approves underground drainage then the Board should agree to address fixing and/or maintaining the underground drainage. Supervisor Latimer stated this concerns him as well, since unless there is a public health or safety issue the County can not address issues with underground drainage that is on private property. Supervisor Thach asked how other counties addressed this issue. Supervisor Russell stated Tate County and other counties operate with the same laws as DeSoto County and can only address the issue if there are health or safety issues. Mr. Nowak advised the Residential Development Agreement requires the developer to give notice that there is a Homeowners Association as well as it being stated on the plat. Mr. Ben Smith stated all cities maintain drainage pipes, drainage easements are shown on plats dedicated to the city to allow maintenance. Mr. Nowak advised the law is different in cities than in the County. Cities are allowed to do anything unless it is prohibited and the County can only do what is allowed per the statutes and the County's regulations and ordinances.

Mr. Sluggo Davis asked about page 13 item G; he asked for clarification of what would be on the plat as far as Homeowners Associations. It was clarified that a list of members or the Homeowners Association would not be on the plat, only notice that there is a Homeowners Association.

Mr. Sean Green stated the Home Builders Association would like more time to show the Residential Development Agreement to other developers before the Board of Supervisors adopt it.

Mr. Greg Ryan stated he has attended four meetings, has been involved in reviews and been given the opportunity to participate through the entire process of drafting the Residential Development Agreement.

Mr. George Ready asked if the requirement of a mandatory Homeowners Association would be in the deed. Mr. Nowak responded yes, the agreement requires a disclosure in the deed that there is a Homeowners Association. Mr. Ready then

stated there should be a disclosure in closing for the homeowner to acknowledge on the deed that there is a Homeowners Association and covenants.

Mr. Nowak stated there is an annexation provision in the Residential Development Agreement that the agreement can be assigned to the city if the city wants to uphold the Residential Development Agreement when lands are annexed.

Supervisor Medlin asked what the law states as it pertains to the special assessments for schools when there are 50 or more lots, and what the special assessment formula is. Mr. Nowak responded the developer can opt to assess funds and pay those to the school district. This is a voluntary action by the developer and the School Board is involved in the assessment. Mr. Nowak then stated there is no set formula for the special assessment amount. Mr. Sean Green stated he was unsure of the formula as well, but that it seems like a good idea to inform the School Board know when large subdivisions are being developed in their district.

Mr. McDougal reviewed the highlights of the Erosion Control Agreement.

Supervisor Medlin made a Motion to carry over discussion of the Residential Development Agreement to the meeting of July 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 ABSENT

**REZONINGS**

**Huffman Rezoning (703) - Application is to rezone 4.8 acres from Agricultural (A) to Planned Commercial (C-4). Subject property is located on the south side of Packing Plant Road and west of Highway 51, in Section 24, Township 3, Range 8 and is zoned Agricultural. (District 5)**

**Sexton Rezoning (704) - Application is to rezone 2.7 acres from Agricultural (A) to Planned Commercial (C-4). Subject property is located on the south side of Packing Plant Road and west of Highway 51, in Section 24, Township 3, Range 8 and is zoned Agricultural. (District 5)**

Mr. Jim. McDougal stated the Planning Commission heard both the Huffman and the Sexton rezoning applications together due to the properties being located beside each other and both applications seeking C-4 rezoning. The Board of Supervisors agreed to hear both applications together.

Mr. McDougal presented the applications to the Board, stating the Planning Commission recommended on both applications with the following stipulations:

1. Strike the word "otherwise" and replace it with "walk-in" in permitted use #11 to read "*Banks, drive in or walk in*";
2. In parenthesis add "but not including title loan and check cashing businesses" to use #16 to read, "*Financial services, not including check cashing or title loan businesses*"; and
3. There will be a waiver of the requirement for a 10-foot buffer between the two subject properties as the uses will be identical in nature.

He then introduced Mr. George Ready as being present to represent the applications.

Mr. George Ready stated historically the area was zoned M-1, light industrial, the applicants feel changing the zoning to C-4 would be an improvement, and there would be no issue with traffic. The traffic would be no different than when the packing plant was operating in the area.

Mr. Ready elaborated on the intended use of the properties. Mr. Huffman's property would be used to store and display items used in an interior design business in an existing metal building. Mr. Ready then stated he advised Mr. Huffman he may need to brick the front of his existing building. It is not a retail type outlet at this time, but he would like to provide for that possibility in the future. There would be little impact on the traffic in the area. Mr. Sexton does not have any immediate plans to build at this time on his property.

Mr. Ready stated the applicants are also requesting the Board waive the required 10 foot buffer between Mr. Huffman and Mr. Sexton as well as the buffer between Mr. Huffman and Mr. Chaffin.

Mr. McDougal asked the Board to clarify if they were including the buffer between Mr. Huffman and Mr. Chaffin in the motion. Supervisor Lewis asked if there is any feedback from Mr. Chaffin concerning the buffer. Mr. Ready stated Mr. Huffman spoke with Mr. Chaffin and he is fine with there being no buffer between the two properties. Mr. Huffman went on to state there is a steep bank between Mr. Huffman's and Mr. Chaffin's properties and there is a concern with the possibility of creating erosion if they try to install the buffer. Mr. McDougal clarified the buffer between the two properties would be landscaping and what is there naturally would be included as part of the buffer. Supervisor Lewis asked that it be included in the minutes that if Mr. Chaffin comes back and states that he wants the buffer, then at that time Mr. Huffman will need to put in the buffer.

Supervisor Lewis made a Motion to uphold the Planning Commissions recommendations with following stipulations:

1. There is no objection of the buffer waiver from Mr. Chaffin within 60 days
2. Staff and Planning Commission comments are addressed and deemed conditions to the rezoning.

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

**FINAL SUBDIVISION**

**Thorn Ridge (formerly Jordan Ridge) (6720) – Application is for final subdivision approval of 16 lots on 39.40 acres. Subject property is located on the south side of Coryelle Road and west of Highway 305 in Section 22, Township 3, Range 6 and is zoned Agricultural (A). (District 5)**

Mr. McDougal presented the application to the Board.

Supervisor Medlin asked if Lot 1 will have access to Coryelle Road. Ms. Tynan responded yes they will have access to Coryelle Road.

Supervisor Latimer asked for clarification about the lake more specifically who will maintain the lake. Mr. Michael Garriga, County Administrator, responded there will be a 20 ft. easement around the lake to allow for maintenance. Supervisor Russell stated it is not considered a common area.

Supervisor Medlin asked if there is an existing house on Lot 8. Mr. McDougal confirmed there is.

Supervisor Russell asked where the ditch is located that the homeowners will maintain. Mr. McDougal stated he believes it is the drainage ditch along the road. Supervisor Russell then asked about the natural streams. Mr. McDougal responded he is not aware of any natural streams, only ditches. Supervisor Russell asked if the ditch runs through the entire subdivision, and if under the new Residential Development Agreement, would the subdivision be required to have a Homeowners Association. Mr. Nowak advised that in the future, under the Residential Development Agreement, a Homeowners Association would be established after the preliminary subdivision was approved and prior to final subdivision approval.

Supervisor Lewis made a Motion to approve the application. 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

**Villages at Hawks Crossing (6616) – Application is for approval of a revised phasing plan. Subject property is located east and west of Craft Road and north of Byhalia Road in Section 29, 30, 31, & 32, Township 2, Range 6 and is zoned Planned Unit Development. (District 5)**

Mr. McDougal presented the application to the board. He then introduced Mr. Robbie Jones as being present to represent the application.

Mr. Robbie Jones stated the original approval was for 129 lots on the west and east side of the subdivision. He then stated the developer had to sell the commercial portion of the development and reorganize, at that time they decided 129 lots were too much to develop. Mr. Jones stated the developers are now wanting to come back and only approve 50 to 60 lots and change the west side to Phase 1 and the east side to Phase 2. Supervisor Medlin asked if the applicant had 2 phases finalized originally. Mr. Jones responded yes. Mr. McDougal stated the Board will need to address how to handle the approved phases, before going ahead with approving the new phases.

Supervisor Lewis asked about the lake bond. Mr. Jones stated a bond for the lake has not been issued. Mr. Nowak advised there should be a bond to dress up the lake and put in a walking trail. Under the original approval the \$75,000 bond should have been presented by January 31, 2008 and the work should be completed by June 23, 2008. Mr. Jones stated the work had not started on the lake or the walking trail. Supervisor Thach asked if the applicant would be able to put up the bond. Mr. Jones stated there should be no problem putting up the bond.

Supervisor Lewis made a Motion to carry over this application until June 13, 2008, pending receipt of the bond for the lake. 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

Mr. McDougal discussed a Board of Supervisor ordinance to change the Preliminary Subdivision process to include review by the Board of Supervisors. Supervisor Medlin asked if the proposed process would slow down the construction process. Mr. McDougal responded that it would not.

Supervisor Russell made a Motion to set a public hearing for July 9, 2008 to discuss the proposed revisions to the subdivision Ordinance.

Mr. Nowak stated the discussion should include when the developer would sign the Residential Development Agreement. The Motion was amended to include this topic for discussion.

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

**E. CONSENT**

The Board of Supervisors considered the items presented on the Consent Agenda as follows:

**1. Accounting**

**a. Ratification of Bond Payment**

\$18,000,000 MS Development Bank Special Obligation Bonds

Trustmark Bank Ck# 037017 issued 5-30-08 Total \$ 62,666.67

**b. Vouchers for Reimbursements of Expenses (5) – Travel to Conference**

**c. Tax Assessor Registration Fees – Linda White – Registration Fees**

**d. Travel Advance for Animal Control Officer Training - Dontay Cooper and Charlene Conlee – Travel to Level I Animal Control Officer Training**

**e. Payment of Late Bill – OCE Imagistics, Inc - \$9,158.72**

**2. EMA - Approval to Bid for Rescue Boat**

Supervisor Eugene Thach made the motion and Supervisor Bill Russell seconded the motion to approve the Consent Agenda. The motion passed by a unanimous vote.

**See Exhibit E**

**F. OLD BUSINESS**

**1. Public Hearing for Open Container Law**

Board Attorney Tony Nowak said the Board did not set a date for the Public Hearing for the Open Container Law. He said, if the Board knows they want an open container law, he will draw one up, but he needs information to avoid unnecessary expense.

Supervisor Jessie Medlin made the motion and Supervisor Bill Russell seconded the motion to authorize the Board Attorney to meet with the Sheriff to determine the conditions of the open container law. The motion passed by a unanimous vote. **See Exhibit F.1**

**G. NEW BUSINESS**

**1. Bids Under Advise ment – Tourism Building**

At the recommendation of the Convention and Visitors Bureau, Supervisor Tommy Lewis made the motion and Supervisor Jessie Medlin seconded the motion to hold this item over until June 13, 2008. The motion passed by a unanimous vote.

**2. Bids Under Advisement – Red Banks Road & Lee Road No. CO-17(32)**

County Consulting Engineer Daniel Murphy presented bids for Red Banks and Lee Roads Project No. CO-17(32) as follows:

1. L & T Bidders Construction Co.	\$262,333.05
2. BOEP Earthmovers	\$264,932.85
3. Chancellor Brothers, LLC	\$296,731.30
4. Ferrell Paving, Inc.	\$328,033.50
5. Endeeco, Inc.	\$339,771.88
6. White Contracting Co.	\$376,534.02

Mr. Murphy said this project is to improve the sight distance in the roadway.

Supervisor Jessie Medlin asked the length of the contract. Mr. Murphy said there are 20 working days allowed for the work.

Supervisor Eugene Thach made the motion and Supervisor Jessie Medlin seconded the motion to approve accepting the low bid for Red Banks and Lee Road from L & T Construction Co. in the amount of \$262,333.05. The motion passed by a unanimous vote. **See Exhibit G.2**

**3. Extension of E-Waste Grant**

Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to apply for an extension of the E-Waste Grant through June 30, 2009. The motion passed by a vote as follows:

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

**See Exhibit G.3**

**4. Approval to Travel to NACO**

County Administrator Michael Garriga said the NACO Convention will be July 11<sup>th</sup> thru July 15<sup>th</sup>. He asked if any of the Supervisors were going and suggested the Board approve travel.

Supervisor Tommy Lewis made the motion and Supervisor Bill Russell seconded the motion for Supervisor Tommy Lewis, Supervisor Bill Russell and any other Board Members and Vanessa Lynchard to attend the NACO Convention July 11<sup>th</sup> thru July 15<sup>th</sup>. The motion passed by a unanimous vote.

**5. Board Attorney – 2007 Audit Report-Approve Jeff Allen**

Board Attorney Tony Nowak acknowledged that the Board of Supervisors authorized him to prepare the litigation report for the county audit report. Mr. Nowak said a number of the matters have been assigned to defense counsel for the insurance carrier and he is requesting approval for the counsel to prepare a portion of the report.

Supervisor Jessie Medlin made the motion and Supervisor Eugene Thach seconded the motion to authorize Jeff Allen to prepare the report for the county audit and authorize fees to be paid for the preparation of the report. The motion passed by a unanimous vote.

## **H. EXECUTIVE SESSION**

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

## **I. OTHER**

### **1. Purchasing – Bids for County Vehicles**

Supervisor Tommy Lewis said he is concerned about air quality issues and environmental issues in DeSoto County and about how the public perceives the vehicles bought by the county. He asked if we should start purchasing more environmentally friendly vehicles. Supervisor Lewis asked the Board's strategy for the purchase of the vehicles. He also suggested considering what the used market will request in the future.

Supervisor Bill Russell said the county has had good success with the county vehicle policy and said, if we can break even or control the cost we are spending for vehicles, it will be good for the taxpayers. Supervisor Jessie Medlin said he thinks we should be driving the county vehicles as long as possible.

Supervisor Medlin said that some of the bigger trucks are getting gas mileage as good as some of the smaller vehicles. He said our region may not be good for hybrids.

Road Manager Russell Dorris said that Ford has a hybrid Ford Focus. When you turn the air conditioner on, the vehicle uses gasoline.

Supervisor Tommy Lewis made the motion and Supervisor Eugene Thach seconded the motion to approve an addendum to the bid for county vehicles to include more economical vehicles. The motion passed by a unanimous vote.

### **2. Park Fund District 3**

Supervisor Bill Russell made the motion and Supervisor Eugene Thach seconded the motion to expend \$6,000 from the District 3 Park Fund to the Town of Walls Park Fund. The motion passed by a unanimous vote.

### **3. Public Safety Scholarship Fund**

Supervisor Bill Russell said that a Public Safety Scholarship Fund is presently funding ten scholarships and they need \$4,000 for one additional scholarship in the fund.

After discussing the issue, Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to allocate \$4,000 from Advertising County Resources to the Public Safety Scholarship Fund. The motion passed by a unanimous vote.

### **4. Symposium**

Peggy Linton of the Community Foundation appeared before the Board of Supervisors to discuss the Greenway Symposium being held on June 12<sup>th</sup>. She said it will be paid from the environmental fund through the Community Foundation. It is important that the DeSoto County Greenway move forward. Ms. Linton said that Tracy Huffman and Judy Marshall will come to the symposium to discuss the first leg of the Greenway. She encouraged the Board Members to attend the Symposium. She said the Community Foundation has contracted with Charles Flink to lead the Symposium. He will talk about strategic planning to move forward with the Greenway. Planning Director Jim McDougal said the Planning Commission will be happy to assist in any way possible.

Supervisor Eugene Thach made the motion and Supervisor Tommy Lewis seconded the motion to recess the meeting until June 13, 2008, at 9:00 a.m. The motion passed by a vote as follows:

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

THIS the 4<sup>th</sup> day of June, 2008, these minutes have been read and approved by the DeSoto County Board of Supervisors.

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Allen Latimer, President  
DeSoto County Board of Supervisors