

DESOTO COUNTY BOARD OF SUPERVISORS
BOARD MEETING MINUTES

BILL RUSSELL, PRESIDENT 2010 PRESIDING

August 26, 2010

A. CALL TO ORDER

The August 26, 2010, meeting of the DeSoto County Board of Supervisors was called to order by Supervisor Bill Russell, 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. CONSENT

The Board of Supervisors considered the items on the Consent Agenda. Supervisor Tommy Lewis made the motion and Supervisor Eugene Thach seconded the motion to approve the Consent Agenda as follows:

- 1. Chancery Clerk Allowance (1) - \$2,0166.66**
- 2. Requests for Additional Requisition Clerks: Circuit Court Reporters:
Bobby Chamberlain, Dale Thompson, Andy Baker and Jimmy McClure**
- 3. Make Part of Minutes: Synthetic Marijuana: Order of Adoption of Ordinance *and*
Ordinance Prohibiting Use, etc. of Synthetic Cannabinoids *and* Notice of
Adoption of Ordinance**
- 4. Accounting: Budget Amendments**
- 5. Appointments: CVB-Reappoint Jamie Harris**
- 6. Petition for Reduction of Assessment-3 Brothers Gas Station - Parcel: 3189-000**

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-----YES

See Exhibit D

E. OLD BUSINESS

F. NEW BUSINESS

1. Tax Protest-Hunt Property

Attorney Robbie Hayes appeared before the Board of Supervisors representing Teresa Hunt on a tax protest for parcel numbers 10782700 0 00026 00, 10782700 0 00026 02, 10782700 0 00026 03, 10782700 0 00026 04, 10782700 0 00026 05 and 10782700 0 00026 06. Mr. Hayes said they are before the Board to protest the tax values for 2009.

Mr. Hayes said that Miss. Code Section 27-35-143 says the Board of Supervisors has authority to change assessments. When lands have been assessed and incorrectly classified, the Board of Supervisors can change the assessments. The assessment does not pass the smell test on these parcels. He said the Hunt's purchased the property in 1989 and have continuously lived there to present. For the first 17 years the property was assessed as residential. Mr. Hayes said there are Amway representatives, Avon and Mary Kay representatives, computer repair businesses and others who work out of their homes and they are not assessed at a commercial rate. He said the Hunt's ran a home based mortgage business and moved off of the property in 2006 to a second residence. Mr. Hayes said they have maintained dual residences at the Goodman Road property and another home in DeSoto County. He said a residential assessment reverted back for 2010. Mr. Hayes said he does not believe this was a malicious mistake on the part of the Tax Assessor's office, but he does believe a mistake was made. In 2006 one of the seven parcels was assessed at a commercial rate. The other parcels were taxed at a residential rate. Then a commercial rate was used on those parcels as well. Mr. Hayes said that 2009 is no different than 2010 for assessment purposes. If the commercial assessment is used on these properties, based upon an argument there is a home based business being conducted, it is an error. Mr. Hayes read a tax document that allows for home based businesses. He said their tax documents showed the business had zero loans closed and zero money received during that year. He said there were no loan applications and no credit reports pulled. There was no attempt to conduct business on that property in 2009. They moved from the property, but maintained dual residency. Mr. Hayes said, using common sense he would submit that there is no basis for the commercial assessment on the subject property based upon the proposition there is a home based business being conducted.

Mr. Hayes said he lives in Dickens' Place and a neighbor on his street runs a monogramming business and has an advertising sign in her yard. Mr. Hayes said he does not believe they pay commercial taxes.

Mr. Hayes said the Hunt's have filed a lawsuit to stop the tax sale that will go forward on Monday based on this assessment. He said their desire is not to sue the county, but to resolve the issue. He said there has been no proof to show this was a commercial business in 2009. There has been no income derived on the property in 2009 or 2010. Mr. Hayes said Miss. Code Section 27-35-19 describes a homestead. He said there is a provision for operating home based businesses.

Supervisor Eugene Thach asked if Mr. Hayes has gone before the Tax Collector's office. Mr. Hayes said the Tax Assessor's office knows everything he has discussed. Supervisor Thach said this issue is in his district and the Board has always relied on them. Mr. Hayes said it has been presented to the Tax Assessor's office. The Board has the legal authority to agree or disagree with the Tax Assessor's assessment. Mr. Hayes said he is asking them how the years 2009 and 2010 are different from the other years. Mr. Hayes said the Hunt's have never claimed homestead on their second house.

Barry Hunt apologized for coming to the Board of Supervisors again. He said it is has been very difficult to understand the codes and statutes. Mr. Hunt said he has spent 500 hours researching this issue. The taxes for 2010 were changed and Mr. Hunt said he greatly appreciative of the update on that assessment. He asked the Tax Assessor's office if they can

have a home based business on their property. Bill Bryant said yes, but in Mr. Hunt's case, there were 11 limousines parked on the Hunt's property during that year and a mortgage business operating on the property. Mr. Bryant said everything the state has on the mortgage business shows that the Hunt's are operating a business at the Goodman Road property. Mr. Hunt said, obviously, Mr. Bryant knows what he is doing but disagreed with there being any commercial activity in 2009. When this first took place in 2007 which is when we first found out about on the 2006 assessment. Mr. Hunt said he did not know what to do to get the assessment changed. He came and talked to Parker Pickle on three different occasions. Mr. Hunt said he was laughed at and mocked by Mr. Pickle. He said, at first, they had the wrong parcel taxed. They had the house on the wrong parcel. He said, if a home based business cannot operate out of a home, we have an issue. Mr. Hunt said for 17 years, his driver's license has the address of 3774 Goodman Road. Mr. Hunt said he went to the state the Tax Commission and they told him he was in a difficult situation. He then talked to Mr. Ronald Robinson with the Auditor's office who told him the steps to take on this assessment protest. Mr. Hunt said Mr. Robinson said there is no other alternative than to go through the Board of Supervisors. He said this is no commercial subdivision. He said in 2001 the taxes were \$2,100 and remained at that amount until 2005 when school bond issue increased the assessment.

Mr. Hayes said Miss. Code Section 27-35-50 says the derived value is based on the current use of the property. He said no business was in operation in January, 2009. He said he asked the Board to right this wrong and correct the classification to residential like it is in 2010.

Supervisor Bill Russell said, if as a landowner his taxes increased from \$3,000 to \$30,000, he would pay the taxes and work to resolve the issue in any way possible, instead of letting the taxes become delinquent and arguing all these years with the Tax Assessor. Supervisor Russell said he appreciated the predicament the Hunt's are in, but it is difficult to sit on the Board and review eight years of assessments.

Mr. Hayes said he is not asking the Board to review eight years of assessments. He is asking the Board to change one year of the assessment. Mr. Hayes said that is all the Board can legally do.

Mr. Hunt asked Board Attorney Tony Nowak if there is any way they can sit down and resolve the 2009 taxes. Mr. Nowak said he has no authority to make those decisions. Mr. Bryant of the Tax Assessor's office said it is too late for them to discuss the issue. He said the Board of Supervisors will have to make that decision. Mr. Hunt said that Ron Robinson told him, if you go back to the Tax Assessor's office and they agree there is an incorrect classification, he believes that would weigh heavily with the Board of Supervisors. Supervisor Russell agreed and said they need to talk about that between the Tax Assessor's office and Mr. Hunt and report back to the Board of Supervisors.

The representatives from the Tax Assessor's office and Mr. Hunt and Mr. Hayes left the meeting to confer on the issue.

Later, they returned to the meeting. Board Attorney Tony Nowak said they have reached an agreement that 2009 taxes will be changed to a residential rate and the lawsuit will be dropped and other conditions will be met.

Supervisor Eugene Thach made the motion and Supervisor Jessie Medlin seconded the motion for the 2009 tax year and subject property and the home in which Mr. Hunt lives located at 3774 Goodman Road will be reclassified as residential, the reclassification being made pursuant to Miss Code Section 27-35-143(11), and is expressly conditioned on the items set forth below:

- 1.) Proof that the 2007 taxes that have been redeemed will be presented immediately to the Board Attorney;
- 2.) The 2008 taxes will be paid and any pending protests filed by Mr. Hunt for 2008, or any prior years will be withdrawn;
- 3.) Further it will be agreed that Mr. Hunt will not later appeal the assessment for 2008 or any prior years. The current assessment for 2008 will be paid in full;
- 4.) The tax sale for 2009 taxes will not be stayed, if the past due taxes are paid, the property will be removed from the tax sale as directed by law. Otherwise, the sale will proceed;

5.) The lawsuit filed in cause number CV2010-0227 with the Circuit Court will immediately be dismissed.

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-----YES

See Exhibit F.1

2. FY 2011 Budget Review

County Administrator Michael Garriga said there was discussion and debate on the proposed FY 2011 budget in the previous meeting. Mr. Garriga said there were a few things that need to be resolved today. He said the general fund is balanced and there is a little wiggle room in case revenues do not generate the projection. Mr. Garriga reminded the Board that the projections are very conservative. Mr. Garriga said there was a millage shift from the bridge fund and said the budget includes a 3% pay increase for employees in the budget. Mr. Garriga also reminded the Board of Supervisors that the DeSoto Council requested an additional \$50,000 in their allocation. Also from the previous meeting, the Board asked Mr. Garriga to contact Delta Research and Extension Center regarding the \$24,000 the county has donated for many years. Mr. Garriga said the Extension Center wants to plead with the Board to continue that funding. Mr. Garriga said another request was from the DeSoto Museum. They asked that the director of the museum be made a county employee. They requested the pay remain the same, but it would cost the county about \$70,000 to \$75,000 annually which would include benefits. After speaking to the Board Attorney, Mr. Garriga said he does not think the county has legal authority to employ the director of the museum.

Supervisor Jessie Medlin asked about the transportation expense that has been provided by North Delta. Supervisor Medlin said he does not want to put county money into that program and not know what we are getting for the money. He said he has no problem with the program but wants to understand the funding. Mr. Garriga said the senior and handicapped transportation are in the budget. The senior transportation is paid out of a separate line item in the amount of \$163,265. Mr. Garriga said the handicapped transportation is part of the North Delta allocation and costs \$82,000. He said Region IV has asked for transportation money to transport mental patients. Mr. Garriga said they have purchased six vans for their program. If we create a transit authority, that authority may take over the program and money. He said it will probably be next year before that can be done. Supervisor Medlin said, if we give Region IV an additional \$50,000, that money will be gone. He said we are already furnishing them a building. Mr. Garriga said he does not believe it would be automatic renewal for next year for Region IV. Supervisor Bill Russell said that Region IV said they can operate the entire program. Sheriff Bill Rasco said that dealing with Region IV on a daily basis has been a tremendous asset. He said they continue to work with the jail to help with mental patients.

Chancery Clerk Sluggo Davis said he talked to four farmers and three of the four, said they would hate to see the funding for the Stoneville group (Extension Center) cut from the budget. Supervisor Tommy Lewis said he would hate to see it cut completely from the budget and would like to see something left for it. Supervisor Eugene Thach said he thinks they do a lot of good work at the facility.

Supervisor Russell said he would like for Charlie Spearman of Region IV come to the Board and discuss transportation.

Supervisor Medlin asked about Social Services on page 63 of the budget which includes transportation. Mr. Garriga explained those numbers are conceptual because there are no details yet of the North Delta situation for the Area Agency on Aging.

Supervisor Thach asked if it is being left up to the individual department supervisors to determine which employees get the 3% increase. Mr. Garriga that is up to the Board, but that is

what the Board has done in the past. Supervisor Thach said if someone is not eligible for a pay increase at all, they should be let go from their job for poor performance. Supervisor Thach said, when you figure the employee raises, everyone should receive 1.75% to cover the cost of the PERS increase.

Supervisor Eugene Thach made the motion and Supervisor Bill Russell seconded the motion to approve a minimum raise for county employees at 2% and the other percent of allocation should be discretionary by the supervisors. After discussing the issue, Supervisor Thach withdrew the motion and Supervisor Russell withdrew the second.

Supervisor Tommy Lewis asked what the state did for raises. Mr. Garriga said the state has not issued raises for years.

Supervisor Lewis asked what the school teachers received. Mr. Garriga said the teachers received a decrease in salaries.

Supervisor Thach said if people are not working we need to take them out of the system or put them on a disciplinary status.

Supervisor Russell said he thinks not giving to county employees based on what other agencies do is wrong. He said he thinks the county has done a good job of saving money to pass on to the employees. Supervisor Russell said if we can treat the employees fairly without burdening the taxpayers, then it is the right thing to do.

Supervisor Lewis said it will be hard for him to vote on an increase for every salary. He said there may be some people making \$8.00 or \$9.00 per hour like the Animal Shelter and they need a raise more than others.

Comptroller Tom Arnold said the 1.75% raise amounts to \$375,000. The 3% increase totals \$500,000.

Supervisor Allen Latimer said no one deserves a pay raise more than our employees. The question is can we afford it. Supervisor Latimer said he thinks we should consider a 1.75% increase because of the employee's loss to PERS. He said that would give us a unique opportunity. Supervisor Latimer said no one knows what the economy will do. There are problems with housing, jobs, national health care, and other areas and it affects everyone. We have questions about our own health care fund program. We do not know what the November elections will do to us. It will give us a year to gauge the situation. If we stop and use this year to check things out and see how things are going, the Board can adjust next year. Supervisor Latimer said the Board has agreed that we do not want any new taxes next year. He said we have a new judge position coming up. We are taking the budget money from the Road Department to balance this budget.

Mr. Garriga said we are not taking money from the Road Department budget.

Supervisor Latimer said he is not prepared to vote for a 3% pay increase across the board.

Sheriff Bill Rasco said, being an elected official with 247 employees, he knows our people work hard. Sheriff Rasco said he thinks it will be a slap in the face for our employees if they do not get a raise.

Supervisor Latimer said he does not intend it as a slap in the face. He said the Sheriff's job is law enforcement and the Board's job is to supply the Sheriff's Department with funding.

Supervisor Russell said it sounds like the County Administrator would need to present the Board with several scenarios.

Supervisor Medlin said he knows the employees are paying more toward retirement but the taxpayers started paying 1.25% additional retirement a year ago when the employee portion increased. Supervisor Medlin said we found a way the Board can give an increase this year, but we do not know what will happen next year.

Mr. Garriga said we did not give a raise last year and this is an opportunity to give the employees a raise this year. He said there are many areas in the budget that can be cut. Mr. Garriga said he is an advocate on behalf of the employees and asked the Board to look closely at giving them an increase.

Supervisor Thach said if we did not give employees a raise last year, then we need to give them one this year.

Supervisor Latimer said he believes we need to give them 1.75% increase. He said no employee has had their hours cut or been laid off work. No one has lost a single benefit.

Supervisor Russell said he would vote to cut pay rather than lay off an employee. He would say the employee had two pay cuts. They received no raise last year in addition to an increase in what they pay for retirement, which cut their pay this year.

Supervisor Medlin said he does not think the Board needs to give \$50,000 to the DeSoto Council. They do a great job but \$50,000 is a great increase. Supervisor Russell said he does not disagree and he thinks the Council should justify their request.

3. Chancery Clerk: Sign Recapitulation Sheets

At the recommendation of the Chancery Clerk Sluggo Davis and in compliance with the requirements of Section 27-35-111 Miss. Code Ann., Supervisor Jessie Medlin made the motion and Supervisor Allen Latimer seconded the motion to accept and sign the recapitulation sheets of assessments of real and personal property of DeSoto County. 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-----YES

See Exhibit F.3

H. OTHER ISSUES

1. Accounting: Budget Amendments

Comptroller Tom Arnold presented two budgets for the Board’s consideration. Mr. Arnold said one is for the Chancery Court Administrator for repairing a computer. The second amendment is for the IT Department to consolidate remaining accounts into the IT budget. Mr. Arnold said this will finish the budget year for the IT Department.

Supervisor Jessie Medlin made the motion and Supervisor Allen Latimer seconded the motion to approve the budget amendments as presented by the Comptroller and as described and further detailed in Exhibit H.2. 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-----YES

See Exhibit H.1

2. Sheriff’s Department-DeSoto County Jail

Supervisor Bill Russell said before the Board of Supervisors is a resolution intended to be sent to the Mississippi State Legislature requesting the Legislature to allow DeSoto County to build

a jail outside the city limits of DeSoto County. Supervisor Russell said the resolution is not location specific. He said if the Board chooses to build within the city limits, it can still be done. Supervisor Russell said the County still has a contract on file with Mr. Harris and if the resolution is passed, we are bound to honor that contract. It does not mean we will absolutely build the jail there because the contract has not been finalized. Supervisor Russell said whenever the Board selects a location there will be plans for the building and other access. He said the public will be invited to the Public Hearings regarding the matter.

Board Attorney Tony Nowak said the resolution says the Board is asking the Legislature to allow them to acquire property located outside the city limits to build a jail. He said there are other pieces of legislation that have been passed that have allowed other counties to do the same thing throughout Mississippi.

Supervisor Jessie Medlin made the motion and Supervisor Bill Russell seconded the motion to approve the proposed resolution requesting the State Legislature to pass a local and private bill to allow DeSoto County to build a jail outside the city limits in Hernando. 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-----YES

See Exhibit H.2

3. Accounting-Budget Amendments

At the recommendation of the Comptroller Tom Arnold, Supervisor Jessie Medlin made the motion and Supervisor Allen Latimer seconded the motion to approve two additional budget amendments as follows: Chancery Court Administrator for computer repairs and office supplies and DeSoto County IT Department for consolidation of computer supplies and equipment for this year to buy additional necessary equipment. The motion passed by a motion as follows:

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

See Exhibit H.3

Supervisor Tommy Lewis made the motion and Supervisor Allen Latimer seconded the motion to adjourn the meeting until September 7, 2010, at 9:00 a.m. 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-----YES

THIS the 26th day of August, 2010, these minutes have been read and approved by the DeSoto County Board of Supervisors.

Bill Russell, President
DeSoto County Board of Supervisors