

DESOTO COUNTY BOARD OF SUPERVISORS
BOARD MEETING MINUTES
ALLEN LATIMER, PRESIDENT 2008 PRESIDING
TOMMY LEWIS, PRESIDENT 2009 PRESIDING

January 5, 2009

A. CALL TO ORDER

The January 5, 2009 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

Supervisor Eugene Thach presented the invocation.

C. PLEDGE OF ALLEGIANCE

D. APPROVAL OF NOVEMBER MINUTES

Board Attorney Tony Nowak said he had technical issues with sending email corrections to the minutes to the County Administrator's office. He notified the Board of Supervisors that he had suggested clarifications for the minutes. The Board of Supervisors asked for copies of the changes for review before they approved the minutes. After reviewing the changes, the Board agreed they were clarifications only.

The official minutes of the Board of Supervisors were read for the month of December, 2008 pursuant to Section 19-3-27 of the Mississippi Code of 1972, Annotated. Supervisor Bill Russell made the motion and Supervisor Eugene Thach seconded the motion to approve the minutes for the month of December, 2008, with changes on December 23 minutes for Item number F.3.b- Purchasing-Bids Under Advisement-Limestone and Rip Rap which also includes correcting the motion as follows:

At the recommendation of the Purchase Clerk and after finding that Vulcan Materials is the lowest and best bidder, Supervisor Jessie Medlin made the motion and Supervisor Bill Russell seconded the motion to award Vulcan Materials the bid for limestone and rip rap and approve Fullen Dock Warehouse as the alternate bidder. 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

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. CONSENT

Supervisor Bill Russell asked which Supervisors are attending the M.A.S. Convention. Supervisor Tommy Lewis said he is attending, Supervisor Jessie Medlin said he is not attending, Supervisor Allen Latimer said he is not attending, Supervisor Russell said he is attending, Board Attorney Tony Nowak said he is attending and County Administrator Michael Garriga said he is attending. Supervisor Eugene Thach said he is not sure if he will attend the convention.

The Board of Supervisors considered the items presented on the Consent Agenda. Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to approve the Consent Agenda and the reports and actions set forth therein as follows:

1. Accounting

a. Dept. of Human Resources - Ratification of Monthly Health Claims

The following is a recap of all insurance claims funded for the month of December and paid to Humana:

Funding Request	Date Paid	Amount	Claim Type
Date			
12/1/08	12/1/08	\$57,180.05	Administration Fees
12/1/08	12/1/08	\$68,547.93	Medical
12/1/08	12/1/08	\$4,789.20	Dental
12/1/08	12/1/08	\$15,557.98	Pharmacy
12/8/08	12/9/08	\$44,001.40	Medical
12/8/08	12/9/08	\$3,450.40	Dental
12/8/08	12/9/08	\$20,015.02	Pharmacy
12/15/08	12/16/08	\$45,756.10	Medical
12/15/08	12/16/08	\$3,656.20	Dental
12/15/08	12/16/08	\$18,889.31	Pharmacy
12/22/08	12/23/08	\$52,780.19	Medical
12/22/08	12/23/08	\$4,399.05	Dental
12/22/08	12/23/08	\$18,410.33	Pharmacy
12/22/08	12/23/08	(\$68,371.03)	Stop Loss/Fin Recovery
12/29/08	12/30/08	\$20,721.58	Medical
12/29/08	12/30/08	\$1,263.10	Dental
12/29/08	12/30/08	\$13,776.70	Pharmacy
	TOTAL	\$324,823.51	

5059	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P241267	5/9/1997
5060	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P209837	5/9/1997
5061	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P209852	5/19/1997
5062	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P241247	5/9/1997
5063	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P210057	5/9/1997
5064	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P241230	5/9/1997
5065	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P241226	5/9/1997
5067	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P209851	5/9/1997
5068	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P241202	5/9/1997
5069	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P209833	5/9/1997
5070	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P210024	5/9/1997
5071	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P209812	5/9/1997
22002	200	SHERIFF OFFICE	MOSSBERG 500 12 GA SHOTGUN	K115839	8/12/1988
22005	200	SHERIFF OFFICE	MOSSBERG 500 12 GA SHOTGUN	K115716	8/12/1988
22006	200	SHERIFF OFFICE	MOSSBERG 500 12 GA SHOTGUN	K115713	8/12/1988
22008	200	SHERIFF OFFICE	MOSSBERG 500 12 GA SHOTGUN	K115806	8/12/1988
22009	200	SHERIFF OFFICE	WINCHESTER 12 GA SHOTGUN	L2126148	10/23/1989
22010	200	SHERIFF OFFICE	WINCHESTER 12 GA SHOTGUN	L2126066	10/23/1989
31491	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	R224282	7/1/2002
31492	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	R224286	7/1/2002
31493	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	R224401	7/1/2002
32028	200	SHERIFF OFFICE	WINCHESTER 12 GA SHOTGUN	42664	8/23/2002
32033	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P833854	8/23/2002
32034	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P833614	8/23/2002
32038	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P833597	8/23/2002
32039	200	SHERIFF OFFICE	MOSSBERG 12 GA SHOTGUN	P833603	8/23/2002
32046	200	SHERIFF OFFICE	WINCHESTER 12 GA SHOTGUN	419664	8/23/2002
32047	200	SHERIFF OFFICE	WINCHESTER 12 GA SHOTGUN	LS72635	8/23/2002
32054	200	SHERIFF OFFICE	MOSSBERT 12 GA SHOTGUN	P833855	8/23/2002
32941	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL010288	9/2/2003
32942	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL010556	9/2/2003
32943	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020088	9/2/2003
32944	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020402	9/2/2003
33152	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020598	10/16/2003
33153	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020343	10/16/2003
33154	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020451	10/16/2003
33155	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020351	10/16/2003
33156	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020682	10/16/2003
33157	202	SHERIFF OFFICE	HERSTEL 12 GA SHOTGUN	FL020238	10/16/2003
34222	200	SHERIFF OFFICE	MOSSBERG SHOTGUN 12GA	K115711	3/2/2006

9. Purchasing – Approval for Charmaine McCool to Sign Purchase Requisitions
 For Board of Supervisors, County Administrator, PBX and Law Library

10. Department of Road Management

- a. Road Report and Work Schedule
- b. Road Bond Report

11. M.A.S. Mid-Winter Conference January 12 – 14 – Approval for BOS to Travel

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 E

F. OLD BUSINESS

1. Dept. of Human Resources – Donation of Leave Policy

Department of Human Resources Director Janna Rogers said she has prepared a Donation of Leave Policy for review by the Board of Supervisors. She said the proposed policy was compared to the policy in the Employee Handbook and the State Personnel Handbook. Ms. Rogers presented a grid showing the comparison of the policy. She said this is a lot of information so she wanted to leave it with the Board for their review. Ms. Rogers said she sees an overall opportunity to improve the communications with the employees through a revision of this policy. She said one of the most important items that is apparent, is the definition of catastrophic illness. Ms. Rogers said page six of the document is steps the Board may want to consider taking to clarify or amend the policy if the Board chooses to do so.

Supervisor Jessie Medlin asked why the State Personnel Board and the Mississippi Code are not the same. Ms. Rogers said they should be, but the State Personnel Board did not choose to adopt all of the Code. She said, in some cases, the State Personnel Board Manual is stricter than the Code for administrative reasons.

Supervisor Jessie Medlin said the Board has talked about if an employee's dependant has an illness and the employee being able to take off of work to be with the dependant and use FMLA. Ms. Rogers said FMLA says anyone who works 1,250 hours the previous year is allowed leave for an immediate family member. She said the County policy is to begin FMLA after the employee uses all sick and vacation leave.

The Board of Supervisors discussed the definition of catastrophic, the donation of leave policy and FMLA. Ms. Rogers said a person could qualify for donation of leave and not qualify for FMLA. She said, as an example, the County's policy does not require a person to work 1,250 hours to receive donated leave.

Supervisor Eugene Thach asked if donation of leave is standard for other counties. Ms. Rogers said it is common with the State but she would need to research the other counties to see if they have that policy. She said she recommends establishing a maximum amount of time that can be donated.

Supervisor Thach asked if Ms. Rogers would look at the Federal Government Policy for donation of leave.

Supervisor Allen Latimer said this started because of the need for a definition of "catastrophic". Ms. Rogers said we would provide the State Code definition of "catastrophic" and the physician would decide if an event qualifies as a "catastrophic" illness. Supervisor Latimer said he would like to work out something so that employees can give leave to another employee regardless of the type of illness.

Supervisor Bill Russell said, if an employee cannot work for any reason, he would like for people to be able to donate leave regardless of the reason. Supervisor Russell said he does not want to break a law.

Supervisor Tommy Lewis said he thinks all of the Board members want to help employees in any way possible. He said we need to know the downside of the policy.

County Administrator Michael Garriga said, if the County provides more generous policies because of the donation of leave, there is a potential for the use of leave to be abused. He said, when leave is abused, it affects the other employees in the departments, but there is a balance. Supervisor Russell said he appreciated Mr. Garriga's comments. He said perhaps the Board should ask, when employees use donated leave, they get a second opinion. He said perhaps we should look at the rules for temporary assignments. He asked if we can require employees to take other job assignments. Ms. Rogers said that falls under the Americans with Disabilities Act. She said we can require a release from the doctor before an employee returns to work.

Supervisor Eugene Thach said, when you look at the Federal Law, they changed it to where you can add it to your retirement when you leave the job. Ms. Rogers said the state does that. She said the County also offers supplemental insurance for employees who are in a situation where their income may not be available for a period of time. **See Exhibit F.1**

2. Report from Infrastructure Committee

Supervisor Jessie Medlin recused himself from this discussion.

County Administrator Michael Garriga said at the December 23rd meeting, the Board discussed the Economic Stimulus package. Mr. Garriga said that county representatives attended the meeting which was hosted by Congressman Travis Childers. He said they learned that the projects needed to be ready to go in 120 days. He said the committee met and discussed if the projects selected could go forward. Mr. Garriga said nine bridge projects are identified. The committee also looked at other projects that could require eminent domain. Mr. Garriga said he thinks the list originally sent to North Delta Planning and Development should remain.

Supervisor Bill Russell said, if the County has money, we should buy right of way where we do not need an environmental study on the project. He said the County should have a standard commitment to go forward with right of ways on projects that will be needed.

Supervisor Bill Russell said a cost estimate was turned in with these projects. Supervisor Lewis said he understood that we asked for projects that could be expedited quickly. Supervisor Lewis said we still need to determine how much it will cost to get these projects ready to be started in 120 days.

Supervisor Tommy Lewis made the motion and Supervisor Bill Russell seconded the motion to make the report from the committee part of the minutes and to instruct the County Administrator and/or Road Manager to determine the cost of the projects listed in the Economic Stimulus package and make them eligible for Economic Stimulus money. The motion passed by a vote as follows:

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

See Exhibit F.2

3. TREX – Addendum to Agreement

Board Attorney Tony Nowak said, previously the Board discussed a reallocation of money for their previous commitment for the TREX project. He said the Board agreed to reallocate funding towards the cost of a rail spur. He presented an agreement on the addendum.

Supervisor Allen Latimer verified that, if TREX comes back, the County is no longer obligated to provide the improvements previously requested. Mr. Nowak said that is right.

Supervisor Jessie Medlin made the motion and Supervisor Eugene Thach seconded the motion to approve the addendum to the agreement with TREX Company, Inc. and the City of Olive Branch and DeSoto County Economic Development Council on a site located near the site of the previous TREX Corporation and authorized the Board President to sign the agreement. 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.3

G. NEW BUSINESS

1. Organization of the Board

Supervisor Allen Latimer thanked the Board members for their support during his past year as President. He also thanked Department Heads and staff for their support.

Supervisor Eugene Thach made the motion and Supervisor Bill Russell seconded the motion to nominate Supervisor Tommy Lewis as Board President. 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

Supervisor Bill Russell made the motion and Supervisor Eugene Thach seconded the motion to nominate Supervisor Jessie Medlin as Vice President of 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-----YES

Supervisor Lewis thanked the Board for the confidence they have placed in him.

2. Estates of Southern Trails

County Engineer Andy Swims and Developer Kevin Thomas appeared before the Board of Supervisors regarding the bonds in the Estates of Southern Trails. Mr. Swims presented letters sent on bonds for the Estates of Southern Trails.

Supervisor Bill Russell said he needs to understand what the issues are. He said we are talking about the road maintenance bond, but some of the issues listed do not address road maintenance. Mr. Swims said we have addressed those issues on other bonds throughout time. Supervisor Russell clarified that the items listed are normal for being questioned. Mr. Swims said yes. He said, if it is not the responsibility of the homeowner, we look at the developer to handle the issues.

Supervisor Russell asked if the County has done the work listed. Mr. Swims said no. We talked to a contractor, but Mr. Thomas asked us to allow him to do the work.

Developer Kevin Thomas said he appreciated the opportunity to put this item on the Agenda. He said, in most cases, his developments have resulted in really nice subdivisions. He said we have a long list of items that should be taken care of in the Estates of Southern Trails. He said his partner, who was supposed to be taking care of these items, is no longer involved. He said this is a credibility issue and he wants to leave on a good note. He said the cost of these issues is not a tremendous amount of money. Mr. Thomas said the easy way out would be to let the County complete these projects, but it would not be the right thing to do.

Supervisor Jessie Medlin asked how this would be handled if Mr. Thomas does the work. Board Attorney Tony Nowak said, when Mr. Thomas completes the work and the County is satisfied that the work has been done, the money that the County has called on the bond will be returned to Mr. Thomas.

Supervisor Eugene Thach asked for Mr. Swim's recommendation. Mr. Swims said we do not have a problem with Mr. Thomas doing the work, but we want to set a deadline for the completion of the work. Mr. Swims said the County thinks it would be appropriate to require the work to be finished within 60 days. Supervisor Allen Latimer asked, shouldn't the attorney fees be paid by the bond money. Mr. Nowak said he can check into it, but does not think it is possible.

Mr. Thomas said he would rather not do that because he is offering to do what should have been done.

Supervisor Bill Russell said he does not want the citizens of the County to pay their money because Mr. Thomas' company failed to perform.

Supervisor Jessie Medlin said we have not asked for attorney fees in similar matter in the past. Mr. Nowak agreed he has never been asked to add or collect attorney fees in these situations and reiterated that it is likely that such a claim could not be made.

Supervisor Thach said, if we have not required that in the past, we should not require it now.

Supervisor Tommy Lewis made the motion and Supervisor Eugene Thach seconded the motion to approve the developer, Kevin Thomas, to perform the work required by the County at the Estates of Southern Trails based on the Engineer's recommendation. Included in the motion is approval to hire the Smith, Phillips, Mitchell, Scott and Nowak Law Firm to draw up an agreement for Mr. Thomas to do the required work by the end of 60 days from the date of the agreement and to authorize the Smith, Phillips, Mitchell, Scott and Nowak Law Firm to do whatever is necessary to bring the matter to a legal conclusion. The motion passed by a vote as follows:

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

See Exhibit H.2

3. Accounting - Claims Docket

Supervisor Jessie Medlin recused himself from the discussion of this item.

Accounting Clerk Stephanie Hanks and Comptroller Tom Arnold presented the claims docket.

Supervisor Allen Latimer commented on the decrease in medical costs at the jail. Sheriff Bill Rasco agreed and said the cost for food is also lower and the number of prisoners is lower due to the cities managing the municipal prisoners. Supervisor Bill Russell asked if the cities are paying the prisoner medical costs. Sheriff Rasco said yes. He said the Sheriff's office informs the cities when a prisoner is going to see a doctor or have surgery.

In accordance with Section 19-13-31 and Section 19-11-23 of the Mississippi Code annotated, Supervisor Eugene Thach made the motion and Supervisor Bill Russell seconded the motion to authorize the Chancery Clerk to pay the bills as presented by the Comptroller and including the late bills to Butler Snow and Elliott and Greenleaf as presented by the Board Attorney. The motion passed by a vote as follows:

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

See Exhibit G.3

4. Robinson Donald Park

Board Attorney Tony Nowak said the Mississippi Shockers Fastpitch League entered an agreement to use Robinson Donald Park. The Attorney General says any policy must be established by the Board for the field. He said the Shockers will have to follow what the Board adopts.

Supervisor Bill Russell said he thinks we should remove the Shockers from authority to charge for use of the park except for the fields. Mr. Nowak said he would make that change in the contract and send it back to the Shockers for approval.

Supervisor Bill Russell made the motion and Supervisor Allen Latimer seconded the motion to carry this item over to allow the Board Attorney to revise the agreement. 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 G.4

5. Starlanding Underpass

County Engineer Andy Swims and Jamie Pittman of Pickering Engineering appeared before the Board of Supervisors to discuss a drainage issue associated with the Starlanding Underpass project. Mr. Swims said he met with Chuck and Madelyn Peyton about the culverts under their driveway. He said, under the existing driveway, they had two thirty inch culverts and one twenty four inch culvert. The County installed two culverts under the railroad shoe fly as part of the project. Mr. Swims said the Peyton's have had some problems with some of the measures the County took to fix their flooding. The water has been over their driveway from time to time since this project was under way. He said he has been working with the contractor in an effort to be as attentive as possible to their washing problem. Mr. Swims said he does not know a better way to fix the problem than to put a concrete slab over the culverts on their driveway.

Mr. Pittman said the water went over the drive before the project. Ms. Peyton agreed, but now it is there for twenty four hours or more and it stays flooded. Before the project, the water was over the road no more than two hours after the rain. Mr. Pittman said he would like to say the water will spread out when the project is completed and then it will not wash out the driveway. He said the Peyton's have asked for the culverts that are installed under the shoe fly to be given to them and allow them to put it over their driveway. He said we paid \$120,000 for the culverts and Talbot Brothers expects to take the culverts when the project is done. He said if Talbot Brothers are not allowed to take the culverts as part of the project plans they will want an additional \$40,000 if they do not get the pipe. Board Attorney Tony Nowak said we cannot give the culverts or anything else to the Peyton's if it constitutes a private benefit to an individual, but we can fix the problems caused by the County but not more than that. Mr. Nowak said steps can be taken are those reasonably necessary to remedy the problem that has been caused by the County.

Supervisor Latimer said there are two issues to be addressed. The first one is a temporary fix as soon as possible. To lay concrete is not something that can be done quickly. The second issue is a long term fix and the cost. Mr. Pittman said to lay the concrete will cost \$12,000. He said they have never had a problem before this project. Ms. Peyton said if she worked outside the

home, she would not be able to get to and from her job after a rain. She said when she did work she was only late one day in eight years because of the flooding.

Mr. Swims said he would like for the County to add concrete for them to get in and out of their driveway. Supervisor Bill Russell asked how much that would cost. Mr. Swims said it would cost about \$12,000, but an allowance is in the contract that could cover the cost. He said this would be a six inch splash with wire mesh.

Supervisor Jessie Medlin said he does not have a problem fixing it but he would like to fix it right to start with and not have to go back later and re-do the driveway after the shoe fly comes out. Ms. Peyton said they put in two culverts on Mr. Bullock's property. She asked why they cannot do that on her property.

Supervisor Eugene Thach said it seems wrong to spend \$12,000 on a temporary fix. Supervisor Bill Russell asked if you can curve the drive now to allow it to cross over the shoe fly culverts. Mr. Swims said he does not think so because it would make their driveway too close to the track so that the railroad would not approve it.

Supervisor Thach said the engineers need to bring back a firm recommendation to the Board.

Supervisor Latimer said the Peyton's need some relief now. He said he is glad to try to do it right but, in the meantime, the Peyton's need to get in and out of their driveway.

Supervisor Medlin said, in the area where the water is crossing the driveway, have we thought about putting in something like CTB. Mr. Swims said yes, but it will wash it out and the CTB will be more expensive.

Supervisor Russell asked what we can do to make Talbot Brothers fix the problem when it rains. Mr. Pittman said we can withhold their money if necessary.

Supervisor Latimer said he wants to clarify that we are asking for the engineers to come back with solutions on Wednesday. Ms. Peyton asked if they will come back with a temporary or permanent solution.

Supervisor Latimer asked what we will do if it rains tonight. Mr. Pittman said their driveway is part of the construction easement.

Mr. Nowak said the County can maintain the driveway if we determine their flooding is caused by the construction.

Mr. Swims said if Talbot Brothers was there when it happened, they could fix it but that has not been the case. He said we have tried to fix it using the gravel and we have spent in excess of \$12,000 doing so.

Mr. Nowak said if the Board makes a finding of fact that the road problem is causing the flooding on the Peyton's property, the County can fix the problem.

Supervisor Allen Latimer made the motion based, on the evidence that the road construction is causing the washing problem on the Peyton's property, to have the contractor repair the drainage, when Talbot Brothers does not maintain the Peyton's driveway within three hours of flooding, the County will maintain the driveway. After discussing the issue, Supervisor Latimer withdrew the motion.

Supervisor Allen Latimer made the motion based on the finding of fact that the Starlanding Road project is causing the problem on the Peyton property, and as is necessary, the County can go on their property to maintain the property, if the contractor does not maintain the property. After discussing the issue further, Supervisor Latimer withdrew the motion.

Supervisor Bill Russell made the motion to instruct installing concrete as recommended by the engineers on the Peyton property at an estimated cost of \$12,000 for a temporary fix.

Supervisor Allen Latimer seconded the motion. After further discussing the issue, Supervisor Russell withdrew his motion and Supervisor Latimer withdrew his second to the motion.

Supervisor Tommy Lewis said that will be a waste of money unless the culverts are there. He said he supports solving the problem. Supervisor Eugene Thach said he would not vote for it if it is a temporary fix. The Board discussed holding the item over and allowing the engineers to determine the best resolution. Ms. Peyton said if she cannot get in and out of her driveway, will someone bring her to the next meeting. The County Officials assured Ms. Peyton they would do that.

Supervisor Allen Latimer made the motion and Supervisor Eugene Thach seconded the motion to instruct the engineers to come back on Wednesday with a resolution for the flooding problem on the Peyton property caused by the Starlanding Underpass project. 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

Supervisor Allen Latimer made the motion and Supervisor Bill Russell seconded the motion that based on the finding of fact that the Starlanding Road project is causing the flooding problem on the Peyton property to fix the problem, and as is necessary, the County can maintain the property to correct any damages occurring if the contractor will not maintain it in a manner similar to Section 105.15 of the 1989 edition of the State Aid book and bill the improvements and money spent by the County back to the contractor as allowed by the contract. 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-----YES

See Exhibit G.5

H. EXECUTIVE SESSION

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

I. OTHER ISSUES

1. Appointments Expiring January, 2009

Supervisor Jessie Medlin made the motion and Supervisor Allen Latimer seconded the motion to approve all appointments including the Board Attorney, but excluding the District 1 Port Commissions and to name the WinJob Center and Mississippi Area of Governments to be represented by the Board President as follows:

Appointments by Each BOS District

BOARD OF ADJUSTMENT		PARK COMMISSION	
1	Michael Hatcher	1	Bill Welch
2	Billy G. Smith	2	Mike Mullins
3	Child Rice	3	Susan Whitten
4	James McKell	4	Lee Ashcraft
5	Bennie Norwood	5	Danny Phillips
HANDICAP COMPLIANCE GRIEVANCE COMMITTEE			
1	Jackie Hannaman		
2	Pay Sylvester		
3	Sara Watkins		
4	Barry Carter		
5	Barbara Chamberlin		

2

Appointments by All BOS

BOARD OR COMMISSION	CURRENT APPOINTEE
Coldwater River Watershed Council (1 Year)	Robert Abbay, III
DeSoto County Deputy Medical Examiner Investigator (1 Year)	Billy Baldwin
Eudora Fire Protection District (5 Years)	Bill Holt
Lewisburg Fire Protection District (5 Years)	Frank Treadway
Summershill Fire Protection District (5 Years)	Sonny Barkley
Walls Fire Protection District (5 Years)	R. B. Ramage
	Robert Abbay, III
DeSoto County Library Board (5 Years)	Elsa Taylor
Mid State Opportunity Board (Term of elected official)	Board President
Mississippi Area of Governments Representative (1 year)	Sup. Gene Thach
North Central MS Resource Conservation & Development (1 Year0	Sup. Bill Russell

3

BOARD OR COMMISSION	CURRENT APPOINTEE
North Delta Planning & Development District (1 Year)	Sup. Bill Russell
	Vanessa Lynchard
Northwest MS Community College Trustee (5 Years)	M. C. Sparks
Yazoo MS Delta Joint Water Management District (5 Years)	Robert Abbay, IV

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Appointment by Individual Districts

DISTRICT 1		
1 Yr	O. B. Library Board	Lelia Payne
1 Yr	O. B. Library Board	Betty Collins
1 Yr	O. B. Library Board	Gail Massey
1 Yr	Southaven Library Board	Peggy Hall
5 Yr	Port Commission	Jimmy C. Carson

DISTRICT 3		
1 Yr.	H. L. Library Board	Bess Burgess
1 Yr.	Southaven Library Board	Betty Moore

DISTRICT 2		
1 Yr.	Southaven Library Board	Donna Bouchillon

DISTRICT 4		
1 Yr.	H. L. Library Board	Anne Ashcraft
1 Yr.	H. L. Library Board	Connie Sparks

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Planning Commission

District 1		District 2	
1	Len Lawhon	1	Charles McNemar
2	Julius Cowan, Jr.	2	David Henley
3	Pat Hefley	3	Randy Jones
District 3		District 4	
1	Wade Carter	1	Robin James
2	Joe Forsythe	2	Frank Calvi
3	Leigh Graves	3	Eddie O'Bannon

7

Planning Commission

District 5	
1	Jimmy Maxwell
2	Mike Robinson
3	

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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 I.1

2. Right of Way Acquisition

Board Attorney Tony Nowak said that last year the Legislature amended a Code Section for property acquisition. What they amended is that the County could only pay the lesser of the appraised value or the negotiated price. The cities have asked that the Legislature reconsider that approval.

Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to approve sending the resolution to the Legislature asking that they reconsider the 2008 modification of the Code Section dealing with acquisition of right of way. 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

Supervisor Eugene Thach made the motion and Supervisor Allen Latimer seconded the motion to recess the meeting until January 7, 2009, at 9:00 a.m. 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-----ABSENT

THIS the 5th day of January, 2009, these minutes have been read and approved by the DeSoto County Board of Supervisors.

Tommy Lewis, President
DeSoto County Board of Supervisors