

DESOTO COUNTY BOARD OF SUPERVISORS

BOARD MEETING MINUTES

ALLEN LATIMER, PRESIDENT 2011 PRESIDING

March 9, 2011

A. CALL TO ORDER

The March 9, 2011 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 Absent

B. INVOCATION

County Administrator Michael Garriga presented the invocation.

C. PLEDGE OF ALLEGIANCE

D. CITIZEN COMMENTS

Supervisor Allen Latimer asked if there was anyone present to address the Board of Supervisors.

Diane Moore came forward. Ms. Moore said she and her husband just spoke to representatives regarding the mobile Viet Nam Wall. She said the tentative date for the county’s commitment to honor the Viet Nam War Veterans is May 9-12, 2012. She said they would like to have the Wall transported to the county at the same time which would be a compliment to the entire event. Ms. Moore said in order to get a commitment to have the Wall transported to Desoto County on that date, the Viet Nam Veterans Memorial date must be set and approved by the Board.

Ms. Moore said there are several requirements for where the Wall can be set up. She said the Wall is 150 feet in length and has to be set up on grass. It is too large to be set up on the courthouse property. She said a football field would be the best place to set the Wall.

Ms. Moore said it will cost \$6,000 plus to get the Wall to the county and have it set up. Ms. Moore said they feel like it will benefit the entire community. She said they will have several fundraisers to fund the expenses for the Wall. Board Attorney Tony Nowak said the DeSoto Civic Center would be a very good venue for the event.

Supervisor Tommy Lewis made the motion and Supervisor Eugene Thach seconded the motion to request the Civic Center Board to approve holding the Viet Nam Veterans War Memorial Event and the Viet Nam Wall to be held on their grounds. 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

Later in the meeting R.G. Moore came to the meeting and discussion of the Wall. Mr. Moore reiterated Ms. Moore's comments regarding the Wall and said the Civic Center would be the best place to have the event. There is enough grassy area for the wall and space for a lot of people.

Vanessa Lynchard said she would happy to check other venues if the Civic Center property does not work out.

Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to transfer \$1,000 from the District 3 Park Fund to Advertising County Resources to apply toward the cost involved to transport and set up the Viet Nam Veterans Wall to the DeSoto County Viet Nam Veterans Memorial Event. 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

E. PLANNING COMMISSION

DeSoto County Board of Supervisors Planning Agenda **March 9, 2011**

Supervisor Latimer presented of Resolution of Appreciation to Mr. Eddie O'Bannon and Mr. Frank Calvi for their service to the DeSoto County Planning Commission. He stated Mr. O'Bannon and Mr. Calvi served on the Planning Commission during a busy time of development in DeSoto County, and worked long, hard hours the County. He thanked them again for the service to the County.

CONSENT AGENDA

Minor Lots

District 1

Eddie Archer Minor Lot (6810) – Application is for final subdivision approval of three (3) lots of 2 acres each, one (1) lot of 1.99 acres, one (1) lot of 2.12 acres and one (1) lot of 2.96 acres out of 13.07 acres. Subject property is located on the north side of Holly Springs Road and west of Thompson Lane in Section 29, Township 3, Range 5 and is zoned Agricultural (A). (District 1)

District 5

Hunter's Knoll Minor Lot (6811) – Application is for final subdivision approval of five (5) lots of 1.5 acres each, and one (1) lot of 151.3 acres out of 158.8 acres. Subject property is located on the west side of Grass Pond Road and south of Vaiden Road in Section 7, Township 3, Range 6 and is zoned Agricultural (A). (District 5)

Mr. McDougal presented the applications above and stated they appear to be in compliance with the County's Zoning and Subdivision Ordinances, subject to right-of-way dedication and Health Department approval. He noted that the Planning Commission voted unanimously to recommend approval of these two applications.

Supervisor Medlin asked any structures were located on the Eddie Archer Minor Lot. Mr. McDougal stated there are no structures on the 2-acre lots, but there may be a house on the 13-acre lot. Supervisor Lewis made a Motion to approve the Consent Agenda subject to staff recommendations and

required dedication of public road right-of-way and Health Department approvals. Supervisor Medlin seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

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

Other Items:

1. I-69/I-269 International Trade Corridor Study Update – Staff Summary of Recent Consultant Presentations & Steering Committee Discussions

Mr. McDougal gave a highlight of the presentation given to the Planning Commission on March 3, 2011 by Mr. Kevin Tilbury and Ms. Sharon Younger.

He stated Mr. Tilbury gave a presentation on Natural and Built Environment. Mr. McDougal stated the presentation gave an idea of “Where we are today” as a starting point for the corridor study. He stated the study area will be approximately two miles on either side of the I-269 alignment. He then stated the presentation included what the existing assets are in the corridor study area, as well as the opportunities that exist within the study area.

Mr. McDougal stated that the Third Bridge Environmental Impact Statement was also discussed during the Planning Commission, and that part of the corridor study area is included in the Third Bridge Environmental Impact Statement study area. He stated it would be nice to see the third bridge located in DeSoto County and connect to I-69.

Mr. McDougal stated that one of the items discussed during the presentation is telecommunications. He went on to state that MDOT has committed to coordinate the installation of fiber optics while building I-269 and widening I-55.

Mr. McDougal stated Ms. Younger gave a presentation having to with the branding of the corridor as well as presented possible logo ideas for the corridor plan to the Planning Commission.

Mr. McDougal stated he has discussed with Mr. Garriga about trying to incorporate the lighter Planning Department agendas on the Monday Board of Supervisors’ meeting. He stated this would eliminate the need for the Board of Supervisors to meet on the first Wednesday of the month. Mr. McDougal stated the only concern he has with moving the Planning Department agenda from Wednesday to Monday is being able to get the notebooks to the Supervisors in time for the meeting. Supervisor Russell asked if the Planning Department agenda could be moved to the mid-month meeting. Mr. Garriga stated that moving the Planning Department agenda to the mid-month meeting could hold up building permits on minor lot subdivisions by up to two weeks.

Supervisor Russell made a Motion to approve hearing Planning Commission Agendas at the first Monday Board of Supervisors meeting. Supervisor Medlin seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

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

F. CONSENT

The Board of Supervisors considered the items on the Consent Agenda.

Supervisor Bill Russell made the motion and Supervisor Tommy Lewis seconded the motion to approve the Consent Agenda as follows:

1. Office of Finance and Accounting

- a. **Budget Amendments**
- b. **Approve Purchase for Sheriff's Dept. -\$2,653.00-U.S. Secret Service for equipment and reimbursed by federal government.**

2. Dept. of Road Management: Approval to Bid for Equipment

- a. **Tractor with Mid Mounted Heavy Duty Hydraulic Boom Mower (1 or more)**
- b. **15-Foot Mechanical Drive 3-Section Bat Wing Cutter (1 or more)**
- c. **Tractor for Roadside Mower (1 or more)**

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 F.1

G. OLD BUSINESS

1. State Aid Engineer Selection Criteria Revision

Road Manager Russell Dorris said on Monday the Board of Supervisors approved a weighted criteria for the selection of the State Aid Engineer. He asked the Board's consideration of an additional qualification as recommended by the Board Attorney. That qualification would be the overall professional experience of the Engineer.

Supervisor Tommy Lewis made the motion and Supervisor Eugene Thach seconded the motion to approve adding the overall professional qualifications to the weighted criteria of selecting the State Aid Engineer. 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

H. NEW BUSINESS

1. Industrial Drive West Construction Contract

Board Attorney Tony Nowak said Engineer Joe Frank Lauderdale submitted the agreement for the Industrial Drive West construction contract project. Mr. Nowak said he reviewed the contract and said there will be minor changes to the contract. Mr. Nowak suggested approving the agreement in substantial form, subject to the changes he has suggested to Mr. Lauderdale.

County Administrator Michael Garriga asked if there is a timetable to begin and complete the project. Mr. Nowak said the project should be completed 60 days from the notice to proceed and construction to begin within 15 days of notice to proceed.

Supervisor Bill Russell made the motion and Supervisor Tommy Lewis seconded the motion to approve the contract with Lamb Construction in substantial form with minor changes as recommended by the Board Attorney. 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

2. Grants Administration

a. JABG Grant for Youth Court (Electronic Monitoring)

Grants Administrator Joyce Herring said Judge Celeste Wilson has sent a grant for consideration to purchase electronic monitoring equipment bracelets for juveniles. Mrs. Herring said the grant is for a 75/25 % match up to \$60,000, but more realistically will be awarded at \$30,000.

Supervisor Bill Russell asked if software is needed to use this equipment. Mrs. Herring said the county already has software that is compatible with bracelets and the monitoring is in place. The Sheriff's Department will be a part of this program.

Sheriff Bill Rasco said currently we have to hire someone to put the bracelets on the juvenile and now that will be cut out of the process. He said Captain Davis of the Sheriff's Department will now be responsible for handling the bracelets. The court cannot pay Captain Davis so the Sheriff's Department will increase her pay for the extra responsibility.

Supervisor Allen Latimer asked how many bracelets they anticipate getting. Sheriff Rasco estimated about six bracelets.

Supervisor Latimer verified that Judge Wilson has the money. Mrs. Herring said no. She said this is also a request for funds.

Supervisor Bill Russell made the motion and Supervisor Eugene Thach seconded the motion to approve applying for the JABG Grant for the Youth Court for electronic monitoring. 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.a

b. Greenway Trail Grant for Bass Landing

Grants Administrator Joyce Herring said there is a grant for 2011 funding to open a greenway. Ms. Herring and Greenway Coordinator Larry Jarrett appeared before the Board to request they consider applying for a Wildlife and Fisheries Grant for Bass Landing. Mr. Jarrett said the grant is an 80/20 match with the county responsible for 20%. He said the county portion will be taken out of the Greenway Program and no additional funds should be needed.

Mr. Jarrett said the county leases the area around the boat landing and ramp and that is the only access to the river in the county. He said the grant will be to improve the boat ramp and the surrounding area. The ramp is very small and in bad shape. Mr. Jarrett said it will also pay for signage and improvements along the trail. He said they can get up to \$100,000 and work can be started as soon as they get the grant money. Mr. Jarrett presented maps of the area and the proposed concept plan for Bass Landing

Supervisor Allen Latimer said that area can be made into something beautiful. He said right now there is litter everywhere, the ramp is torn up and it looks very bad. Supervisor Latimer asked if the county will be responsible for maintaining the roads and park.

Supervisor Bill Russell said the county already maintains the roads. He said he spoke with the Corp of Engineers about moving the boat dock. Supervisor Russell told Mr. Jarrett that he appreciated him and the Levy Board making this happen. Supervisor Russell said this is the same grant that Tunica County received and they have been helpful in working with the county on the process.

Sheriff Bill Rasco said rebuilding the ramp and having local access to the river will be very helpful when Search and Rescue has to access the river.

Supervisor Bill Russell made the motion and Supervisor Tommy Lewis seconded the motion to approve applying for the Wildlife and Fisheries Grant for work to be done in the area of Bass Landing and according to the concept plan as detailed in Exhibit H.2.b. 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.b

3. Custodial Services Update

County Administrator Michael Garriga said he met with Kenny Evans and Janna Rogers regarding custodial services. He said he thinks this is a good opportunity to overhaul the current services. Mr. Garriga said we want to send surveys to the department regarding their expectations of the custodial services. He said we are looking at the overall services and changes will be made.

Supervisor Allen Latimer said he thinks everyone on the Board agrees that changes need to be made to the service. He said they need to understand this is a chance to retain their jobs. He asked Mr. Garriga if he thought he would have information at the April Board meeting. Mr. Garriga said he thought so.

Supervisor Latimer asked Mr. Garriga if he thinks the staff in the custodial department needs to know what is going on. Mr. Garriga said he has already prepared that information that will be sent in a memo today.

4. DeSoto County School District-MOU

Supervisor Allen Latimer recused himself from this portion of the meeting.

Board of Education Attorney Keith Treadway presented an MOU for the dedication of roads in the Center Hill School area. He said this includes a portion of Kirk, Mustang and DeSoto Roads. He said under the agreement those roads would be donated to the county. Mr. Treadway said in lieu of a bond the Board of Education (BOE) would agree to reimburse the county for expenses on the roads for one year. He said the district will agree to get the right of way later. Mr. Treadway said they have filed an eminent domain action. If the BOE dedicates the roads to the county and the county accepts, it would help expedite the issue.

Supervisor Bill Russell asked Board Attorney Tony Nowak if the county accepts the roads, would the pending lawsuit filed by the school for right of ways, affect the county. Mr. Nowak said it should have no effect on the county.

Road Manager Russell Dorris said he understands that this part of the county accepting the roads is not in the lawsuit.

Mr. Treadway said there was a mistake made many years ago by the county where the right of way was not acquired. Mr. Treadway said that was over 20 years ago and before this current Board of Supervisors.

Supervisor Russell asked Mr. Dorris if these roads meet all of the county requirements. Mr. Dorris said we only had a prescriptive easement and not right of way on the road before.

Supervisor Russell asked if this agreement is satisfactory with the Road Manager. Mr. Dorris said yes.

Mr. Treadway said when he appeared before the Board last year regarding the BOE being required to make repairs to the road. He said those repairs have been completed.

Supervisor Jessie Medlin verified that there are two different ongoing litigations. Mr. Nowak said that is correct.

Supervisor Medlin asked if the road the county is accepting will affect either lawsuit. Mr. Nowak said he is not aware of what is involved regarding the lawsuit between the developer and the BOE.

Mr. Treadway said there was an issue regarding the road. Supervisor Medlin asked, on item number four where the BOE agreed to fix anything that goes wrong, is that appropriate. Mr. Dorris said the county will fix the road, but the BOE will reimburse the county for doing the work.

Sean Aldridge requested to speak to the Board of Supervisors. Mr. Aldridge said he is not speaking on the lawsuit, but wants to speak on the agenda matter. He said he is with Dunavant Development and is not an attorney. Mr. Aldridge said Dunavant Development entered into a contract with the BOE in 2004. The agreement was amended on January 2005 for the school district to construct the portions of Kirk, Mustang and DeSoto Roads. He said he was provided a copy of the MOU this morning at 10:30. He said it is woefully inadequate. Mr. Aldridge said the descriptions are on file, but not yet recorded with the Chancery Clerk. He said Dunavant Enterprises is trying to get the roads dedicated so they will have property rights. He said the roads were to be constructed in March 2006. In February 2006, we let them know the deadline was extended to June 2006 and then August 2006. In August 2007 we met to get the roads dedicated. Mr. Dunavant said it was a benefit for Dunavant to do so and we want the roads dedicated and in support of them being dedicated. They just want it done correctly. Mr. Aldridge said there is a history on DeSoto Road. He said DeSoto County requires an additional right of way from their company. Mr. Aldridge said they will still be without having a legal road where he will be able to sell property because he will be unable to meet current requirements because of property abutting the public right of way. He said they originally donated right of way to the city and county. There are all sorts of technical issues that need to be worked out. He said they want and need the roads to be dedicated, but they need it to be done correctly. He said he cannot leave without saying that these roads are subject to natural and manmade conditions related to flooding. As part of the building infrastructure, they have spent hundreds of thousands of dollars on property that cannot be sold because of right of way issues. He said this started five years ago. For the past fifty-four months they have discussed issues with the original agreement with the Board of Education. Mr. Aldridge said over three years ago we discussed the issue. He said in February 2010 a settlement was again negotiated. Now the county has a plan that will not work to the company's satisfaction according to the original agreement. Mr. Aldridge said the document before the Board will not satisfy their concerns.

Supervisor Eugene Thach asked Mr. Nowak if he was familiar with his issue. Mr. Nowak said no.

Mr. Treadway said he thinks there is a feeling that if the county accepts Kirk Road they will be drawn into a lawsuit. He said if that is true, they ask the county to accept Mustang and DeSoto Roads only at this time.

Mr. Nowak said he did not recommend the Board accepting Kirk Road.

Sheriff Bill Rasco said he received a call last week about DeSoto and Center Hill Roads. The caller said there was an ongoing lawsuit on that portion of roadway.

Mr. Treadway said that is the other lawsuit where the lady would not take fair market value for the property.

Mr. Aldridge said he is not talking about that part of the road.

Supervisor Russell said he thinks Mr. Aldridge is saying if the county goes forward with this agreement, Dunavant Development has land that cannot be sold because of the description. Mr. Aldridge said that is correct. He said he thinks the county will need to acquire additional right of way and that the roads built by the BOE extend the right of way that was granted by Dunavant Development. Supervisor Russell said, not the county, but maybe the BOE.

Mr. Nowak said on Kirk Road the county should not accept the road until answers are obtained regarding Mr. Aldridge's concern with the bridge. There is also a section of DeSoto Road that is part of the dispute. He said the county may be satisfied with Mustang Road.

Mr. Aldridge said the right of way was donated with further conditions because the road goes beyond the existing right of way.

Mr. Nowak said he cannot recommend the Board accept any of the roads at this time until the issues raised by Mr. Aldridge are addressed. He apologized to the Board but this is the first he heard of these issues from anyone..

Mr. Treadway said they would like the record to show that Mr. Aldridge is requesting that the county not accept the MOU. He said the BOE is still asking that the MOU be accepted.

Supervisor Russell said he knows there is confusion and asked if it could be addressed if they had more time or does Mr. Nowak think it just should not be accepted.

Mr. Nowak said because there is confusion over the matter, he does not recommend the county approve the MOU or accept the roads. Mr. Nowak recommended the issue be researched.

Supervisor Medlin asked if Mr. Aldridge thinks the county will need more right of way. Mr. Aldridge said what right of way the county would need compared to where the road is actually located is what the county needs to determine.

Mr. Nowak said he advises the Board to hold the item over.

Supervisor Eugene Thach made the motion and Supervisor Bill Russell seconded the motion to hold the item over and to authorize the Board Attorney to meet with the parties to assess the situation and advise 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 Recused
Supervisor Tommy Lewis-----YES

See Exhibit H.4

I. EXECUTIVE SESSION

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

J. OTHER ISSUES

1. Sheriff’s Department Security at Courthouse and Courtrooms

Sheriff Bill Rasco said later today they will have an expert look at security at the courthouse and administration building. He said the expert will present the findings at 3:00 this afternoon at the courthouse.

2. Contract: Road Management-Pickering Engineering

Board Attorney Tony Nowak reminded the Board that they asked him to look into the deadline for spending the engineering credit with Pickering Engineering as a result of the Starlanding Road Project. He said the county has until December 10, 2011 to use the credited engineering services.

Road Manager Russell Dorris said the county is using those services on Holly Springs Road.

3. Roads-Bike Trails

Road Manager Russell Dorris asked if anyone knew what the signs are that are being put up all around the county.

Supervisor Jessie Medlin said the signs are for the bike trails.

Supervisor Tommy Lewis asked why the signs could not be put up on existing posts.

Supervisor Bill Russell asked if anyone is aware of any new law where the public is supposed to allow 3-6 feet lead way for bikes on public roads.

Sheriff Bill Rasco said he does not know anything about it. Mr. Nowak advised the Board of the recently enacted Bicycle Safety Act that requires motorists to leave a minimum of 3 feet of space when passing a bicyclist.

Mr. Dorris said he is concerned that there are so many signs going up and they are adverse to state regulations for signs.

4. Appointment-Eudora Fire Protection District

Supervisor Jessie Medlin made the motion and Supervisor Allen Latimer seconded the motion to accept the resignation from Paul Leslie Riley from the Eudora Fire Protection District. 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

Supervisor Allen Latimer made the motion and Supervisor Jessie Medlin seconded the motion to appoint Mr. Joe Tow to fill the unexpired term of Mr. Riley on the Eudora Fire Protection District. 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 I.4

Supervisor Jessie Medlin made the motion and Supervisor Tommy Lewis seconded the motion to recess the meeting until March 21, 2011 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-----YES

THIS the 9th day of March, these minutes have been read and approved by the DeSoto County Board of Supervisors.

Allen Latimer, President
DeSoto County Board of Supervisors