

Baldwin County Commission

Baldwin County Commission
Regular
Meeting Minutes
Tuesday, March 19, 2019 8:30 AM



Baldwin County Administration Building
County Commission Chambers
322 Courthouse Square
Bay Minette, Alabama 36507

District 1 – Commissioner James E. Ball
District 2 – Commissioner Joe Davis, III
District 3 – Commissioner Billie Jo Underwood
District 4 – Commissioner Charles F. Gruber

Ron Cink, Budget Director

All supporting documentation for the minutes can be viewed in the File ID link of each item and are denoted by an asterisk.

A WELCOME, INVOCATION AND PLEDGE OF ALLEGIANCE

Present: 4 - Commissioner James E. Ball, Commissioner Joe Davis III, Commissioner BillieJo Underwood, and Commissioner Charles F. Gruber

Absent: 0

Also present were, Ron Cink, Budget Director, and David Conner, County Attorney.

The Chairman called the meeting to order at 8:35 a.m. and introduced Brother Michael Lynn, Robertsedale First Assembly of God, who appeared before the Commission and led the Commission in prayer. After the Pledge of Allegiance led by Sheriff Huey Hoss Mack, the Commission transacted the following business to-wit:

ADOPTION OF MINUTES

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to adopt the minutes of the February 28, 2019, Special meeting and the March 6, 2019, Regular meeting.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0

Absent: 0

Abstain: 0

B CONSENT

Ron Cink, Budget Director, noted for the record, there is a replacement attachment for Agenda Item BN1 - 2019 High Risk Rural Roads Program for Unshielded Bridge Ends - Funding Agreement.

Motion by Commissioner BillieJo Underwood, seconded by Commissioner Joe Davis, III, to approve the consent agenda with the inclusion of the replacement attachment for Item BN1.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber

Nay: 0

Absent: 0

Abstain: 0

BA ADMINISTRATION

BA1 City of Fairhope - Annexation Notification

[19-0852](#)

Authorize placement of the City of Fairhope's Annexation Ordinance No. 1637 and 1638 annexing these properties into the corporate limits of the municipality of the City of Fairhope, Alabama, into the minutes of the March 19, 2019, Baldwin County Commission meeting with proper notification to the following departments/organizations:

Baldwin County Departments:

Baldwin County Commission

Building Inspection Department

Communications/Information Systems Department

Environmental Management/Solid Waste Department

Highway Department

Planning and Zoning Department

Elected Officials:

Baldwin County Revenue Commission

Baldwin County Sheriff's Office

Other Agencies:

Board of Registrars Office

Emergency 911

South Alabama Regional Planning Commission

BA2 Acknowledgement of Tax Abatement - Gulf Coast Automation Solutions

[19-0899](#)

In observance with §40-9B-5(d), Code of Alabama (1975), take the following actions:

- 1) Acknowledge the receipt, on February 22, 2019, and by certified mail, of a Resolution, by the Bay Minette Industrial Development Board, Bay Minette, Alabama, granting a Tax Abatement to Gulf Coast Automation Solutions; and
- 2) Forward to the Office of Revenue Commissioner of Baldwin County and Office of Probate Judge of Baldwin County the Resolution and associated attachments informing the Baldwin County Commission of the aforementioned grant of such Tax Abatement.

BA3 AltaPointe Health Systems, Inc. - Board Appointment

[19-0896](#)

Related to the AltaPointe Health Systems, Inc., take the following action:

- 1) Adopt Resolution #2019-046, which re-appoints Mr. Robert Wills as a member of the Board of Directors of AltaPointe Health Systems, Inc. for a six (6) year term, said term to commence on April 1, 2019, and expire April 1, 2025.

BA4 Ono Island Water, Sewer and Fire Protection Authority - Board Appointments

[19-0897](#)

Related to the Ono Island Water, Sewer and Fire Protection Authority, take the following actions:

- 1) Re-appoint Mr. Rudolph Peter Stritzinger, III, for a pro-rata reduced six (6) year term, to fill place seat #1, said term to commence on March 19, 2019, and expire on March 1, 2025; and
- 2) Re-appoint Mr. Gailard Bixler for a pro-rata reduced six (6) year term, to fill place seat #6, said term to commence on March 19, 2019, and expire on March 1, 2025.

BA5 Resolution #2019-060 of the Baldwin County Commission - Act No. 90-449 (Fire Tax) - Stapleton Volunteer Fire Department - Approval of Use of Fire Tax Proceeds

[19-0889](#)

Take the following actions:

1) Adopt Resolution #2019-060 of the Baldwin County Commission which provides the Baldwin County Commission's required approval for the Stapleton Volunteer Fire Department to utilize its proceeds of taxes derived by Act No. 90-449 as security for repayment of a loan for up to \$168,806.00 (and the repayment of said loan's applicable interest) to expand the station to include the addition of bays, conference/training rooms, additional offices, and bunk rooms to provide a needed service to the growing fire jurisdiction in the north portion of Baldwin County; and

2) Authorize the Baldwin County Commission Chairman to execute any other necessary documentation related to the adoption of Resolution #2019-060, including any other assurances, certificates and financing documents or approvals to affect such approval and purchase of the expansion. This approval does not in any way constitute any financial involvement or obligation of the Baldwin County Commission.

- BA6** Request from Historic Blakeley State Park - Baldwin Regional Area Transit System (BRATS) Transportation for the 2019 Living History Event Commemorating the Battle of Fort Blakeley

[19-0888](#)

Approve the request from Mr. Mike Bunn, Director of Operations for the Historic Blakeley State Park, for the use of two (2) Baldwin Regional Area Transit System (BRATS) buses to shuttle guests from the main parking area to the venues for the Living History Event Commemorating the Battle of Fort Blakeley on April 6, 2019, from 8:00 a.m. to 4:30 p.m. and authorize the County to donate the use of one bus (at a total cost of \$630.00 including commute time) and for the Historic Blakeley State Park to pay for the use of one bus at a total cost of \$630.00 including commute time.

BE BUDGET/PURCHASING

- BE1** Competitive Bid #WG17-16 - Provision of On-site Crushing of Concrete at Various Baldwin County Locations for the Baldwin County Commission

[19-0875](#)

Extend Competitive Bid #WG17-16 - Provision of On-site Crushing of Concrete at various locations within the County with Sunbelt Crushing, LLC for an additional twelve (12) months at the same prices, terms and conditions stated in the bid specifications as awarded on May 16, 2017. The extension will expire on May 16, 2020.

BE2 Competitive Bid #WG19-28 - Provision of Mower Blades for the Baldwin County Commission

[19-0876](#)

Take the following actions:

- 1) Approve the specifications and authorize the Purchasing Director to place a competitive bid for the Provision of Mower Blades; and
- 2) Further, authorize the Chairman/Purchasing Division Commissioner for the Baldwin County Commission to approve any necessary addendums or clarifications if required after the bid is advertised.

BE3 Competitive Bid #WG19-29 - Provision of Ready Mixed Concrete for the Baldwin County Commission

[19-0877](#)

Take the following actions:

- 1) Approve the specifications and authorize the Purchasing Director to place a competitive bid for the Provision of Ready Mixed Concrete; and
- 2) Further, authorize the Chairman/Purchasing Division Commissioner for the Baldwin County Commission to approve any necessary addendums or clarifications if required after the bid is advertised.

BE4 Competitive Bid #WG19-31 - Purchase of One (1) Animal Adoption/Rescue Trailer for the Baldwin County Commission

[19-0878](#)

Take the following actions:

- 1) Approve the specifications and authorize the Purchasing Director to place a competitive bid for the purchase of one (1) Animal Adoption/Rescue Trailer; and
- 2) Further, authorize the Chairman/ Purchasing Division Commissioner for the Baldwin County Commission to approve any necessary addenda or clarifications if required after the bid is advertised.

BE5 Competitive Bid #WG19-32 - Provision of Services to Convert Microfilm to Digital Images for the Baldwin County Revenue Commission

[19-0880](#)

Take the following actions:

- 1) Approve the specifications and authorize the Purchasing Director to place a competitive bid for the Provision of Services to Convert Microfilm to Digital Images; and
- 2) Further, authorize the Chairman/ Purchasing Division Commissioner for the Baldwin County Commission to approve any necessary addenda or clarifications if required after the bid is advertised.

BG BUILDING MAINTENANCE

- BG1** Contract for Labor and Incidental Materials for Roof Restoration at the Baldwin County Board of Education Administration Building Located in Bay Minette, Alabama [19-0881](#)

Terminate the Contract “without cause” with “10 days written notice” between the Baldwin County Commission and E. Cornell Malone Corporation for labor and incidental materials for roof restoration at the Baldwin County Board of Education Administration Building located in Bay Minette as outlined on Page 4, Section XVIII, of the Professional and Construction Services Contract with the termination date to be effective March 29, 2019.

BL ENVIRONMENTAL MANAGEMENT

- BL1** Application for Certificate of Exception from Garbage Pick-Up [19-0901](#)

Take the following action:

As authorized by Section 22-27-3 of the Code of Alabama 1975, and without limitation, approve the Application for Certificate of Exception from Garbage Pick-Up as permitted by, and applicable to, as follows:

Approve for a period not to exceed one (1) year commencing February 22, 2019:

John Sanders
14730 Ridge Road
Summerdale, Alabama 36580

- BL2** Baldwin County Solid Waste Uncollectible Residential Accounts [19-0903](#)

Approve the uncollectible residential garbage accounts list for write-offs in the amount of \$685.00.

BL3 Town of Summerdale Garbage Collection Services Agreement

19-0898

Approve the execution of a Solid Waste Collection Services Agreement between the Baldwin County Commission and the Town of Summerdale, Alabama, to continue Solid Waste collection services for a period of thirty-six (36) months, to be effective the first day of the month following the full execution of this Agreement.

BN HIGHWAY

BN1 *2019 High Risk Rural Roads Program for Unshielded Bridge Ends - Funding Agreement

19-0892

Approve Resolution #2019-061 and a Construction Agreement for a High Risk Rural Roads Program between the Baldwin County Commission and the Alabama Department of Transportation to repair Unshielded Bridge Ends at the following locations for an estimated construction cost of \$184,870.00 with 90% funding (\$166,383.00) provided by the 2019 High Risk Rural Roads Program and the remaining 10% match (\$18,487.00) funded by Baldwin County:

County Road 87 over Styx River
Scrannage Road over Horseneck Creek
Hoyle Bryars Road over Interstate 65

BN2 Consideration for Rescheduling the Baldwin County Road and Bridge Division Meeting in April 2019

19-0895

Adopt Resolution #2019-067 which approves the following:

1) The April 18, 2019, Road and Bridge Division Meeting of the Baldwin County Commission is rescheduled to instead, to be held and conducted on Tuesday, April 30, 2019, at 8:30 a.m. in the Third Floor Conference Room in the Baldwin County Central Annex II Building as located at 22070 Highway 59, Robertsedale, Alabama.

BN3 County Road 9 Bridge Replacement Over Barner Branch - Reimbursable Utility Agreement

19-0894

Approve the Reimbursable Utility Agreement between the Baldwin County Commission and Baldwin EMC for the relocation of utilities to complete the County Road 9 Bridge Replacement over Barner Branch. The total cost of this relocation is \$5,674.98 with the Alabama Department of Transportation providing an 80% match at \$4,539.98 and Baldwin County providing the remaining 20% at \$1,135.00. (This agreement shall be effective upon full execution and will terminate upon completion of the project).

- BN4** Resolution #2019-048 and Revised Funding Agreement between the Alabama Department of Transportation (ALDOT) and the Baldwin County Commission for Baldwin County Visionary/Needs Plan Projects

[19-0873](#)

Take the following actions:

1) Rescind the action taken by the Baldwin County Commission, during its regularly scheduled meeting on February 7, 2017, more specifically, the Staff Recommendation #2 regarding Agenda Item GC1, which approved as follows:

"APPROVE RESOLUTION #2017-054 AND A FUNDING AGREEMENT BETWEEN THE BALDWIN COUNTY COMMISSION AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) FOR PRELIMINARY ENGINEERING, RIGHT-OF-WAY ACQUISITION, UTILITY RELOCATION AND CONSTRUCTION ON THE VISIONARY/NEEDS PLAN PROJECTS."

2) Approve Resolution #2019-048 and a revised funding agreement between the Baldwin County Commission and the Alabama Department of Transportation (ALDOT) for preliminary engineering, right-of-way acquisition, utility relocation and construction on the Visionary/Needs Plan Projects.

- BN5** Resolution #2019-064 - Fiscal Year 2019 Budget Amendment for Various Highway Projects

[19-0872](#)

Adopt Resolution #2019-064 amending the Fiscal Year 2019 Budget (Resolution #2018-118 adopted September 18, 2018) to authorize the following movement of funds:

Account: 53600.5406

Description: Highway Pre-Construction Engineering - ROW

Debit: 38,000.00

Credit: N/A

Account: 0206818.5150

Description: Highway Project - County Road 64 Capacity/Roundabout

Debit: 107,000.00

Credit: N/A

Account: 0206418.5150

Description: Highway Project - HRRR Bridge Guardrail Project

Debit: 20,000.00

Credit:

Account: 0206918.5150

Description: Highway Project - County Road 13 @ County Road 44 Intersection

Debit: N/A

Credit: 85,000.00

Account: 111.35000

Description: Highway Fund - Fund Balance

Debit: N/A

Credit: 80,000.00

BN6 Roundabout at County Road 13 and County Road 44 (Twin Beech Road) -
Funding Agreement

[19-0891](#)

Approve Resolution # 2019-058 and authorize the Chairman to execute an agreement between the Baldwin County Commission and the Alabama Department of Transportation for the funding of Preliminary Engineering, Right-of-Way, Utility Relocation, Construction and Construction Engineering Inspection for a Roundabout at County Road 13 and County Road 44 (Twin Beech Road). (This agreement shall be effective upon full execution and shall be in effect until the project has been completed and reimbursements are complete. This agreement may be terminated by either party upon delivery of a thirty (30) day notice of termination.)

BP PERSONNEL

BP1 Animal Shelter - Position Changes

[19-0879](#)

Take the following actions:

- 1) Abolish the full-time Animal Control Technician position (PID #5439); and
- 2) Create two (2) part-time Animal Control Technician positions (PIDs #TBD);
and

3) Approve the updated organizational chart for the Animal Shelter.

BP2 Juvenile Detention Center - Personnel Changes

19-0870

Take the following actions:

1) Approve the employment of Aaron Cox to fill the open full-time Detention Technician position (PID #5341) at a grade G-EL (\$12.967 per hour/\$26,971.36 annually); and

2) Approve the employment of Ellius Davis to fill the open part-time Detention Technician position (PID #PT40) at a grade G-EL (\$12.967 per hour); and

3) Approve the employment of LaSandra Gaines to fill the open part-time Detention Technician position (PID #PT52) at a grade G-EL (\$12.967 per hour).

These actions will be effective no sooner than March 25, 2019.

C PRESENTATIONS

CA GENERAL

CA1 Presentation of Sheriff's Office Annual Report for 2018

19-0786

Sheriff Huey Hoss Mack appeared before the Commission and presented the Baldwin County Sheriff's Office 2018 Annual Report.

Commissioner Ball said he can talk for another hour about how much the Commissioners appreciate what Sheriff Mack does and the gratitude they express towards Sheriff Mack. With this public presentation, he will restate his former comments, that bar none, Baldwin County has the best Sheriff's Office in the State of Alabama. Commissioner Ball said although Baldwin County is very well protected, he feels the public should lock their vehicles. He had a conversation with some deputies who said they could not believe the number of people who leave their cars unlocked and have things stolen. Commissioner Ball thanked Sheriff Mack for what he does and said the County is very lucky to have him and his staff. He appreciates the Sheriff's Office.

Commissioner Davis said he echoes Commissioner Ball's comments about the program, Sheriff Mack and his team. It takes a team to make things like this happen. Knowing and dealing with the details is very critical. He and his wife have agreed to lock their cars even though they are parked in a locked garage. If a car alarm helps to deter someone from breaking in to a house, that is an easy thing to do. Commissioner Davis said having a family member in law enforcement, he is keenly aware of what the Sheriff's Office does, how they do it, how much time it takes, how much effort it takes and the cost of doing it. Commissioner Davis said he commends Sheriff Mack on his individual leadership and asked that Sheriff Mack pass along to his staff how much the

Commissioners appreciate what they do and how they do it.

Commissioner Underwood said she feels safe in Baldwin County and it is thanks to Sheriff Mack's leadership, his department and what they do for the County. To see some of the crime numbers go down even with an increase in population, attests to the great job the Sheriff's Office employees do. She echoes Commissioner Ball's and Commissioner Davis' comments. She knows everyone should use common sense and lock their doors. The Sheriff's Office employees are just a 911 call away and she thanks them.

Chairman Gruber thanked Sheriff Mack and said by looking at Sheriff Mack's report and the numbers, the population is steadily increasing, but the crime statistics are reducing and that says a lot about the Sheriff's Office. Sheriff Mack has some great deputies and corrections officers who are committed to their job. Employees' commitment to doing their job is one thing the Commissioners are very proud of. Chairman Gruber said the Community Corrections' employees are getting training to help them do their job. He appreciates that, and he looks forward to the Commission doing what it has to do for law enforcement and the protection of the citizens of Baldwin County.

Sheriff Mack thanked the Commissioners.

CA2 Proclamation - National Library Week - April 7-13, 2019

19-0798

Ms. Liz Reed, Director of the Baldwin County Library Cooperative, appeared before the Commission to accept the proclamation as presented by Commissioner Ball on behalf of the Commission.

Ron Cink, Budget Director, read the proclamation.

Ms. Reed said the Commission has been a great partner to the Baldwin County Library Cooperative through the 13 years she has been the Director and the 17 years she has worked for the library system. Ms. Reed said there are 14 libraries in the Cooperative. Every library has its own Board of Directors and makes its own decisions. The libraries share its catalogues, which is a great service to patrons in Baldwin County. It also says a lot about how Baldwin County libraries get along. Ms. Reed commented on how books are transferred amongst the libraries and on the Library Cooperative Bookmobiles. Ms. Reed said she is proud of the association the Library Cooperative has with the Commissioners. They see the importance of libraries and bookmobiles. She thanked the Commissioners for their service through the years and said this proclamation will be displayed at the Alabama Library Association Convention to be held on April 2-4, 2019, at the Grand Hotel. There will be approximately 300 librarians attending. The Orange Beach Public Librarian is the Chairman and Ms. Reed will be assisting with registration. Baldwin County is working hard to make this a great thing for the State. Ms. Reed thanked the Commissioners and said the proclamation will be displayed prominently.

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to adopt a proclamation which designates April 7-13, 2019, as National Library

Week in Baldwin County, Alabama, and encourages all residents to visit the library to take advantage of the wonderful resources available.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber

Nay: 0

Absent: 0

Abstain: 0

CA3 Dirt Road Paving Prioritization and Use of Gulf of Mexico Energy Security Act (GOMESA) Funds for Dirt Road Paving

[19-0907](#)

Joey Nunnally, County Engineer, appeared before the Commission and gave a slideshow presentation on Dirt Road Paving Projects for 2019.

Commissioner Ball said he has never met anyone more brilliant in this area than Mr. Nunnally. Without Mr. Nunnally, Commissioner Ball does not feel Baldwin County can get to where it is going with these types of things. Commissioner Ball thanked Mr. Nunnally for helping the new Commissioners out and bringing them up to speed on the dirt roads and paved roads and where the needs are. He has learned a lot, and with Mr. Nunnally's support he is learning a whole lot. Commissioner Ball thanked Mr. Nunnally for what he does for the County.

Commissioner Davis said Mr. Nunnally knows more about roads than anyone could imagine. The great part is, Mr. Nunnally has a great team and he will get in the weeds to accomplish what needs to be done. Commissioner Davis said this is an "at a boy" for Mr. Nunnally and his staff because this is one of the key things the citizens want. The Commissioners appreciate Mr. Nunnally cutting the cost in paving dirt roads. Commissioner Davis said if anyone is having a problem with their roads, do not call the Commissioners, call Mr. Nunnally because that is who the Commissioners will call.

Commissioner Underwood thanked Mr. Nunnally and said she has grown to like paving roads because it has made her life easier. She and Mr. Nunnally have gotten to know each other a lot better in the first four months she has been in office because she has received more road calls than she anticipated. Commissioner Underwood said this will make a difference in letting the public know the Commissioners are willing to do this and get some of the roads paved. She is looking forward to paving more roads in the future as the County gets more money to do it.

Mr. Nunnally thanked the Commissioners for their kind words.

Chairman Gruber thanked Mr. Nunnally and said he knows Mr. Nunnally and his staff have been working on this. People do not realize what the Highway Department goes through in determining which roads to work on. Chairman Gruber said Mr. Nunnally's staff is using a method that has been good so far and he appreciates that.

Motion by Commissioner BillieJo Underwood, seconded by Commissioner Joe Davis, III, to take the following actions:

- 1) Approve the Dirt Road Paving Priority list for Fiscal Year 2020; and
- 2) Authorize the Highway Department to use Gulf of Mexico Energy Security Act (GOMESA) funds to pave the attached Fiscal Year 2019 GOMESA Phase II list of roads for an estimated cost of \$1,499,250.00.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

D PUBLIC HEARINGS

Chairman Gruber said if it is all right with the Commissioners, he will hear the Planning and Zoning public hearings first.

DQ PLANNING AND ZONING

DQ1 Case No. Z-19001 - Sawyer Property Rezoning

[19-0882](#)

Linda Lee, Planner, appeared before the Commission and provided the staff report on the subject property.

Chairman Gruber opened the public hearing at 9:50 a.m. and asked if there is anyone present who wishes to speak.

Mr. Barry Copeland appeared before the Commission and said he lives in Gulf Shores, but he owns the property adjoining to the west of the subject property. He and his wife bought their property in 2016 with plans to build a home there. This came as a surprise when they got the notice regarding the rezoning of the front end of the subject property. Mr. Copeland said he is here in opposition of the rezoning request. He understands the Commissioners have letters he submitted for the agenda item. One of the letters was signed by the neighbor to the west of the subject property. He knows the Sawyers and Mr. Sawyer never mentioned his plans to re-zone the property. Had he known, he and his wife may have reconsidered building a home there. They did not know and were already into the construction process and had a building permit when they found out. Mr. Copeland said when he found out about the plans, he approached Mr. Sawyer and asked if he would reconsider. Mr. Sawyer declined to do so and explained how he wanted to put in a restaurant and a fish market. Mr. Copeland said he indicated to Mr. Sawyer that his plans would depress the value of the residential properties; however, Mr. Sawyer was not too concerned about it. Mr. Copeland said he understands

because the commercial value of the property on the road front will probably offset his residence. However, to everyone else, there is no offset. What this does is adjoins a commercial property to a residential property; whereas, commercial had previously been separated by roads as buffers. Mr. Copeland said Ewing Place is on the east side of the subject property that separates the commercially zoned property from Mr. Sawyer's residential property. State Highway 180 is to the south of the subject property and it separates the other commercially zoned property and it is a significant buffer. If the rezoning request is approved, there will be no buffer between his property and the subject property. He has laid out his reasons for opposition in the first letter dated January 31, 2019. The overall objection is that this will negatively impact the livability of his parcel and his home. It will be a commercial property in the County and there are no noise ordinances that he is aware of. There will be parking for the restaurant, lighting around the parking, dumpsters for the kitchen and vent hoods for the kitchen that will all impact the residents. Mr. Copeland said to the south of the subject property and his property there are wetlands and what are expected to be wetlands. Any build-up would increase the load on the wetlands portion of his property. He understands there has not yet been a delineation and he does not know whether the proposed use will be feasible because they do not have that. The Department of Transportation (DOT) has not yet weighed in on the traffic impact. This is a 55 MPH speed limit going across Highway 180 with no turn lane. He does not know what DOT's assessment will be. He submitted for the record, the letter from The Alabama Appraisal Company. This is the appraisal company that indicated that by having the property zoned as B-3 it would negatively impact his property and the surrounding properties as well. Mr. Copeland said he respectfully disagrees with some of the standards for a rezoning approval that Ms. Lee went through. He appreciates staff's cooperation in getting him this information. It does not appear to him that the proposed zoning is compatible with the surrounding residentially zoned properties. Mr. Copeland referred to a zoned map and said the RSF-1 designation is almost a mile long without any commercial property. It is not zoned as RSF-1, but as RTF-4 and RTF-6. This is the only commercial property on the north side of Highway 180 for 3/4 of a mile east and almost 1 mile west. He does not see this as being compatible because there are buffers in place. This does not conform to the Master Plan as indicated by the Planning and Zoning staff and that would have to be changed. It is likely to adversely affect the traffic pattern. It is not consistent with the area development pattern or a logical extension of it. Commercial property could be done on the south side of Highway 180. That is already zoned as commercial. Mr. Copeland said having dumpsters are a concern because they could attract rodents; it is unavoidable. For these reasons, he is opposed to the request. He read the Planning and Zoning meeting transcript and read that the Sawyers have a residential property there too. The implication was that the Sawyers would not do anything to negatively impact the value of their property. Mr. Copeland said the Sawyers' "negative" would be offset by the enhanced value of having commercial road front property. He is not going to have that. If this is approved, he would be tempted to consider making his road front property commercial too; this could go right on down the line. He does not feel this is something anyone wants to see and that is not what was planned for this area. Mr. Copeland said these are nice bayfront properties with very nice homes being built on them. He is building a nice home and his next two neighbors over have built homes he is sure would appraise for over \$1 million. He does not feel anyone wants to see a bunch of businesses in front of

these homes. That is kind of where this could head. Mr. Copeland said after the minutes came out, he called Mr. Sawyer to attempt to once again work something out. He was encouraging Mr. Sawyer to consider the B-2 zoning designation as opposed to the B-3 zoning designation. This would have less of a negative impact on his property and the surrounding properties. Under the B-2 designation, Mr. Sawyer could still have his restaurant as a matter of right. He could also have the fish market with conditions, but it would eliminate 56 additional uses as a right that are available under the B-3 designation that are not available under the B-2 designation. Mr. Sawyer declined to do this and primarily did not want to start the process over. Mr. Copeland said in his view, Mr. Sawyer can do what he wants without the B-3 zoning designation. He was hoping they could compromise on this, but they cannot. The residents do not want to have any businesses there, but it seems to him that the B-3 designation is unnecessary. Mr. Copeland said his final argument is this request is premature without having the assessment from the Alabama Department of Environmental Management (ADEM) or the DOT. The last time Mr. Copeland spoke with Mr. Sawyer, Mr. Sawyer stated that he may not proceed with this business, but he wants his children to have the opportunity to do this if they so choose. Mr. Copeland said he gets that. However, if Mr. Sawyer is unsure if he wants to proceed now and the information on whether it is feasible to do this has not been received from the DOT or ADEM, it seems premature. The fact that the rezoning will have a negative impact on the surrounding property owners, he is urging the Commissioners to deny the request at this time and wait until it appears it is something that could be done or is needed. There is a fish market six minutes up the road. Mr. Copeland said he welcomes any questions, but he is opposed to the B-3 designation, at this time. He is asking the Commissioners to deny the application.

There being no further requests to address the Commission, Chairman Gruber closed the public hearing at 10:02 a.m.

Commissioner Underwood said she first thought this was not a big issue with the Ewing property next to the subject property. The store on that property has been there for as long as she can remember, but she is unsure if it is in operation right now. This is the County's last piece of significant undeveloped beaches along the entire coastal area. Commissioner Underwood said the commercial property next door was probably designated as such when zoning was brought into place because it was a store there. Everything else is zoned as residential and to her, that is a huge upzoning to go from a residential zoning up to a B-3 designation. Commissioner Underwood said she commends Mr. Copeland's assessment of the request. He did his homework on this. Sometimes, these things get overlooked whenever the Commissioners consider rezoning property. She has serious concerns about the trends of all of the lots along this area becoming businesses when they are all residential.

Motion by Commissioner BillieJo Underwood to deny Case No. Z-19001, Sawyer Property, as it pertains to the rezoning of 0.9 acres, more or less, as located in Planning (Zoning) District 25, from RSF-1, Single Family District to B-3, General Business District.

Chairman Gruber said the motion died for lack of a second.

Commissioner Davis asked what was staff's recommendation, to which Chairman Gruber replied "approval."

DQ1 Case No. Z-19001 - Sawyer Property Rezoning

[19-0882](#)

Motion by Commissioner Joe Davis, III, seconded by Commissioner James E. Ball, to adopt Resolution #2019-049, which approves Case No. Z-19001, Sawyer Property, as it pertains to the rezoning of 0.9 acres, more or less, as located in Planning (Zoning) District 25, from RSF-1, Single Family District to B-3, General Business District.

The motion passed by the following vote:

Aye: 3 - James E. Ball, Joe Davis III, and Charles F. Gruber

Nay: 1 - BillieJo Underwood

Absent: 0

Abstain: 0

DQ2 Case No. Z-19006 - Willis Property Rezoning

[19-0883](#)

Linda Lee, Planner, appeared before the Commission and provided the staff report on the subject property.

Chairman Gruber opened the public hearing at 10:08 a.m. and asked if there is anyone present who wishes to speak.

Mr. Chad Willis, the applicant, appeared before the Commission and said he has worked with the neighbors in the community who were initially opposed to the RSF-4 rezoning request. Everyone seems happy with the RSF-2 designation. That is why he resubmitted the request.

There being no further requests to address the Commission, Chairman Gruber closed the public hearing at 10:09 a.m.

Motion by Commissioner James E. Ball, seconded by Commissioner BillieJo Underwood, to adopt Resolution #2019-051, which approves Case No. Z-19006, Willis Property, as it pertains to the rezoning of 1.4 acres, more or less, as located in Planning (Zoning) District 25, from RSF-1, Single Family District to RSF-2, Single Family District.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber

Nay: 0

Absent: 0

Abstain: 0

DQ3 Case No. Z-19007 - Easy Like That Properties LLC Property Rezoning

[19-0884](#)

Linda Lee, Planner appeared before the Commission and provided the staff report on the subject property.

Chairman Gruber opened the public hearing at 10:11 a.m. and asked if there is anyone present who wishes to speak.

Ms. Lydia Franz, the applicant, appeared before the Commission to answer any questions.

There being no further requests to address the Commission, Chairman Gruber closed the public hearing at 10:12 a.m.

Motion by Commissioner Joe Davis, III, seconded by Commissioner BillieJo Underwood, to adopt Resolution #2019-052, which approves Case No. Z-19007, Easy Like That Properties LLC Property, as it pertains to the rezoning of 13.4 acres, more or less, as located in Planning (Zoning) District 22, from RA, Rural Agricultural District, to RV-1, Recreational Vehicle Park District.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber

Nay: 0

Absent: 0

Abstain: 0

DQ4 Case No. Z-19009 - Seaglade at St. Andrews Bay Planned Residential Development (PRD) Site Plan

[19-0890](#)

David Conner, County Attorney, said his firm has a conflict of interest on this item. Mr. Sean Alves with Stone Crosby is here as Conflicts Counsel. Mr. Conner said he will step out for this item. At this time, Mr. Conner left the Chambers and the meeting and did not participate in any discussions regarding this item.

Vince Jackson, Planning Director, appeared before the Commission and provided the staff report on the subject property.

Commissioner Underwood said she spent a lot of time looking over this and she has one question. She received a message this morning from someone who was at the meeting. Based on the zoning that exists there now and with the setbacks, wetland issues and U.S. Fish and Wildlife issues that have to come into play, and even though it is designated as RSF-1 and RSF-4, without a PRD, she was told that only 17 units could be built on this piece of property. Commissioner Underwood asked if her information is incorrect because she has received a lot of information over the last two days about this and she is beginning to think that the Commissioners need more time to review this.

Mr. Jackson said the RSF-4 portion was rezoned two years ago by the County Commission. At that time, 17 lots were proposed. They are still proposing 17 lots for the RSF-4 portion. Given the acreage and the minimum lot sizes to have under the RSF-4 designation, the maximum density a person could have on that property would be 37 units. Mr. Jackson said it is his understanding and it has been his understanding that since the applicants went through the rezoning process the U.S. Fish and Wildlife would only approve 17 units for the RSF-4 designation.

Commissioner Underwood said the argument that an applicant could put all of this is moot. She is tired of hearing the argument that this is so much better. It seems like this is still more dense than it could be without the PRD.

Mr. Jackson replied no. There have been statements made that 10 lots are added to the original proposal. That is deceptive; it implies that the applicant is adding 10 lots to the property that was rezoned two years ago. Mr. Jackson said what the applicant has done in the PRD is include an additional parcel to the east. That is the RSF-1 parcel. That RSF-1 parcel is the location of 10 existing lots of record.

Commissioner Underwood said they are less than the minimum footprint because of the setbacks. Commissioner Underwood said an applicant would normally need 30,000 square feet for an RSF-1 designation, to which Mr. Jackson replied an applicant normally would. Commissioner Underwood asked if an applicant does not need this with the PRD.

Mr. Jackson said with the PRD the minimum lot size can be reduced. On the RSF-4 portion, all of the minimum lot sizes are within the RSF-4 requirements. On the existing RSF-1 part, with the existing lots of records, they do not meet the 30,000 square feet. However, because they were existing prior to zoning they can be built upon. Mr. Jackson said there is a provision in the Zoning Ordinance pertaining to substandard lots of record that states "where a lot was in existence prior to the adoption of zoning, if it does not meet the minimum width and the minimum square footage, it can still, nonetheless, be used as a building site." Mr. Jackson said the applicant still has to meet other requirements like setbacks, building height, and would still have to get the approval from the U.S. Fish and Wildlife regarding the incidental take permit. Looking at the 10 lots, an applicant would have to come with a land use certificate for those lots and show that every zoning requirement was met, and that they have the necessary environmental approvals from U.S. Fish and Wildlife, the Alabama Department of Environmental Management (ADEM) and anyone else who would be involved.

Commissioner Underwood asked if the applicant has that for this request, to which Mr. Jackson replied he will get to that. Mr. Jackson said it is not necessary for the applicant to have it at this point. He will read some emails he has from the U.S. Fish and Wildlife that explains it.

Commissioner Underwood said she does not want to get into a long, lengthy discussion on this. She feels that from reading all of the minutes, she is very concerned about some of the things that have been brought up to her. Maybe some of the people on the Fort Morgan Advisory Board who approved this thought it was an already approved PRD. The Planning

Commission meeting minutes referenced Chairman Gruber instead of Chairman Sam Davis and she knows Chairman Gruber was not there that night as Chairman of the Planning Commission. Commissioner Underwood said there is a lot of confusion on this. She read for two and a half hours on this particular case last night because of the new information. She did not realize there was a conflict of interest with the County Attorney. Mr. Conner informed her late in the evening last night and she did not have time to talk with legal counsel. Commissioner Underwood said since this is the public hearing portion, if Mr. Jackson wants to move on to the people who want to speak, that will be fine.

Mr. Jackson said he wants to address one thing Commissioner Underwood mentioned. Staff was aware of the mentioning of Chairman Gruber's name in the Planning Commission's minutes. At the time of agenda submittal, staff had a draft of the minutes. The minutes have been corrected and are posted correctly on the County website. Mr. Jackson said it is fine if the Commissioners would like to move on to the public hearing. He can make additional comments and answer further questions after.

Commissioner Davis asked where does the PRD and the final site plan fit in to where the Commissioners are right now? Is there a final site plan for the PRD? How does that evolve?

Mr. Jackson said the Commissioners will vote on the approval of the final site plan today. If it is approved, that would guide the development of the property going forward. This is not a rezoning, but the process works the same way as a rezoning. It goes to the Planning Commission first for a recommendation and then to the County Commission for a final vote.

Commissioner Davis asked if all of the other agencies that might be involved in approving or disapproving see and are aware of a final site plan?

Mr. Jackson said yes. Staff sent the revised final site plan to Mr. Bill Lynn with the U.S. Fish and Wildlife Service to make him aware that a final site plan that removed the gravel road was received. Mr. Jackson said he has the comments from Mr. Lynn that he will read to the Commission if necessary.

Commissioner Davis asked at what point would his agency approve or disapprove this?

Mr. Jackson said he has continued to work on this all day yesterday and through the night and he completely understands the confusion. He sent Mr. Lynn a couple of emails late yesterday. Mr. Jackson read the email from Mr. Lynn regarding whether or not the Incidental Take Permit (ITP) was needed at this stage. Mr. Jackson said with the approval of the final site plan, the applicant will work with the U.S. Fish and Wildlife to gain approval of the ITP which could take anywhere from six months to a year. The applicant will also have to get approval of the subdivision. That is a separate approval from the final site plan which will go to the Planning Commission. Once the applicant does all of this and comes to the County to build homes, staff cannot issue a land use certificate and the Building Inspection Department cannot issue a building permit unless the ITP is approved. The plan the Planning Commission approves will be the same plan the County Commission will approve.

Commissioner Underwood said on the total acreage between the RSF-1 and the RSF-4 properties, does the PRD give the ability to increase density in this highly sensitive area or would it be the exact same density without the PRD.

Mr. Jackson said density cannot be increased with a PRD. There are specific variations that could be had with the PRD, but increasing density is not one of them.

Commissioner Underwood said there can be variations on lot sizes.

Mr. Jackson said there can be variations on lot sizes and variations on lot width setbacks building heights. The applicant has not requested that much in the way of aerial dimension variations. On the RSF-1 portion of the existing lots of record, the buildable area becomes smaller because of a deed restricted common area that will be applied to that portion of the property. It would still meet the County's zoning setback requirement. It will still be 30 in the front/rear and 10 on each side.

Chairman Gruber opened the public hearing at 10:29 a.m. and asked if there is anyone present who wishes to speak.

Mr. Doug Bailey, with HMR Engineers, appeared before the Commission and said he cannot add a lot to what Mr. Jackson has stated. He will reiterate that overall, the applicant is not increasing the density of the development. They have worked for over a year with the U.S. Fish and Wildlife to get to this type of plan. Mr. Bailey said he will point out that what is called common area is not exactly everything that is being preserved. Because of the deed restriction on the other lots, which is a common area, there is a total preservation of 7.95 acres of the property. This is significantly more than the 40 percent mentioned; it is almost 75 to 80 percent of the property. Mr. Bailey said he is here to answer any questions the Commissioners may have.

Mr. Tim McCrory appeared before the Commission and said he is the developer of this property. He is helping to put together the entire parcel of two adjoining owners. This was all guided by Mr. Lynn. He and his partners acquired one portion of this and it was rezoned. They received a unanimous approval from the County Commission at that time for the rezoning. Mr. McCrory said those 10 lots were already there. Mr. Lynn just wanted them to submit one habitat conservation plan and take the road from one end to the other so there would not be driveways feeding out to Ft. Morgan Road. Mr. McCrory said he and his partners took on the cost of adding the adjoining owner's property into their habitat conservation plan to satisfy Mr. Lynn. They were never increasing the density from what they proposed. Those 10 lots were there, and they were trying to accommodate the U.S. Fish and Wildlife. Mr. McCrory said he will be happy to answer any questions.

Ms. Jamie Strategier appeared before the Commission and said she and her husband, Greg, live on the corner of Pontoon Lane and Ponce De Leon Court. It is right across from the subject property. They have sent the Commissioners a very lengthy email. The idea was to give the Commissioners a picture of the hurdles they face in Fort Morgan. There are many hurdles, not just with upzoning. Ms. Strategier said they have hurdles before the upzoning and development with security, the fire department, public access to the beach,

traffic, flooding and schools for the children. All of these are issues the residents currently have. More development has been added to the area without a plan to address the issues with the current development. It will continue to get worse. Ms. Strategier said she outlined concerns she had specifically with the Seaglade Subdivision proposal. The first time they heard about it was by accident. They were not an adjacent property owner, so they were not notified that way. Ms. Strategier said they went to a Planning and Zoning Advisory Committee meeting in January where the misinformation was given out that it was only to vote on a gravel road rather than a cement road and that the subdivision was already approved. That was the information given to the residents of Ft. Morgan and that is what the Committee voted on at that meeting. The following meeting was at the Baldwin County Planning and Zoning Commission on February 7th. That governing body voted the exact opposite and it was due to Mr. Jackson's clarifying information that the gravel road was not required by the U.S. Fish and Wildlife. It actually asked to get a cement road back. Within one week of time, two different governing bodies voted for the exact opposite with one adding only a gravel road and the other saying it was not a gravel road. Ms. Strategier said they spoke at the Committee meeting along with other residents from Ft. Morgan asking for this to start over again and let the Ft. Morgan residents know what was happening, have the correct information and let it go back through the correct process. Chairman Sam Davis told them they had 30 days to get the information out themselves prior to this meeting. Ms. Strategier said that is what they did, and it ended up leading Mr. Jackson to come to Ft. Morgan to clarify to the residents the true information about the non-existent gravel road and led everyone through the PRD process. She has researched a lot on this subject and property. From the date of the first two meetings until the meeting held last week, there have been a couple of Ft. Morgan Civic Association meetings there has been a very good attendance because the Commissioners were the special guests. Ms. Strategier said this month Mr. Lynn was the special guest, but this type of business was not discussed by anyone at that meeting because the Association had already held a special meeting last week. This has been word of mouth going around Ft. Morgan, nothing has officially been discussed during the regular forum meetings. Last Wednesday Mr. Jackson provided correct information and tried to clarify things for the residents. However, she would not say that was a good meeting. Mr. McCrory was there, and he gave some misleading information, some of what Commissioner Underwood spoke about regarding the 37 houses that were supposedly zoned for that area that could be built on. Ms. Strategier said his comments were if he did not get the 27 houses for the subdivision, he would build 37 houses on the six acres he owned. Ms. Strategier said Mr. McCrory stated the process to get the PRD was much more difficult than to build the 37 houses. That would be a lot easier and it raised a question with her. She did not understand how a developer would develop 10 less properties on more land and go through a more difficult process. No one was there to answer these questions. She called Mr. Lynn and asked him questions. Ms. Strategier said Mr. Lynn stated the U.S. Fish and Wildlife would not approve more than 27 on the entire 10 acres. For the first part of the RSF-4 property, they would approve up to 17 and the other area 10. Information given to residents were a scare tactic. A lot of the residents left discouraged like they did on January 30th, with the wrong information, not getting clarification on whether 27 or 37 houses could be built and scared to attend today's meeting to speak to the Commissioners. Ms. Strategier said she is very passionate about this, but she is also very scared to speak to the Commissioners. The residents have been threatened by the developer coming to the meetings saying he wants things done a certain way and if he does not get it he will go back and get the 37 houses

he was zoned for. Although that is not true because the U.S. Fish and Wildlife will not allow it, but in District 25 sometimes the cart comes before the horse whenever zoning happens to the wetlands and Alabama beach mice areas. The U.S. Fish and Wildlife needs to be there during the zoning process and not later. She understands there has been a lot of communication and Mr. Lynn has stated he knows where they will be standing later on. The developer used the power that Baldwin County can allow 37 lots of record or houses in this area because it is already zoned RSF-4 and no one was there for the residents to question. Thankfully Mr. Lynn was accommodating to give her the information. In the future, some of those things should happen simultaneously instead of separate like they are happening. Some of the other comments that were made during the meeting held last week were confusing information about the sizes of the houses.

Chairman Gruber said the size of the houses have nothing to do with what the Commissioners are looking at, at this point.

Ms. Strategier said the Commission is approving the site plan.

Chairman Gruber said the recommendation is to approve the Planned Residential Development (PRD) Site Plan. It has nothing to do with houses.

Mr. Jackson said he can explain in his comments.

Ms. Strategier said the site plan lists the houses as being 2,500 - 2,700 square feet, but Mr. McCrory stated repeatedly that he would only build 1,300 - 1,500 square foot houses. Again, different information was stated during the meeting. Another comment made by Mr. McCrory was that the subdivision would increase the value to the neighbors' homes. Some of the residents said they would sell their property in two years to get the increase in value. Ms. Strategier said she asked Mr. McCrory during the meeting where did he come up with that calculation, how does he know how much a house is worth and how much it would be worth in a couple of years. By adding houses to the neighborhood, there are more houses, a homeowner would not get more money for their house, they would get less. Those types of comments were made, and no one stopped him or corrected him from making erroneous comments or threats. Residents left that meeting with the wrong information, thinking this was true. Ms. Strategier said the common area listed on the site plan, approved by Mr. Lynn was 7.95 acres that was committed to the restricted Alabama beach mice and restricted wetlands areas. In staff's background information on this request, it stated the space would be 183,706 square feet. She could not find out where that number came from. The background mentions that it is 40 percent and 20 percent is required for the open common area. The open common area is supposed to be an area that is supposed to be area where 50 percent can be passable, or used for recreation. All of the 7.95 acres will be Alabama beach mice area and will be used to trap the mice twice a year and monitor them. It is not a recreation area and it is not common space under the PRD requirements either. Ms. Strategier said her concerns she put in her email and brought up today are her valid points and concerns as to why the Commissioners should oppose this request.

Chairman Gruber asked Mr. Jackson if he wants to summarize this?

Mr. Jackson said on the site plan each lot is listed with the maximum square footage for a home on each lot. A footprint is also shown on each lot. What that represents is a maximum the applicant can build up to. Mr. Jackson said the applicant could potentially build smaller as long as they stayed within the footprint on the site plan; they cannot build larger. Once the site plan is approved and construction has commenced, everything is locked in. The applicant will have to build within the footprint and any variation of that will require them to go back through the process and deal with the U.S. Fish and Wildlife. Mr. Jackson said it would be very lengthy and cumbersome. After the Ft. Morgan Advisory Committee held its initial meeting in January, he became aware of the concerns because of information that was communicated about the gravel road. Their initial application did include a gravel road. At the time the initial application was submitted, the U. S. Fish and Wildlife Service was closed because of the government shutdown. Therefore, initially, staff did not have comments. Mr. Jackson said once they were back open and Mr. Lynn was able to comment, the first thing he did was let staff know that a gravel road could be approved there. That was two days before the Planning and Zoning Commission meeting. Staff got the word out as quickly as it could. Mr. Jackson said staff provides the Advisory Committee very specific information about what the applications are. He did have some conversations with one of the members about the road. They talked about the reasons a PRD would be needed. At no point did staff ever communicate with the Committee that the gravel road was the only reason the applicant was asking for the PRD.

Commissioner Underwood asked if staff attends the Advisory Committee meetings on a regular basis, to which Mr. Jackson replied they will now. Commissioner Underwood asked if they were at that meeting, to which Mr. Jackson replied "no." Mr. Jackson said he was not at that meeting. Staff provides specific information on the request and at no point was it ever stated the only reason a PRD was requested was for the gravel road. The real reason the applicant is requesting a PRD is because there is a desire to include the RSF-4 and RSF-1 properties as one habitat conservation plan. Mr. Jackson said because there are 10 lots of record on the RSF-1 property, the best way to join those together as one development is through the PRD process. It would also give the 10 lots the access to the privately maintained road which will prevent all of those lots from having direct access to Ft. Morgan Road. That is the most significant reason. Mr. Jackson said that Committee is not an official board of the County. The County cannot control what they do. He did become concerned and requested they call a special meeting.

Commissioner Underwood said the Committee was formed to help people resolve some of their issues at that point instead of bringing it to the Planning and Zoning Commission meeting.

Mr. Jackson said that was a statement someone made.

Commissioner Underwood said the Commission can move on; she is okay.

Chairman Gruber said the reason the committee was appointed by the Legislators was because right after the split with the City of Gulf Shores, there was a problem. The Committee was comprised of three or four people from the community, the Mayor of Gulf Shores and Representative Stephen McMillan. It was designed to allow them to share ideas.

Mr. Jackson said the actual membership of the Committee is five. The County Commission gets two appointments, but they have to come from nominees provided by the Civic Association and the Civic Association gets three. The ex-officio members are the Mayor of Gulf Shores, Chairman Gruber and Representative McMillan. Mr. Jackson said he attended the meeting last week. He talked with a few people individually. He offered to attend the meetings and make a presentation for the more difficult cases. He hopes there will be no questions about what the applications are, going forward.

Commissioner Davis said he has become concerned about the storm water run-off. There is one subdivision in the area that plans to have the water run through the road. The curbing cannot handle it in some places and lots get flooded. Commissioner Davis asked Mr. Jackson to make him feel better about staff addressing the storm water run-off regardless of the material used. Is there anything particular the Commissioners need to know? Commissioner Davis said he is assuming that is a sand base. Will the County build a base with red clay and pack sand? What would the plan be?

Mr. Jackson read Mr. Lynn's comments about the development in general and said this was one way the run-off issue was addressed. The other way will be through the subdivision process. When the subdivision application is submitted, the Highway Department will review the drainage plans. The applicant has already submitted drainage plans as a part of the PRD, but it is not reviewed at this stage. It is reviewed at the subdivision stage. Mr. Jackson said he spoke with Seth Peterson, with the Highway Department, who reviews subdivisions. Mr. Jackson said he made Mr. Peterson aware of some of the issues. Mr. Peterson said there are certain things the Highway Department will look at when it comes to them. The Highway Department is aware of the flooding issues and will take it all into account.

Chairman Gruber said the U.S. Fish and Wildlife does not want to use gravel because of the mice. They want either a concrete surface or a treated soil.

Commissioner Davis asked where does the rain go and how does it get from the neighborhood? That was the basis of his question.

Mr. Jackson said he will answer any questions from the Commissioners. He does not have anything very different to say from what he started with.

Commissioner Underwood asked if the Commissioners are finished with the public hearing.

There being no further requests to address the Commission, Chairman Gruber closed the public hearing at 10:55 a.m.

Commissioner Underwood said she has lots of concerns about this, mainly from reading the Planning and Zoning Commission meeting transcripts. She has concerns about the tone of people who stated they received misinformation from various meetings. Commissioner Underwood said she has questions from legal staff that she was unable to have answered. She would be inclined to table this application. If this is tabled, does the

Commission have up to 60 days?

Mr. Jackson said yes, the Commissioners have up to 60 days.

Commissioner Underwood said this does not constitute a denial or an approval. It just tables it to get more of the information resolved.

Mr. Jackson said that is correct. He has done the calculation and the last available meeting within the 60-day timeframe would be May 7, 2019.

Commissioner Underwood said she would like to table this until the May 7th meeting to give the Commissioners more time to answer some of the questions and some of the last-minute concerns that have come in from the citizens of Ft. Morgan. This is a highly sensitive area and the Commissioners need to be very careful about anything the Commission does down there considering the current Master Plan does not address some of the concerns. Commissioner Underwood said that will need to be addressed in the future, but in the meantime, she feels the Commission should table this.

Motion by Commissioner BillieJo Underwood, seconded by Commissioner James E. Ball, to table any action related to Case No. Z-19009, Seaglade at St. Andrews Bay Property, as it pertains to Planned Residential Development (PRD) Site Plan Approval for Seaglade at St. Andrews Bay, until the May 7, 2019, Baldwin County Commission Regular meeting.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

After the motion, before the vote, Commissioner Davis said he feels it is relevant for staff to get real information and the last most accurate information out because so many decisions are made by Commissioners based on partial information that may be partly true or it may be based on someone's interpretation of facts. The Commissioners told the citizens of Ft. Morgan that the County would be growing, but they want the growth to happen "by" the County and not "to" the County. Commissioner Davis said it is very relevant for staff to postpone this, but not wait until two days before to start talking about it again. There is a lot of homework for everyone to do to make sure the facts get out as they currently are. He needs to see where the Commissioners are and make sure everyone understands the facts. He concurs with tabling this, but not waiting two days before the meeting. There is a lot of homework to be done.

Commissioner Ball asked Ron Cink, Budget Director, if this can be brought back to a work session to discuss it, to which Mr. Cink replied "yes."

Commissioner Davis said this way, if the Commissioners have to make a decision, everyone will be working with a set of information. That is very relevant to this particular case.

After the vote, Commissioner Underwood said she is sorry Ms. Strategier was afraid to attend today's meeting. That upsets her, and she hopes Ms. Strategier no longer feels that way now that she is here.

Mr. Cink asked if the Commissioners would like for this to come back to the May 7th regular meeting. Is it correct that a request was made to discuss this at the work session held prior to the 7th?

Commissioner Underwood said she does not feel it gives the Commissioners enough time. Does it have to be discussed the week prior to the meeting? She feels that is what the issue is now. By the time the Commissioners get an approved agenda with corrected minutes, they only have the weekend and Monday to review it.

Mr. Cink said the next work session will be held on March 26th, with the regular meeting held on April 2nd. April 9th and 23rd are the next work session dates.

Commissioner Underwood said to maybe bring it back on the 9th.

Commissioner Davis said the 9th will be good because there may be additional discussions that maybe carried from that meeting.

Commissioner Underwood said the Commission may be able to bring it forward sooner. She wants to give the option of up to 60 days. If May 7th is the furthest date, then she would like to discuss this prior to one week before the actual meeting date. She wants to make sure she understands the procedures that are in place.

Commissioner Davis said the Commissioners are not saying "yes" or "no" on the project. They are talking about getting the information assimilated where everyone has the same facts. The fact that the Commission is tabling this does not mean the project will not be approved. It means the Commissioners want to have it done with all the facts shared by everyone.

Mr. Alves said the Commissioners have held the public hearing. There will not be another one scheduled, so the public needs to know that. It sounds like the Commissioners are scheduling this for a work session to discuss it. They will then have a regular meeting on May 7th for consideration. There will not be another public hearing held, but the Chairman can allow people to speak at that work session.

Chairman Gruber said this can be placed under Other Staff Recommendations.

Commissioner Ball said the Commissioners will need legal counsel present to represent them at the work session and at the regular meeting.

Mr. Cink said the work session will be held on April 9th at the Fairhope Satellite Courthouse and the May 7th meeting will be held here.

Mr. Alves said he will make sure that either he or Mr. Brad Hicks will be in attendance.

RECESS

Chairman Gruber recessed the meeting at 11:04 a.m.

The meeting reconvened at 11:14 a.m.

DA ADMINISTRATION

DA1 Denial of Billboard Permit - Property Located at 28396 State Highway 181 in Planning District 7

[19-0910](#)

Chairman Gruber opened the public hearing at 11:14 a.m. and asked if there is anyone present who wishes to speak.

David Conner, County Attorney, said to be clear regarding this process, Mr. Justin Pate is appealing the decision made by staff regarding the billboard permit. The Commissioners are sitting in the capacity to hear that appeal and make a determination as to whether or not they will uphold the decision made by staff, or reverse or render some other decision based on the appeal process.

Mr. Tom O'Hara appeared before the Commission and said he is a lawyer in Baldwin County who represents small, local businessmen. His client is a small, local businessman and is sitting here. Mr. O'Hara said he would like to make one correction. They are here because the building permit was denied. They appealed the decision by the Building Permit Officer to deny the building permit. They had a valid, legal permit issued for the billboard signed by Vince Jackson, Planning Director. Mr. O'Hara said on the day the brief was due a week ago, after it was submitted they received notice that the Building Department had revoked their valid and legal building permit. They are not here today to address that issue. They are addressing the fact that the Building Permit Officer exercised authority beyond what was in his purview of issuing a building permit for this case. The notice they received on the revocation of the building permit had no explanation. It only stated the permit they had for five months had been revoked. Mr. O'Hara said for five months they were under the impression that they had a legal, valid permit for the billboard under the legal compliance requirements by the County. Mr. Pate did everything right. This is just a matter of procedural fairness, due process and equal protection. Everyone learned that good government requires fundamentally fairness and that is what they are asking for. What they see is a Building Permit Officer that denied the permit and all they were told was "2001-497". Mr. Pate is a businessman in Baldwin County. He went to the County and received a checklist for putting together a building permit. Mr. Pate checked all of the boxes on the checklist, submitted a complete application and although it was not on the checklist, the County office asked Mr. Pate to get a letter from the City of Daphne to confirm and verify that this parcel location of where he wanted to construct the billboard had not been annexed by the City of Daphne. Mr. O'Hara said Mr. Pate submitted that letter to the County office and was told his application package was complete. It was then reviewed and approved by Mr. Jackson. It is in an unincorporated, unzoned area of the County on Highway 181 near County Road 64. There is a bicycle shop located on that

real estate near Champions Way. It is near Daphne High School at the end of Champions Way and Highway 181. The permit on legal compliance review by the County was signed by Mr. Jackson and has been valid for five months. The next step in the process was to apply for the building permit. Mr. Pate submitted all of the information required on the checklist from the County for the building permit. Mr. Pate had plans, specifications, and information related to the billboard. He had everything that was required and asked for. Mr. O'Hara said what occurred at that point was not a building permit review, it went back to step one, many months down the road after resources, time and expense had been incurred by his client. Never once was Mr. Pate told "he is banging his head against the wall 2001-497." Mr. O'Hara said he has learned a little more about this; his clients have educated him. What does that mean? A businessman deserves more than just being told "deny building permit 2001-497." They still do not have the reasons why the permit issued by Mr. Jackson was revoked. Mr. Pate deserves more of an explanation other than "permit revoked" after they were required to file a brief in connection with this hearing to at least be on a level playing field to address whatever arguments made by the County's attorney. Is that fair, is it due process, is it equal protection? Beyond the procedural and fairness he just raised, there are equal protection issues. There are a number of billboards that have been approved within the County in unincorporated areas that are no different. Mr. O'Hara said they believe they have a legal right to the permit and they were given a legal and valid permit. Mr. Pate will speak to the other billboards identified in their briefs. He would like to incorporate and adopt what was submitted in the pre-hearing briefs, the exhibits, which are much more detailed. Mr. O'Hara asked Mr. Pate to talk about the other billboards. Even if they go beyond the issues of Mike Howell, Building Official, overstepping his authority, during this process, he would like to make the point that their application should be approved because it is no different than other billboards that have been approved within the County.

Mr. Pate appeared before the Commission and said the first example of where a billboard was approved in a similar situation is on Highway 31, just outside the Spanish Fort city limits. There was a billboard erected by M.H. Outdoor out of Texas. Although the billboard is not in the city limits just like his, which is across the road from the city limits of Daphne, this company was allowed to erect a billboard, double-sided, static billboard in Spanish Fort's extraterritorial jurisdiction (ETJ) even though Spanish Fort does not allow billboards. Mr. Pate said he has on record a voicemail from Mr. Spencer Patterson, Chief Building Official with the City of Spanish Fort, attesting to such that Spanish Fort will not allow any new billboards. M.H. Outdoor was allowed to come in and build the billboard. In the permit package, there is an email from Mr. Howell to M.H. Outdoor stating that the parcel where the billboard is located is on unzoned County property; therefore, a building permit and a sign permit can be issued without restrictions. Such as his case. Mr. Pate said his billboard is unzoned County, just across from the city limits in an eerily similar situation, but he was denied.

Mr. Pate said the second set of billboard circumstances is with the new Buc-ees that just came in on the Baldwin Beach Express at the intersection of Interstate 10. Buc-ees erected two billboards. The first one is a mile and a half west of the new Buc-ees. The second one is to the east of Interstate 10. Those are in zoned County areas. Mr. Pate said he was told by Mr. Jackson on March 12, 2018, that a billboard

cannot be placed in a zoned County area. He knows this because he tried to get a billboard permit for three or four billboards last year on some properties just south of Buc-ees. He had a verbal agreement with the landowner, Mr. Joe Mullek, who owns property on both sides of the Baldwin Beach Express. Mr. Pate said he was told to not apply because billboards were not allowed in zoned County areas. Fast forward to August 2018, there are now two, big Buc-ees billboards that do not have any permits. He was told by someone in the Planning and Zoning Office that Buc-ees has no Baldwin County permits, but yet the billboards are erected. He put pictures of the billboards in his packet. Mr. Pate said there are unpermitted billboards in illegal areas where Buc-ees was allowed to place them. M.H. Outdoors has a billboard in the ETJ of the City of Spanish Fort, which does not allow billboards.

Mr. Pate said now, on the corner of County Road 64 and Highway 181, there is a double-sided digital poster board from Lamar Advertising. After the zoning was changed, where a new billboard could not be placed or an existing billboard altered without a variance, they were allowed to take down the poster paddles and put up two digital screens. This is approximately two miles away from the billboard he was denied the building permit for.

Mr. Pate said the final piece is the Lamar board at the intersection of County Road 8 and Highway 59 in the northwest quadrant. He submitted two parcels he needed to find the permit applications for and they do not exist. His attorney was given this information from the County's attorney that there is no permit for this billboard on the corner of County Road 8 and Highway 59. Mr. Pate said he called the City of Gulf Shores and looked at their zoning maps. This particular billboard is within the planning jurisdiction of Gulf Shores. There has been a billboard put there. However, the City of Gulf Shores representative said they have never, would they ever, issue a permit for such a sign. Those are some examples he has uncovered. There is another billboard outside of the planning jurisdiction in Bay Minette that is an issue. He will look further into that if need be. He knows the Commissioners will do their due diligence and look into this also. He can provide all of the necessary information. Mr. Pate said those are examples of how other people were given special treatment and he was not. He was not even allowed to go through the proper channels to get the building permit although he was issued a billboard permit, but could not act on it.

Mr. O'Hara said he would like to talk a little about the statute codified as 2001-497. An important part of it gives the County Commission the exclusive authority to regulate billboards in the unincorporated areas. It also states that the regulations need to be no less stringent than a municipality's ETJ. The ETJ strikes again. Mr. O'Hara said the statute states the regulations shall be adopted by resolution or ordinance of the County Commission. They have received nothing where anyone has identified a duly adopted resolution or ordinance of the County that they are in violation of. All they were told was "2001-497." He has talked with Ms. Hope Hicks, County Counsel, and one of his problems is basic communication. Mr. O'Hara said they may be able to benefit from a work session to talk about what were the reasons for Mr. Howell's actions and at the 11th hour, after they submitted their brief addressing the issues they thought would be before the Commission, receiving the revocation letter from Mr. Jackson. Mr. O'Hara said he feels they should be entitled to the reason behind the denial. Instead of this

formal appeal hearing, everyone could have benefited from a sit down at a work session to talk about whatever reasons Ms. Hicks will say the other billboards are different from their application. That is how it should have been handled, but they are here now in this appeal. A lawsuit has been filed and his clients believes they are entitled to a legal and valid right to erect this billboard. They will not back down or be treated differently than Buc-ees and Lamar and others. Mr. O'Hara said just because Mr. Pate is a small businessman does not mean he should be treated any differently. They would like to sit and work with the Commissioners and get some answers. They would like a discourse and a dialogue. Maybe there is a way through this without the litigation and the other things they are dealing with right now. The ETJ issue is a problem. The City of Daphne does not want to extend its police jurisdiction over this area and it does not want to incur the expense. The City of Daphne has draconian billboard regulations and it falls on the County Commission to enforce it. The Commissioners are here dealing with that mess. Mr. O'Hara said they feel Daphne's regulation is unconstitutional. His client's right to equal protection and due process under the law of fair, fundamental treatment has been violated. They would like to address this. They would like to sit down and address the other billboards and explain to the Commissioners why they believe they have been treated unfairly. They are asking for that meeting and that the Commissioners reconsider this decision and issue the permit. The precedent is there. The court ordered that the billboards at Highway 181 and County Road 64 to remain. Mr. O'Hara said it probably influenced Mr. Jackson's decision in issuing the permit from the start. His client should not be treated any differently. He will be glad to answer any questions.

Ms. Hicks appeared before the Commission and said she would like to clear up a couple of things. Mr. O'Hara is fairly new to this case. Mr. Franklin Lemon of Atlanta is the attorney she has been dealing with. She told Mr. Lemon there was a very good chance that the Planning and Zoning permit would be rescinded. It was rescinded and Mr. Lemon stated they did want to appeal that today. Maybe they have changed their minds. Ms. Hicks said the Commissioners did not require the submittal of any briefs prior to this. Mr. Lemon specifically asked could they submit information for the Commissioners to have prior to the hearing. She told him he could and send it to Ron Cink, Budget Director, who would disseminate it to the Commissioners, which she believes he did. Ms. Hicks said she wants to make sure the Commissioners understand that whether the playing field is level or not, if they ask to send a brief, that is their choice to do so. There has been no requirement that they do that. Ms. Hicks said the Commissioners need to know that the lawsuit was filed over the denial of the building permit. The Planning and Zoning permit was given, in this case. Mr. Pate is correct, there are two signs at Highway 181 and County Road 64 that played into this to some degree. There is a court order that says those signs that are already there can be grandfathered in. When this came to the Planning and Zoning Department for staff to review, Mr. Jackson knew that case. Mr. Jackson did not recognize the fact that the case was simply a Baldwin County Circuit Court's order. It is not an appeals case and did not come from the Court of Civil Appeals or the Supreme Court. That order pertained to those billboards, and those billboards alone. Ms. Hicks said, from the County's perspective, staff has to look at whether or not to issue planning permits and building permits when it comes to billboards, is the actual State of Alabama codified law. The law that was passed in 2001 gave the Commissioners the right to enforce

billboard regulations in unincorporated areas of the County. That law passed as 2001-497 is now in the Alabama Code as Section 45-2-180.01. This states the Commissioners have the enforcement ability, but they have to enforce the more stringent regulations if a municipality has regulations and this is in their planning jurisdiction. Ms. Hicks said this sign is in the City of Daphne's planning jurisdiction. Mr. Jackson did request Mr. Pate to get a letter from the City of Daphne. They got the letter from Daphne and it does say that this is not in Daphne's corporate limits. Ms. Hicks said what it does say is that the property is in the police jurisdiction of the City of Daphne. It is also in the extraterritorial jurisdiction of the City of Daphne and is subject to the revisions of the amended agreement between the Baldwin County Commission and the City of Daphne regarding respective planning jurisdictions. The law says if the municipality has more stringent regulations, the Commission and the County officials have to enforce the more stringent regulations. Ms. Hicks said no one is disputing that the City of Daphne does not allow billboards. When Mr. Jackson received this, he thought back to the billboards on Highway 181 and County Road 64 and issued the permit. When it went to Mr. Howell for the building permit, he remembered the statute and the law. Mr. Howell did not care about the one Baldwin County circuit case that is not binding law on anything but those billboards. Mr. Howell denied the permits. Ms. Hicks said they are saying Mr. Howell overstepped his authority and his building permit was supposed to be a mere formality. She is not sure how it was decided that Mr. Howell's job is a mere formality. The job description says Mr. Howell is supposed to consider things, approve them and disapprove them. If someone has the authority to approve and disapprove, they are not rubberstamping. That is not what the Commissioners pay Mr. Howell to do; he is supposed to review these things. Ms. Hicks said there is nothing that states what Mr. Howell is supposed to review or that he cannot look at the law. Mr. Howell absolutely looks at all of this. The County's Building Code Ordinances that were adopted pursuant to the legislation requiring the Commissioners to adopt them were sent to Mr. Pate in December. They were also sent to Mr. Pate's attorneys after it was decided to hold this hearing. It clearly states a planning and zoning permit and a building permit must be obtained. There is a checks and balances system here. The permit was wrongfully issued by the Planning and Zoning Department and it was stopped by the Building Department before anything was put up. If it was not stopped and Mr. Pate put the billboard up, now the Commissioners would be dealing with the City of Daphne suing the County to have a billboard taken down that was wrongfully permitted. Ms. Hicks said the County has a checks and balances system in place and it worked. When all of this came about, there were meetings with Mr. Jackson about the permit and he rescinded the permit. There is nothing that says Mr. Jackson cannot rescind the permit, and he did. Mr. Pate was told Mr. Jackson was going to do this and that they had the right to appeal it today. The Commissioners can only do what the Legislature gives the Commission the authority to do. The Legislature has said the Commission has to enforce the restrictions of the more stringent. Ms. Hicks referred to a map showing the State's beautification highways and said those roads are covered by the State Beautification Act. Also, in the legislation that gave the Commission the enforcements, Section B-7, it states the Commission does not have the enforcement authority on the highways covered under the State Beautification Act. Ms. Hicks said the County does not get to look at its regulations for the Buc-ees billboard. The Alabama Department of Transportation (ALDOT) gives that permit. The billboard on Highway 31 was given by

ALDOT and not the Baldwin County Planning and Zoning staff. The County does not get to enforce its regulations, the State does.

Ms. Hicks said Mr. Pate talked about Highway 31 outside of the City of Spanish Fort, that is a State Beautification highway. Mr. Pate talked about Buc-ees' billboard to the east of Interstate 10, for which a variance was obtained. The Buc-ees billboard to the west of Interstate 10 was not treated any differently by the County. It was treated differently by the law. The signs on Highway 181 and County Road 64 were already in existence and the courts said they were grandfathered in. It is not the same as signs that were asked to be put up. The Lamar billboard at County Road 8 and Highway 59 is in the City of Gulf Shores permitting area. The County does not permit in that area, Gulf Shores does. Whether the City of Gulf Shores did or did not, Baldwin County does not.

Ms. Hicks said a couple of other parcel requests were sent that were reviewed by the Building Department and Planning and Zoning. None of those have ever been issued permits by Baldwin County. Staff cannot find a single example of a case in an unincorporated area that is in another planning jurisdiction where a permit was issued that is not based on this court order or issued by ALDOT. Ms. Hicks said Mr. Howell's email states the permit can be issued, but it is on a State Beautification highway. Mr. Pate has not been treated any differently. Maybe the communication was not great, but legally to enforce the rules the State Legislature passed, the County cannot give a billboard permit in Daphne's municipal planning jurisdiction when Daphne would not do it. Ms. Hicks said it does not matter if she thinks the County has to enforce Daphne's laws. The Legislature told the Commissioners they have to. Today, staff does not feel that permit could be validly issued and Mr. Jackson had the right to rescind it. Mr. Howell was correct in denying the permit to start with. There is not a single example of a billboard that was permitted that is similarly situated to this permit. Ms. Hicks said she will answer any questions.

Chairman Gruber asked for clarification on the roads shown on the State Beautification map, to which Ms. Hicks replied they are purple and green. Chairman Gruber asked what were the red roads, to which Mr. Howell replied they are under the Alabama Beautification Act.

Commissioner Davis said when he was on the City of Daphne's City Council, he recalled the litigation had to do with Lamar and seven signs. The arrangement was that Lamar would be allowed to keep a sign at Highway 181 and County Road 64 as a digital sign and a sign on Highway 98. There were all kinds of bad reasons for having a digital billboard, but that was the agreement to leave those two in order for Lamar to take down five others. Commissioner Davis said he recalls this as the basis of an agreement that was a compromise.

Ms. Hicks said the litigation on Highway 181 and County Road 64 were about two signs. There was a motion for partial summary judgment filed by Lamar and granted by the court that stated those signs are grandfathered in. They were billboards that were turned into digital billboards and the Department of Transportation widened roads and told them they were going to lose them. Ms. Hicks said Lamar did not ask for permits.

They took them down and built them back up in the same day. There were three lawsuits about all of this. Ms. Hicks said the court ordered that Lamar could keep the billboards. After the court order, a variance was given to cross the "T's" and dot the "I's." The variance was given after the court ordered the billboards could be there.

Commissioner Davis said he mentioned that because based on where the Commission is and what he thinks he knows about this, the court may order the Commission to do something about this. That may be the process the Commission has to go through.

Ms. Hicks said if the court orders it, the Commission will follow this case like it did in the previous case. However, until a court orders it, it is her recommendation to the Commissioners to follow the statute because that is the law.

Commissioner Davis said he understands. For politicians that ran for public office for the last 25 years, Champions Way and Highway 181 is one of the most visible intersections whether a person is moving or stopping. To him, as a citizen, that is a logical place for a billboard. It would be well seen and most of the people looking at it would be sitting, waiting for their turn to go.

David Conner, County Attorney, said with Ms. Hicks approval, he has a couple of things to add to this to make sure everyone is clear. First of all, regarding the allegation that Mr. Pate had no idea for five months that there was an issue, the lawsuit was filed on December 18, 2018, at that point in time, they at least knew there was an issue. In addition to that, Mr. Cink has recovered an email where Mr. Pate asked for the County's Ordinance and it was emailed on December 1, 2018. Mr. Conner said the knowledge of the issues involving this sign have been well known for some time. There has been communication between Ms. Hicks and the attorneys to relay what was going on. As stated earlier, the system worked. There are checks and balances throughout the system. The first check is the Planning and Zoning Department and the second check is the Building Department. As the County Attorney, under the Zoning Regulation and applicable statutes, he has the authority to contest and/or challenge zoning enforcement violations or issues. All that has happened here is through this process the County has tried to preserve and defend the Constitution and the laws of the State of Alabama which the Commissioners have pledged to uphold. Likewise, this hearing is something that should have been allowed and by agreement between the attorneys and the parties, they are having that here today to allow for that appeals process.

Mr. Conner said the letter from the City of Daphne that was referenced earlier, does not change the law. It just states it is outside the corporate limits of the City. That is only a portion of the letter. If the letter is read further, it provides additional information regarding issues that might affect this issue. Mr. Conner said he does not think the City of Daphne has repealed its ordinance as it is to be applied. As it relates to the Highway 31 sign, the gentleman that was referenced is Mr. Chester Patterson. Mr. Conner said he is also the City Attorney for the City of Spanish Fort. The area of the City of Spanish Fort does not have an extraterritorial jurisdiction. The City of Spanish Fort's ETJ is limited down to the Eastern Shore area, up around Shambo Curve and maybe an area to the north. Mr. Conner said that area there is just a gap that is outside

of the corporate limits of the City. He does not think the ETJ is exercised there. Also, the City of Spanish Fort does not exercise its police jurisdiction. The permit would have had to come through the County's Building Department. Had it come through the County Building Department, Mr. Conner is sure that Mr. Howell would have given the same answer that he could not issue a permit on this because the Alabama Beautification Act would apply. Furthermore, in this case on Highway 31, it was stated that no permits were issued. Mr. Conner said the question is not whether or not this is treating Mr. Pate differently. The question is whether or not that is an illegal billboard because no permit was issued. Likewise, on County Road 8 and Highway 54, the County Building Department did not issue a permit because in that case, the City of Gulf Shores' Building Department issues permits in that area. Neither the County nor the City of Gulf Shores issued a billboard permit for that site. The question is not whether Mr. Pate was treated differently, but whether that sign is legal for not having a permit.

Mr. Conner said likewise, at Buc-ees, he is not aware of any permits issued by the County or anyone else for the two signs on Interstate 10. That does not mean the State might not have issued one as part of its requirements under Interstate 10. Another reason why he thinks these three signs are distinguishable because they were never presented to any of these parties for permits. Had they been presented, he feels they would have received similar treatment, but they were not presented.

Ms. Hicks said the billboard on Highway 31 did get a building permit only after they received notice from ALDOT because it is a State Beautification road.

Mr. Conner said Ms. Hicks is correct, they would have received notice from the State that it was applicable and was ok. Mr. Conner thanked Ms. Hicks for correcting this.

Mr. O'Hara said the next stop is the Baldwin County Circuit Court, but he does not anticipate going there. They are hearing Mr. Conner's and Ms. Hicks' explanations regarding the other billboard permits for the first time now. Everyone should have sat down and had a meeting to discuss this issue and point out the differences. Coming in today puts them at a disadvantage. These are things that should have been covered before the hearing and before it got to this point. Mr. O'Hara said all they received was the denial from the Building Permit Officer that only said "2001-497." In December when this lawsuit was filed, they challenged the authority of the Building Permit Officer who was given engineered plans that said everything met the code in terms of public safety and building quality. It was a stamped engineered drawing. Mr. O'Hara said he is talking about a building permit not about going back and doing a review performed by Mr. Jackson for legal compliance with the County's oversight. That was what was done here. The law is not clear, it is ambiguous as it is being interpreted and that is the point here. The law states the County has the exclusive jurisdiction over billboards. The County should have no less stringent regulations than what the municipality has in its incorporated area. Those regulations by the County shall be adopted in due course at a meeting. Mr. O'Hara asked where is that ordinance under the law. If the law is to be enforced, where is that law that lays out those regulations by the City of Daphne that no billboards will be allowed in its ETJ area. They have not been given that law, they have not seen it and it was not stated in the denial letters.

Mr. O'Hara said Mr. Conner brought up a point about the City of Spanish Fort and its Building Official, Mr. Patterson. Mr. O'Hara presented a copy of a voicemail message from Mr. Patterson for the record. The way Spanish Fort interprets the law its regulatory authority is limited to subdivisions, subdividing properties. This is why Spanish Fort does not exercise regulatory authority in the ETJ for billboard purposes.

Mr. O'Hara said he would prefer to address the issues regarding how others were treated on billboards during a work session, but he would ask the Commissioners' patience and permission for Mr. Kyle Glover to come and address one or two matters.

Mr. Rodney Hull appeared before the Commission and said he is an associate of Mr. Pate and Mr. Glover. He has been in the billboard business for 27 years, having worked in Baldwin County for several of those years. Mr. Hull said the real issue is a person never knows what the permitting process is. Just this week, a billboard was built in Robertsedale. Two years ago, the Planning and Zoning Department allowed them to expand the size and rebuild the sign that had been blown down, but it was only built back this week. The City of Robertsedale's law is a 1,000-foot radial; it must be 1,000 foot in every direction. This billboard was built back within 500 feet of three different billboards. Mr. Hull asked who will enforce that law? The City is supposed to enforce that law or is the Commission supposed to enforce the law because it is in the unzoned County and the Commissioners are supposed to enforce Robertsedale's law upon them building it back. Mr. Hull said they, as operators, do not know. They go to the County who tells them to go to the City, but the City says to go to the County. It is crazy. It is the same way in Gulf Shores. The City of Gulf Shores allowed Lamar to build a billboard that is illegal. The only city that hates billboards more than Daphne is Gulf Shores. If the City of Gulf Shores had known it was responsible for it, the billboard would have come down before the sun went down. It would have gone up and come down the same day. Mr. Hull said the Commissioners understand what he is saying, this is a confusing mess. Do the Commissioners know what this law is about? Does anyone understand why the law was written that gives the Commissioners permission?

Chairman Gruber said it was by legislation. It was about putting up billboards.

Mr. Hull said it was drawn up with the Foley Beach Express came in because it was the wild, wild west on the expressway. There were 110 permits issued by the County or the City of Foley. It was done to control that road and written by someone who did not want any more billboards or competition. Mr. Hull said he knows a lot about this law. The law was written to control the roads after the permits were issued. No one ever thought Southern Graphics would build 92 building permits on that expressway and they did.

Mr. Hull said they do not have a problem with the billboards on Highway 181. The Cities of Fairhope, Daphne and Spanish Fort do not allow billboards. Baldwin County does not allow them in zoned areas. Mr. Hull said they do not have a building issue. That law was written to prohibit the wild, wild west and keep people from building more billboards than necessary. In 27 years, 11 years in business for himself, he does not want to build billboards with no renters, but what sense does that make? The could build one at a time. If the law was not enacted, the Foley Beach Express would be a lot

prettier.

The County would have had time to regulate it and it would not be the eyesore it is today. Mr. Hull said his appeal today is for the Commissioners to interpret what is being said. He hopes he has not confused them more than he is confused. He has been in this business for 27 years and he has never heard what Counsel is saying. The fact that the State of Alabama will not issue a permit unless there is a letter from the city. They have evidence that states that where the permit officer for Baldwin County had to write the State a letter before he could issue a permit. Mr. Hull asked what comes first, the chicken or the egg, or is it different everytime? There is no way someone can stand up here and defend the reasoning that it is a State highway and the State issued the permit so the County has to issue a permit. Mr. Hull said that is the craziest thing he has ever heard. He appreciates the Commissioners' time and he would love to sit down and go through these permit by permit. The Commissioners would see that most of the time people received their permits in a similar situation.

Mr. Conner said Mr. Hull's analysis given was pretty clear. If it is a zoned area, it is not allowed. If it is a city that does not allow it, it is not allowed. The only thing Mr. Hull left out is the State statute that states "outside the corporate limits, but within the extraterritorial jurisdiction as defined by State law or by agreements with the County" which are published in newspapers. Mr. Conner said this states what standard applies, it is the city. It is not nearly as complicated as everyone is trying to make it. People argue about the outcome they want to come. Looking at the statute for the Alabama Beautification Act, the applicable Code Section 7 states "This section shall not effect any highway covered by Division 3 of Article 9 of Chapter 1 of Title 23." That statute defines those roads shown on the map earlier, the State issues the permitting authority there. Mr. Conner said he feels the County has been consistent as that has been applied. Mr. Hull did a very good job up until the point where this applies. The County does not allow this in zoned districts, the cities that do not allow billboards do not allow this and the only question here today is the extraterritorial jurisdiction. The statute is pretty clear about who enforces it and which law applies.

Mr. Hull said if the ETJ in Robertsdale has a billboard of 500 feet, but Robertsdale's rule states it has to be 1,000 radial, who applies that? It is in the unzoned County.

Mr. Conner said he would like to see that; it was not on the list and was not attached to the brief.

Mr. Hull asked who enforces this? Mr. Conner is stating that the State law says the Commission has to enforce it. If the County is going to take charge of this law even though it is a city ordinance, why is the County not saying it will permit the billboard in the unzoned County, but use the city's ordinance? The County is not doing that, it is sending people to the city to get the building permits.

Mr. Conner said the County issues building permits in all unincorporated areas of the County with the exception of those cities that have elected to exercise its police jurisdictions to issue building permits. The City of Robertsdale is one of those cities that elect to issue building permits. Applicants do not come to the County for the issuance of building permits, they go to Robertsdale. Mr. Conner said the person who issued the building permit should have made sure it was being issued in accordance with the regulations adopted by the County and the State law. That was not a building permit within the City's police jurisdiction that would have come to the County.

Mr. Hull said the Planning and Zoning Department gave its approval during a Planning and Zoning Commission meeting and allowed Mr. Pate to get a permit. The Planning and Zoning staff should have said it is not allowed.

Commissioner Underwood asked if Mr. Hull is talking about the Robertsdale permit?

Mr. Hull said in 2016, someone asked to rebuild a sign on his property. It was just rebuilt and it is bigger than it was before. It is 500 feet and breaks every rule the City of Robertsdale would have ever allowed because he built a billboard four years ago that a lot of the Commissioners advertised on just this fall for their campaigns. Mr. Hull said they went by the book for the City of Robertsdale and Robertsdale did not let them off one inch of what the law is. He is saying in the unzoned County, this should have never gone through the Planning and Zoning Department and given a variance. If the County is going to uphold the law, then uphold the law, but the County cannot pick and choose and that is what it is doing.

Mr. Conner said just like the other signs submitted were not submitted for permitting to this County or maybe even to the cities, Mr. Hull has just addressed the problem that sometimes happens here. Mr. Hull pointed to Mr. Jackson but stated it went to the City of Robertsdale's planning jurisdiction.

Mr. Hull said Planning and Zoning issued the variance to allow the billboard permit.

Commissioner Underwood said that is a separate issue.

Mr. Hull said it is not a separate issue, it is about the County upholding the city's ordinance.

Commissioner Ball said the City of Daphne's ordinance says no billboards.

Mr. Hull said he realizes that, but the County did not uphold Robertsdale's ordinance.

Commissioner Ball said the City is exercising its extraterritorial jurisdiction where Mr. Pate wants to put a billboard. The County is following the law so no one can put a billboard there.

Mr. Hull asked what about Robertsdale?

Commissioner Underwood said that is a different issue.

Mr. Conner said he appreciates Mr. Hull bringing this up to the Commission because it was not briefed by Mr. Hull and it is not one staff has looked at. Mr. Conner said he promises to look at it.

Mr. Hull said the City of Gulf Shores has a similar issue.

Commissioner Underwood asked if the billboard has been there a very long time or is Mr. Hull saying this because it is digital?

Mr. Hull said the digital billboard has been there for two years.

Commissioner Underwood said this is something the City of Gulf Shores may want to look into.

Mr. Hull said since the law went into effect in 2001, is there a way they can sit down together to look at this?

Commissioner Underwood said she cannot speak for the Commissioners and this is in an open meeting so they have not discussed this, but she will be willing to look at it. The problem is the Commissioners are bound by the Legislative law at this point in time. She will be willing to look at something for the future, but she cannot speak for everyone else.

Mr. Hull asked if the Commissioners cannot look back at 2001, since this maybe the first time the law was enacted? What if that is the case?

Mr. Conner said of all the signs mentioned and assuming Mr. Hull is stating facts about the Robertsdale sign, that is the first one Mr. Hull has given that is of interest. This is because of the fact that the others were not permitted or properly done and one was a part of a lawsuit. This one has his interest so he will look at it. Mr. Conner said if that is one the County got wrong, there is nothing under the law that says once the County makes a mistake, it has to continue making the same mistake. The County is going to apply the law and do it right on each sign that comes forth. Mr. Conner said staff will look into that sign. He appreciates Mr. Hull giving him all the reasons the sign is illegal and should not be there. However, it does not mean the County has to continue to make the same mistakes. This case is being judged on its own merits. Staff will look at this to see how the process is working. Mr. Conner said just because a sign may have been wrongly permitted or not permitted at all, does not mean the County Commission or anyone else has to keep making the same mistakes. Staff learns from each one of them.

Mr. Hull said his billboard in Gulf Shores is in the unzoned County, in the planning jurisdiction, is that a parallel situation or is he missing something.

Mr. Conner said it is not. He thinks what potentially happened in that case is when Mr. Howell looked for building permits issued for that area for signs, the County had not issued a permit.

Ms. Hicks said the City of Gulf Shores did not have a permit received by Baldwin County. She cannot speak for any permits issued by Gulf Shores, it is not an area the County would permit.

Commissioner Ball said any permits that were not issued by the Gulf Shores is not the County's problem.

Ms. Hicks said this is an area the County permits.

Mr. Conner said the City of Gulf Shores was contacted and they had not issued a permit for this sign.

Mr. Howell said he did not contact Gulf Shores. County Road 8 is in Gulf Shores' police jurisdiction. Gulf Shores has enacted its police jurisdiction for the issuance of building permits. Mr. Howell said therefore, the law states that all of his building codes and laws are null and void. He cannot act on anything in the City of Gulf Shores police jurisdiction, which includes County Road 8.

Commissioner Underwood said if the law is incorrectly applied by Gulf Shores and Robertsedale, it does not mean that the Commission should go forward with this. She has had situations like this with Planning and Zoning setbacks where they got it wrong one time. It does not mean that when something is approved, in error, that it is right. It has to be corrected. Commissioner Underwood said that is probably what Mr. Jackson did. He rescinded his permit because he realized it was incorrect. Mr. Howell made the right decision when he denied it. The Commissioners only have the law to go by. She is trying to figure out where to go with this. The Commissioners have been asked to look at something in the future, but as it pertains to right now, they have to make a decision based on the law. Commissioner Underwood said whether the Commissioners like or do not like the law, they are bound by that.

Chairman Gruber said he has been here for 12 years and he remembers the billboard incident at County Road 64 and Highway 181. The problem is with the ETJ. The County does not have the authority, the cities have some of the authority. The cities issue the building permits and other things that are in their territory then it falls back to the County. A prime example of this is the flood plan problems. Municipalities were given a flood plan number, but if a building permit is issued, that building permit is in the County's number. Chairman Gruber said the County has no record of what the municipality does. The Federal government does not care about the ETJ issues. That is the problem and that is where the Commission needs to head to figure out who does what and get it right once and for all. Chairman Gruber said he would love to sit down and address this. There is a Senator who wants to do away with the ETJ, but maybe everyone needs to sit down and figure out how to fix it and make it work a lot better.

Commissioner Underwood said she agrees 100 percent and until a collaborative effort is made to fix some of the problems there is not a one stop fix for it all because there is a lot in place.

Ms. Hicks said she does not have a problem meeting with Mr. Pate and his counsel along with Mr. Howell and Mr. Jackson to answer all of the questions. There could be a meeting and because the Commissioners are acting as the body who will make a decision about the permit she feels the Commissioners need to make a decision. They can make a decision now, or put their decision on hold for up to 45 days to allow for time to have the meeting, answer some questions and have some communication. Ms. Hicks said the meeting will need to be with County staff and Attorneys, Mr. Pate and his attorneys. She does not feel it should be a meeting with the Commissioners because they are acting as the quasi judicial body in this.

Commissioner Underwood said after this decision is made and going forward in the future, she wants to address some of the ETJ issues that have come up. They have been pinpointed issues. As Mr. Conner stated, whether someone agrees with the ETJ statutory rights of municipalities or not, it is pretty black and white. A person just has to know which cities exercise this and which ones do not. She feels the County made an error and it was corrected before it was too late.

Mr. Kyle Glover appeared before the Commission and said the Highway Beautification Act of 1965 is not an Alabama State law, it is a Federal law. It controls all bi-ways, highways, and interstate systems in the State of Alabama. Mr. Glover said a person does not always have to get a State permit for roads that are inside city limits that are not State maintained. The State then falls under the Highway Beautification Act of 1965. Saying this is an Alabama law is not the case, it is a Federal law. The State can issue permits, but the requirement is to have a city permit or a permit from the governing agency. In this case, it would be the County because the County has a

billboard ordinance. The State makes a person come to the County to get a billboard permit before they can apply for a State permit. That is the Federal law and the way it is. Mr. Glover said his contention is Daphne does not want to exercise its ETJ in all aspects. Everyone heard the Sheriff talk about it earlier and he has sat where the Commissioners, as a Commissioner in Autauga County. He knows the issues are there. Daphne does not want to enforce its police jurisdiction or ETJ because it costs money when it benefits them.

Commissioner Underwood said that is two things.

Commissioner Ball said those are two separate things.

Commissioner Underwood said Daphne does not want to do the police jurisdiction, but it does want to do the ETJ.

Mr. Glover said cities want to do this and the County and State are allowing them to pick and choose when it is good for them to exercise some ETJ "requirements." They may get to issue a permit or get the right to ticket or arrest people. He knows that is politics.

Commissioner Underwood said it is State law, it is not the County's law, to which Mr. Glover replied he understands.

Mr. Glover said Commissioner Underwood is right, it is not the County's law. However, the cities are being allowed to enforce or not enforce ETJ's. If a city is going to have an ETJ in any county it would be a great policy to enforce it. Any entity within a county would all be treated the same.

Commissioner Underwood said that is what was said earlier. A bill has been introduced by a State Senator and there have been many meetings. She has attended the meetings and stated that everyone needs to work on these problems. Are there problems, absolutely. The Commissioners still have to look at the current law they are faced with and that is where they are at today. Commissioner Underwood said as far as the future goes, Mr. Glover has heard that the Commissioners are willing to look towards the future. She does not feel this decision will depend on what will happen in the future.

Mr. Glover said he would argue that the way that some interpret the law, that law is based upon subdivisions that are inside the ETJ.

Commissioner Underwood said no, not necessarily; it is building permits and other things. It does not have to be a subdivision to get a building permit. That is not where the Commissioners are at right now. The Commissioners are absolutely willing to look at this law for the future. For 22 years her background has been in planning and zoning. Commissioner Underwood said she does not like to keep bringing it up, but no one has ever come to work it out. She has been on a municipal planning commission that allows billboards and she has never heard anyone have a problem with it. All of a sudden there is a problem, so something should be worked out with the municipalities. Until the Commissioners get to the point where they can do that and the Commissioners have agreed that they want to do that, today they are here to make a decision on this case or postpone it. Commissioner Underwood said she would like to do one of the two.

Mr. Glover asked if this were the case back when the permit was filed, and they were sent by Mr.

Jackson to the City of Daphne to get the letter, why were they not told "no" then?

Commissioner Underwood said Mr. Jackson made a mistake and he rescinded it.

Mr. Conner said there are two separate and distinct jurisdictions here. One is the police jurisdiction. The police jurisdiction is either one and a half miles or three miles, depending on the population. Mr. Conner said zoning regulations do not apply and signage is a function of zoning and that is where the issue comes in. The ETJ is only for the subdivision of property. However, each ETJ is defined by boundaries and maps as to what that city's ETJ is. When passing this statute to regulate billboards in Baldwin County, it basically stated that in all unincorporated areas of the County, the County shall have that authority. However, in certain defined areas, the city's ordinances will apply if it is more stringent. Mr. Conner said here, the ETJ was not turned into zoning. This defined the boundaries of the application of the city's ordinance by the same boundaries as the ETJ. This statute does not effect the subdivision of property. It just defines by known and published legal descriptions and maps where the city ordinance applies. Mr. Conner said he agrees with Mr. Glover. On its face, the ETJ is only good for the subdivision of property. The Legislature gets to decide where and what the law applies and who enforces it. Here, the Legislature said the County Commission will enforce it, it will be in these boundaries and if it is in the ETJ of a city that prohibits billboards, their regulations will be enforced. That is all that is happening here. Mr. Conner said in the past he has made this to be more complicated, but the more he reads it, the clearer it gets. He feels some of the most intelligent people about reading ordinances are sign companies. They are good about reading them, applying them and enforcing them. If they do not like the facts and what the law is, they argue about how unfair it is. Mr. Conner said this is the same thing other developers do. If they do not like the ETJ issue, then they argue that the city should not be able to do that. If the developers do not like the County's regulations and ETJ, then they annex into the city. Yes, this can be an issue for people to understand, but not for people who do this everyday, which are the people in this room, the lawyers and sign companies. Mr. Pate, Mr. Glover and others are very good at pointing out where the district works, they are just stopping at the ETJ because it does not work for them. Mr. Conner said they have defined where it applies everywhere else in the County and State, but when they get here, they want to put blinders on and say this is not fair. This does not regulate a subdivision, it just defines the boundaries and what law applies in those boundaries. That point is fairly simple, if they want to enforce it and understand it. A judge could see this differently, but Mr. Conner feels they would look at the same statute the Commission is looking at.

Mr. Glover said this seems arbitrary and capricious. His legal argument will probably come at a later date. The way this is applied or not applied in certain instances gives off the appearance that the enforcement of the ETJ is arbitrary and capricious. Mr. Glover said there is no consistency there. The big point is he has always been taught to read the law in black and white. The law that has been reg flagged today absolutely says nothing about sign ordinances; it says subdivision. There is a landowner on Highway 181 who is reading the law just like he is. That landowner's lot has been subdivided out and regulated by that ETJ and it does not say anything about a sign code or anything else. Mr. Glover said that is where the argument will come from.

Mr. Conner said Section 11-24-1 gives the County subdivision authority for all areas located outside the corporate limits of the city. Section 11-52-30 gives the city the ETJ authority and inside the corporate limits for subdivisions of land. Section 11-45-2-181, the Act that was referenced, states in the unincorporated areas of Baldwin County, the County Commission may

regulate and shall have exclusive authority to regulate billboards, the size and locations of billboards. The ETJ provision does not address this at all. Mr. Conner said this is where the sign regulation authority comes from. It just incorporates the ETJ boundaries as what the limits of the ETJ boundaries are.

Mr. Glover said since 2001 there have been many billboards allowed in ETJ's that brings about the inconsistency. That is why they are here today.

Mr. Howell said this is not the first denial he has ever instituted under this law; this is the first one that has gone this far. He has had many billboard companies come to him routinely wanting to place a billboard on the east side of Interstate 10 near Starbucks because it is a prime location. Whenever he explained the law and provided a copy of the law, he was told they did not know that and they went away. Mr. Howell said he wants the Commissioners to know this is not the first time this has happened.

There being no further requests to address the Commission, Chairman Gruber closed the public hearing at 12:27 p.m.

Chairman Gruber asked how do the Commissioners want to proceed with this, what is their recommendation?

Commissioner Ball said he would like to ask the County Attorneys some questions.

Chairman Gruber asked if the Commission can enter into an executive session, to which Mr. Conner replied yes, if the Commissioners need to.

Mr. Conner asked if Commissioner Ball has legal questions, to which Commissioner Ball replied "yes." Mr. Conner asked how much time do the Commissioners think they need?

Commissioner Ball said 15 minutes, at the most.

EXECUTIVE SESSION

Mr. Conner recommended the Commission enter into an executive session to discuss the general reputation and character, physical condition, professional competence, or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees and to discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action. Mr. Conner said it is anticipated the executive session will last approximately 15 minutes and he makes the oral declaration the discussions are appropriate for an executive session and the Commission will need to reconvene after the executive session.

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to enter into an executive session at 12:29 p.m. for approximately 15 minutes to discuss the general reputation and character, physical condition, professional competence, or

mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees and to discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

The meeting reconvened at 12:38 p.m.

DA1 Denial of Billboard Permit - Property Located at 28396 State Highway 181 in Planning District 7

[19-0910](#)

Ms. Hope Hicks, County Counsel, recommended the Commission uphold the denial of the building permit by the Building Official and the permit that was rescinded by the Planning and Zoning Official.

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to deny the request submitted by Justin Pate and uphold the denial of the building permit by the Building Official and the permit that was rescinded by the Planning and Zoning Official pertaining to a billboard permit on the property located at 28396 State Highway 181 in Planning District 7.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

E COMMITTEE REPORTS

EA FINANCE/ADMINISTRATION DIVISION

EA1 Payment of Bills

[19-0862](#)

Motion by Commissioner BillieJo Underwood, seconded by Commissioner James E. Ball, to pay bills totaling \$2,167,818.88 (two million, one hundred sixty-seven

thousand, eight hundred eighteen dollars and eighty-eight cents) with the exception of Vendors 30 and 83, which are listed in the Baldwin County Accounts Payable Payments - March 19, 2019, for a revised total of \$2,167,003.19.

Of this amount, \$134,760.97 (one hundred thirty-four thousand, seven hundred sixty dollars and ninety-seven cents) is payable to the Baldwin County Board of Education for its portion of the County Sales and Use Tax.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

Motion by Commissioner BillieJo Underwood, seconded by Commissioner Joe Davis, III, to pay Vendor 30 in the amount of \$266.57.

Vendor 30: Ball, James E. - \$266.57

The motion passed by the following vote:

Aye: 3 - Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 1 - James E. Ball

Motion by Commissioner BillieJo Underwood, seconded by Commissioner James E. Ball, to pay Vendor 83 in the amount of \$549.12.

Vendor 83: Davis, Joe Lee III - \$549.12

The motion passed by the following vote:

Aye: 3 - James E. Ball, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 1 - Joe Davis III

EA2 Notification of Interim Payments Approved by Clerk/Treasurer as Allowed Under Policy 8.1

[19-0863](#)

Ron Cink, Budget Director, informed the Commission that the Baldwin County

Commission Interim Payments - March 19, 2019, made by the Clerk/Treasurer totaling \$3,096,690.62 (three million, ninety-six thousand, six hundred ninety dollars and sixty-two cents) are a part of the record.

EB ROAD AND BRIDGE DIVISION

F ELECTED OFFICIAL REQUESTS

G OTHER STAFF RECOMMENDATIONS

H COMMISSIONER REQUESTS

HA COMMISSION DISTRICT 1

HB COMMISSION DISTRICT 2

HC COMMISSION DISTRICT 3

HD COMMISSION DISTRICT 4

I ADDENDA

IA1 Final Design for the Completion of a Portion of the Second Floor of the
Baldwin County Fairhope Satellite Courthouse

[19-0908](#)

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to approve the final design for the completion of a portion of the second floor of the Fairhope Satellite Courthouse and authorize the Purchasing Director and Architect to solicit quotes for this Public Works project.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

After the motion, before the vote, Chairman Gruber said that office is 965 square feet; it is big.

Commissioner Davis said it is doubling as a Conference Room and an office. All they are doing is putting two walls with two walls that are already there. It might be big for an office, but it is an office and a conference room.

Commissioner Underwood said there is not a complete plan for that floor. Will this be able to be modified if necessary or will that work into the complete plan?

Commissioner Davis said yes, it can be modified. They are adding two walls to accommodate

space. The next thing will be for the architect to look at the remainder of the building.

Commissioner Underwood said for the current situation, this is what the Commission is going with.

Commissioner Davis said yes, this is Phase 1.

IA2 First Amendment to the Foley Beach Express Agreement to Allow a
Signalized Full Access Median Crossover at County Road 8

[19-0917](#)

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to take the following actions:

1) Rescind the action taken by the Baldwin County Commission, during its regularly scheduled meeting on October 16, 2018, more specifically, the staff recommendation regarding Agenda Item IA3, which approved as follows:

“AUTHORIZE THE CHAIRMAN TO EXECUTE THE FIRST AMENDMENT TO THE FOLEY BEACH EXPRESS AGREEMENT TO ALLOW A SIGNALIZED FULL ACCESS MEDIAN CROSSOVER AT COUNTY ROAD 8.”

2) Authorize the Chairman to execute the revised First Amendment to the Foley Beach Express Agreement to allow a signalized full access median crossover at County Road 8; and

3) Authorize the Chairman to execute an Indemnity and Hold Harmless Agreement between the City of Gulf Shores and Baldwin County related to the First Amendment to the Foley-Beach Express Agreement and the construction and use of a signalized full access median crossover at County Road 8.

The motion passed by the following vote:

Aye:	4 -	James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay:	0	
Absent:	0	
Abstain:	0	

After the motion, before the vote, Chairman Gruber asked if the motion should be voted on separately or can it be one vote?

Joey Nunnally, County Engineer, appeared before the Commission and said one motion will cover all three.

Commissioner Davis said that would be the intent of the motion.

IA3 Baldwin County Sheriff's Office - Use of Drug Enforcement Administration
(DEA) Seized Assets

[19-0918](#)

Motion by Commissioner BillieJo Underwood, seconded by Commissioner Joe Davis, III, to approve the Chairman executing correspondence to the Drug Enforcement Administration (DEA) authorizing the Baldwin County Sheriff's Office to use certain DEA seized assets.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

J ADMINISTRATIVE REPORT

K COUNTY ATTORNEY'S REPORT

David Conner, said there are some items for an executive session, but he does not think there will be any action required to be taken coming out of the executive session. If Chairman Gruber would like to conclude the meeting and finish the agenda, then the Commission can adjourn into the executive session.

L ANNOUNCEMENTS

M PUBLIC COMMENTS

N PRESS QUESTIONS

Mr. Cliff McCollum with Gulf Coast Media, appeared before the Commission and asked if the Commission can please put a time limit on public comments during public hearings.

Chairman Gruber said he likes to make sure everyone has the opportunity to say their piece. They cannot be denied that.

O COMMISSIONER COMMENTS

Chairman Gruber thanked staff for getting agenda together. This has been a long and tiring meeting, so he will make his comments short.

P ADJOURNMENT

David Conner, County Attorney, recommended the Commission enter into an executive session to discuss the general reputation and character, physical condition, professional competence, or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees and to discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action. It is anticipated the executive session will last approximately 20 minutes at which time the Commission can adjourn from the executive session. Mr. Conner said

he makes the oral declaration that the discussions are appropriate for an executive session.

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to adjourn into an executive session at 12:48 p.m. for approximately 20 minutes to discuss the general reputation and character, physical condition, professional competence, or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees and to discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

Chairman Gruber said the Commission will adjourn into an executive session at 12:48 p.m. for approximately 20 minutes.

Chairman Gruber reconvened the meeting at 12:57 p.m.

David Conner, County Attorney, restated his recommendation for the Commission to enter into an executive session at 12:58 p.m. for approximately 20 minutes to discuss the general reputation and character, physical condition, professional competence, or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees, to discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action and to discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property.

Mr. Conner said he needed to add the last item. He makes the oral declaration the discussion is appropriate for an executive session.

Motion by Commissioner James E. Ball, seconded by Commissioner Joe Davis, III, to adjourn into an executive session at 12:58 p.m. for approximately 20 minutes to discuss the general reputation and character, physical condition, professional competence, or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees, to discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action and to discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property.

The motion passed by the following vote:

Aye: 4 - James E. Ball, Joe Davis III, BillieJo Underwood, and Charles F. Gruber
Nay: 0
Absent: 0
Abstain: 0

Chairman Gruber said the Commission will adjourn into an executive session at 12:58 p.m. for 20 minutes.

Three handwritten signatures in black ink, arranged horizontally. The first signature is a cursive 'C' followed by a flourish. The second is a stylized 'J' with a horizontal line. The third is a cursive 'A' followed by a flourish.