



## **MINUTES**

### **Hardee County Board of County Commissioners**

#### **REGULAR MEETING**

**August 17, 2017 at 6:00 PM**

#### **COMMISSION CHAMBERS**

**412 W. ORANGE, ROOM 102, WAUCHULA, FL 33873**

|                       |              |                                |
|-----------------------|--------------|--------------------------------|
| <b>Commissioners:</b> | District I   | Colon Lambert, Chairman        |
|                       | District II  | Sue Birge, Commissioner        |
|                       | District III | Rick Knight, Commissioner      |
|                       | District IV  | Russell Melendy, Vice-Chairman |
|                       | District V   | Mike Thompson, Commissioner    |

County Manager Lexton H. Albritton, Jr  
Clerk Victoria L. Rogers  
County Attorney Kenneth B. Evers

Office Manager Sandy Meeks  
Deputy Clerk Charlene Albritton

**1. CALL TO ORDER**

| <b>Attendee Name</b> | <b>Title</b>                                    | <b>Status</b> | <b>Arrived</b> |
|----------------------|---|---------------|----------------|
| Colon Lambert        | Chairman  | Present       |                |
| Sue Birge            | Commissioner                                    | Present       |                |
| Rick Knight          | Commissioner                                    | Present       |                |
| Russell Melendy      | Vice-Chairman                                   | Present       |                |
| Mike Thompson        | Commissioner                                    | Present       |                |
| Lexton H Albritton   | County Manager                                  | Present       |                |
| Victoria L. Rogers   | County Clerk of the Circuit Court & Comptroller | Absent        |                |
| Kenneth B. Evers     | County Attorney                                 | Present       |                |
| Sandy Meeks          | Office Manager                                  | Present       |                |
| Charlene Albritton   | Deputy Clerk                                    | Present       |                |

Chairman Lambert called the meeting to order at 6:01 p.m.

**2. APPROVAL OF AGENDA**

A. Motion to approve the Agenda.

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| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>               |
| <b>MOVER:</b>    | Mike Thompson, Commissioner               |
| <b>SECONDER:</b> | Russell Melendy, Vice-Chairman            |
| <b>AYES:</b>     | Lambert, Birge, Knight, Melendy, Thompson |

**3. MINUTES FOR APPROVAL**

No Board Meeting Minutes submitted for approval.

**4. COMMENTS AND CONCERNS FROM THE PUBLIC FOR NON-AGENDA ITEMS**

Chairman Lambert called for general public comment.

No public comment.

**5. CONSENT AGENDA**

Chairman Lambert called for a motion to approve Consent Agenda A through F.

1. Motion to approve.

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|------------------|---|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>               |
| <b>MOVER:</b>    | Sue Birge, Commissioner                   |
| <b>SECONDER:</b> | Rick Knight, Commissioner                 |
| <b>AYES:</b>     | Lambert, Birge, Knight, Melendy, Thompson |

A. Requested approval of Budget Amendments for FY 2016/2017.

B. Acknowledged receipt of the BOCC Financial Statements for the month ending June 30, 2017.

- C. Requested approval and authorization for the Chairman to sign the State Aid To Libraries Grant Agreement.
- D. Acknowledged receipt of the Hardee County Health Department's Variance Report for the period of July 2016 to June 2017.
- E. Requested approval of transfer and disposal of County assets listed on spreadsheet dated 08/17/2017.
- F. Requested approval and authorization for the Chairman to sign the Florida Department of Corrections Work Squad Agreements for the work squads at the Landfill and Facilities Management.

## **6. ZONING MEETING**

**Chairman Lambert recessed the BCC Meeting and convened the Zoning Meeting.**

Office Manager Meeks announced the Affidavit of Publication was advertised in *The Herald-Advocate* on July 27, 2017.

County Attorney, Kenneth B. Evers, explained the BCC General Rules of Procedure:

- Quasi-Judicial Proceedings:
  - Decisions of the Board must be supported by substantial and competent evidence
  - In rendering its decision, the Board will rely solely upon testimony, which is relevant and material
  - Any testimony given in the form of an opinion will not be relied upon, unless given by a qualified witness
  - Each entity shall have the right to give testimony, present evidence, and witnesses
  - The applicant, Board, and any interested persons shall be given the opportunity to ask questions of any witness
  - Any person, who wishes to testify, shall be administered an oath to swear or affirm to tell the truth

County Attorney Evers administered the oath of witness to those who wished to offer testimony.

Deputy Clerk Albritton questioned whether any Commissioner had received any oral or written communication regarding the land use items under discussion; requested each Commissioner disclose the substance of the communication, and to identify the person making the communication.

No Commissioner communications were announced.

Chairman Lambert announced the courtesy notices were mailed to adjoining property owners and all advertisements/public notices were properly posted.

Chairman Lambert requested Planning and Development Director, Todd Miller, change the appointment time order for MSE 17-16 - Major Special Exception and Ordinance 2017-11.

### **1. Planning and Zoning Agenda No. MSE 17-16 - Major Special Exception:**

Jed Groves, Inc., requested a Major Special Exception (MSE) to excavate a 12.6-acre aquaculture pond on an 18.9-acre parcel of land zoned A-1 (Agriculture) in the Agriculture Future Land Use Category on or about 2859 George Anderson Road, being east of George Anderson Road and north SR 64 West.

Planning and Development Director Miller reviewed the following:

- Existing Land Use - Agriculture
- Existing Zoning - Agriculture (A-1)
- Surrounding Zoning - all surrounding properties are zoned A-1
- Surrounding Land Use - all surrounding properties have an Agriculture Future Land Use Designation
- Table 2.29.02(B) of the Hardee County Unified Land Development Code (HCULDC) permits mining

- in A-1 zoned districts upon approval of a Major Special Exception (MSE):
  - Land excavation in excess of one acre is considered a form of mining pursuant to Section 3.25 of the HCULDC
- There appears to be no adverse effects to the public interest in constructing the aquaculture pond
- Granting of the Major Special Exception (MSE) is in compliance with the Hardee County Comprehensive Plan and is not contrary to the standards set forth in Section 3.25, Land Excavation and Section 7.12, Major Special Exception of the HCULDC
- Staff’s recommendation for approval with the following conditions:
  1. Major Special Exception (MSE) must be initiated with 12 months of final approval - initiation occurs with the pulling of an operating permit
  2. Permittee shall install north bound and south bound traffic control signs “Trucks Entering Road Ahead,” meeting MUTCD (Manual on Uniform Traffic Control Devices) installation criteria and shall remove the signs upon completion of the project
  3. Permittee shall install and maintain a soil tracking prevention device in the vicinity of the egress drives, within the project property to control transport of soil material offsite
  4. Permittee shall repair any damage to George Anderson Road:
    - a. Permittee’s engineer shall perform pre-mining and post-mining site inspections and video George Anderson Road
    - b. Submission of a copy of the video in conjunction with the submittal of a mining permit application and upon completion of the project
- Planning and Zoning Board’s unanimous recommendation of approval at August 10<sup>th</sup> Meeting

**Chairman Lambert called for Commissioner comments or questions.**

**Commissioner comments or questions:**

Commissioner Knight questioned the purpose of the ponds.

Director Miller confirmed the ponds would be used for aquaculture, i.e., applicant will raise catfish.

Commissioner Melendy requested to see the applicant’s plans.

Mr. Bo Conerly, of Kimley-Horn and Associates, addressed the changes from the initial submitted plans.

1. Motion to approve Item Number MSE 17-16 with conditions.

**Chairman Lambert called for public comment.**

**No public comment.**

|                  |   |
|------------------|---|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>               |
| <b>MOVER:</b>    | Russell Melendy, Vice-Chairman            |
| <b>SECONDER:</b> | Mike Thompson, Commissioner               |
| <b>AYES:</b>     | Lambert, Birge, Knight, Melendy, Thompson |

2. Ordinance 2017-11 - Hardee County Unified Land Development Code (HCULDC) Amendment:

**Planning and Zoning Agenda No. 17-14 - First Reading:**

Planning and Development Director, Todd Miller, requested approval and authorization for Chairman to sign Ordinance 2017-11, proposing an Amendment to Article 02 of the Hardee County Unified Land Development Code (HCULDC) modifying the following sections and tables:

1. Section 2.13.00, Yard Trash - exemption of A-1 and F-R zoned properties from basic yard

- maintenance requirements that are greater than four (4) acres
- 2. Table 2.28.01(B), Established Businesses - making the text language of the Code consistent with proposed changes to Table 2.29.02(B) regarding the zoning districts where the sale of alcohol is allowed by right or special exception
- 3. Table 2.29.01, Zoning District Summary Tables - removal of references to a “Minor Site Plan Approval” and to allow flexibility in determining when a “P” (Permitted Use) requires administrative, DRC (Development Review Committee) or Planning and Zoning Board approval
- 4. Table 2.29.02(B), Category/Use:
  - a. Resolution of a conflict between the Code text and Table 2.29.02(B) regarding the zoning districts where communication towers with a 50% setback is allowed
  - b. Revision of the zoning districts and approval process required for drinking establishments, restaurants, and daycare centers
- 5. Section 2.30.00, Accessory Structures:
  - a. Removal of the prohibition of cargo containers as accessory structures
  - b. Reduction of the required rear setback for large accessory structures in the A-1 Zoning District
  - c. Providing specific requirements for cargo containers to be utilized as accessory structures
  - d. Renumbering for consistency
- 6. Section 3.09.00(B), Separation of Access Points - removal of an internal conflict in the “Separation of Access Points” section of the HCULDC
- 7. Section 3.11.02(C)(01)(03) and (04) Parking Heavy Trucks - providing the same limitations for parking heavy trucks and trailers in R-2 and R-3 Districts, as are in R-1 Districts, and extending the provision for the temporary parking of an RV to all zoning districts
- 8. Section 3.13, Storm Water Management
- 9. Section 3.18.01.01, Mobile Home Parks:
  - a. Updating the terminology of a mobile home to a manufactured/mobile home
  - b. Correcting minor errors in Table 3.18.02.01(A)
  - c. Removal of the allowance for chain link fencing around manufactured/mobile home parks when they abut residential areas
- 10. Section 7.06.00, Development Plans - modification of the language to reflect the removal of the “Minor Site Development Plan” process from the HCULDC
- 11. Section 7.07.02.01(3), Exceptions - reduction of the minimum road frontage required for an Exception to Policy under Section 7.07.02.01 from 50’ to 30’
- 12. Article 09 Definitions - providing definitions for “feedlot” and “yard sale”

Director Miller noted the Planning and Zoning Board recommended approval at the August 3, 2017 Meeting, staff recommended approval based on the modifications being compliant with the Comprehensive Plan and HCULDC, and entered the Staff Report into the record.

There was discussion concerning agriculture uses for A-1 and F-R zoned properties, adding provisional agricultural language for parcels which are less than four (4) acres, and zoning designations.

- 1. Motion to approve Ordinance 2017-11, First Reading with noted changes.

**Chairman Lambert called for public comment.**

**No public comment.**

|                  |                                  |
|------------------|----------------------------------|
| <b>RESULT:</b>   | <b>APPROVED [4 TO 1]</b>         |
| <b>MOVER:</b>    | Mike Thompson, Commissioner      |
| <b>SECONDER:</b> | Rick Knight, Commissioner        |
| <b>AYES:</b>     | Lambert, Birge, Knight, Thompson |
| <b>NAYS:</b>     | Melendy                          |

**Chairman Lambert closed the Zoning Meeting and reconvened the BCC Meeting.**

**7. APPOINTMENTS**

**A. Planning and Development Mining Department - Technician Job Description:**

Planning and Development Director, Todd Miller, requested approval of the new Planning Technician Job Description for the Planning and Development Mining Department, and noted the pressing need for an individual with a focus on administrative and clerical functions.

1. Motion to approve the new Planning Technician Job Description.

**Chairman Lambert called for public comment.**

**No public comment.**

|                  |   |
|------------------|---|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>               |
| <b>MOVER:</b>    | Mike Thompson, Commissioner               |
| <b>SECONDER:</b> | Russell Melendy, Vice-Chairman            |
| <b>AYES:</b>     | Lambert, Birge, Knight, Melendy, Thompson |

**B. Hardee County Property Appraiser Kathy Crawford - Presentation of the New Hardee County Property Appraiser Website:**

Property Appraiser Crawford and Property Appraiser Customer Service Representative, Sarah Lopez, provided the Board with an introduction to changes and upgrades to the Hardee County Property Appraiser's Website.

**C. Special Exception with Concept Development Plan Extension Request:**

Ms. Erica Scheipsmeier, property owner/citizen, requested approval of a one-year extension of the Special Exception with Concept Development Plan, which was granted on 08/04/2016.

Ms. Scheipsmeier explained the extenuating circumstances regarding the delayed commencement of the granted Special Exception for an addition of an accessory dwelling for her mother.

1. Motion to approve the request.

**Chairman Lambert called for public comment.**

**No public comment.**

|                  |   |
|------------------|---|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>               |
| <b>MOVER:</b>    | Russell Melendy, Vice-Chairman            |
| <b>SECONDER:</b> | Mike Thompson, Commissioner               |
| <b>AYES:</b>     | Lambert, Birge, Knight, Melendy, Thompson |

**D. Board Discussion for Seeking Reimbursement of Circuit Civil Case Attorney's Fees for FINR II, Inc.:**

County Attorney Evers advised the Florida Supreme Court ruled in favor of the County concerning FINR, II, Inc.'s, *Bert Harris Act* claim, granted the motion filed for reimbursement of attorney's fees on the County's behalf, and remanded the case to Circuit Judge, Marcus Ezelle, with instruction to conduct proceedings consistent with the opinion. The County paid all of County Attorney Evers' fees and costs as well as the first \$10,000.00 of the appeal case fees and costs and Mosaic Fertilizer, LLC, paid the balance of the appeal case fees and costs pursuant to the agreement between the County and Mosaic Fertilizer, LLC. The County has approximately \$50,000.00 to \$60,000.00 out-of-pocket attorney's fees and costs and Mosaic Fertilizer, LLC, has approximately \$100,000.00. County Attorney Evers explained his research indicated the County has the right to recover all fees and costs, even though the County did not pay all the fees and costs, and advised the

County has three options:

1. The Board does not seek reimbursement of the fees and costs
2. The Board seeks reimbursement of the County's out-of-pocket attorney's fees and costs (\$50,000.00 to \$60,000.00)
3. The Board seeks reimbursement of all attorney's fees and costs (approximately \$150,000.00 to \$160,000.00), which is in fact recovering Mosaic Fertilizer, LLC's, fees and costs

County Attorney Evers noted the Court granting reimbursement of the fees and costs does not mean collection of the funds and the County may be in the position of pursuing collection.

There was discussion concerning the realistic outlook of collecting on a Court Order for Reimbursement, minimal cost to pursue reimbursement, and who would be ordered to reimburse the County's attorney's fees and costs.

1. Motion to authorize the Attorney to file whatever is needed to seek reimbursement for the entire attorney's fees.

**Chairman Lambert called for public comment.**

**No public comment.**

|                  |                                   |
|------------------|-----------------------------------|
| <b>RESULT:</b>   | <b>APPROVED [4 TO 1]</b>          |
| <b>MOVER:</b>    | Mike Thompson, Commissioner       |
| <b>SECONDER:</b> | Sue Birge, Commissioner           |
| <b>AYES:</b>     | Lambert, Birge, Melendy, Thompson |
| <b>NAYS:</b>     | Knight                            |

## **8. OTHER BUSINESS**

Chairman Lambert requested the Clerk of Courts attempt to provide a solution for the public not being able to view presentations when viewing livestreaming.

## **9. COUNTY MANAGER**

No comments were given by County Manager Albritton.

## **10. COUNTY ATTORNEY**

No comments were given by County Attorney Evers.

## **11. COMMENTS FROM COMMISSIONERS OR OTHER ELECTED OFFICIALS**

Commissioner Birge requested an update on the Hardee County Jail air conditioning system.

County Manager Albritton explained the delay was due to the need for transferring funds, vendor applications, W-9s, and insurance requirements.

Commissioner Birge noted the County had transported 50 inmates to Gladys County, which costs the County \$88.00 per inmate per day.

Hardee County Sheriff, Arnold Lanier, explained the issues with ventilation and temperature are caused by the air conditioning system not functioning and how non-functioning air conditioning affects the inmate population.

## **12. REMINDERS**

Chairman Lambert reviewed the following reminders:

EDA Meeting - 08/22/2017 at 8:30 a.m.  
BCC Regular Meeting of 09/07/2017 at 8:30 a.m.  
Tentative Budget Hearing - 09/12/2017 at 6:00 p.m.  
Final Budget Hearing - 09/26/2017 at 6:00 p.m.

**13. ADJOURNMENT**

With no further business, the meeting was adjourned.

**X**

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Colon Lambert, Chairman  
Board of County Commissioners

**X**

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Victoria L. Rogers, Ex-Officio Clerk  
Board of County Commissioners