

SPECIAL WORKSHOP – JUNE 9, 2009

The Board of County Commissioners, Walton County, Florida, held a special workshop on June 9, 2009 at 2:30 p.m., at the South Walton County Courthouse Annex to meet with the Oyster Lake Homeowners.

The following Board members were present: Commissioner Sara Comander, Chair; Commissioner Scott Brannon, Vice-Chair; Commissioner Larry Jones; Commissioner Cecilia Jones; and Commissioner Kenneth Pridgen. Mr. Ronnie Bell, County Administrator; and Attorney Mike Burke, County Attorney; were also present.

Mr. Billy McKee, Public Works Environmental Manager, gave a brief update on Oyster Lake. Mr. McKee stated that an emergency permit was applied for and received on April 2, 2009 to open the Oyster Lake outfall. The only option available was to obtain permission from Ms. Lisa Boushy to access her property in order to breach the outfall. An agreement was reached between Ms. Boushy and the county with the stipulation that the property would be restored to pre-opening condition. Mr. McKee stated that application has been made for a grant to restore and reconnect the wetlands. He discussed the three phases that the County, with the help of Preble-Rish, has planned to improve and restore Oyster Lake wetland areas. With the use of grant funds, applications were made to the Florida Department of Environmental Protection (FDEP) and Army Corps of Engineers (ACOE) for the appropriate permits to restore and reconnect the wetland areas and hydrology associated with Oyster Lake. Commissioner Brannon asked where the grant funding originated. Mr. McKee stated that Mr. Cliff Knauer, Preble-Rish, had more details on the funding process and would address that issue. He reported that Phases I and II were permitted and complete. Phase III has been delayed due to pending litigation.

Mr. Knauer stated that the original grant funding was provided by the Northwest Florida Water Management District Florida Forever Grant. The county received \$480,000 in grant funding with a \$150,000 match. The box culvert permit was withdrawn by the county due to litigation issues. A permit application has been resubmitted for the driveway and to replace the culverts with a single lane bridge. Mr. Knauer stated that four objection letters were received. A meeting with legal is planned to discuss and review the response to those letters.

Attorney Greg Stewart, Nabors, Giblin and Nickerson, gave an update on the litigation of the Drake (f/k/a Hemby) lawsuit. A certiorari appeal and the appropriate briefs have been filed with the Florida Supreme Court asking them to hear the case. He said that several water management districts have voiced an interest in joining the lawsuit on behalf of Walton County. The Drakes have made an offer that would include a permanent easement of 30 feet from the property line; ask the county to declare that the outlet is not a natural outlet (which would greatly affect the Land Development Code); and the payment of damages to the Drakes which include attorneys fees and payment for full title if the construction of a second house on the property is rejected. Attorney Burke stated that more details would be given during the Executive Session, and requested that no questions be asked during the workshop.

Mr. McKee reminded the Board that no work had been done to restore the Boushy property. FDEP is processing the application.

Mr. Dick Fancher, FDEP, stated that the last two items needed for the application being processed are: the drawings to be signed and sealed by the engineers; and the proof of publication of the notice of application.

Chairman Comander opened the discussion for public comment.

Ms. Jackie Markel urged the Board to protect the Coastal Dune Lake System and spoke in opposition of the Boushy and Drake agreements. She feels that DEP permits are not being enforced.

Chairman Comander asked if FDEP had been contacted regarding permit enforcement. Attorney Burke stated that FDEP is unable to enforce the permits until the litigation has been settled.

Ms. Marsha Anderson, Coastal Dune Lake Advisory Board Chairman, voiced appreciation for the support of the Board, and the protection of the dune lakes.

Mr. Richard Liles felt that had the causeway been opened earlier, most of the issues would have been nonexistent, and the nesting birds could have been saved.

Chairman Comander asked who determined when the water height became a flooding problem. Mr. McKee stated that FDEP and the Water Management District (WMD) have determined that 5.7 feet or higher constitutes a flooding problem in Oyster Lake.

Ms. Jenny Wilson questioned why FDEP would not consider permitting the box culvert which is on public property. Attorney Burke stated that FDEP contends that the Drake's could possibly hold them responsible for the flooding of the property if a permit was issued to improve the culvert. Mr. Ronnie Bell, County Administrator, stated that the WMD and the ACOE have been very cooperative and wants to see the project completed.

Ms. Anita Page, South Walton Community Council, asked what issues would be resolved if the suit is won by the county. She urged the Board to reject the Drake's offer.

Chairman L. Jones exited the meeting.

Attorney Burke stated that permits could be issued to install a culvert, rebuild the bridge, and remove the obstructions. Ms. Page said that similar incidents have occurred on other coastal dune lakes. Attorney Burke stated that the difference is that part of the outfall crosses C.R. 30A. Mr. Bell reported that due to the influence of the Coastal Dune Lake Advisory Board, the Commission has made the outfalls one of their top five priorities. Funding is being sought to purchase the outfalls. Ms. Page felt that State or Federal entities should recognize the lakes and outfalls as unique natural resources. Commissioner Brannon asked if the Federal and State lobbyists could pursue special classification for the area. Mr. Bell stated that the Board could direct them to do so. Ms. Page felt that with the special recognition, funds would be made available to preserve the area.

Mr. Gary Drake read a prepared statement regarding the source of the dispute.

Commissioner L. Jones returned to the meeting.

There being no further comment, the meeting was recessed at 3:24 pm and reconvened in Executive Session at 3:30 pm which is not opened to the public pursuant to Florida Statute 286.011(8).

APPROVED _____
Sara Comander, Chair

ATTEST _____
Martha Ingle, Clerk of Courts