

OCTOBER 3, 2012-WORKSHOP

The Board of County Commissioners, Walton County, Florida, held a Regular Meeting October 3, 2012 at 9:00 a.m. at the Walton County Courthouse in DeFuniak Springs, Florida to continue the Workshop to discuss the RESTORE Act.

The following Board members were present: Commissioner Kenneth Pridgen, Vice Chairman; Commissioner Larry Jones; Commissioner Cecilia Jones; and Commissioner Sara Comander. Mr. Gerry Demers, Interim County Administrator; and Attorney Toni Craig, County Attorney; were also present.

Mr. Gerry Demers, Interim County Administrator, stated that this meeting is a continuation of the workshop held on September 25, 2012. He said that Mr. Doug Darling, Florida Association of Counties (FAC) Consultant; and Attorney Mark Mustain, Nabors, Giblin, & Nickerson; were present to answer questions, and discuss the proposed resolution and inter-local agreement.

Mr. Doug Darling, FAC Consultant, discussed the history and details of the RESTORE Act, the need for the 23 county consortia, and the importance of a local RESTORE council. He reported that the RESTORE Act dollars were divided into pots with 35% of the monies going directly to the eight disproportionately affected counties (local pot), 30% going to the Gulf Coast Ecosystem Restoration Council (Federal pot), and 30% going to the five Gulf States (State pot). Some authorized uses of the funds are: restoration and protection of natural resources, mitigation of natural resources, implementation of a federally approved marine coastal conservation management plan, workforce development for job creation, State parks; infrastructure projects benefitting the economy, coastal flood protection, administrative costs, promotion of tourism including recreational fishing, and promotion of seafood consumption. The plans and projects are

to be submitted to the Federal council which then has 30 days to inform the county whether or not the submission is acceptable. He reported that Walton County would be eligible to receive monies from the Federal pot; however, these projects are more regionally oriented (i.e. increasing the number of fisheries which will impact several counties). Mr. Darling said that approximately 19% of the funds designated for the five States could go to Florida. He reported that the RESTORE Act requires that a consortium of the affected counties in the State of Florida be formed to administer the State pot of money, and that each affected county has a single vote on that consortium. Mr. Darling discussed the possible amounts that could be received by Walton County once the fines against BP have been determined.

Commissioner L. Jones questioned if the RESTORE Act funds were punitive dollars against BP for violating the Clean Water Act, and how it impacted Walton County's direct BP claims for damages. Mr. Darling understood that the RESTORE Act funds could not be used toward the claims made directly to BP under the Oil Pollution Act (OPA). Commissioner L. Jones asked whether the legally determined reduction in property values, tourism income, and various other impacted areas as a direct result of the Deepwater Horizon Spill were a separate claim from the RESTORE Act funds. Mr. Darling and Attorney Mustain stated that it was.

Commissioner L. Jones questioned what would happen if a county chose not to participate in the consortium. Mr. Darling said that he was not sure what would happen, he recommended that all of the counties consider the ramifications of not participating, and felt that unintended consequences would be that outside representatives could be appointed, and that funding could be affected. Commissioner L. Jones asked if there had been discussion or language that gives weight to the individual votes depending on the impacts. Mr. Darling stated that the only area where the voting could be weighted is with the local pot of money. He stated that in the

consortium pot of money there is no weighted vote. The consortium must follow the Sunshine Law and hold open discussions. Commissioner L. Jones discussed the \$15 billion dollar fine being lobbied by BP to settle all litigation, and questioned whether the litigation referenced in the settlement was resulting from the violation of the Clean Water Act, or if it included the individually filed litigations. Mr. Darling stated that BP is scheduled for Federal court in Louisiana in January, and felt that one of the negotiation elements would be to present a package deal to cover the NRDA requirements, direct economic claims, and the Clean Water Act. He reported that the Federal government is seeking an amount larger than the \$15 billion being offered by BP.

Commissioner Comander stated that Florida Senate Bill (SB) 2156 designated more funding for the eight disproportionately affected counties, and questioned if this designation applies to the RESTORE Act money. Attorney Mark Mustain, Nabors, Giblin, & Nickerson, PA., FAC Special Counsel, stated that SB 2156 deals with the damages incurred and the RESTORE Act funds do not. Mr. Darling reported that the bill says "State" funds, and felt that the RESTORE Act funds would not go through the State if the consortium is successfully formed and functioning. He also felt that the consortium must acknowledge SB 2156, and discuss its implementation.

Commissioner C. Jones asked if all 23 counties would make up the consortium or just the eight disproportionately affected counties. She also asked if there would be sub-committees within the consortium. Mr. Darling stated that it would include the 23 counties, and that the draft inter-local agreement is the basic frame work for the consortium. The consortium would determine the development of sub-committees. He also said that the consortium would also have

to determine how they will work with other groups such as environmental groups, economic development groups, tourism groups, regional planning councils, etc.

Ms. Anita Page discussed SB 2156, the controversy surrounding the application of the bill, and voiced concern that its application would affect the different pots of money. Attorney Mustain said that he had not heard of any legal controversy about the impact of SB 2156 on the RESTORE Act funds. He discussed the RESTORE Act language, the inter-local agreement to be executed, and the development of the consortium. Mr. Darling stated that SB 2156 was adopted by the Florida Legislature before the RESTORE Act was passed. He also discussed the RESTORE Act timeline to develop the initial plan by January, the development of the Federal rules, and the reimbursement of administrative costs of managing the RESTORE Act. Discussion followed regarding the development of the consortium.

Ms. Cindy Meadows, District 5 Commissioner elect, asked if the Governor had signed off on the FAC consortium, and understood that the Governor could change the make-up of the consortium. Mr. Darling stated that there have been numerous conversations with the Governor; and that if the consortium fails, then the State will take the legal authority from the consortium. Ms. Meadows asked when the county would start paying the administrative costs, and felt that the costs should be in proportion to the county population. She also felt that the Gulf counties who advertised clean beaches should not receive funding. Mr. Darling stated that the consortium is in the early stages, and FAC is organizing RESTORE Act information, and helping to facilitate the development of the consortium. He discussed the transition budget to be used to start the consortium. He reported that the consortium will have to determine how it will fund itself, what methodology will be used, and who pays what portion. The transition budget is

\$53,000 and will be divided among the counties by population; Walton's portion would be \$6,720.

Ms. Meadows asked if the FAC is being paid to help the counties. Attorney Mustain stated the FAC is being reimbursed for the costs.

Mr. Cory Godwin voiced support of the consortium.

Ms. Page voiced concern regarding potential economic competition between the counties. Mr. Darling said that this is an opportunity for the counties to show leadership and act in a holistic fashion. He discussed the exclusion of cities and municipalities in the RESTORE Act, and the opportunity for the counties to think regionally. Commissioner Comander stated that the money will not come in one lump sum but rather over a period of years, and discussed the opportunities available for the counties.

Commissioner L. Jones felt that the consortium would be beneficial to the eight disproportionately affected counties, and suggested that Walton County facilitate in bringing the eight counties together. He said that it is highly important that the eight counties present a united front in obtaining the RESTORE Act funds.

Ms. Page spoke in favor of the consortium.

Attorney Mustain stated that the Sunshine Law should be considered when meeting with the eight counties.

Mr. Demers asked if the decision to join the consortium should be placed on the October 9, 2012 Regular Meeting agenda. The Board concurred. He stated that there were other items on the Workshop agenda that had not been addressed.

Commissioner Comander discussed the Local RESTORE Council, and suggested that the council be made up of municipal, business, county, educational and environmental representatives. She suggested that names be compiled and presented at the October 9th meeting.

Mr. Darling stated that a Commissioner and an alternate should be appointed at the same meeting when the Board votes to join the consortium. Commissioner Comander reported that the Board had appointed her as consortium representative at the September 11, 2012 Regular Meeting due to the meetings held in St. Petersburg, but that an alternate would need to be appointed.

Commissioner C. Jones questioned if placing two Commissioners on the Local RESTORE Council would comply with the Sunshine Laws. Darling said that it would comply, and careful attention should be made regarding discussion, and the meetings must be noticed.

Discussion followed regarding the compilation of the local council. Names for possible members can be submitted to County Administration for presentation at the October 9th meeting. The Board concurred to place nine members on the local council.

Ms. Meadows suggested that with the make-up of the Board changing soon, that an incoming commissioner with ties to South Walton be appointed as consortium representative, and voiced concern that Mr. Bill Imfeld, District 3 Commissioner elect, had been appointed to a commission prior to taking office. Commissioner Comander felt that she was capable of performing the duties as consortium representative; and stated that a portion of her district is in South Walton.

Commissioner C. Jones asked if a project coordinator needed to be appointed at this meeting. Ms. Meadows stated that the project coordinator should be appointed by the new commission.

Mr. Demers addressed the concerns of the consortium representative and stated that the first consortium meeting will be held October 22nd, and that representation will be needed. He also addressed the issue of the appointment of Mr. Imfeld to the Florida Commission on Oil Spill Response Coordination Commission. State Statute only allows Mr. Imfeld to be appointed due to his work with the oil spill as County Finance Director, not as Commissioner elect. Discussion returned to the formation of the Local RESTORE Council.

Commissioner C. Jones asked about ideas on the Project Coordinator staff position. Mr. Demers suggested considering a temporary position which gives full attention to the RESTORE Act, at both the local and consortium levels. The position would be placed under Administration, to avoid conflicts with the Sunshine Law. Commissioner Pridgen asked if this would be an advertised position. Mr. Demers stated that it would. Commissioner C. Jones discussed the need for a job description and advertising. She stated that the person needed to also work with Ms. Scarlett Phaneuf, Economic Development Alliance Executive Director. Discussion continued regarding possible current qualified employees. Mr. Demers stated that the position and a budget amendment would have to be approved by the Board.

Ms. Christy Scally asked what the deadline was for submitting names for the Local RESTORE Council, and if a vote will be made on October 9th. Commissioner Comander asked that the names be submitted this week. Ms. Scally asked if any of the names mentioned during discussion had been contacted. Commissioner C. Jones stated that some of the people mentioned had submitted resumes and were highly qualified. She reported that the position is a non-paid position.

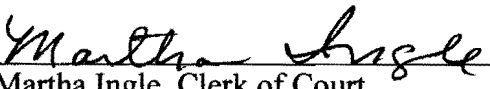
Commissioner Pridgen voiced concern that there is not enough time for people to submit names for the local council. Mr. Demers stated that the Board had the discretion to wait until the

October 22nd meeting to appoint the council. He suggested deciding the structure of the council at the October 9th, meeting and appointing the members at the October 22nd meeting. The Board concurred. Ms. Meadows stated that there are many people who would be interested in serving on the council, and felt that advertisements for the council positions should be placed on the website and in the newspapers. The Board concurred to advertise the council positions. Commissioner L. Jones felt that the advertisements should be placed after the Board determines the structure of the council. Discussion continued on the structuring of the council. Mr. Demers suggested, to avoid conflict of interest, that anyone who serves on the council not be someone who would submit projects for consideration.

There being no further items to discuss, the meeting adjourned at 10:34 a.m.



Scott Brannon, Chairman



Martha Ingle, Clerk of Court