

November 3, 2005 – SPECIAL MEETING/WORKSHOP

The Walton County Board of County Commissioners held a special meeting at 9:00 a.m., on Thursday November 3, 2005, at the South Walton Courthouse Annex to discuss the CR 30-A Traffic Study. The meeting was followed by a workshop at 10:00 a.m. to discuss incidental take permits.

The following Board members were present: Kenneth Pridgen, Chairman, Scott Brannon, Vice-Chairman, Commissioner Larry Jones, Commissioner Cindy Meadows, and Commissioner Rosier Cuchens. Ms. Shirl Williams, Assistant County Administrator, and Attorney Hallman, Director of Legal Services, were also present.

Chairman Pridgen called the meeting to order.

Ms. Debbie Dantin, Senior Vice President, Genesis Group, gave a brief overview of the traffic study for CR 30-A and submitted a draft report. She also submitted a document summarizing comments from staff, residents, tourists, and patrons traveling on CR 30-A. She stated that the primary concerns of those surveyed were “vehicle mobility and safety”, “pedestrian and bicycle mobility and safety”, and “environmental protection”. She discussed the recommended short and long-term improvements. Ms. Dantin added that the study was conducted with the knowledge that CR 30-A would not be widened into a four-lane highway. She discussed extending the Okaloosa transit system and stated that she had spoken with organizations, both private and governmental, regarding funding of the project.

Commissioner Cuchens stated that there were actions taken to begin the extension of the Okaloosa transit system at a past TPO meeting. Ms. Dantin stated that a plan had been developed to extend the current system in 2006, but that the final copy of the Transit

Development Plan had not been released for review. Ms. Dantin added that most of the surveyed residents were not in favor of the transit system; however, the tourists surveyed were.

Ms. Dantin discussed issues with connectivity. She stated that the north/south road was still under study, but was being considered for connections on CR 30-A and U.S. Highway 98, east of CR 395. She stated that the current long range transportation models for Walton and Okaloosa Counties did not have adequate information regarding land use. She added that the new model would include all of Walton County and would be available in January or February of 2006.

Ms. Dantin stated that, because CR 30-A could not be widened, other modes of transportation should be considered. She gave an overview of the recommended design standards for CR 30-A including such items as access management, golf cart usage, pedestrian crossovers, and speed limits. She added that the goal was to include some of the improvements as a requirement for developers and others as mitigation or vehicle trip credit.

Ms. Dantin discussed the traffic counts on CR 30-A. She stated that truck traffic varied from 1.5%-3% on weekdays which, in part, was due to construction traffic. She reported that vacant parcel analysis revealed that, of the 4000 acres north and south of CR 30-A, 7% was vacant.

Ms. Dantin discussed the language regarding compatibility standards. She added that disallowing private roads could be an option to resolve the inner-connectivity issues. She discussed average speeds and travel times on the 30-A Corridor and recommended that speed limits be 40 mph or below unless there are shoulders on both sides of the road.

She stated that the draft report would soon be available for review at www.cra-walton.com and that hard copies were available at various county offices. She requested a public

hearing with the Planning Commission in November or December 2005, before this issue was brought back before the Board for adoption in January 2006.

Commissioner Cuchens questioned public opposition to pedestrian walkovers as sited in the survey. Ms. Dantin felt that the opposition was due to the walkovers not being compatible with the Scenic Corridor. She added that the walkover would be necessary for a large development.

Ms. Williams questioned the need for a traffic signal at CR 393. Ms. Dantin replied that based on the traffic forecast, a signal or roundabout would be necessary for CR 393 in 2006-2007 and would be recommended for inclusion in the capital improvements project.

Commissioner Brannon asked if the county had appropriate right-of-ways for the suggested turn-lane and roundabout improvements and asked if that information was included in the report. Ms. Dantin replied that the information was included and added that a multi-way stop could always be replaced with a roundabout.

Commissioner Jones felt that the number of trips generated by each improvement should be included in the study. He added that the county should permanently reserve a portion of those trips generated for future improvements.

Ms. Blackshear questioned the inclusion of Highway 81, Highway 20, and CR 3280 on the report and discussed their importance as evacuation routes. Ms. Dantin replied that the report did include hurricane evacuation routes.

Ms. Blackshear stated that there were DOT funds available to start transit projects and that additional staff would be needed to oversee a transit program.

There were no public comments.

Ms. Blackshear requested that the Board schedule a special meeting to discuss the land use issue for November 28, 2005 at 5:00 p.m.

Motion by Commissioner Meadows, second by Commissioner Cuchens, to schedule the meeting as recommended by Ms. Blackshear. Ayes 5, Nays 0. Jones Aye, Meadows Aye, Pridgen Aye, Brannon Aye, and Cuchens Aye.

The Board recessed until 10 a.m.

(Attorney Hallman arrived)

The Board reconvened into a workshop to discuss the incidental take permit requirements.

Ms. Blackshear gave a brief overview of the purpose of the workshop. Representatives from the FLDEP and the Florida Fish and Wildlife Service were present to discuss the permits.

Ms. Lorna Patrick, Florida Fish and Wildlife, gave a power point presentation regarding the Endangered Species Act (ESA) and how it relates to the armoring permits issued by Walton County and submitted corresponding documentation. She discussed the endangered species in Walton County that could be affected by armoring efforts. She defined the terms “take”, “harm”, and “harass” as they apply to the effects of armoring on the habitat of endangered species. She stated that because the county issued permits to allow temporary armoring, the county enabled the taking; therefore, they should apply for the incidental take permit in lieu of application by individual property owners. She sited an example from litigation in Volusia County where the court ruled that local governments could be held liable when they issue permits that facilitate taking. Ms. Patrick reviewed the penalties and enforcements for ESA violations.

Ms. Patrick discussed the means by which the armoring could be in compliance with the ESA. She stated the options were to have federal connection or an incidental take permit. She

discussed the efforts that the county would need to take in order to apply for and obtain the permit.

Commissioner Jones asked Ms. Patrick to discuss the percentage of the 26 miles of beach in Walton County that had environments affected by armoring. Ms. Patrick replied that approximately 170 permits had been issued; however, she did not know how many miles that would be equivalent to. She clarified that each incident of armoring would be looked at to see how it affected the environment of an endangered species.

Commissioner Jones questioned DEP's responsibility regarding the taking since they were responsible for extending the temporary armoring permits issued by the county. He clarified that, in order for the armoring structure to be permanent, they would have to be approved by DEP. Ms. Patrick requested that Commissioner Jones direct his questions regarding DEP issues to Mr. Mike Barnett.

Commissioner Meadows questioned the difference in eligibility to obtain a permanent DEP permit for homes built before and after 1985. She asked if the incidental take permit would allow the shoring efforts for homes built after 1985 to be permanent. Commissioner Meadows stated that before a decision could be made regarding applying for the incidental take permit the Board should know the amount of taking that resulted from the armoring permits issued by the county.

Attorney Hallman requested clarification regarding the difference in an incidental take permit and an armoring permit. He asked if the county would have liability for taking of habitat if they did not apply for the incidental take permit. Ms. Patrick replied yes and explained that, because the county issued the armoring permits, they facilitated the taking of habitat. Attorney

Hallman stated that he wanted to ensure that the county did not subject itself to ESA violation penalties as a result of applying for an incidental take permit.

Commissioner Meadows stated that she was under the impression that the temporary armoring permitted by the county was to be removed after 60 days and that the habitat was to be replaced upon removal.

Attorney Hallman discussed options regarding the county's involvement in taking and their decision regarding application for an incidental take permit. Ms. Patrick stated that either the county or individual home owners must apply for the take permits.

Ms. Blackshear requested clarification regarding the county's need for development of a habitat conservation plan. Ms. Patrick clarified that whoever applied for the permit, whether it was the county or individual homeowners, would be required to develop a habitat conservation plan.

Commissioner Jones questioned whether staff was aware that an incidental take permit would be required as a result of the county's issuance of temporary armoring permits. Ms. Blackshear stated that staff did work with DEP, but that take permits were never discussed. She stated that her experience was that individual homeowners must apply for that permit. Mr. Gerry Demers, Deputy Building Official, stated that the state DEP had not been in favor of using the temporary shoring structures. Ms. Patrick replied that the incidental take permit guidelines were included in state regulations. Mr. Demers stated that the language refers to anticipated taking, of which the county had not foreseen.

Mr. Michael Barnett, Bureau Chief, DEP Beaches and Coastal Systems, discussed temporary versus permanent armoring. He stated that the intent was for shoring structures to be temporary or for the homeowner to apply for a permanent permit from DEP. He stated that the

last report on the number of armoring reports issued by Walton County was approximately 140, which covered 220 properties. He added that over half of those applicants had not begun construction and that only 20 permanent permit applications had been received. He requested staff assistance to contact the remaining applicants and discuss their intentions regarding the temporary armoring permit issued by the county. He stated that DEP would need to determine the eligibility and vulnerability of the homes in regards to permits.

Commissioner Meadows requested a date regarding DEP'S assessment of the remaining homes and permits. Mr. Barnett stated that, once the county stopped issuing temporary permits, DEP could compile the data, which he estimated would take a few weeks.

Commissioner Jones stated that, until DEP took inventory regarding the impacts of the armoring, there was no way to discuss mitigation. Ms. Patrick stated that it was of utmost importance for the review process to be completed, because it was causing a delay for the homeowners who had begun the permanent DEP permit application process.

Attorney Hallman requested clarification of when the 60 day time frame for armoring expired. Mr. Barnett stated that he would like to defer legal questions to DEP's general counsel, but read the statute regarding the time frame into the record.

Commissioner Jones stated that there was more information needed before the Board could make its decision regarding the incidental take permit. He added that he would like to see staff work with Mr. Barnett and DEP staff in their efforts to compile the analysis of outstanding temporary armoring permits. The floor was opened to public comments.

Mr. Jack Hershorn, requested clarification regarding the time frame for application and processing of a permanent DEP permit. Mr. Tony McNeal, DEP, clarified that DEP has an

internal requirement to process applications within 90 days unless the applicant waives that deadline. He gave a brief overview of the steps involved in the processing.

Mr. Rodney Durrant, Blue Mountain Beach, stated that the majority of shoring structures did not extend onto the turtle habitats. He also stated that he understood that U.S. Senate recently relaxed the endangered species standards and that those standards may change the guidelines as they relate to the need for an incidental take permit.

(Commissioner Jones left at 11:16 a.m.)

Mr. Joe Thom, Blue Mountain Beach, discussed options regarding armoring and its reported success and/or failures rates.

Mr. David McGee, consultant representing Sea Side, discussed the armoring permits and their relationship to the Coastal Construction Line (CCL). He asked if the incidental take permit was necessary to apply for a CCL permit.

Mr. Kipp Frolich, Florida Fish and Wildlife Conservation Commission, clarified that the permanent DEP applications are sent to his department for review. He added that, if it was determined that the proposed armoring structure would cause a take of habitat, DEP could not issue a permit for permanent armoring without issuance of an incidental take permit from Florida Fish and Wildlife Services. He clarified that these were conditions for obtaining CCL permits.

Mr. McGee asked if the county required approval of the temporary armoring structures by a Physical Engineer (P.E.). Ms. Blackshear replied that the county required either a P.E. or an affidavit from the piling contractor. She added that applicants had been advised that they would need that to apply for a permanent DEP permit.

Chairman Pridgen recommended that the concerned parties contact the represented organizations for clarification regarding their specific situations.

Ms. Linda Hildreth, Blue Mountain Beach, discussed efforts to shore her property, apply for the appropriate permits, and the effects on the endangered species.

Mr. Emmitt Hildreth, Blue Mountain Beach, stated that he was not aware of the need for the incidental taking permit until recently. He felt it would be hard to define actual taking of habitat. Mr. Hildreth stated that the taking was done by Hurricane Dennis and that the homeowners were rebuilding the habitat by bringing the sand back onto the beach.

Chairman Pridgen thanked the representatives from all of the agencies that were present.

There being no further business, the meeting adjourned at 11:35 a.m.

APPROVED: _____
Kenneth Pridgen, Chair

ATTEST: _____
Martha Ingle, Clerk of Court