

(12-16-04)

**BOARD OF COUNTY COMMISSIONERS
BRADFORD COUNTY, FLORIDA
REGULAR SCHEDULED MEETING
DECEMBER 16, 2004 7:30 P.M.**

The Bradford County Board of County Commissioners met December 16, 2004, for their regular scheduled meeting. Attending were: Commissioner Lewis, Commissioner Hersey, Chairman Thomas, Commissioner Cooper, Commissioner Chandler, Clerk Norman, Jim Farrell, Marlene Stafford, Lisa Hall, Terry Brown, Nora Thompson, Wilson Whidden, Mark Crawford, Cheryl Brownlee and Randall Zipperer.

(A copy of documentation presented at this meeting is located in Supplement File No. 12-16-04.)

Chairman Thomas called the meeting to order at 7:30 p.m. Commissioner Chandler gave the Invocation and led the Pledge of Allegiance.

PUBLIC HEARINGS FOR ADOPTION OF ORDINANCES—WILSON WHIDDEN:

A. AMENDMENT TO THE TEXT OF THE BRADFORD COUNTY COMPREHENSIVE PLAN, PURSUANT TO APPLICATION NO. CPA 01-1 BY THE BOARD OF COUNTY COMMISSIONERS-- (BOCC)(TATUM):

Ms. Thompson read the title of the ordinance into the record:

“AN AMENDMENT TO THE TEXT OF THE BRADFORD COUNTY COMPREHENSIVE PLAN PURSUANT TO AN APPLICATION BY THE BOARD OF COUNTY COMMISSIONERS BY AMENDING POLICY I.1.6 OF THE FUTURE LAND USE ELEMENT TO ADD THE AGRICULTURE-2 (LESS THAN OR EQUAL TO ONE DWELLING UNIT PER FIVE ACRES) LAND USE CATEGORY TO THE PERMITTED LAND USE CATEGORIES FOR DESIGNATED URBAN DEVELOPMENT AREAS.”

Ms. Thompson explained that according to the County’s Comprehensive Plan, within an Urban Development Area you can only rezone to Commercial or Industrial. Approval of this amendment changes the text of the Comprehensive Plan to provide the option to rezone to Agricultural within the Urban Development Area. This is the first reading of the ordinance. The Commission will vote whether or not to forward the proposed amendment to D.C.A. Once D.C.A. sends back their comments, then it will come back to the Board to vote on the actual ordinance.

Comm. Hersey MOVED to submit the proposed amendment to D.C.A. **Comm. Lewis SECONDED** and the **MOTION CARRIED 5-0.**

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B. APPROVE AN ORDINANCE AMENDING THE FUTURE LAND USE PLAN MAP, PURSUANT TO APPLICATION NO. S 041014A (BEAUDAWG, LLC):

Ms. Thompson read the title of the ordinance into the record:

“AN ORDINANCE OF BRADFORD COUNTY, FLORIDA, AMENDING THE FUTURE LAND USE PLAN MAP OF THE BRADFORD COUNTY COMPREHENSIVE PLAN, AS AMENDED; RELATING TO AN AMENDMENT OF TEN OR LESS ACRES OF LAND, PURSUANT TO AN APPLICATION, S 041014A, BY THE PROPERTY OWNER OF SAID ACREAGE, UNDER THE AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3161 THROUGH 163.3215, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR CHANGING THE LAND USE CLASSIFICATION FROM AGRICULTURE-2 (LESS THAN OR EQUAL TO ONE DWELLING UNIT PER FIVE ACRES) TO COMMERCIAL OF CERTAIN LANDS WITHIN THE UNINCORPORATED AREA OF BRADFORD COUNTY, FLORIDA; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.”

At the request of Chairman Thomas, Ms. Thompson provided the location of the property.

Chairman Thomas opened the public hearing.

Ms. Nadia Thomas of 2724 NW 200th Street, Lawtey, approached the Commission. She lives right next door to the property and asked what type of business is going to be built on the property. Chairman Thomas said that question would probably be answered later in the hearing.

Ms. Thompson then read a letter into the record written by Mr. Joe Bakken, Jr., opposing the rezoning of the property.

“Please accept this letter as my protest concerning the re-zoning request for the property located across from my home on US 301 North.

I have recently had major surgery and am unable to attend the Zoning Board meeting considering this zoning request. Please read this letter in public and enter it into the minutes of the meeting as my protest in lieu of attendance at the meeting.

This re-zoning to an open commercial category is entirely inappropriate at this time. There have been no new commercial establishments in this area of US 301 for many years. The bulk of the property in the area is residential or agricultural. My home has been across from this property for many years. We were happy to see the Thoni site, which was not a legal use under the zoning district, closed and cleaned up. We

are not in favor of any commercial re-zoning at this time. If there was a specific use to consider, then with the appropriate notice and site plan approval process, we might be willing to see a commercial use put in place. However, there are too many uses permitted in this district that would be unattractive and detract from the residential/agricultural nature of the area, and specifically, perhaps negatively impact on my property and its value as a residential farm. Therefore, we do not wish to see this zoning changed.

We are not against commercial development along US 301 in general. It just seems like this is the wrong place at the wrong time for a too open-ended zoning change.

Please consider these facts and deny this request at this time. Thank you for your consideration.”

Mr. Tom Smith, representing the property owner, spoke in favor of the application. They hope to entice a commercial user to come to the location and build a commercial establishment. Although there is no specific use in mind at this time, their first choice would be a gasoline convenience store. Mr. Smith presented reasons he feels the Commission should approve the application.

There being no further public response, the public hearing was closed.

In response to inquiry by Chairman Thomas, Ms. Thompson reported that the Zoning Board voted 3-0 to approve the application.

In response to inquiry by Commissioner Lewis, Ms. Thompson said that what is before the Commission is the Land Use Amendment, after which there is a re-zoning application. The rezoning governs the specific uses allowed in a particular category. A site plan would be brought to the Commission at the appropriate time.

After brief discussion, **Comm. Lewis MOVED** to adopt the ordinance, approving Land Use Application No. S 041014A, by Beaudawy, LLC. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0.** (The Ordinance was assigned No. 04-40.)

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C. APPROVE AN ORDINANCE AMENDING THE OFFICIAL ZONING ATLAS, PURSUANT TO APPLICATION NO. Z 04-18 (BEAUDAWG, LLC):

Ms. Thompson read the title of the ordinance into the record:

“AN ORDINANCE OF BRADFORD COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF THE BRADFORD COUNTY LAND DEVELOPMENT REGULATIONS, AS AMENDED; RELATING TO THE REZONING OF LESS THAN TEN CONTIGUOUS ACRES OF LAND, PURSUANT TO AN APPLICATION, Z 04-18, BY THE PROPERTY OWNER OF SAID ACREAGE; PROVIDING FOR REZONING FROM AGRICULTURAL-2 (A-2) TO COMMERCIAL, INTENSIVE (CI) OF CERTAIN LANDS WITHIN THE UNINCORPORATED AREA OF BRADFORD COUNTY, FLORIDA; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.”

Chairman Thomas opened the public hearing. Mr. Tom Smith said that his position on this application is the same as the previous one.

There being no further public response, the public hearing was closed.

In response to inquiry by Commissioner Cooper, Ms. Thompson reported that the Zoning Board voted 3-0 to approve the application.

Comm. Lewis MOVED to adopt the ordinance, approving Rezoning Application No. Z 04-17, by Beaudawg, LLC. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0.** (The Ordinance was assigned No. 04-41.)

PUBLIC COMMENTS: Mr. Paul Still commented on the following:

--Thanked the Commission for getting the gates closed at Three-Pipes.

--Addressed what he feels are some problems with the non-advalorem solid waste special assessment and urged the Commission to conduct a workshop to discuss the Solid Waste Budget.

CONSENT AGENDA:

- A. APPROVE INVENTORY DELETION LIST**
- B. APPROVE MINUTES OF SEPTEMBER 9, 2004 CONCERNING THE FIRST PUBLIC HEARING TO ADOPT TENTATIVE MILLAGE AND BUDGET FOR FISCAL YEAR 04-05**
- C. APPROVE MINUTES FROM WORKSHOP AND REGULAR SCHEDULED MEETING OF SEPTEMBER 13, 2004**

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There being no items removed, **Comm. Cooper MOVED** to approve the Consent Agenda in its entirety. **Comm. Hersey SECONDED** and the **MOTION CARRIED 5-0**.

REQUEST PERMISSION TO ADVERTISE FOR SEALED BIDS FOR ROAD DEPARTMENT SURPLUS—CHAIRMAN THOMAS:

Comm. Lewis MOVED to approve to advertise for sealed bids for Road Department surplus. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0**.

DISCUSSION CONCERNING SIGNAL REIMBURSEMENT CHARGES FROM CSX IN THE AMOUNT OF \$20,000.00—TERRY BROWN: Mr. Brown said that this is the result of negotiations between CSX and his office concerning reimbursement to CSX for ½ the maintenance costs for various crossings within the County for the period of 1997 through 2001. CSX has agreed to accept a single payment of \$20,000.00.

Discussion ensued.

Commissioner Lewis asked if the funds are available to pay the invoice. Clerk Norman said that these negotiations have been going on for some time now and he believes the Board put funds in a line item within the current budget.

Commissioner Hersey inquired about invoices from 2001 to present. Mr. Brown said that the October 7, 2003 letter represented that it was for that current year and the five preceding years. It is his intention to interpret it in that manner if any additional bills are received.

Comm. Lewis MOVED to approve payment of the \$20,000.00 as presented. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0**.

DISCUSSION CONCERNING RENEWAL AGREEMENT WITH PIZZA HUT—

TERRY BROWN: Mr. Brown first addressed the “Landlord’s Agreement Regarding Equipment”. The corporation that operates the Pizza Hut has sold out the operation to a new corporation. The new corporation is in the process of a refinancing plan with G.E. Capital Franchise Finance Corporation. G.E. Capital has requested that the Board execute this agreement. Initially, the agreement contained two additional paragraphs of which he and the Clerk found objectionable. Those objections were expressed to G.E. Capital and they agreed to delete the two paragraphs. Basically, the agreement states that the County does not own the equipment in the Pizza Hut and as the landlord; do not claim any type of security interest in the equipment.

This is a “request” and there is no legal obligation to consent to the agreement. He has reviewed the agreement and approves it as to form. He does not see any detriment or down side to the County, now that they have deleted the two objectionable paragraphs.

Comm. Lewis MOVED to authorize the Chairman and the Clerk to execute the agreement on behalf of the County. **Comm. Hersey SECONDED** and the **MOTION CARRIED 5-0**.

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Mr. Brown then presented an “Addendum to Lease Agreement between Bradford County, Florida and Kurani Pizza, Inc”. This is a proposed addendum to the current lease agreement. The new buyers have asked that they be given two more additional five-year options on the existing lease agreement. The existing lease agreement has a five-year renewal option, which has recently been exercised. Therefore, under the current terms of the lease, it would terminate February 15, 2009.

They initially proposed that the terms of the option would be that beginning February 16, 2010, they would give the County a 3% increase in the monthly lease payments and an additional 3% each year thereafter. After conferring with the Clerk, they felt that was low and inappropriate because in essence, you are going the next five years without a rate increase. Therefore, the counter-proposal made, which they understand is subject to approval by the Board, is that if they exercise this option, in the year 2010, the County will want a 15% increase in the lease rate, which is 3% for five years, and then each year thereafter there would be an additional 3% increase in the proposed rate.

The County is under no obligation or requirement to give this option. All other terms of the original lease will remain in effect.

Comm. Lewis MOVED to authorize the Chairman and the Clerk to execute the addendum on behalf of the County with the terms recommended by Mr. Brown. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0**. (A copy of the addendum is on file in the Clerk’s Office.)

CHANGE ORDER FOR CROSS DRAINS AND DITCH WORK FOR MENG DAIRY ROAD—CHAIRMAN THOMAS: Chairman Thomas requested that this item be continued to the next meeting. This is something that could be done by the County, if the Board decides to continue with construction work.

Following brief discussion, **Comm. Lewis MOVED** to accept Change Order No. One as presented. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0**.

DISCUSSION CONCERNING COUNTY ATTORNEY CONTRACT—CHAIRMAN THOMAS: Chairman Thomas said that at a previous meeting there was discussion regarding the renewal of contracts versus letting contracts out for bid. The County Attorney contract is up for renewal in January. If there is still a consensus to let for bid other contracts coming up for renewal, the Board needs to get the word out to insurance companies instead of waiting down the road, to give them time to prepare.

Commissioner Lewis said that past policy has been that every few years contracts were not necessarily renewed, but were let for bid to make sure the best interest of the County was being taken into account.

Clerk Norman brought paragraph #4 of the existing County Attorney contract to the Board’s attention, which states: “The duration of this Contract shall be for a period of twelve (12) months. This Contract shall be renewed automatically unless written notice from either party is

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served on or before October 1 of the current contract year.” As far as other contracts are concerned, they will each vary in terms of renewal requirements and need to be looked at on an individual basis. His office will try to do that soon enough for the Board to make a decision before deadlines.

Commissioner Hersey said that based on paragraph #4, the Board is committed to this contract. He suggested that the Board conduct a workshop to review other contracts that may be coming up for renewal.

Commissioner Cooper cautioned the Board concerning contracts for professional services. You have to remember that when dealing with professional services, you do not have the option to bid a price; you are not even allowed to discuss money. Professional relationship and expertise are taken into account, and only after bids have been ranked based on those abilities can you even talk about price. Other contracts that can be bid for price are fair game, but contracts for professional services should be handled very carefully.

Commissioner Chandler said that he believes all contracts should be evaluated at least every four to five years. Concerning professional services’ contracts, although you may not be able to go out for dollar bids, performance can and should be evaluated. The Board needs to decide how to and how often to do that.

Clerk Norman said that his office will pull and all the existing contracts and get them to the Board for review. When this issue is discussed again, the Board will be prepared to make a decision.

Chairman Thomas said that another contract that came up for renewal was with Rayonier for the purchase of fill dirt. The County does not have any means to bid this out. The contract had an automatic renewal and he and the Clerk discussed it and went with the renewal. If the Board feels differently, let him know and he will see what can be done. (There was no opposition by any Commissioner.)

APPROVE PAYMENT OF BILLS: Chairman Thomas said that he reviewed the bills and recommends them for payment. **Comm. Lewis MOVED** to approve payment of the bills as recommended. **Comm. Cooper SECONDED** and the **MOTION CARRIED 5-0.**

Chairman Thomas requested a motion to handle an emergency item.

Comm. Cooper MOVED to declare an emergency. **Comm. Lewis SECONDED** and the **MOTION CARRIED 5-0.**

Chairman Thomas presented a payment request from G&G Site Prep for \$47,700.00, which is the balance of a contract for laying cross drains on Meng Dairy Road. The County Engineer has reviewed and approved the pay request.

Clerk Norman said that after this pay request is approved, the only amount left owing on the original contract would be the retainage, which is \$5,300.00.

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Comm. Chandler MOVED to approve the pay request as presented. **Comm. Lewis SECONDED** and the **MOTION CARRIED 5-0.**

COUNTY ATTORNEY REPORTS: None.

CLERK REPORTS: None.

AGENDA ADDENDUM

PERSONNEL MATTERS:

- A. APPROVE HIRING OF TROY FORNSHELL FROM OPS TO FULL-TIME IN THE ROAD DEPARTMENT WITH A STARTING SALARY OF \$9.24 PER HOUR, EFFECTIVE DECEMBER 22, 2004:**
- B. APPROVE HIRING OF RONALD JONES FROM OPS TO FULL-TIME IN THE ROAD DEPARTMENT WITH A STARTING SALARY OF \$9.24 PER HOUR, EFFECTIVE DECEMBER 22, 2004**

Chairman Thomas said that Troy Fornshell and Ronald Johns have been working part-time OPS for over a year, and he would like the Board to make them full-time employees. There is one full-time vacancy in the Road Department. There is also a part-time vacancy and by changing some line items, that part-time vacancy can be funded for full-time.

Comm. Lewis MOVED to approve the hire of Troy Fornshell and Ronald Johns as full-time Road Department employees as presented.

Commissioner Cooper expressed concern in that there is an “anticipated vacancy”, but it is a Workers’ Comp position that is still on the County’s payroll.

Clerk Norman said that the settlement paperwork has been signed and received, but we have not received anything final. Based on correspondence to date, he anticipates that the settlement will be accepted and that there will be a vacancy.

Commissioner Cooper asked what the need is in turning the 20-hour part-time position to a full-time position if there is still an OPS position. The OPS positions were designed for road construction. One of the advantages of the OPS positions is that you get an employee that can be worked and watched for a time period that can be placed into a vacancy, should a vacancy occur. He is fine with the motion as long as a “new position” is not being created. If a vacancy is being filled, he has no problem with it.

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Commissioner Lewis said that at one time there were 17 employees at the Road Department and these two full-time positions will bring the Road Department back up to that number. There is a lot of road maintenance that needs to be done and it is his understanding that both of these employees have been doing a real good job.

Commissioner Chandler asked if more OPS employees would be hired? Chairman Thomas said that two additional OPS positions have been advertised.

Commissioner Lewis said that in conferring with Clerk Norman, the funds are in the budget for the two OPS positions. Commissioner Cooper said that whether or not they are hired depends on if the Board intends on staying in the construction business.

Clerk Norman said that four OPS positions for road construction are in the budget. There are currently two OPS employees in the Road Department; there were four and two quit. Two OPS positions have been advertised to fill the two that quit. If the Board moves these two OPS positions to full-time, until the two that have been advertised have been hired, you will have no OPS personnel in the Road Department. If the Board continues with road construction and the two advertised OPS positions are filled, then you will advertise for two more.

There being no further discussion, **Comm. Chandler SECONDED** the motion and the **MOTION CARRIED 4-1**, with Commissioner Cooper dissenting.

CHAIRMAN COMMENTS: Chairman Thomas commented on the following:

--Reminded the Commission of the retreat tomorrow morning beginning at 9:00 a.m. at the Hampton Bed & Breakfast.

COMMISSIONERS' COMMENTS: None.

There being no further business, the meeting adjourned at 8:30 a.m.

**BOARD OF COUNTY COMMISSIONERS
BRADFORD COUNTY, FLORIDA**

DOYLE THOMAS, CHAIRMAN

ATTEST: _____
RAY NORMAN, CLERK TO THE BOARD

These minutes typed by:

Marlene K. Stafford, Deputy Clerk