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BOARD OF COUNTY COMMISSIONERS
SPECIAL CALL MEETING
DECEMBER 8, 2008

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December 8, 2008

SPECIAL CALL MEETING OF THE INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS

CONSIDERATION OF AMENDMENTS TO MINING
REGULATIONS IN LDR CHAPTERS 911, 934, AND 971

DECEMBER 8, 2008

The Board of County Commissioners of Indian River County, Florida, met in a Special Session at the County Commission Chambers, 1801 27th St., Vero Beach, Florida, on Monday, December 8, 2008, to consider amendments to Mining Regulations in LDR Chapters 911, 934, and 971. Present were Chairman Wesley S. Davis, Vice Chairman Joseph E. Flescher, Commissioners Peter D. O'Bryan, Bob Solari, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

Chairman Davis called the meeting to order at 5:00 p.m.

2. INVOCATION

Planning Director Stan Boling delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Bob Solari led the Pledge of Allegiance to the Flag.

4. PUBLIC ITEMS

4.A. PUBLIC HEARINGS

4.A.I. CONSIDERATION OF AMENDMENTS TO MINING REGULATIONS IN LDR CHAPTERS 911, 934, AND 971

Chairman Davis explained that he had a conflict of interest due to his brother's ownership of a mine. It was established that Chairman Davis would Chair the meeting and engage in the discussion, but would not vote on the LDR Amendments.

(Clerk's Note: Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, is on file in the office of the Clerk to the Board.)

Chairman Davis set forth the protocol for the meeting, which would be to first make the decision (subsequent to discussion and public input), whether to change mining from administrative permit use to special exception use. Afterwards, the details of the amendments to the Land Development Regulations (LDR's) in the proposed Ordinance could be addressed.

Commissioner Wheeler suggested that it was in Chairman Davis's benefit to not participate in the Public Hearing, and requested that he not do so; however Chairman Davis preferred to remain as Chair.

Planning Director Stan Boling explained that there are two types of conditional uses which are in the County zoning regulations: (1) administrative permit use; and (2) special exception use, and stated that mining currently falls under administrative permit. Administrative permit use has special criteria which goes beyond the general development requirements, and

requires review and a final decision by the Planning and Zoning Commission (PZC). Special exception use requires a Public Hearing notice in the newspaper, surrounding property owner Notice, a PZC hearing and recommendation to the Board, and it automatically goes before the Board at a second Public Hearing.

Director Boling reviewed the information presented in the backup memorandum of November 26, 2008, and presented for Board approval two versions of the proposed Ordinance on amendments to the mining regulations in the Land Development Regulations (LDR's). Version 1 of the proposed Ordinance would reclassify mining in agricultural zoning districts from an administrative permit use to a special exception use, which action would require a second Public Hearing. Version 2 of the Ordinance would keep mining as an administrative permit use, which the Board could take final action on, without a second Public Hearing. Director Boling revealed that Version 2 could be considered a "super administrative" permit, which requires both PZC review and public input at the PZC hearings, and which has special Notice-to-Owner requirements. He noted that other than the main differences he had outlined, the specific details of the regulations in the two Ordinances were the same.

Director Boling summarized for Commissioner Wheeler the advantages and disadvantages of the administrative permit versus the special exception use permitting.

Director Boling confirmed for Commissioner O'Bryan that the Agricultural Advisory Committee (AAC) and the PZC had recommended special exception use. He continued answering Commissioner O'Bryan's questions regarding the appeal process for Version 2, and revealed that in Version 2, the appeal fee is waived.

In response to Commissioner Solari's question, Director Boling and Attorney Collins provided details on the additional protections which would be afforded by changing mining to special exception use.

The Chairman opened the Public Hearing.

Craig Fletcher, 2345 Avalon Avenue, Vice Chairman of the PZC, announced that the Chairman of the PZC was unable to attend tonight's Public Hearing, and that he (Mr. Fletcher) was available to respond to any questions.

The following individuals presented their arguments and urgent appeals to the Board to approve Version 1, changing mining from administrative permit to special exception use:

Mary McGuire-Smith, 6625 West 82nd Avenue

Mr. Fred Mensing, 7580 129th Street, Sebastian

Jim Schaefer, 6850 69th Street

Warren Winchester, 1845 Tarpon Lane

Jonathan Ferguson, Esquire, law firm of Ruden McClosky, and representing Wild Turkey Mine, stated that legal distinctions must be made between a conditional use and a special exception use, as the latter might be construed as taking away property rights pursuant to the Bert Harris Act, and adversely impacting property owners and applicants who have pending applications that were affected by the Moratorium. He asked the Board to determine whether the administrative permit process could be adopted to make the Public Hearings part of the conditional use process, and to refrain from making the leap to special exception use.

Public input continued, with the following individuals presenting their arguments and pleas for the Board to approve Version 1, changing mining from administrative permit to special exception use:

Amy Banov, 69th Street

Russell Herman, 586 Redwood Court, Sebastian, representing Friends of St. Sebastian River

Susan Boyd, 8025 24th Street

Bruce Barkett, Esquire, 756 Beachland Blvd., representing Ralph Sexton and the Treasure Hammock Ranch, read a list of special exception uses required in the agricultural zoning district, in support of his belief that mining should also go through the special exception process.

Commissioner Solari disagreed with Attorney Barkett's analysis.

The public continued to provide input. The following individuals expressed their concerns about the impacts of mining, and implored the Board to support Version 1, changing mining from administrative permit to special exception use:

Alex Kromhout, 4150 SW 11th Place

Jim Schaefer, 6850 69th Street

Jens Tripson, 2525 14th Street, Pelican Audubon Society

Honey Minuse, 27 Starfish Drive, Indian River Neighborhood Association

(IRNA)

Suzon Franzke, 8190 37th Street

Dr. David Fromang, 1 Dolphin Drive

Seeing no further speakers, the Chairman invited comments from the Board members.

Commissioner Wheeler pointed out that the Fischer Mine (referenced in comments by a former speaker, **Alex Kromhout**), might not have received approval if it had been required to go through special exception, rather than administrative permit, use.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Wheeler, to approve staff's recommendation, to adopt "Version 1" of the proposed mining regulation LDR amendments, which includes changing mining to a special exception use.

Under discussion, Commissioner Solari declared that mining was an appropriate use in AG-1, which is an area in transition. He supported retaining mining as an administrative, and not a special exception, use.

Commissioner O'Bryan fully supported going to special exception use, and granting citizens the right to provide their opinions to their elected officials. He noted the tremendous interest demonstrated by the citizens; pointed out that circumstances have changed since mining was done under administrative permit; and further, did not want to burden the citizens with the often burdensome appeal process.

Vice Chairman Flescher acknowledged the concerns of the citizens living near the mining operations; however, he believed that there have been insufficient enforcement tools in the past. He declared that the current standards were stringent, and would provide the tools to protect the neighborhood residents.

Commissioner Wheeler expressed his strong support for changing mining to special exception use. He believed it was the right of the citizens to have a Public Hearing; and to not be burdened with the appeal process which might be necessary under administrative approval.

Robert Adair, 7060 33rd Street, Chairman of the Agricultural Advisory Committee (AAC), recommended having mining go to special exception use for all three agricultural areas, AG-1, AG-2, and AG-3.

Amy Banov spoke to the intents and purposes of agricultural districts.

Suzon Franzke refuted Commissioner Flescher's comment that there is now better enforcement, stating that truck traffic still poses a tremendous problem. She did not believe the County had the ability to enforce the mining regulations.

Tom Cowan, 2125 82nd Avenue SW, Flying Ranches, AG-2, related the experience of residents of Indian River Acres (which abuts the Fischer Mine property) who were not even notified that a sand mine was coming into the area. He urged the Board to approve special exception use for mining, and to pay attention to the notification of residents.

Commissioner O'Bryan clarified that his Motion applied to all three land classifications, AG-1, AG-2, and AG-3.

The Chairman CALLED THE QUESTION and by a 2-2 vote (Chairman Davis recused himself; Vice Chairman Flescher and Commissioner Solari opposed), the MOTION FAILED. The Board DENIED staff's recommendation to adopt Version 1 of the proposed

mining regulation LDR amendments, which includes changing mining to special exception use.

The Chairman called a recess at 6:31 p.m., and reconvened the meeting at 6:45 p.m., with all members present.

The Chairman announced that staff's Version 2, to keep mining as an administrative permit use, would be discussed at this time.

Director Boling reminded the Board that the mining moratorium had been in effect since January 7, 2008, and any changes to the mining regulations must be made prior to January 7, 2009, when the moratorium ends. He outlined the activities engaged in by staff and PZC as the mining regulations were reviewed; detailed some of the issues and concerns which had arisen during the PZC meetings; and summarized some of the proposed changes to the mining LDR's. He conveyed that the PZC Chairman had felt there was a consensus that the new mining regulations would apply to the three pending applications "in the pipeline," as well as to any future mining concerns.

Chairman Davis sought and received legal opinion from Attorney Collins regarding applying the new regulations to the three pending applications.

MOTION WAS MADE by Commissioner Solari, SECONDED by Vice Chairman Flescher, for the proposed mining regulations for Version 2, to apply to the three mining applications "in the pipeline."

Chairman Davis voiced concerns about the applicants whose permits have been delayed during the mining moratorium, wondering whether they would encounter another

twelve-month delay as they complied with the new requirement to obtain well monitoring data for a minimum of one year.

Attorney Collins clarified that the draft Ordinance gives the applicants twelve months after permitting to collect their baseline data.

Attorney Ferguson felt that a legal problem might arise from requiring the three pending applicants to comply with regulations which were not in force at the time of application.

The Chairman CALLED THE QUESTION and by a 4-0 vote (Chairman Davis recused himself), the Motion carried unanimously. The Board approved for the proposed Version 2 mining regulations to apply to the three mining applications “in the pipeline.”

Director Boling provided a detailed summary of the proposed changes to the Ordinance, which included a new section, Section 934.05, on mining site plan submittal requirements. He outlined the necessity and requirements for the submittal of a hydrology report (Section #3, Item (1) [d]), noting that one of the proposed hydrology report specifications was to have the applicants pay for the County to hire an expert to review the reports. Director Boling disclosed two options regarding the hydrology report requirement: (1) PZC recommended that the hydrology report not be required, but that applicants obtain their SJRWMD permit prior to appearing before the PZC; and (2) staff recommended that applicants would submit the hydrology report to the County, and pay for expert review of the document. Director Boling said that a third option, which was not in the proposed changes, would be to allow the applicant to decide whether they wanted to get their SJRWMD up front, or whether they wanted to present the hydrology report to the County and pay for the expert review.

Responding to Commissioner Solari's question, Director Boling affirmed that to a great degree, the SJRWMD permit would suffice to protect the County's groundwater concerns.

Deliberations ensued as Commissioners and staff considered whether to rely on SJRWMD's review of the hydrology report, or whether to have the review of an outside expert hired by the County.

Commissioner Wheeler wanted to include an inflationary clause in Section #3(1) (d) (1), whereby the \$10,000 deposit could be subject to an increase.

Director Boling explained that the Ordinance authorized the County to charge the fee, but there was a separate Resolution which established the fees, which could be amended at a later date.

Commissioner Wheeler believed it was cleaner to have an inflationary clause in the Ordinance, and Attorney Collins explained that verbiage could be included in the Ordinance, which states that the \$10,000 amount may be amended by Resolution of the Board.

Shawn McGuire, Engineer, Carter & Associates, and representing Sandco, objected to the \$10,000 fee. He conveyed that Sandco has already been held up during the moratorium, and had already submitted, with their application, a hydrology report to SJRWMD.

Russell Herman, Friends of St. Sebastian River, recommended that the applicants pay for a County-designated firm to review the reports, to ensure neutrality.

Herman Taub, 8203 SE Cumberland Circle, Hobe Sound, FL, and Geologist, stated that his hydrology reports go to the regulatory agencies and to the Counties, and he felt

that the County should not require a second report. He thereafter presented analysis dispelling concerns regarding the dewatering impacts of sand mines.

Chuck Kramer, 10761 US1, Sebastian, discussed the need for mine operators to secure both the SJRWMD and the County permits prior to beginning operations. He objected to: (1) allegations that a miner could “buy” a hydrology report, and (2) to paying \$10,000 to the County for a review of a hydrology report which had already been submitted to SJRWMD.

After ascertaining from Director Boling that there had been no concrete examples of hydrology problems reflecting on SJRWMD, Commissioner Solari stated that he did not see what was gained by the duplication or delay of the hydrology report.

Commissioner O’Bryan commented on the reluctance of SJRWMD to discuss issues with the County; he felt that there could be issues, but SJRWMD was not talking about them.

Attorney Ferguson presented argument for putting trust in the SJRWMD expertise and the standards which they have adopted. He implored the Board to trust SJRWMD, and to not impose an additional expense and/or delay upon the mining operations.

Mr. Adair voiced his concerns about the effects of non-mechanical dewatering, which SJRWMD does not take into account. He supported obtaining an outside expert to review the hydrology report.

Mr. Taub refuted some of Mr. Adair’s concerns about dewatering. He thereafter responded to Commissioner Wheeler’s questions about how the water levels in the canals could be affected by neighboring mines.

Ms. Boyd supported having the second hydrology report.

Commissioner O'Bryan was concerned about going with the SJRWMD's evaluation of a permit, since SJRWMD did not have the requirement for one year of baseline well monitoring, which is included in the County's proposed amendments to the LDR's.

Mr. Taub agreed that a baseline data should be required, and revealed that the data is typically available on databases by the Water Management District, or on USGS monitoring locations, and is used as a model. He thereafter responded to questions from Commissioner O'Bryan about monitoring wells.

Mr. Kramer wondered who would be telling the miners where to place their wells. He feared that conflicts would arise from having two different entities, SJRWMD and the County, directing where the monitoring wells need to be placed. He divulged that SJRWMD requires a series of well batteries to be installed prior to the commencement of excavation.

A brief discussion ensued between Commissioners, **Mr. Kramer**, and **Mr. Taub** regarding who would best be qualified to dictate where the monitoring wells would go, with Commissioner O'Bryan stating his preference to have the determination made by the USGS.

Mr. Taub presented scientific explanation regarding dewatering and the monitoring wells.

Mr. Adair believed it would be foolhardy to eliminate a second opinion on the hydrology report; discussed the importance of having done a hydrogeology study of the County; and said there was reason to make County regulations very strict.

Dale Simchick, 766 South Easy Street, declared that the County needed to either have its own staff hydrologist or have the hydrology report sent for review to an expert of its choice, with the cost being paid by the applicant.

The Chairman called for a recess at 8:25 p.m. and reconvened the meeting at 8:36 pm, with all members present.

Director Boling recapped the immediate issue before the Board, whether the County was going to require the hydrology report and an expert review, or whether it would be sufficient to have the SJRWMD permit or notice of intention to issue said permit.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner O'Bryan, to approve staff's recommendation to require submission of a hydrology report, and to require a hydrology report expert review fee.

Director Keating explained the benefits of having an expert review the hydrology report. He divulged that the applicant's cost for the hydrology report could, but would not necessarily, cost as much as \$10,000; cost would be based on the size and complexity of the mining operation.

Vice Chairman Flescher questioned whether or not staff was utilizing SJRWMD for its input.

Further discussion ensued among Commissioners, staff, Mr. Taub, and Mr. Adair regarding SJRWMD's responsiveness to the County's requests.

Mr. Ferguson asked for clarification on the Motion.

Commissioner Wheeler stated that his Motion would be the latter part of No. 2 of staff's recommendation on page 9 of the backup, to establish a hydrology report expert review fee.

Director Boling clarified that the Motion was for the site plan submittal requirements for the hydrology reports which includes the expert review provision, under Item (d) (1) on page 91 of the backup.

Mr. Kramer felt that this requirement might subject the miners to an unfair situation.

Martha Redner, 9 River Oak Drive, Sebastian, asked the Commissioners what her recourse would be as a property owner, if the Commission fails to do what is necessary to protect residents' properties from adjoining mines.

Attorney Collins told her it would be a civil action; there would be no remedy through the County.

Joseph Schulke, Civil Engineer, Schulke, Bittle, & Stoddard, advised Ms. Redner that if she called SJRWMD, and they confirmed that there was a problem, they would shut down the violating mine. However, Ms. Redner commented that once the damage was done, it could not be corrected, regardless if the mine was shut down.

Mr. Schulke made observations regarding the expertise and availability of SJRWMD.

After extended commentary by staff, Commissioners, Mr. Taub, and Mr. Adair regarding the necessity for a second opinion on the hydrology report, the Board took the following action:

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Chairman Davis recused himself), the Motion carried unanimously. The Board approved staff's recommendation to require submission of a hydrology report and to require a hydrology report expert review fee.

Director Boling next discussed other submittal requirements, remarking that when the site plan is submitted to the County, it goes through the TRC (Technical Review Committee) process.

Commissioner Solari required clarification on Section #3(1)(m) of the Ordinance (page 92 of the backup), which pertained to having the project engineer submit a cost estimate for restoring the site in accordance with Chapter 934 requirements.

Director Boling explained that in the current Ordinance, there is a requirement to post security for restoring a site, which is based on a "per acre", and which has not been updated for about eighteen (18) years. He explained that the most accurate way to ascertain restoration costs is to have the project engineer submit a cost estimate which would be reviewed by the County engineer.

Commissioner Solari remarked that there were some hydrological issues that were being addressed by both the County and by SJRWMD, and he wanted to remove from the LDR's those items which were duplicative, and to state therein that all the demands of the SJRWMD must be met. He noted that there were some updated fees in the proposed amendments to the

LDR's, and wanted to obtain past and future costs to see how these costs might impact a business. He added that he was not saying a business should not absorb the costs, but that the County should know what the costs are, before imposing them upon someone else.

No further questions or comments were made regarding the submittal requirements, or the Procedural Sequence (the bottom of page 92), and Director Boling directed attention to Section #4(2) Littoral Zone and Water Management. Director Boling observed that there were not many changes to the existing wording.

Discussion arose as to how to bring about conclusion of today's meeting, as it was getting late, and there were more items to review and discuss.

Commissioner Solari interjected that he did not wish to vote on the amendments to the LDR's prior to getting information on what the economic impact would be to a business. He reiterated that he wanted to see removed duplicate items on hydrology.

Director Boling advised that it would take some time to go through the remaining LDR's, and suggested that another meeting would be necessary, with December 19th, 2008, being the last date on which the Board could take action this month.

Mr. Kramer did not understand the purpose of the littoral zones, and questioned why the County required them, when SJRWMD did not. He also asked what County department would be conducting the compliance inspections.

Director Boling explained that there are shape requirements as well as the littoral zone requirements, to affect a more natural type of appearance of the lake in terms of shape; there was also some water quality and some habitat benefit, and an aesthetic benefit.

Roland DeBlois, Chief Environmental Planner, informed Mr. Kramer that County environmental planning staff would inspect the littorals. He acknowledged that SJRWMD had gotten away from littoral zone requirements, but the Landscape Ordinance, in conjunction with the LDR's, have evolved to recognize the value of littoral zones, and to require them.

Brief discussion ensued as Commissioners, staff, and area residents and professionals, offered comments and questions regarding the littoral zone requirements.

Chairman Davis asked if it would make more sense to have the littoral zone put in closer to the time of a development or residential project, rather than at the conclusion of a mining operation.

Director Boling noted that a big part of setting up the littoral zone is getting the slopes correct, which generally needs to be done at the time of restoration.

Attorney Ferguson suggested that the littoral zone be established once the land is redeveloped for residential or other uses.

Chief DeBlois felt that it was a possible alternative to limit the littoral zone requirement to when the land goes into a non-agricultural use.

Attorney Collins added that the littoral zone is part of the restoration plan. He stated that if the restoration plan shows residential development, the littoral zone could be required, and if the plan shows the land reverting to agricultural use, the littoral zone could probably be dispensed with.

Chief DeBlois added that if there is a potential of going to non-agricultural use, the slopes would still be desired.

Director Keating pointed out that the slopes for littoral zones were different than the slopes for a mine, and that once mining activities are concluded, the littoral zone slopes are at a 10-1 ratio.

Mr. Schulke offered technical suggestions for creation of setbacks in the littoral zone.

Commissioner O'Bryan asked whether a new owner (other than the mine owner) could be required to do the necessary site work relating to the littoral zone requirements.

Director Keating explained that the littoral zone requirements in Chapter 934 are currently associated with creating a water body, and that even though the requirements have been put back into the Landscape Ordinance; the requirements go into effect when the water body is created.

A brief discussion ensued regarding the most appropriate timing for the installation of the littoral zones.

Director Boling next directed the Board's attention to Section #4(3) Groundwater and Environmental Protection (page 96), and completed review of Items (a) through (c). On Section #4 (3)(d), he outlined the requirements for maintaining setbacks from the excavation areas as follows:

1. 30 feet to any plugged or unplugged well that penetrates the confining layer
2. 100 feet to preserved on-site jurisdictional wetlands or native uplands
3. 300 feet to known off-site jurisdictional wetlands or native uplands
4. 300 feet to adjacent public conservation lands or conservation easements
5. 1,000 feet to the nearest existing or proposed city or County public water supply well that uses the surficial aquifer as a source of potable water

Commissioner Solari pointed out that the normal setback from a mining excavation is 150 feet, and he wanted to see Section #4(3)(d)4 eliminated, because he felt that imparting a distance of 300 feet would provide more protection to County property (which was purchased with bond money), than to private property.

Commissioner O'Bryan felt that there should be a 900 foot setback because of an engineering report from a mine application which stated that there could be a one-half (½) foot drawdown, 900 feet away from the site.

Chairman Davis disagreed with doing more than a typical setback on government property.

Ms. Boyd felt that conservation lands should be preserved.

Mr. Kramer opposed the 300 foot setback, and felt it was unacceptable to expect a private property owner to give up an additional 150 feet of his/her property. He reminded the Board that the miners were taxpayers, and he wanted to see business being protected.

Attorney Collins suggested striking from Section #4 (3)(d)4, and revising Item (3)(d)3, to include additional verbiage, as indicated: 300 feet to known off-site jurisdictional wetlands or native uplands on publicly or privately owned property.

Staff responded to **Mr. Schulke's** questions regarding: (1) how to survey offsite wetlands; and (2) the conservation easement at the Sexton Ranch.

Shawn Sexton, 7880 37th Street, felt that any value lost by a mine operator by having imposed the 300 foot easement, would be dispelled by the increased value in the neighboring conservation land. He believed that the buffer was valuable because the citizens chose to preserve the land and entered into partnership with the Sextons to do so.

Attorney Ferguson saw no basis for arriving at the 300 foot designation; felt that it would not affect whether there were adverse impacts from the dewatering; and requested that items (d)3 and (d)4 (on page 96) be deleted as being an unnecessary and arbitrary application of numbers which have no basis.

Commissioner O'Bryan said that the Wild Turkey data showed impacts of up to 900 feet from the dewatering ditches, and he believed that a 1,000 foot setback would be appropriate based on this data.

Mr. Sexton reminded the Commissioners that he was contractually obliged to maintain and protect the wetland areas on the ranch; the Sextons expect the County to take steps to also protect those lands.

Mr. Taub remarked that adjoining properties were protected from de-watering activities by the surrounding canals.

Commissioner Solari, due to the late hour, suggested that the Board continue this meeting on December 19, 2008.

Commissioner Wheeler expressed his desire to proceed with a vote on the proposed LDR's amendments, which he believed had been thoroughly evaluated and discussed by PZC, other committees, and area citizens and professionals.

Director Boling and **Mr. Adair** responded to Chairman Davis's query about Item (3)(d)1, the 30 foot setback to any plugged or unplugged well.

Commissioner Flescher made observations regarding the importance of thoroughly reviewing the proposed amendments to the LDR's.

Commissioner Wheeler believed there was too much repetition in the Board's review. He had faith in the subject document, which had been worked on for hundreds or thousands of hours by staff, PZC, the AAC, the public, and area professionals.

A brief discussion ensued between Commissioners regarding any changes which had been made to the subject document this evening.

Attorney Collins sought and received confirmation that the Public Hearing would be continued on December 19, 2008 at 9:00 a.m.

Ms. Boyd asked if Board approval could be granted to the proposed Amendments to the LDR's which had been reviewed thus far.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Commissioner Solari, for discussion, to
approve the proposed amendments to the Ordinance
concerning Land Development Regulations (LDR's), from
the beginning of the Ordinance, up to and including

Section #1 through Section #4, subsection (3) (c), and not inclusive of Section #4, subsection (3) (d) or subsequent sections.

Attorney Ferguson reminded the Commissioners that there had not been a consensus on littoral zones.

Commissioner O'Bryan felt that Commissioner Wheeler's Motion should stand; staff could review the littoral zones, and the Board could re-examine this issue at the December 19, 2008 meeting.

Attorney Ferguson sought and received clarification on: (1) whether Wild Turkey Mines would have to submit one year of baseline monitoring data prior to commencing operations; and (2) the involvement of the Department of Health (DOH) set forth in Section #3(1)(f) of the proposed amendments to the LDR's (see page 91).

MOTION WAS AMENDED by Commissioner Wheeler, SECONDED by Commissioner Solari, to approve the proposed amendments to the Ordinance concerning Land Development Regulations (LDR's), from the beginning of the Ordinance, up to and including Section #1 through Section #4, subsection (3) (c), and not inclusive of Section #4, subsection (3) (d) or subsequent sections, with direction for staff to revisit aspects of the littoral zone requirements.

The Chairman CALLED THE QUESTION and by a 4-0 vote (Chairman Davis recused himself), the Motion carried unanimously. The Board approved the proposed amendments to the Ordinance concerning Land Development Regulations (LDR's), from the beginning of the Ordinance, and up to and including Section #1 through Section #4, subsection (3) (c), and not inclusive of Section #4, subsection (3) (d) or subsequent sections, with direction for staff to revisit aspects of the littoral zone requirements.

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Solari, for adjournment of the Public Hearing.

Attorney Collins provided legal opinion on the continuance of the Public Hearing.

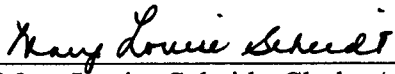
MOTION WAS AMENDED by Commissioner Wheeler, SECONDED by Commissioner Solari, to adjourn, and to continue the Public Hearing on December 19, 2008 at 9:00 a.m.

The Chairman CALLED THE QUESTION, and by a 4-0 vote (Chairman Davis recused himself), the Motion carried unanimously. The Board approved to adjourn the Public Hearing, and to continue same on December 19, 2008 at 9:00 a.m. in the County Commission Chambers.

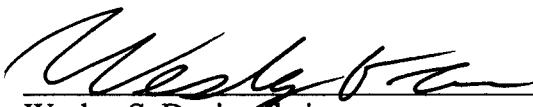
5. ADJOURNMENT

There being no further business, the Chairman declared the Meeting adjourned at 10:19 p.m.

ATTEST:



Mary Louise Scheidt, Clerk, *Ad Interim*



Wesley S. Davis, Chairman

Minutes Approved: **FEB 10 2009**

BCC Special Call Mining/MG/2008