

**FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING
COURTHOUSE ANNEX, COMMISSION MEETING ROOM
OCTOBER 11, 2023
10:00 AM**

MINUTES

Commissioners Present: Ricky Jones-Chairman, Jessica Ward-Vice-Chairman, Cheryl Sanders, and Ottice Amison
Commissioners Absent: Noah Lockley
Others Present: Michael Shuler-County Attorney, Michael Moron-County Coordinator, Cortni Bankston, and Angela Lolley

Call To Order

Chairman Jones called the meeting to order.

Invocation and Pledge

Chairman Jones led the Board in prayer followed by the Pledge of Allegiance.

Public Comments

Mr. Ky Nelson owner of Quick n Creek Site Work spoke to the Board in opposition of the moratorium. He noted that 80% of the new construction sites require fill dirt and most septic tank mounds require fill. Mr. Nelson noted that the City of Apalachicola requires a stormwater management plan for building permits. He noted the moratorium would stop building activity in Franklin County and put all contractors/construction workers out of work. He recommended that the board not issue an emergency order. He noted that to get in line with state requirements, possibly the county could require a storm water management plan. He noted that putting a stop to all building would be detrimental to the county.

Mr. David Duncan noted that he agreed an emergency order would shut work down. He encouraged the Board to be very careful to even consider residential second homes as commercial properties. He noted that when considering new regulations for the Board to keep in mind that this will elevate the cost to home builders. He inquired as to what the county is doing about the water management. Noting a lot of the ditches and swells are not being maintained so that water properly flows. Mr. Duncan noted that he is not in favor of a moratorium. He noted that on St. George Island people are going in and filling up right of ways and stopping up roads. If we continue letting people stop up right of ways, where is the water going? He noted that the moratorium will shut a lot of work down. He noted that 50 yards of dirt is so far away from what it takes after you clear a piece of property. He asked the Board not to blanket the entire county based on individual areas. Maybe you require a topographical of every property prior to building? He asked that until the Board had a baseline, please do not blanket the entire county.

Special Meeting Item(s)

- 1. Fill and Stormwater Issues Discussion**
- 2. Emergency Temporary Ordinance Consideration**

Commissioners' Comments

Mrs. Bankston noted that she does not agree with the moratorium but that we need more structure. She noted that she believes the county ditches do need to be addressed but homeowners also need to have a stormwater management plan. She believes it should be in conjunction with. Our ditches are for the extra

run off. She said that she had a chance to look over the policy draft. She noted that she had an opportunity to speak Mr. Curenton and Dewberry about the draft ordinance. She noted that there are a few things that are very questionable in the draft, and she feels like she needs more time to review. She does not believe that we can pass this today. Mrs. Lolley noted that she agrees we cannot put a stop to all building. She noted that there is structural and nonstructural fill. She noted that we must look at it differently. She noted that in placing a moratorium allowing no fill it would stop all construction. She noted that structural fill has no more impact than building a house. That needs to be a noticeable aspect when we are talking about fill. In allowing people to put nonstructural fill in, it causes more water to the roads. She noted that we need to make some changes to give us some guidance in how to handle that. She notices that there is not a reference to a back fill for a stem wall foundation in the structural fill section. Also, in section 2E, it talks about some guidance for needing a storm water management plan. It is more opinion that we do not need for a SWP for structural fill. Chairman Jones does not believe that what we have in front of us is something we can pass today. Chairman Jones noted that we have had a couple different applications come in recently where people are wanted to put eight or nine feet of fill in. Staff does not have a way to deny these applications. Chairman Jones said at our last meeting we were talking about doing something on St. George Island with stormwater, clear cutting, and fill. He noted that the motion at the last meeting was to put a moratorium on fill but that is not what is in front of us today. We do not have a permit for fill, nor do we have a policy. He noted that is what we are trying to address here today. It is not because we are averse to anyone. Right now, there is a gap in how things are going because we do not have a policy. He noted that it looks like in reading through it that we may need to give staff more time to review and hold a legitimate public hearing on the issue. Chairman Jones noted that the Board is in support of the businesses. However, they must know how the Board feels when a resident comes to them to correct a problem that they did not create. Mrs. Bankston noted that she is working with Mrs. Griffith and Mr. Curenton to obtain grant funding for stormwater management planning. Mrs. Lolley noted that there are funds available, but we must determine which path to take. Commissioner Ward noted that since this is multifaceted a workshop is needed. We need to come up with a plan. She noted that we need to present this in an ordinance that is beneficial to everyone. She asked if they could hold a workshop to allow everyone's opinions to be heard. She noted that she appreciated the input provided today. She asked how we are going to enforce an ordinance without code enforcement. She noted that she cannot in good conscience vote in favor of this today. Mrs. Lolley noted that she does not want to put a hardship on anyone. However, she noted that we need to put some hard lines on this as to structural or nonstructural. She noted that she is asking for structural fill to be allowable and not nonstructural fill. She noted that we need to allow fill for drain fills and hard pan for driveways. It is the excessive fill that we need to get a handle on. Commissioner Ward asked how they know how many loads of dirt are brought in on a site permit. Mrs. Lolley noted that if they are bringing in excessive amounts of fill, it will be noted and dealt with. Commissioner Ward asked Attorney Shuler if fill is addressed in the current ordinance. Attorney Shuler noted there are things embedded in it such as you cannot fill in wetlands. He noted that staff has worked with Mr. Curenton. Attorney Shuler noted that residential properties are exempt from a stormwater management plan requirement. He noted the C4 will allow for single family residences even though it is zoned commercial. Attorney Shuler noted that staff has been unable to find specific limitations to prohibit the excess fill. He noted that most fill and development is residential property and without the specific limitations staff is limited to what they can allow and restrict. Commissioner Ward inquired as to what is considered nonstructural fill and if there is a limit. Mrs. Lolley noted that some residents are trying to build up low properties. Some are elevating their properties higher than their neighbors. It is mostly about getting elevation higher, so they do not have water on their property. Attorney Shuler noted that structural fill is specifically defined as: Septic/drain fill; Driveways; and Pad for construction. Anything outside of these three things would be banned as they would be nonstructural. Mrs. Lolley asked Attorney Shuler if he was suggesting a storm water plan be required for structural fill. Yes, Attorney Shuler noted this would give the county assurance that natural storm water flow would be same after construction. Chairman Jones noted that this would still not address all issues. Pools, sheds, etc. are not structural fills. He noted that he is not comfortable banning nonstructural fill and there is a lot that needs to be worked out. The issues are more with excessive fill and not fill in general. Commissioner Ward inquired as to if the Board needed to make an ordinance today. And what constitutes excessive amounts of fill? Mrs. Bankston noted that in working through the draft policy the main objective was to

prohibit fill for the sole purpose of raising ground elevation. Mr. Moron noted that there are some individuals in the audience that would like to speak. Mrs. Lolley noted that we are requesting that structural fill not be required to have a storm water plan and that nonstructural is required to have one. Mr. Moron asked the Board what their preference was, do they want to make a temporary policy or an emergency ordinance at the next meeting. Attorney Shuler noted that if the Board wanted it to be enforceable, they would need to create an ordinance. Attorney Shuler noted that the Board would not be able to do anything today if they are not ready to move forward with moratorium. Mr. Nelson noted that he believes there are misconceptions with structural and nonstructural fill. All fill is structural because you need fill to complete a stormwater management plan. He noted that the Board would not be able to lock down a certain amount of fill for everyone. Mr. Nelson recommended the Board look at neighboring counties that are requiring stormwater management plans. Mr. Nelson recommended the Board consult with people who do this everyday and to leave limits to engineers. He recommends requiring a stormwater management plan for all builds noting the City of Apalachicola has already put this practice in place. Mr. Nelson encouraged the Board to consider the cost to county for Dewberry reviewing every plan and the cost to the individual. Mrs. Lolley noted that there is a clear distinction by FEMA of structural and nonstructural fill. Mr. Duncan spoke noting he agrees that there is a distinction between the two fills. He noted that requiring a stormwater management plan with engineer review would add a lot of cost to the homeowner and Dewberry's review would add a lot of cost to the county. Mr. Duncan noted that a topo is the solution. He spoke about the contractors being liable for flooding out neighboring properties and noted that the county may be liable if they are representing what is needed for storm water management. Mr. Duncan asked why the Board could not give the building inspector the authority to stop work on projects they deem to be excessive. Mr. Duncan noted that he has offered to volunteer his time to give input on topo. Mr. Duncan asked the Board to not blanket the entire county for what one person is doing wrong. Chairman Jones noted that he is not made aware of when the building department shuts down jobs. This would be a decision from the building administrator. Mr. Duncan noted that there are FEMA codes outlining the amount of fill allowed. Mrs. Lolley noted that right now we are trying to make the determination of what is excessive fill. She noted there are people on both sides, and they are trying to come up with some common ground. Chairman Jones noted that he has not been to any other community besides ours that the water is going to the road. Mr. Duncan agreed and gave an example of drainage issue at his personal residence. Chairman Jones noted a lot of the issue is we must get DEP permits for the water to go out into the bay. It must be done through a process. Mr. Duncan noted that all ditches do not have to downfall. Mr. Moron noted that the county is in the process of obtaining a water management plan for St. George Island. He noted this is the way we can get things done and that the road department cannot just dig ditches without an engineer design. Mr. Moron, Chairman Jones, and Mr. Duncan discussed further. Commissioner Sanders commented noting she is not in favor of a moratorium or passing this today but what can we do today to further us along that the nine feet issue does not continue. Ms. Lynn Wilder spoke via Zoom. She said it all fits together. When we have more and more clear cutting happening. Agrees that every lot is not buildable. Just because you are in an x zone does not mean you are not in a flood zone. It is a flood zone, like 1% chance. Mrs. Bankston suggested for the Board to give staff authorization to review every application and decide on a case-by-case basis. At least have the Board back on you on the decision. Mrs. Lolley noted that this case is in a velocity zone and FEMA regulates against it. One thing worth noting is our flood ordinance for fill purposes are the minimum necessary from the intended purpose but it is very vague in the intended purpose. Can we simply say that you cannot have fill for the sole purpose of raising the elevation of the property? Attorney Shuler noted that the issue is you must have a standard of what is excessive fill. The amount of natural storm water before development must not exceed after development. If we require an engineered storm water plan, I do not think we need to pay someone to review that. I do not know why you would need to double the engineering costs. If the homeowner has a storm water review plan, I do not see the need for the county to pay an engineer to review. We do not have a definition of what excessive fill is. Mrs. Lolley said it would be a good idea to have a flood review at the stage of requesting fill. There are a lot of FEMA regulations that Mrs. Bankston is not aware of. Is it possible to have a temporary requirement that we will not allow a permit for fill for the sole purpose of elevating the grade? Chairman Jones noted that this would not fix the problem because then people are not going to state that. Mr. Moron said he believes we need to take a pause and renew this discussion at the regular meeting. He said he believes we need a workshop to let the

citizens talk as a group and see how they want to address the Board. I am sure there are others that would like to speak. I really do think a workshop is in order. Mr. Timmy Butler spoke and said the footprint of the house needs to be about one foot above the road for it not to cause water problems. That may be something to put in place temporarily. If you are a foot above them more than likely it will not cause problems. Attorney Shuler noted there has been a discussion about the fill for the pad of the house and the grade that slopes the water away from the house. Would the structural fill also include having to do the grade? Mrs. Lolley noted yes. Attorney Shuler noted that the structural fill would include the pad and the grading of the slope away from the house. Chairman Jones noted that since we are away from what we advertised for should we wait until next week at the regular meeting to act. Mr. Moron asked if those in attendance would be okay with doing that temporarily until we can have a workshop. Mr. Nelson noted that we need to define a certain slope off the site. Mrs. Bankston noted that we can schedule a meeting. Mrs. Lolley asked they put this in an email so that we can have this discussion with the contractors. Commissioner Ward noted that we need to do something and agrees that we need a workshop to bounce ideas off each other. The Board decided to discuss further at the next meeting. A lady provided the Board with copies of tree ordinance. **On a motion to table emergency order until the Tuesday, October 11th public hearing, by Commissioner Sanders, seconded by Commissioner Amison. Motion carried 4-0.**

Adjournment

There being no further business before the Board, the meeting was adjourned.

Ricky Jones – Chairman

Attest:

Michele Maxwell – Clerk of Courts

The audio is available upon request. Please e-mail jgay@franklinclerk.com, call 850-653-8861 to speak with the Administrative Assistant, or submit a request in writing to obtain audio of this meeting.