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BOARD MINUTES FOR 12/21/92

DECEMBER 21, 1992

PURSUANT TO A RECESS FROM THE DECEMBER 17, 1992 MEETING, THE BOARD OF COUNTY COMMISSIONERS, IN AND FOR WASHINGTON COUNTY, MET ON THE ABOVE DATE AT 5:30 P. M. AT THE WASHINGTON COUNTY ADMINISTRATIVE BUILDING, 201 WEST CYPRESS AVENUE, CHIPLEY, FLORIDA WITH COMMISSIONERSTAYLOR, CARTER, CORBIN, BROCK AND MORRIS PRESENT. ATTORNEY HOLLEY, CLERK EARNESTINE MILLER AND DEPUTY CLERK DIANNE CARTER WERE ALSO IN ATTENDANCE.

CHAIRMAN CORBIN CALLED THE MEETING TO ORDER WITH PRAYER BEING OFFERED BY ADMINISTRATOR HAGAN. CHAIRMAN CORBIN LED IN THE PLEDGE OF ALLEGIANCE TO THE FLAG.

ADMINISTRATOR HAGAN ADVISED THE BOARD THEY NEEDED TO AMEND RANDY PARKER'S CONTRACT FOR PLANNING SERVICES WITH WASHINGTON COUNTY AS GRANT MONIES ARE NO LONGER AVAILABLE FOR THESE SERVICES. HE ADVISED THE BOARD THE FEES SET FORTH IN THE AMENDMENT TO MR. PARKER'S CONTRACT WAS PROVIDED FOR IN THE BUDGET. COMMISSIONER CARTER OFFERED A MOTION, SECONDED BY COMMISSIONER MORRIS AND CARRIED TO ACCEPT AMENDMENT III TO RANDY PARKER'S CONTRACT FOR PLANNING SERVICES WITH WASHINGTON COUNTY.

ATTORNEY HOLLEY BRIEFED THE BOARD ON THE HIGH LIGHTS OF THE RESOLUTION ON THE AG CENTER LOAN PROJECT. COMMISSIONER BROCK OFFERED A MOTION TO TABLE ACTION ON THE RESOLUTION UNTIL THE BOARD HAS TIME TO REVIEW THE DOCUMENTS. ATTORNEY HOLLEY ADVISED THE RESOLUTION WAS LIKE AUTHORIZING THE SUBMISSION OF A LOAN APPLICATION AND DOES NOT BIND THE COUNTY IN ANY WAY. COMMISSIONER BROCK'S MOTION DIED FOR A LACK OF A SECOND. THE BOARD DID AGREE TO POSTPONE ACTION AT THE PRESENT TIME.

COMMISSIONER CARTER OFFERED A MOTION, SECONDED BY COMMISSIONER BROCK AND CARRIED TO ADOPT THE RESOLUTION ON WASHINGTON COUNTY'S INTEREST IN A YOUTH CAMP.

COMMISSIONER BROCK OFFERED A MOTION, SECONDED BY COMMISSIONER CARTER AND CARRIED TO ADOPT THE RESOLUTION ON WASHINGTON COUNTY'S INTEREST IN A PRISON.

JIMMY BAILEY QUESTIONED IF THE COMP PLAN ALLOWED FOR A PRISON AND YOUTH CAMP WITH ADMINISTRATOR HAGAN ADVISING IT WOULD DEPEND ON THE SITE.

THE BOARD WENT INTO WORKSHOP ON THE WEST TRACO ISSUE WITH CHAIR- MAN CORBIN STATING DURING DISCUSSION BETWEEN THE BOARD AND WEST TRACO NO ONE FROM THE AUDIENCE WOULD BE RECOGNIZED.

ATTORNEY HOLLEY GAVE AN OVERVIEW OF ORDINANCE 88-4 AND THE CONTRACT BETWEEN WEST TRACO AND THE COUNTY. ATTORNEY HOLLEY ADVISED THAT DER WOULD NOT PERMIT THE LANDFILL AT MUDHILL; THEREFORE, MAKING IT A MANDATORY CLOSURE. STATE LAW SAYS IT IS THE COUNTY'S RESPONSIBILITY TO DISPOSE AND COLLECT OF SOLID WASTE. THEREFORE, THE COUNTY HAD TO SET UP A MECHANISM OF FUNDING THE COLLECTION AND DISPOSAL OF SOLID WASTE. IN ORDINANCE 88-4, SECTION 7, IT STATES THE GOVERNING BODY HAS THE POWER TO LEVY AND COLLECT A SPECIAL ASSESSMENT AGAINST ALL RESIDENCES AND BUSINESSES WITHIN THE DISTRICT. THE DISTRICT WAS SET UP IN THE ORDINANCE GIVING EACH CITY OR TOWN WITHIN THE COUNTY THE RIGHT TO BECOME PART OF THE DISTRICT. THE BOARD THEN CHOSE TO LET A PRIVATE CONTRACTOR TAKE CARE OF THE COLLECTING AND DISPOSING OF SOLID WASTE AND ADVERTISED FOR THE PRIVATE CONTRACTOR. WEST TRACO WAS THE FIRM CHOSEN. THE NEXT STEP TAKEN WAS THE AGREEMENT BETWEEN WASHINGTON COUNTY AND WEST TRACO TO PICK UP AND DISPOSE OF SOLID WASTE. WEST TRACO BROUGHT A NUMBER OF DELINQUENT ACCOUNTS AND ASK HELP TO COLLECT THE ACCOUNTS. WEST TRACO THEN BROUGHT A LAWSUIT AGAINST THE COUNTY TO HELP ENFORCE THE COLLECTION OF DELINQUENT ACCOUNTS. JUDGE COLE ISSUED AN ORDER FOR THE COUNTY TO TAKE SOME TYPE OF AFFIRMATIVE ACTION TO HELP IN THE COLLECTION OF THESE DELINQUENT ACCOUNTS. THE PURPOSE OF THE WORKSHOP IS FOR THE BOARD TO TRY AND DETERMINE WHAT TYPE OF ACTION THE BOARD IS GOING TO TAKE TO COMPLY WITH JUDGE COLE'S ORDER. COMMISSIONER CARTER SAID HE WAS OPEN TO SUGGESTIONS ON WHAT THE BOARD CAN DO TO ACTUALLY COLLECT THE FUNDS. HE STATED A LAW WAS PUT INTO AFFECT BY COUNTY COMMISSIONERS AND THIS BOARD IS OBLIGATED TO ABIDE BY THE ORDINANCE. COMMISSIONER MORRIS STATED THE BOARD NEEDED TO KNOW WHAT THEY CAN AND CAN NOT DO THAT IS LEGAL. COMMISSIONER TAYLOR STATED THE ORDINANCE WAS WRITTEN PRIOR TO THIS BOARD TAKING OFFICE AND NOW THIS BOARD IS CONFRONTED WITH IT. HOWEVER, HE FEELS THERE IS NO WAY THESE PEOPLE CAN COME UP AND PAY THE BILLS SUBMITTED. HE FEELS THERE IS GOING TO HAVE TO BE A COMPROMISE SOMEWHERE DOWN THE LINE. HE WOULD LIKE

FOR ATTORNEY HOLLEY AND THE COUNTY ADMINISTRATOR TO WORK WITH WEST TRACO TO REACH SOME TYPE OF COMPROMISE. COMMISSIONER TAYLOR STATED THE JUDGE SAID THE BOARD WOULD HAVE TO ASSIST WEST TRACO WITH THE COLLECTION OF THEIR ACCOUNTS. CHAIRMAN CORBIN STATED HE HAD RECEIVED PHONE CALLS FROM PERSONS ASKING IF THEIR PAST BILLS COULD BE FORGIVEN AND THEY COULD START PAYING AS OF JANUARY 1, 1993 AND ALSO WOULD WEST TRACO GIVE CONSIDERATION AND ADJUST THEIR GARBAGE FEE FOR PERSONS WHO ONLY HAVE ONE BAG OF GARBAGE. VICKI CARTER, OF WEST TRACO, STATED SHE HAD GIVEN THE BOARD A LETTER AT THEIR LAST MEETING ADVISING THEY WOULD GIVE A \$100 CREDIT TO ALL THOSE CUSTOMERS WHO DIDN'T HAVE THEIR GARBAGE PICKED UP. COMMISSIONER CARTER ASKED WHAT THE BOARD COULD DO TO SATISFY THE JUDGE, THE CONTRACT AND THE ORDINANCE WITH WEST TRACO. ATTORNEY HOLLEY ADVISED THE BOARD THAT THE ABSOLUTE ONLY WAY IS STATED IN ORDINANCE 88-4 WHICH IS TO FILE A SPECIAL ASSESSMENT LIEN AGAINST PERSONS WHO HAVE NOT PAID THEIR BILL. ATTORNEY HOLLEY READ THE SECTION OF THE ORDINANCE DEALING WITH SPECIAL ASSESSMENTS. ATTORNEY HOLLEY ADVISED THIS IS THE ONLY METHOD WHICH TAKES PRECEDENCE OVER HOMESTEAD EXEMPTION. IF YOU FILE SUIT IN SMALL CLAIMS COURT, YOU CAN'T LEVY AGAINST HOMESTEAD PROPERTY. ATTORNEY HOLLEY ADVISED UNDER THE LIEN PROCESS, THE BOARD COULD RECOVER COURT COST AS PART OF THE JUDGEMENT AND WHEN THE PROPERTY IS SOLD AND JUDGEMENT IS MADE, THE BOARD COULD GET ALL COSTS INCURRED BACK. IT WAS DISCUSSED ON THE COST INVOLVED IN HANDLING THE FILING OF 13 TO 14 HUNDRED LIENS WITH IT BEING NOTED ALL LIENS COULD BE INCLUDED IN ONE FORECLOSURE SUIT. ATTORNEY HOLLEY ADVISED THE COUNTY WOULD OWN THE PROPERTY IF NOBODY BID ON THE PROPERTY.

COMMISSIONER TAYLOR STATED WE COULD DO NOTHING AND NOT BE IN COMPLIANCE WITH THE COURT ORDER AND PLACING A LIEN ON PROPERTY IS A HARSH THING TO DO. HE WOULD LIKE TO SEE THE PARTIES COMPROMISE ON HOW TO SETTLE THIS ISSUE.

COMMISSIONER MORRIS ASKED IF THE ORDINANCE HAD BEEN CHALLENGED WITH HIM BEING ADVISED THAT IT HAD BEEN CHALLENGED AND BOTH JUDGE ELINOR AND JUDGE COLE HAD UPHELD THE LEGALITY OF THE ORDINANCE.

ATTORNEY HOLLEY ADVISED THE COUNTY IS THE ONLY ONE THAT CAN USE THE SPECIAL ASSESSMENT LIEN PROCESS, A PRIVATE COMPANY CAN NOT. HE ADVISED THE SPECIAL ASSESSMENT LIEN WAS PUT IN THE ORDINANCE AS THE BEST AVAILABLE METHOD OF COLLECTION IF THE COUNTY WENT INTO THE GARBAGE BUSINESS.

COMMISSIONER BROCK STATED HE DIDN'T BELIEVE THE MAJORITY OF THE PEOPLE IN THE RURAL AREAS WERE AWARE THAT GARBAGE PICKUP WAS MANDATORY AND FELT THERE WAS A LACK OF COMMUNICATION ON THE GARBAGE ISSUE FROM THE BEGINNING. ATTORNEY DANIELS, REPRESENTING WEST TRACO, STATED A LETTER WAS SENT TO EVERYBODY NOTIFYING THEM OF ORDINANCE 88-4 IN APRIL OF 1989.

COMMISSIONER CARTER ADDRESSED TOMMY AND VICKI CARTER, WEST TRACO, STATING HE AGREED WITH COMMISSIONER TAYLOR ABOUT THE DEBTS BEING A HARDSHIP ON SOME PEOPLE AND COULD THE BOARD WORK OUT SOME SORT OF PLAN FOR PEOPLE WHO OWE A BIG BILL. COMMISSIONER CARTER WAS ADVISED A PROVISION IN ORDINANCE 88-4 WAS MADE FOR PEOPLE WHO QUALIFIED AS INDIGENT. AN INDIGENT COMMITTEE WAS SUPPOSE TO FIND OUT WHO THE PEOPLE WERE AND IDENTIFY THE CRITERIA FOR INDIGENCY. THE COMMITTEE WAS FORMED BUT NO ACTION WAS TAKEN. WEST TRACO AGREED TO WORK WITH THE COUNTY ON THIS ISSUE AND STATED IF THE COUNTY PAYS A PORTION OF THESE BILLS, THEY COULD CUT DOWN ON MONTHLY EXPENSES. CHAIRMAN CORBIN STATED THE INDIGENT GUIDELINES HAVE BEEN ADOPTED BY THE BOARD AND THE INDIGENT APPLICATIONS ARE NOW BEING MADE UP.

CHAIRMAN CORBIN ASKED TOMMY AND VICKI, WEST TRACO, AND THEIR ATTORNEY WHAT WOULD THEY LIKE FOR THE BOARD TO DO TO HELP COLLECT THESE DELINQUENT ACCOUNTS. ATTORNEY DANIELS RESPONDED THE ONLY SIGNIFICANT FORCE AND ABILITY TO COLLECT IS A SPECIAL ASSESSMENT IMPOSING A LIEN AGAINST A PERSONS PROPERTY AS STATED IN ORDINANCE 88-4.

COMMISSIONER MORRIS QUESTIONED ATTORNEY HOLLEY ON WEST TRACO'S FILING A COMPLAINT AGAINST FARRIS STEWART AND JIMMY WORLEY, ASKING IF THEY ARE FOUND NOT GUILTY, WOULD THE PEOPLE THAT HAVE PAID THEM TO PICK UP THEIR GARBAGE STILL HAVE TO PAY WEST TRACO. ATTORNEY HOLLEY ADVISED THERE WOULD BE NO BEARING ON WHETHER A CIRCUIT JUDGE WOULD ENJOIN THEM FROM PICKING UP GARBAGE IN WASHINGTON COUNTY BUT WHETHER OR NOT THEY HAVE VIOLATED THE COUNTY ORDINANCE WILL BE THE ONLY THING THAT WILL BE DECIDED. DISCUSSION ON THE ISSUE CONTINUED. CHAIRMAN CORBIN CALLED FOR A TEN MINUTE RECESS.

PURSUANT TO A RECESS, CHAIRMAN CORBIN CALLED THE MEETING BACK TO ORDER AND OPENED THE FLOOR TO THE AUDIENCE. MR. BILL LEE ADDRESSED THE BOARD STATING WHEN THE JUDGE TELLS YOU TO PAY THE DELINQUENT ACCOUNTS, DON'T USE HIS TAX MONEY TO PAY THESE BILLS.

AUBREY DAVIS, REPRESENTING THE CITIZENS VOICE ASSOCIATION, ADDRESSED THE BOARD STATING HE WAS CONCERNED THAT JUDGE COLE RULED FOR THE COUNTY TO HELP WEST TRACO COLLECT THESE DELINQUENT ACCOUNTS AS THE CONTRACT CLEARLY STATES THIS IS WEST TRACO'S SOLE RESPONSIBILITY. CITIZENS VOICE IS REQUESTING THE COUNTY NOT GET INTO BEING A COLLECTION AGENCY FOR A PRIVATE ENTERPRISE. DAVIS ALSO STATED CITIZENS VOICE HAS REQUESTED THE NEED FOR COMPROMISE AND NEGOTIATIONS WITH THE COUNTY AND WEST TRACO BUT NEITHER HAVE OFFERED IN THE PAST. THIS BOARD HAS SHOWN THEY WANT TO COMPROMISE AND NEGOTIATE WITH WEST TRACO. HE REQUESTED THE BOARD NOT CONCEDE TO PAY ONE PENNY OF THE TAX DOLLARS TO LEGAL COST AND IF JUDGE COLE ORDERS YOU TO PAY ATTORNEY FEES, HAVE WEST TRACO SUBMIT TO YOU A LIST OF THOSE UTILIZED SERVICES, AND MAKE LEGITIMACY OF EVERY ALLEGEDLY DEBT THEY CLAIM. DAVIS STATED TO MAKE TRACO PROVE EVERYTHING THEY ASK THE BOARD TO TAKE ACTION ON. DAVIS ALSO RECOMMENDED THE BOARD CUT THE COUNTY'S LOSSES BY NOT RENEWING WEST TRACO'S CONTRACT WHEN IT EXPIRES. DAVIS STATED ALLOT OF PEOPLE HAD MADE VERBAL CONTRACTS WITH FARRIS STEWART AND OTHER HAULERS AND THEY SHOULD BE CONSIDERED VALID AND BE GRANDFATHERED IN. DAVIS REQUESTED IF THE COURTS DO PUT THESE HAULERS OUT OF BUSINESS FOR THE BOARD TO ALLOW INDIVIDUALS THE RIGHT TO HAUL THEIR OWN GARBAGE TO THE LANDFILLS.

MR. CHUCK YATES QUESTIONED THE LEGALITY OF THE BOARD ASSESSING THE SPECIAL ASSESSMENT LIEN OR ANY OTHER TYPE OF LIEN ON BEHALF OF A PRIVATE ENTERPRISE.

JAMES LOCKE ADDRESSED THE BOARD SAYING HE LIVES IN THE CITY OF CHIPLEY AND RECEIVES GARBAGE SERVICE FROM THE CITY, YET HE GETS A BILL FROM WEST TRACO. HE QUESTIONED HOW MANY OTHER PEOPLE ON TRACO'S DELINQUENT LIST ARE NOT RECEIVING THE SERVICE BUT GETTING A BILL.

ROBERT CHESSEY ADDRESSED THE BOARD SAYING HE USES TRACO'S GARBAGE SERVICE AND PAYS HIS BILL BUT HE IS CONCERNED ABOUT OTHER PEOPLE HE KNOWS WHO DON'T HAVE GARBAGE AND GETS A BILL.

CLYDE BLAND ADDRESSED THE BOARD SAYING THE COUNTY SHOULDN'T HAVE TO PAY WEST TRACO UNDER THE CONDITIONS IMPLEMENTED. HE STATED TRACO HAS FALSELY BILLED THESE PEOPLE AND THE BOARD NEEDS TO USE DISCRETION, RE-EVALUATE AND LET THE PEOPLE RE-DELIVER HOW MUCH IS REALLY OWED.

BILL ACUFF ADDRESSED THE BOARD STATING THE CONTRACT AND ORDINANCE WAS POORLY WRITTEN. HE FELT THE BOARD HAS LEGAL COUNSEL ON RETAINER TO ADVISE THEM AND THE ATTORNEY HAS NOT GIVEN GOOD LEGAL COUNSEL.

COMMISSIONER MORRIS STATED THERE WAS A LACK OF KNOWLEDGE OF THE LAW AND FELT RESEARCH NEEDED TO BE DONE PRIOR TO ANY ACTION BEING TAKEN. HE STATED THERE WAS NO ANTICIPATION FOR THE BOARD TO PUT A LIEN ON PEOPLES' PROPERTY AT THIS POINT. COMMISSIONER MORRIS QUESTIONED ATTORNEY HOLLEY ON THE COUNTY'S LIABILITY IF THE COUNTY JOINS WITH WEST TRACO TO PUT FARRIS STEWART AND OTHER HAULERS OUT OF BUSINESS WITH ATTORNEY HOLLEY TO RESEARCH THIS ISSUE. MORRIS ASKED IF THE BOARD DECIDED NOT TO GO ALONG WITH JUDGE COLE'S RULING, CAN'T THE BOARD APPEAL. ATTORNEY HOLLEY ADVISED IF THE BOARD CHOSE NOT TO FOLLOW THE JUDGE'S RULING, THEN THE JUDGE WOULD TELL THEM WHAT ACTION THEY HAD TO TAKE AND THEN THEY COULD APPEAL TO A HIGHER COURT.

CHAIRMAN CORBIN STATED THE PUBLIC HEARING WAS OVER WITH COMMISSIONER BROCK STATING FOR EACH COMMISSIONER TO HAVE A DECISION AT THE NEXT BOARD MEETING ON WHAT THEY WANT THE BOARD TO DO TO COMPLY BILLS. AUBREY DAVIS ASKED COMMISSIONER BROCK TO RECONSIDER AND NOT MAKE A HASTY DECISION.

COMMISSIONER CARTER BRIEFED THE BOARD ON THE COMMITTEE MEETING WITH SHERIFF PEEL. HE STATED SHERIFF PEEL WAS REQUESTING:

- OPTION 1. FOUR DAYS OF DUE MONEY FOR JANUARY OF 1993
ONE QUARTER OF CONTINGENCY MONIES FOR FISCAL YEAR 1992-93.
ONE QUARTER OF EQUIPMENT FUND FOR FISCAL YEAR 1992-93 WITH MONIES BEING TRANSFERRED FOR SALARIES AND EXPENSE.

- OPTION 2. FOUR DAYS OF DUE MONEY FOR JANUARY OF 1993
ONE QUARTER OF CONTINGENCY MONIES FOR FISCAL YEAR 1992-93.
ALL OF EQUIPMENT MONEY BEING TRANSFERRED FOR SALARIES AND EXPENSES.
LEAVE THE TRUST FUND MONIES FOR THE NEW SHERIFF

TO PURCHASE EQUIPMENT AS DESIRED. COMMISSIONER CARTER STATED THE SHERIFF'S BUDGET IS OVERDRAWN BY APPROXIMATELY \$39,000 PLUS \$18,000 ATTORNEY FEE

minutes122192

ON AN ETHICS COMPLAINT BECAUSE OF A \$6 COPY PAPER FOR A TOTAL OF \$57,000.00 SHORTFALL FOR THE NEW SHERIFF TO GO INTO THE NEW BUDGET. COMMISSIONER CARTER ADVISED THE NEW SHERIFF HAD OPTED NOT TO RE-HIRE FIVE PEOPLE TO THEIR POSITIONS. COMMISSIONER CARTER BRIEFED THE BOARD ON THE AMOUNT OF LEAVE TIME INVOLVED. HE ALSO ADVISED OF THE LETTER FROM THE SHERIFF'S ATTORNEY ON THE ETHICS INVESTIGATION STATING HE WOULD ACCEPT \$7,500 NOW WITH THE OPTION TO LITIGATE THE SHERIFF-ELECT FOR THE BALANCE OF \$10,500. THE BOARD QUESTIONED WHY SHERIFF PEEL USED AN ATTORNEY OUT OF TALLAHASSEE WITH ATTORNEY HOLLEY ADVISING THE CONSTITUTIONAL OFFICERS HAVE A RIGHT TO THEIR OWN ATTORNEY.

MR. CHUCK YATES ASKED THE BOARD TO CONSIDER THEIR TRACK RECORD SAYING UNTIL TWO YEARS AGO THEIR BUDGET WAS OVERSPENT.

AUBREY DAVIS ADDRESSED THE BOARD SAYING ELECTED OFFICIALS JOIN THESE ASSOCIATIONS AND THE COUNTY PAYS THE FEES. HE FELT LEGAL ASSISTANCE WAS AVAILABLE FROM THE SHERIFF'S ASSOCIATION.

BILL LEE AGREED ON PAYING THE ACCUMULATED ANNUAL LEAVE FOR THE EMPLOYEES NOT BEING RE-INSTATED BY THE NEW SHERIFF BUT DOESN'T AGREE TO PAYING ANY SICK LEAVE.

THE BOARD AGREED THEY COULDN'T ADDRESS THE LEAVE TIME UNTIL THE FIGURES PROVIDED COULD BE VERIFIED.

COMMISSIONER BROCK OFFERED A MOTION, SECONDED BY COMMISSIONER TAYLOR AND CARRIED TO GIVE SHERIFF PEEL FOUR DAYS DUE FUNDS FOR JANUARY OF 1993 AND ONE QUARTER OF THE CONTINGENCY FUND FOR FISCAL YEAR 1992-93.

SPECS ON THE TRUCK FOR THE BUILDING INSPECTOR WAS GIVEN TO THE BOARD WITH COMMISSIONER CARTER OFFERING A MOTION, SECONDED BY COMMISSIONER MORRIS AND CARRIED TO AUTHORIZE ADMINISTRATOR HAGAN TO USE THE SPECS TO ADVERTISE FOR QUOTES EXCEPT CHANGE THE ENGINE SIZE TO BE NOT LESS THAN 4.0 L V6.

COMMISSIONER MORRIS OFFERED A MOTION, SECONDED BY COMMISSIONER BROCK AND CARRIED TO ADJOURN. ATTEST:_____

CLERK

CHAIRMAN

ATTEST:_____

DEPUTY CLERK

END OF MINUTES FOR 12/21/92