

APRIL 19, 2012
REGULAR BCC MEETING

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BCC - REGULAR MEETING

THE BOARD OF COUNTY COMMISSIONERS, IN AND FOR WASHINGTON COUNTY MET ON THE ABOVE DATE AT 9:00 A.M. AT THE WASHINGTON COUNTY ANNEX BOARD MEETING ROOM, 1331 SOUTH BOULEVARD, CHIPLEY, FLORIDA WITH COMMISSIONERS ABBOTT, BROCK, CARTER, STRICKLAND AND PATE PRESENT. ATTORNEY GOODMAN, CLERK COOK, DEPUTY CLERK BRANTLEY AND INTERIM COUNTY MANAGER STEVE JOYNER WERE ALSO IN ATTENDANCE.

I. **PROCLAMATION** - DEPUTY RACKARD

A. CALL TO ORDER - CHAIRMAN CARTER

B. INVOCATION/PLEDGE- DAVID CORBIN/COMMISSIONER
STRICKLAND

II. **ADOPT PREVIOUS MINUTES** -

MARCH 15, 2012

**COMMISSIONER PATE OFFERED A MOTION, SECONDED BY
COMMISSIONER ABBOTT AND CARRIED TO APPROVE MARCH 15, 2012
MINUTES.**

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III. **PUBLIC HEARING** - IMPACT FEE

COMMISSIONER CARTER RECESSED THE REGULAR MEETING AND
OPENED THE PUBLIC HEARING.

ATTORNEY GOODMAN ADDRESSED THE BOARD IN REFERENCE TO A
PREVIOUS ISSUE RAISED BY COMMISSIONER BROCK TO REDUCE THE
IMPACT FEES FOR A SPECIFIED TIME IN AN EFFORT TO ALLOW
PARTIES WITH RESIDENTIAL UNITS DURING THIS ECONOMIC TIME
TO NOT BE BURDENED WITH SET IMPACT FEES. ORDINANCE 2012-
4 HAS BEEN DRAFTED TO LOWER THE IMPACT FEES. PURSUANT TO
THE BOARDS 2007-9 ORDINANCE THE BOARD HAS TO WAIT 90 DAYS
BEFORE IT BECOMES EFFECTIVE. STARTING AUGUST 1, 2012 -
AUGUST 1, 2014 THE IMPACT FEES, WITH RESPECT TO
RESIDENTIAL UNITS WILL BE AT \$0.00. IF THE BOARD
APPROVES THE ORDINANCE PRESENTED BY ATTORNEY GOODMAN AND
IF NO FURTHER ACTION IS TAKEN IN 2014 THE FEES WILL GO
BACK TO THE CURRENT RATES. IF THERE IS GOING TO BE AN
EXTENUATION OF THE LOWERING OF THE RESIDENTIAL UNITS
FURTHER ACTION WILL NEED TO BE TAKEN BY THE BOARD.
OTHERWISE, THE ORDINANCE WILL REMAIN IN FULL EFFECT.
THERE WILL BE NO CHANGE WITH RESPECT TO NON RESIDENTIAL
UNITS ON THE IMPACT FEES THAT ARE ASSOCIATED THERE IN.
COMMISSIONER CARTER CLOSED THE PUBLIC HEARING AND
REOPENED THE REGULAR MEETING.

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COMMISSIONER BROCK OFFERED A MOTION, SECONDED BY
COMMISSIONER ABBOTT TO APPROVE THE IMPACT FEE ORDINANCE.

THE MOTION FAILED FOR LACK OF A MAJORITY VOTE.

COMMISSIONER PATE - NO

COMMISSIONER STRICKLAND - NO

COMMISSIONER CARTER - NO

**COMMISSIONER BROCK OFFERED A MOTION, SECONDED BY
COMMISSIONER STRICKLAND FOR ATTORNEY GOODMAN TO REDRAFT
THE IMPACT FEE REDUCING IT BY 50% FOR A YEAR AND CARRIED.
COMMISSIONER PATE VOTED NO.**

IV. **CONSENT AGENDA -**

A. REQUEST APPROVAL FOR THE CLERK OF COURT TO PAY
VOUCHERS FOR MARCH 2012 TOTALING \$1,848,779.56.

B. APPOINTMENT OF A COMMUNITY BASED REPRESENTATIVE TO THE
CHIPOLA REGIONAL WORKFORCE DEVELOPMENT BOARD TO TAKE
THE PLACE OF TED EVERETT WHO RECENTLY RESIGNED DUE TO
HIS WORKLOAD AT THE CHAMBER.

C. RELEASE OF LIEN ON PROPERTY AT 4952 STUMPKNOCKER TRAIL
(THIS ITEM WAS REMOVED PRIOR TO APPROVAL)

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D. INCREASE WCBCC CHAIRMAN'S SIGNING FEE FROM \$50.00 TO \$100.00 FOR SIGNING RESPONSIBILITIES.

E. RESIGNATION OF JONATHAN HARRIS AND ADDITION OF SYDNEY SNELL AND ALAN WILLIAMS ON THE TRI-COUNTY AIRPORT AUTHORITY.

F. PROCLAMATION AND PLEDGE OF CIVILITY FOR THE MONTH OF MAY

COMMISSIONER CARTER REMOVED ITEM C. (STUMPKNOCKER TRAIL) FROM THE CONSENT AGENDA BEFORE APPROVAL BECAUSE OF SOME ISSUES THAT INTERIM COUNTY MANAGER JOYNER HAS TO GET CLARIFIED.

COMMISSIONER STRICKLAND OFFERED A MOTION, SECONDED BY COMMISSIONER PATE AND CARRIED TO ACCEPT THE BALANCE OF THE CONSENT AGENDA.

V. **AGENDA ITEMS** - NONE

VI. **BID AWARDS** - NONE

VII. **COUNTY ENGINEER** - MR. CLIFF KNAUER ADDRESSED THE BOARD THAT THE CLOSE OUT TO FEMA MITIGATION PROJECT HAS BEEN DONE. THERE IS 1 OUTSTANDING DEDUCTIVE CHANGE ORDER THAT MRS. ZOLA HAS TO GET THE CHAIRMAN TO SIGN IN ORDER TO

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CLOSE OUT THE CONTRACT. THE CONTRACTOR HAS COMPLETED THE WORK.

COMMISSIONER STRICKLAND OFFERED A MOTION, SECONDED BY COMMISSIONER PATE AND CARRIED TO APPROVE OF THE FEMA MITIGATION CHANGE ORDER.

CLAYTON ROAD - 1 OF THE 2 REMAINING HOLD OUTS HAVE SIGNED OFF ON THE REMAINING RIGHT-OF-WAY. THERE IS 1 GENTLEMAN THAT ISN'T GOING TO GIVE RIGHT-OF-WAY ON THE PROJECT SO THE PLANS HAVE BEEN REDESIGNED DONE TO MAKE IT WORK. AT THE DIRECTION OF THE BOARD THE PROJECT HAS BEEN ADVERTISED. THERE IS A MANDATORY PRE-BID CONFERENCE WITH ALL QUALIFIED D.O.T. PRE-QUALIFIED CONTRACTORS ON APRIL 30, 2012 AND BIDS WILL BE TAKEN ON MAY 9, 2012. THE FINAL PLANS HAVE BEEN SENT TO BELLSOUTH AND ALSO TO REA. THE ONLY OUTSTANDING ISSUE THAT THE BOARD NEEDS TO GIVE MR. KNAUER DIRECTION ON BEFORE THE MAY 9 CONFERENCE IS THE SAND AND CLAY BASE THAT IS BEING USED ON THE ROADWAY. RIGHT NOW IT'S THE CONTRACTORS RESPONSIBILITY TO BRING THE SAND AND CLAY BASE TO THE JOB AND PUT IT DOWN FROM HIS PITS. IF THE COUNTY WANTS TO BE CONSIDERED FOR ALLOWING ANY OF THEIR PITS TO BE USED FOR THE JOB MR. KNAUER NEEDS TO KNOW THAT BEFORE THE PRE-BID CONFERENCE.

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D.O.T. HAS REQUESTED THE BOARD GET 2 ROADS SUBMITTED FOR S.C.O.P. BY MAY 4, 2012. IT IS A 75/25 PROGRAM WITH WASHINGTON COUNTY BEING ELIGIBLE FOR THE WAIVER ON THE 25% BECAUSE THEY ARE A COUNTY OF CRITICAL ECONOMIC CONCERN.

THE BOARD ALSO NEEDS TO COME UP WITH 1 S.C.R.A.P. PROJECT BY JUNE 1, 2012. MR. KNAUER ADVISED THE BOARD THAT THEY ARE COMPETING WITH ALL THE COUNTIES IN DISTRICT 3 FOR THE MONEY. HE SUGGESTED GREENHEAD, HOUSTON; WHICH IS A ROAD THAT HAS BEEN BEFORE THE BOARD BEFORE DUE TO DRAINAGE ISSUES/MAINTENANCE AND GRIFFIN ROAD.

COMMISSIONER ABBOTT OFFERED A MOTION, SECONDED BY COMMISSIONER STRICKLAND FOR MR. JOYNER TO WORK WITH COUNTY ENGINEER KNAUER IN DECIDING WHAT ROADS TO TURN IN.

MR. KNAUER ADVISED THE BOARD THAT REYNOLDS SMITH & HILL IS DOING THE CEI WORK ON ORANGE HILL HWY. AND THEY HAVE A PROJECT MEETING EVERY WEEK; HE HAS BEEN ADDED TO THE UPDATE LIST. HIS COMPANY ISN'T HANDLING THE CEI, BUT DID THE DESIGN AND PERMITTING. UPDATES WILL BE COPIED TO HIM AND HE WILL FORWARD THEM TO INTERIM COUNTY MANAGER JOYNER AND COMMISSIONER ABBOTT AT HIS REQUEST.

VIII. **NON AGENDA AUDIENCE** - NONE

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IX. **COUNTY MANAGER** - INTERIM COUNTY MANGER STEVE JOYNER

UPDATED THE BOARD ON THE MILLED ASPHALT PLACEMENT.
APPROXIMATELY TO DATE THEY WILL HAVE 6200 TONS ON THE
GROUND AT ROCKHILL CHURCH ROAD. THIS WILL PUT THE BOARD
AROUND A \$50,000 FIGURE AND THAT IS WHERE HE PLANS ON
HOLDING IT DUE TO CASH FLOW AND OTHER PROJECTS AT ROAD
AND BRIDGE.

LOOKING AT THE FUEL BUDGET THE FUEL HAS EASED UP ON US
BECAUSE WE HAVE INCREASED THE WORKING HOURS ON THE MOTOR
GRADERS.

X. **CLERK** - NONE

XI. **DEPUTY CLERK** - NONE

XII. **CHAIRMAN & COMMISSIONERS**

COMMISSIONER BROCK - NONE

COMMISSIONER STRICKLAND - NONE

COMMISSIONER PATE - NONE

COMMISSIONER ABBOTT - COMMENDED INTERIM COUNTY
MANAGER JOYNER. HE COMMENTED TO MR. JOYNER THAT HE HAS
MADE SOME CHANGES AT ROAD AND BRIDGE AND THAT HAS CAUSED
MORE PRODUCTION OUT OF THE ROAD GRADERS AND YOU HAVEN'T
INCREASED THE HOURS. HE ASKED ABOUT THE CHANGE IN THE

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DUMP TRUCK OPERATION THAT HAS INCREASED THE LOAD COUNT AS WELL AS THE FUEL CONSUMPTION.

INTERIM COUNTY MANAGER JOYNER ADDRESSED COMMISSIONER ABBOTT THAT NO WHAT HAS ACTUALLY BEEN DONE IS THE MOTOR GRADER OPERATORS ARE DRIVING THEIR PERSONAL VEHICLE DIRECTLY TO THE MOTOR GRADER AND THAT HAS ADDED ABOUT 2/3 HOURS PER DAYS RUN TIME ON EACH MOTOR GRADER. THAT TURNS IN TIMES 10 MOTOR GRADERS YOU ARE GETTING AT LEAST 100 HOURS MORE A WEEK RUN TIME.

INTERIM COUNTY MANAGER JOYNER SAID THAT GPS IS MONITORING THE DUMP TRUCKS REALLY WELL AND THERE IS MORE CONSISTENT PRODUCTION. HE SAID OVERALL THAT HE HAS INCREASED PRODUCTIONS BY 30%. THE FOLLOWING IS A BREAKDOWN OF ROAD DEPARTMENTS FUEL USAGE; JANUARY 14,000 GALLONS, FEBRUARY 13,000, MARCH 17,000 AND APRIL'S CURRENT USAGE IS 7,000 GALLONS.

COMMISSIONER ABBOTT OFFERED A MOTION, SECONDED BY COMMISSIONER PATE TO DO AWAY WITH THE MAINTENANCE DISTRICTS AND THE EAST AND WESTSIDE DISTRICTS WITH ROAD AND BRIDGE AND CARRIED. COMMISSIONER BROCK OPPOSED THE MOTION.

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COMMISSIONER ABBOTT ADDRESSED INTERIM COUNTY MANAGER JOYNER THAT THE BOARD HAS RESTRICTIONS ON HIM AND HE WANTS HIM TO DECIDE WHERE THE ROAD GRADERS GO AND HOW LONG THEY STAY THERE. HE TOLD HIM THAT HE WAS OVER ALL THE PROJECTS.

COMMISSIONER BROCK ASKED INTERIM COUNTY MANAGER JOYNER IF HE HAD BEEN SATISFIED WITH HOW THINGS HAVE BEEN GOING.

INTERIM COUNTY MANAGER JOYNER SAID THAT HE DOESN'T HAVE ANY PROBLEMS. THERE HAS BEEN SOME DISCUSSION ON THE ASPHALT PROJECT AND WHEN CONCENTRATION IS MADE IN 1 AREA THERE IS MORE PRODUCTION.

COMMISSIONER PATE ADVISED THE BOARD THAT HE HAS BEEN CALLED BY 3 DIFFERENT PEOPLE TO CONGRATULATE THE CREW THAT'S WORKING OUT ON ROCK HILL CHURCH ROAD.

COMMISSIONER BROCK COMMENDED INTERIM COUNTY MANAGER JOYNER ON THE GOOD WORK HE HAS DONE BUT HE GETS SAND BED AND RUB BOARDS; HE HAS TO HAVE MAINTENANCE WHEN HE CAN GET IT.

COMMISSIONER CARTER ADDRESSED THE BOARD THAT HIS UNDERSTANDING FROM THE MOTION IS THAT INTERIM COUNTY MANAGER JOYNER, WITH HIS SUPERVISORS WILL BE RESPONSIBLE

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FOR THE SERVICES PROVIDED TO THIS COUNTY IN A TIMELY
MANNER REGARDLESS OF WHERE IT'S AT.

COMMISSIONER PATE REMINDED THE BOARD THAT HE IS ON THE
F.A.C.T. BOARD AND THE JUNE MEETING IS ON THE SAME WEEK
THE ANNUAL MEETING IS AND HE WOULD LIKE TO SEE THE
MEETING CHANGED AS THEY DID LAST YEAR.

COMMISSIONER CARTER ADDRESSED COMMISSIONER PATE THAT HE
THINKS IT'S GOOD HE IS ON THAT BOARD BUT THE BOARD WILL
LET HIM GO TO THAT MEETING AND CONTINUE ON WITH THE
BOARDS MEETING AT THE REGULAR SCHEDULED DATE. THE
ATTORNEY HAS HIS SCHEDULE SET AND WE ARE GOING TRUST YOU
TO REPRESENT US AT THE MEETING AND ASK FOR YOUR TRUST IN
RETURN.

XIII. **COUNTY ATTORNEY** - NONE

XIV. COMMISSIONER CARTER RECESSED TO **EXECUTIVE SESSION**.

XV. **EXECUTIVE SESSION** - CASE NUMBER: 67-10-CA-489 AND
CASE 67-10-CA-185

XVI. **RE-CONVENE** - COMMISSIONER CARTER CALLED THE REGULAR
MEETING TO ORDER.

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ATTORNEY GOODMAN ADDRESSED THE BOARD THAT 1 OF THE CASES THAT WAS NOTED FOR EXECUTIVE SESSION WAS THE YATES CASE WHICH HAS BEEN POSTPONED TO ANOTHER DATE DUE TO THE FACT THAT HE NEEDS TO GET SOME MORE INFORMATION BEFORE THEY PROCEED. IT WILL BE TABLED AND NOTICED FOR ANOTHER DATE.

THE LITIGATION THAT WAS DISCUSSED TODAY WAS THE SIKES SAND MINE. HE BRIEFED THE BOARD ON WHERE THEY HAVE COME TODAY ON THIS CASE. THERE ARE 3 OUTSTANDING LAWSUITS; 67-07-CA-234, 67-08-CA-251 AND 67-10-CA-489. THE 07 AND 08 CASES ESSENTIALLY STEM FROM A DENIAL FOR A 2007 SPECIAL EXCEPTION PERMIT THAT MR. SIKES APPLIED FOR IN AN EFFORT TO EXPAND HIS MINE. THOSE 2 LAWSUITS ESSENTIALLY ACCUSE THE COUNTY OF WRONGFULLY DENYING THE EXPANSION INTO THE NEW AREA OR DIFFERENT AREA OF THE MINE WHICH HE HASN'T MINED YET. IN 2010, PRIOR TO ATTORNEY GOODMAN COMING ON BOARD THE BOARD FILED SUIT AGAINST MR. SIKES IN 67-10, BASICALLY SAYING THAT HE HAD IMPROPERLY DESTROYED A BERM AND ALLEGED SOME OTHER ISSUES IN THERE ASKING FOR INJUNCTIVE RELIEF. THOSE 2 CASES HAVE BEEN PENDING; THE SIKES CASES AGAINST US FOR 5 YEARS AND OUR CASE AGAINST HIM FOR APPROXIMATELY 2 YEARS. THERE HAVE BEEN SEVERAL PRIOR EFFORTS IN THIS CASE TO MEDIATE IT; 2 OF WHICH HAPPENED PRIOR TO HIM AND JOE SHRIVER COMING ON BOARD.

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BOTH MEDIATION ATTEMPTS FAILED. OVER THE PAST 12 MONTHS THE BOARD HAS DIRECTED ATTORNEY GOODMAN TO GET A GOOD HANDLE ON WHAT IS AND WHAT ISN'T GOING ON AT THAT PIT. SPECIFICALLY WITH RESPECT TO WATER, NOISE AND BOUNDARY TYPE ISSUES. WE HAVE SPENT IN A RANGE OF \$30,000 - \$40,000 OF JUST THE COUNTY'S MONEY, NOT COUNTING WHAT HAS BEEN KICKED IN BY OUR INSURER ON EXPERTS. THEY HAVE BEEN FORTUNATE ENOUGH TO BE ABLE TO ACCESS MR. SIKES PROPERTY. WATER TESTS WERE DONE THROUGHOUT THE PROPERTY, AT CRYSTAL LAKE AND SOME PRIVATE WELLS WITH PROPERTY OWNERS ADJOINING THE SIKES PIT. WE HAVE BEEN ABLE TO DO A GOOD AMOUNT OF TESTING WITH RESPECT TO WATER, NOISE AND BOUNDARY ISSUES. UPDATED SURVEYS HAVE ALSO BEEN PERFORMED BY A SURVEYING COMPANY SHOWING WHERE HE IS AND WHERE HE ISN'T IN HIS PIT.

IN THE PREVIOUS EXECUTIVE SESSION THE BOARD RECEIVED REPORT ON THE FINDINGS OF THOSE EXPERTS. THE BOARD WENT THROUGH EXTENSIVE DETAILS WITH THE EXPERTS. ATTORNEY GOODMAN REMINDED THE BOARD THAT WHEN EXPERTS ARE HIRED THEY ARE TOLD JUST TELL US WHAT IS GOING ON; WE DON'T TELL THEM WHAT TO FIND. AS PART OF LITIGATING A CASE OR GOING FORWARD WITH LITIGATING A CASE WOULD BE TO UNDERSTAND WHAT THE STRENGTHS AND WEAKNESS' ARE ON BOTH

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SIDES AND WE HAVE BEEN ABLE TO DO THAT OVER LAST 12 MONTHS. AFTER THE PREVIOUS EXECUTIVE SESSION AND AFTER LOOKING AT THE REPORTS THE BOARD INSTRUCTED ATTORNEY GOODMAN, JOE SHRIVER, HULAN CARTER AND STEVE JOYNER TO RE CONVENE WITH A REPRESENTATIVE OF MR. SIKES, LISA MINCHEW AND DISCUSS THE PARAMETERS OF A POSSIBLE SETTLEMENT AGREEMENT. OVER THE PAST 3-4 WEEKS THERE HAS BEEN A LOT OF TIME AND EFFORT SPENT GOING THROUGH THE ISSUES INVOLVING A POTENTIAL SETTLEMENT AGREEMENT IN THE MANNER IN WHICH THE CASE MAY BE SETTLED.

TODAY IN EXECUTIVE SESSION IT WAS BROUGHT TO THE BOARD WHAT WAS ESSENTIALLY POUNDED OUT BY THE REPRESENTATIVES OF BOTH PARTIES. WHERE WE SIT TODAY IS THERE IS A POTENTIAL SETTLEMENT AGREEMENT IN FRONT OF THE BOARD THAT COMMISSIONER CARTER AND REPRESENTATIVE JOYNER ASSISTED IN CREATING ALONG WITH DOING LEGAL LEAVE, ATTORNEY GOODMAN AND JOE SHRIVER. THAT SETTLEMENT AGREEMENT HAS BEEN THOROUGHLY DISCUSSED IN EXECUTIVE SESSION. THE BOARD HAS BEEN ABLE TO ASK ANY QUESTIONS THAT THEY MAY OR MAY NOT HAVE WITH RESPECT TO THE SETTLEMENT AGREEMENT AND UNDERSTAND THE NUANCES OF THE ENTIRETY OF THE SETTLEMENT AGREEMENT.

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TODAY THE BOARD WILL BE PRESENTED WITH ACCEPTING OR NOT ACCEPTING THE SETTLEMENT AGREEMENT. IF THE SETTLEMENT AGREEMENT IS ACCEPTED IT WILL BE SIGNED AND WE WILL NEED AN ORDER DISMISSING THE LAWSUITS. IF IT ISN'T ACCEPTED BY THIS BOARD THE PATH OF LITIGATION WILL BE CONTINUED AND PREPARE TO TRY ALL 3 OF THE CASES HERE IN THE FUTURE. ATTORNEY GOODMAN ASKED IF THERE WAS ANY QUESTIONS HE COULD ANSWER FOR THE BOARD.

COMMISSIONER ABBOTT OFFERED A MOTION, SECONDED BY COMMISSIONER STRICKLAND TO RECONSIDER MR. SIKES 2007 SPECIAL EXCEPTION AFTER CASING SUBJECT TO THE TERMS OF THE PROPOSED SETTLEMENT AGREEMENT AND CARRIED UNANIMOUSLY.

COMMISSIONER ABBOTT OFFERED A MOTION, SECONDED BY COMMISSIONER PATE TO APPROVE MR. SIKES 2007 SPECIAL EXCEPTION APPLICATION SUBJECT TO THE TERMS OF THE PROPOSED SETTLEMENT AGREEMENT AND CARRIED UNANIMOUSLY.

COMMISSIONER ABBOTT OFFERED A MOTION, SECONDED BY COMMISSIONER PATE TO APPROVE THE SETTLEMENT AGREEMENT AND THE ASSOCIATED EXHIBITS THERE TO AND CARRIED UNANIMOUSLY.

ATTORNEY GOODMAN ADDRESSED THE BOARD THAT IT WILL BE TAKEN TO THE COURT FOR EXECUTION AND AN ORDER ISSUED.

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ONCE THAT ORDER IS ISSUED THE SETTLEMENT AGREEMENT AND ALL THE EXPERT REPORTS WILL BE PUBLIC RECORD AND THEY WILL BE AVAILABLE WITHIN 7-10 DAYS AFTER THE JUDGE SIGNS THE ORDER.

IN RESPECT TO THE YATES V. WASHINGTON COUNTY CASE THAT EXECUTIVE SESSION WILL BE CONTINUED UNTIL MAY 2012. IT WILL BE RECALLED AND NOTICED AS SUCH.

COMMISSIONER ABBOTT OFFERED A MOTION, SECONDED BY COMMISSIONER STRICKLAND TO ADJOURN.

ATTEST: _____

DEPUTY CLERK

CHAIRMAN