

DESOTO COUNTY BOARD OF SUPERVISORS

BOARD MEETING MINUTES

DISTRICT TWO SUPERVISOR MARK GARDNER, PRESIDING

January 29, 2018

A. CALL TO ORDER

The January 29, 2018 meeting of the DeSoto County Board of Supervisors was called to order by Supervisor Mark Gardner, Board President.

Sheriff Bill Rasco opened the DeSoto County Board of Supervisors meeting in a regular session to hear all business before the Board of Supervisors. The following officials were present:

Supervisor Jessie Medlin	District 1
Supervisor Mark Gardner	District 2
Supervisor Bill Russell	District 3
Supervisor Lee Caldwell	District 4
Supervisor Michael Lee	District 5
Sheriff Bill Rasco	Sheriff
Misty Heffner	Chancery Clerk
Vanessa Lynchard	County Administrator
Tony Nowak	Board Attorney

B. INVOCATION

Planning Director Bennie Hopkins offered the invocation.

C. PLEDGE OF ALLEGIANCE

D. OLD BUSINESS

E. NEW BUSINESS

Road Manager Andy Swims requested to add an item to New Business:

Finding of Fact for Conner Drive

Supervisor Michael Lee made the motion and Supervisor Lee Caldwell seconded the motion to add Conner Drive to the Agenda.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

Supervisor Michael Lee made the motion and Supervisor Mark Gardner seconded the motion to approve the agenda as amended.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

1. Conner Drive

Supervisor Michael Lee shared a telephone message he received from Robert Hanisco expressing concern over flooding a neighbor is causing on his property. Supervisor Lee reminded the Board about improvements the county made on Conner Drive. He said this man's flooding started after the county work and after Joe Whitfield built a house next to Mr. Hanisco's property. He verified Mr. Whitfield was the Builder.

Road Manager Andy Swims showed photos and maps of the area and explained how the water flows in the area. He said the water was diverted by the driveway of the new home. Although this driveway acts as a berm, Mr. Swims said Mr. Hanisco had a flooding problem prior to the new home being built. Mr. Swims agreed that county did make repairs to the area to protect the road. He explained there are two pipes. One is near the road and the other in the driveway. He said the problem is that the culvert used isn't holding the water anymore because of the driveway.

Supervisor Lee said he understood the county told Mr. Whitfield what size pipe to use. Mr. Swims said that may have happened on the 36" culvert near the road on the right of way, but not the culvert in the driveway. Supervisor Lee said he was told the county did tell him what size to use.

Board Attorney Tony Nowak said, by approving the builder's plans for the pipe, the county was not liable for the accuracy of that plan. He said it is not like the county provided the engineering of the pipe.

After further discussion, the Board of Supervisors said it was hard to figure out who recommended the pipe sizes.

Supervisor Medlin said the pictures do not show how the water goes over the road. Mr. Swims verified the water does go over the road.

Supervisor Bill Russell said the Board needs to determine what the county told the builder. He said it may just be a "private property" issue.

Supervisor Lee said Mr. Hanisco wants to come to the Board of Supervisors meeting.

Supervisor Lee Caldwell said Chancery Clerk Misty Heffner looked up the plat of the subdivision (Lakes of Cleveland Hills) and the plat says that the culverts on lots are the responsibility of the land owners.

Supervisor Russell asked that the person who talked to Mr. Whitfield should be at the meeting to verify what they told him.

See Exhibit E.1.

2. Supervisor Gardner requested adding a discussion on Robinson Crossing.

Supervisor Mark Gardner said he has been getting complaints on the road conditions in Robinson Crossing Subdivision. He said it is a one way in-one way out subdivision. He said there are a lot of houses in the subdivision. He said there are two exits, but they are not connected. Supervisor Gardner asked the rest of the Board to drive through the area to see the road conditions. He showed them photos of the road conditions and said the Road Department did some work to repair the roads.

He explained the developer is building more houses and has refused to build a construction drive.

3. Supervisor Lee requested to add Juvenile Justice Court Building dedication.

Supervisor Lee said it has been requested that the Board name the Juvenile Justice Court Building for Judge Mills Barbee.

Supervisor Bill Russell made the motion and Supervisor Michael Lee seconded the motion to name the Juvenile Courtroom after Judge Mills Barbee.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>NO</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

Supervisor Medlin said past experience has shown naming buildings for people did not work out. He said he has great respect and appreciation for Judge Barbee, but feels this will open the door for many such requests.

F. PLANNING

Deputy Planning Director Austin Cardosi presented an outline of the overall zoning ordinance. He stated he and Mr. Hopkins will explain the major changes and then go into the definitions.

Mr. Hopkins stated there are currently 21 articles in the zoning ordinance. He stated their goal was to condense and refine the ordinance to be more user friendly, with fewer articles. Mr. Hopkins said the consultant combined several things; one being the land use section & district combining into 5 articles.

Mr. Hopkins started explaining the definitions where the Board left off at their last discussion. He stated they split automotive maintenance services into minor and major.

Supervisor Russell asked how Mr. Hopkins and Mr. Cardosi would address the questions asked on the previous definitions. Mr. Cardosi stated he is keeping notes, and there are very few items that will require re-writes. Mr. Nowak stated that typically with a red-line draft, they would get feedback from the Board and then accept the items that did not have changes. Supervisor Russell stated he would like to see the changes at each meeting. Mr. Nowak stated the purpose in doing it like they are is that when the Board gets to the body of the zoning ordinance, they may want to change some definitions as they get into the specifics of the ordinances.

Mr. Hopkins stated his department is trying to have clear definitions for the use charts. He stated that the Planning Department sometimes has to make things fit into the limited definitions they are currently using. He said the Board of Adjustment in particular has some trouble with this and that is one reason for differentiating between automotive minor and automotive major.

Zoning Ordinance Update

Mr. Hopkins presented the definition portion of the draft Zoning Ordinance. He stated staff wanted to make sure there are definitions to match the items in the use chart.

Auto Repair – Major

Auto Repair – Minor

There was discussion if either of these two uses will include tire retail. Mr. Hopkins stated it seems tire retail would fit into the Auto Repair – Minor use as that definition includes change and rotate tires. Supervisor Medlin asked if these uses will be commercial. Mr. Hopkins stated they would be commercial and could be allowed as a Conditional Use in other non-commercial zones. Supervisor Medlin stated he would not like to see these uses in a subdivision.

Banquet/Reception Hall

Supervisor Gardner asked if VFW would fall under this use. Mr. Cardosi stated there is another definition that VFW would better fit into. Supervisor Gardner asked what zones this use would be allowed in. Mr. Cardosi stated they are currently allowed by Conditional Use in the A and A-R zone. There was discussion if public event is held security guards would be required but not at private events. There is concern with how this would be enforced. Decided may want to exclude the requirement of security guards.

There was discussion how is it determined if a banquet hall or a restaurant. Decided that if approved as a banquet hall but later decided to open on a regular basis (i.e. every Saturday night to serve dinner) would need to come back and apply for a different Conditional Use to allow a restaurant.

Also feel that there only needs to be one definition, does not need to be broken into private and public.

Bar

There was discussion if food is required to be available for purchase in a bar. It was stated that requirement may be a state law.

Pole Barn

Discussed may want to take out the wording "wooden poles"

Bed & Breakfast

Mr. Cardosi stated this definition is separate from Air B&B.

There was discussion of whether a Bed & Breakfast should be owner occupied and whether currently approved Bed & Breakfast would be grandfathered to continue to operate as they currently operate. It was decided to change the definition to the Wikipedia definition with the following changes:

Wikipedia definition: A **bed and breakfast** (typically shortened to **B&B** or **BnB**) is a small [lodging](#) establishment that offers overnight accommodation and [breakfast](#). Bed and breakfasts are often private family homes and have up to 6 bedrooms.^[1] A B&B has the hosts in the house.

There was discussion that there will be a definition that cover VRBO and Air B&B type operations for non- owner occupied operations.

Boarding House

There was discussion of the difference between a boarding house and a hotel. It was determined that boarding house would not have transient guest.

The number of people needs to be changed to read 5 to 11 to be in compliance with HUD.

Building Height

There was discussion that the wording needs to address grading/digging a hole to build in to prevent deliberate grading as well as building up.

Portable Buildings

There was discussion if "Tiny Homes" would fit in this definition. It was decided they would not as this definition would be for accessory buildings. "Tiny Homes" if not built on site would need to have a HUD stamp and would need to be anchored and neither of those are requirements for an accessory building.

Camp- Hunting Campground

There was discussion which zoning districts these should be allowed in and whether they should be platted and recorded.

Cemetery

There was discussion as to whether this use will be a Conditional Use. That will be up to the Board.

Commercial Communication Tower

There was discussion that the definition needs to be worked on. Don't want to break out different types of links.

Consignment Shop

There was discussion where this use should be allowed and if allowed by Conditional Use or by right.

Convenience Store Country Store

There was discussion about the difference between convenience store and country store. Discussion that may want to do away with the Country Store definition. In new ordinance both definitions say may have gas pumps.

See Exhibit F.

Supervisor Lee Caldwell made the motion and Supervisor Michael Lee seconded the motion to adjourn the meeting to February 5, 2018 at 9:00 a.m.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

THIS the 29th day of January, 2018, these minutes have been read and approved by the DeSoto County Board of Supervisors.

Mark Gardner, President
DeSoto County Board of Supervisors