

Board of County Commissioners  
Leon County, Florida  
Special Meeting  
August 11, 2005

A special meeting was conducted to negotiate the Fallschase Chapter 163 Development Agreement. The following were present in a publicly noticed meeting that was held on August 11, 2005, at the County Courthouse in the 5<sup>th</sup> Floor Conference Room; Commissioner Proctor, Commissioner DePuy, Commissioner Rackleff, Assistant County Attorney Patrick Kinni, County Administrator Parwez Alam, Cari Roth, Gary DeNicola, Rick Bateman, Tasha Buford, and Carlos Alvarez.

The meeting was called to order at 11:00 a.m. See attached advertisement.

Commissioner Proctor recognized that there was a public meeting held on Monday, August 8, 2005, regarding the Fallschase Land Development matter. He stated that this kind of interest, and the demand for the meeting to be made public, should not be ignored. He thanked the parties for their openness and receptiveness in making this meeting a Sunshine meeting. He encouraged the public to voice their opinions and concerns regarding this issue. He recognized Commissioner DePuy and Commissioner Rackleff.

Commissioner DePuy stated that he is a long way from making a decision on how he intends to vote regarding the Fallschase Chapter 163 Development Agreement. He voiced concern about the misinformation regarding the Chapter 163 Agreement, and stated that he hopes that there have been some changes made to the agreement, because he can't support it in its present form. He spoke in support as to Commissioner Proctor being negotiator.

Commissioner Rackleff stated that the proposed Fallschase Chapter 163 Development Agreement will have a tremendous financial impact on the County's finances. He stated that there will be the need for road improvements on Buck Lake Road and Mahan Drive and this could reach as much as 100 million dollars. He mentioned that, at this point, Buck Lake Road is not scheduled for improvement because the money was shifted to the Tharpe Street improvement project. He spoke of the TMDL requirements to make upper Lake Lafayette a fishable, swimmable water body, and stated that that could have tens of millions of dollars of impact on stormwater facilities. He explained that if a private party is affected by this, they could take the County to court and force them to declare moratorium in all development in that watershed, which would have a tremendous impact on the County's future. He stated that his basic principal is that growth should pay for itself, and that this project should pay for itself and not be subsidized by a nickel of the taxpayers' money.

TALLAHASSEE DEMOCRAT  
PUBLISHED DAILY  
TALLAHASSEE-LEON-FLORIDA

STATE OF FLORIDA COUNTY OF LEON:

Before the undersigned authority personally appeared Daniel Serrano, who on oath says that he is a Legal Advertising Representative of the Tallahassee Democrat, a daily newspaper published at Tallahassee in Leon County, Florida; that the attached copy of advertising being a Legal Ad in the matter of

NOTICE OF SPECIAL MEETING

in the Second Judicial Circuit Court was published in said newspaper in the issues of:

AUGUST 10, 2005

Affiant further says that the said Tallahassee Democrat is a newspaper published at Tallahassee, in the said Leon County, Florida, and that the said newspaper has heretofore been continuously published in said Leon County, Florida each day and has been entered as second class mail matter at the post office in Tallahassee, in said Leon County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this publication in the said newspaper.

DANIEL SERRANO

LEGAL ADVERTISING REPRESENTATIVE  
Sworn To or Affirmed and Subscribed Before Me.

This 10 Day of August 2005, by  
Daniel Serrano, [Signature]  
Personally Known [Signature]  
OR Produced Identification [Signature]  
Type of Identification Produced [Signature]

(SEAL)

Notary Public  
State of Florida



Chasma James



NOTICE OF SPECIAL MEETING

The Board of County Commissioners of Leon County, Florida (the "County") hereby provides notice of a special meeting on Thursday, August 11, 2005, at 11:00 a.m., at the County Commission Chambers, 5th Floor, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida, to consider negotiations with regard to the Fallschase Chapter 163 Development Agreement. All interested parties are invited to attend.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact Christine Coble or Facilities Management, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida 32301, by written request prior to the proceeding. Telephone: 488-9962 or 488-1948; 1-800-955-8771 (TDD), or 1-800-955-8770 (Voice), or 711 via Florida Relay service.

August 10, 2005

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Carlos Alvarez, Buck Lake Alliance, thanked Commissioner Proctor for holding the meeting in public. He expressed the desire to get information pertaining to the Fallschase Chapter 163 Development Agreement. He explained that the Buck Lake Alliance is not getting any of the draft developmental agreements that are being proposed, and that no appendices or attachments have been received. He stated that there is an extreme community concern, and that if these materials are not received, it will be very difficult for the community to understand what is going on. He requested that the Board grant a 30 day expansion so that they can be given the opportunity to go over the development agreement, because there are several issues that need to be looked at more closely. He stated that he is hopeful that an agreement can be reached. He further explained that he feels that the public is entitled to any documents regarding this matter. He stated that, from an informational standpoint, it is crucial that the community have this because they have no other documentation to rely on to assist them in understanding this issue.

Commissioner Proctor responded by saying, when the finished stable product becomes available, it will be forthcoming to him.

Speaker, Patton Pannier, 3329 Addison Lane, stated that the evening meetings are more appropriate for public input and requested that they be held at a more convenient time for the public. He suggested that the Board allow the public to vote on how to resolve some of the issues at hand.

Commissioner Proctor thanked the participants for their professional manner and briefly summarized the Fallschase Chapter 163 Development Agreement issue. He explained that this particular property is environmentally sensitive and stated that scientist and environmentalist suggest that it is one of the major inlets to the Florida Aquifer. He stated that, though the individual owner has certain rights, the public has an interest in what occurs and what flows into the Florida Aquifer, because it affects (sp) everyone in the community. He stated that they recognize the vested interest and the rights of the property owners, but they are attempting to determine what exactly those rights are. He stated that there are now new rules and regulations concerning this property than there were when the owner originally purchased, it and although the property itself has not changed, the rules over time have. He explained that he is seeking to discover how much of those rights are vested and will promulgate through time notwithstanding the new environmental rules and regulations.

Cari Roth, Bryant, Miller & Olive, stated that a DRI was approved in 1973 for this property and that the property owners are vested for certain things. She stated that the traditional view that County Attorney Herb Thiele has taken is that they are vested for density and intensity and that the new rules that essentially would prohibit the development in what is the floodplain of Lake Lafayette would apply, but they could pull their development up the hill and out of the floodplain. She

added that there have been no official proposals during the negotiation or in conversations that would indicate that Fallschase will develop in the floodplain.

Commissioner Proctor stated that, for the record, there have been no major projections for development in floodplain by Fallschase.

Ms. Roth stated that what has been proposed in the floodplain are two or more stormwater facilities; tennis courts; a clubhouse, perhaps on previously filled land that may be permissible, but the County has encouraged the developer to pull the stormwater out of the floodplain area.

Rick Bateman, representing Fallschase, stated that they have been primarily involved in educating the other parties with regards to their issues, as well as their justification for those issues. He stated that he has invited Mr. Alvarez to come to his office at any time to discuss and go over all of the drafts of the agreement that they have. He mentioned that Fallschase Land Developers attended the Buck Lake Alliance Town Meeting. He confirmed that they have Mr. Alvarez's list of concerns, and in fact, many of their concerns and major issues are shared. He informed Commissioner Proctor that polluted water is going into Lake Lafayette from the City of Tallahassee's stormwater ponds at Weems, I-10, Downtown Tallahassee, and from the County. He stated that the upper part of Lake Lafayette has been polluted by construction. He said that he has a videotape that he will make available to the Board of the water flowing out of Weems Pond into the lake basin, polluting it. He stated that this pollution leaves a film on the top of the lake that looks like dried up mildew. He explained that the pollution has not been caused by Fallschase and that the water will be treated in the stormwater facilities. He stated that it must be noted that on Weems Plantation, which is part of the Buck Lake Alliance, there is a stormwater pond that is below the 51 foot requirement right next to where Fallschase proposed to place one. He explained that they believe that County code also allows this by virtue of allowing a 5% disturbance of a wetland. He stated that Dr. Harper is doing a lake study at this time that will show exactly where the water flows into upper Lake Lafayette. He added that this study was subsidized by the County and is long overdue. He requested that they receive a copy of Dr. Harper's report. He mentioned that Shawn McGlen (sp) is working with the Parks Manager and the County Extension Office to come up with a maintenance plan. He stated that it is pretty ironic that the County and the City are draining this lake bottom and polluting it, and Fallschase has not contributed to any of that. He stated that the issue needs to be addressed, and added the County and the City should not be demanding so many requirements of Fallschase, meanwhile, they're polluting it. He urged the Buck Lake Alliance to investigate how the lake is being polluted presently. He mentioned that Fallschase is studying what they can do to minimize the affect (sp) of this development on the lake bottom, whether they can put anything on the lake bottom and whether they can diminish and minimize what they can put on the lake bottom. He stated that no houses, condos, or boat ramps will be built in the lake bottom. He reminded Commissioner Proctor that

the County originally suggested moving the development out of upper Lake Lafayette, and added that the County should have a financial responsibility in this. He stated that they are vested for 425 square foot of office space, 2,500 for residential, and 300,000 plus to 1 million plus of commercial, and that they can't be prohibited from building there. He said that they are going to do everything they can to protect the lake bottom.

Commissioner Proctor asked Mr. Bateman if the volume of water in Lake Lafayette is generated from off-site runoff.

Mr. Bateman stated that the owner of this property has been the recipient of water that has not been generated on his land, but has been the repository waters that have come by way of Weems Pond, I-10, Downtown, and other County waters.

Commissioner Proctor asked if there has ever been any compensation to the owner for storing this water for our community.

Mr. Bateman answered that he has never requested compensation for the waters that he has received.

J. Lee Vause, representing Fallschase, stated that in the last 20 to 25 years, rapid growth has occurred in the lake basin. He explained that a biblical flood might occur on a 500 year flood; 100 year flood would statistically occur every 100 years, but it could actually happen every year; a 25 year flood is what land developers usually design drainage structures for. He stated that what is happening now is that the 25 year floods are now flooding areas that never flooded before. He stated that the 100 year floodplain, which at one time was in the low 40s, is now at 51 feet. He stated that, basically, what has happened is, the County has widened the right-of-way of upper Lake Lafayette, but they didn't get the property to do it. He explained that Fallschase's objective has always been to develop their property in accordance with their rights, and he hopes that when the negotiation process is done, they will be able to do that with an agreement from the County.

Commissioner Proctor asked if there are any other owners of private land in our community that are receiving similar volumes of public water on their land to the extent that it deprives them of the use of their land.

John Kraynak, Director of Environmental Compliance, responded that, in general, there are many private property owners that would make the same argument, mainly because of volume control regulations. He stated that we do not have volume control regulations in Leon County, other than in closed basin areas, and that those portions of the county that have closed basin areas require volume control which prevents the floodplains from increasing at the bottom of the hill.

He stated that there are similar situations with Lake Ammonia where they are just providing what is called rate control, rather than volume control.

Commissioner Proctor stated that the problem needs to be resolved and suggested mitigation to resolve the problem. He requested a projective model for treatment and the role that the City needs to play in terms of rate control or treatment, and stated that he would like an independent view concerning the matter so that it can be corrected.

Ms. Roth stated that this process will have to happen as the County and the City meet their federal requirements to comply with the total maximum daily load federal law, and stated that the County and the City are already headed in that direction. She further explained that the resolution to the issue, what the cost is, and who is going to be responsible, has not yet been decided.

Mr. Bateman stated that what has happened is, the dam that blocks off Lake Lafayette from Piney-Z Plantation, would potentially be a closed basin, so Fallschase would be blocked off from the water flowing in, mixing with the unpolluted water, which comes from the St. Marks River. He stated that, on the other side of the lake is polluted water flowing from Weems Pond, the County, and the City, which flows into the clean water and is sucked down to the aquifer through the sink hole. He stated that they are dedicated to the protection of the lake, but if they are going to be dedicated in doing their part to keep it clean, they would like the same from everyone.

Mr. Vause stated that water test have already been conducted by Mr. McGlen's (sp) firm, and that they are available if the Board would like to review them. He mentioned that he is preparing a maintenance model on how to maintain the lake basin and the linear park area that is subject to this agreement. He explained that Fallschase will treat all of their water to 1 1/8 inch standard and retrofit the already developed portion of Fallschase. He stated that he would like to see the lake clean and restored as a lake.

Commissioner Proctor asked Mr. Kraynak to clarify what exactly is meant with 1 1/8 inch and whether or not 1 1/8 inch is compatible to what the County has in ordinance or code.

Mr. Kraynak responded that, currently, the 1 1/8 standard is required by the code for stormwater requirements for all of the development within the Lake Lafayette basin.

Ms. Roth introduced the next issue, which was the amount of commercial that would be in the draft plan and any traffic mitigation. She stated that there is a difference of opinion of what the original DRI vested the development for commercial development. She explained that they have agreed with Fallschase

on residential and office development, and that they have agreed to conduct a transportation study.

Commissioner Proctor suggested moving to another subject, since there is a 1:00 p.m. meeting with the Department of Transportation. He requested documentation from Ms. Roth and Mr. Bateman regarding this matter so that he can make a recommendation to the Board.

Mr. Bateman stated that he does not believe that there is a difference of opinion between the County and the Applicant, he believes that there are individuals within the County that have a difference of opinion, but not the County's official position. He explained that the Board has already voted on this issue and that others within the Government have agreed to it before, and that they believe that they are vested for 625 or more for commercial, 425 for office, and 2,500 for residential. He stated that they are willing to give up some of the office and a large part of the residential. He agreed that there needs to be some infrastructure done in that area to handle the traffic. He mentioned that the reason why Buck Lake Road has not been widened is because the money was shifted to widen Tharpe Street. He stated that this particular roadway would have been designed, approved, funded, and would be well on its way to being finished had the Board not voted to move it. He stated that Fallschase does not feel that they should have to pay for the widening of Buck Lake Road because they are vested. He added by saying that they are willing to work with the County to consider what needs to be done and see how they can contribute, but that it is not their obligation to pay for that. He stated that they are willing to give up some of the development to get it done, but that they do not feel that they are responsible for the additional 300,000 square feet, he added that they are vested for 625,800 square feet.

County Administrator Parwez Alam confirmed that Mr. Bateman's calculations were correct. He stated that Mahan itself is not scheduled for improvement until 2009. He explained that Fallschase is vested for 300 plus square feet of commercial and that the other 300 square feet is the County's responsibility.

Mr. Bateman stated that Fallschase is committed to some mitigation, but not to the extent to what the County's position is as of now.

Commissioner Proctor interjected and stated that the County has no position as of now, and stated that before they reach a position, they need documentation or a transportation study.

Ms. Roth mentioned that a transportation study would require an additional 30 days.

Commissioner Proctor asked County Administrator Parwez Alam if the Board could reach the Chapter 163 Agreement before the transportation study.

County Administrator Alam recommended that the Board review a transportation study before making a decision.

Dan Rigo, Senior Assistant County Attorney, stated that the Board would need the traffic study document before the first public hearing in order to approve the document, and added that it is a substantial part of the agreement.

Ms. Roth, stated that it would be difficult to come to a conclusion on some other issues until they have some clarity on the transportation issue.

Mr. Bateman requested that the first public hearing to present the draft of the Chapter 163 Agreement not be delayed. He stated that, if the Board needs to schedule an additional public hearing to follow, then they would prefer to do that, rather than delaying the first public hearing.

Ms. Roth presented the next concern, which was the issue of lake purchase. She stated that the proposed agreement anticipates that the property owner will sell the lake bottom to the Trust for Public Land.

Commissioner Proctor stated that this topic is too murky to discuss at this point. He suggested having a meeting with FCT and stated that he needs to get the Applicants team and the County's team together to discuss the matter. He recommended taking lake purchase off the table and to meet with FCT to get a more definite calculation.

Ms. Roth introduced the next concern, existing codes of landscape and tree removal requirements. She stated that the landscaping standard for commercial property is that 25% of the property be landscaped. She stated that Fallschase has agreed to 15% of the property being landscaped, but this has not been approved by the Board as of yet.

County Administrator Alam suggested agreeing to this variance, from 25% to 15%. He stated that if the landscaping does not look good, they will not be able to sell their properties.

Mr. Kraynak stated that he has never heard justification for reduction pertaining to landscape being provided. He stated that there may be landscape waivers that could be applied for, if Fallschase can justify the reduction of the green space.

Ms. Roth introduced the next issue, the site plan and other processing standards. The County has suggested that they use the existing Type B site plan process.

Mr. Bateman stated that they will have a proposal ready next Tuesday on what their position is on this issue.



Ms. Roth introduced the next issue and stated that Superintendent Munford sent an email to the County Administrator informing him that the existing schools in this area are at capacity, except for W.T Moore, which is at 92% capacity, and that this anticipated development would drive the existing schools over capacity and would create a potential need for an additional elementary school centrally located in these zones.

Commissioner Proctor suggested that Mr. Bateman give 25 acres to build a school.

Mr. Bateman stated that Fallschase has no obligation to build a school, and that the County is going to have to provide for its citizens education. He mentioned that they have already given up half of the property for the lake. He stated that the County and the City need to stand up and do their fair share.

Commissioner Rackleff showed his appreciation to Commissioner Proctor for the way in which the meeting was conducted. He stated that he was very pleased with the outcome of the meeting. He clarified, for the record, that he did not vote to shift money away from Buck Lake Road to Tharpe Street. He also stated that he voted against shifting the advanced funding capability to the County away from Mahan Drive to Crawfordville Highway. He stated that, had those decisions gone his way, both Buck Lake Road and Mahan Drive road projects would be finished by now. He stated that they can negotiate a price for the lake bed, but that it has to have an appraisal that meets all legal requirements and is in appraisal standards.

Commissioner DePuy showed appreciation to Commissioner Proctor and stated that the meeting was successful in negotiating these matters. He stated that he does not believe that the Trust for Public Land has to have permission from the Cabinet or the Governor to give this money and expend it. He spoke in support as to Commissioner Proctor's desire to have a traffic/transportation study before moving forward.

Ms. Roth informed Commissioner Proctor that the Genesis Group will be conducting the traffic study.

Mr. Bateman announced that Fallschase will be having a public meeting on August 17, 2005, at 6:00 p.m., in the public library and that the meeting will be publicly noticed.

The meeting adjourned at 12:45 p.m.



*Bill Proctor*

Bill Proctor  
Vice-Chairman

*Bob Inzer*

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Bob Inzer  
Clerk of the Court