

APRIL 16, 2013

PORT ST. JOE, FLORIDA

EMERGENCY MEETING

The Gulf County Board of County Commissioners met this date in emergency session with the following members present: Chairman Tynalin Smiley, Vice Chairman Ward McDaniel, and Commissioners Carmen L. McLemore and Warren J. Yeager, Jr. <Commissioner Johanna Bryan was absent.>

Others present were: County Attorney Jeremy Novak, Clerk Finance Officer Sherry Herring, Deputy Clerk Kari Summers, Assistant Administrator Michael L. Hammond, Deputy Administrator Lynn Lanier, Deputy Administrator Brett Lowry, Building Official Lee Collinsworth, Central Services Director Denise Manuel, Maintenance Supervisor Steve Mork, Mosquito Control Director Mark Cothran, Planner David Richardson, Assistant Public Works Director Jake Lewis, Sheriff Mike Harrison, and T.D.C. Director Jennifer Jenkins.

Sheriff Harrison called the meeting to order at 9:03 a.m., E.T.

TOURIST DEVELOPMENT COUNCIL – BRITISH PETROLEUM (B.P.) CLAIM

County Attorney Novak stated that there are two items on the Agenda, first is the Emergency Meeting per the request of Special Counsel for the County regarding the B.P. Claims, both with T.D.C. and the County; explaining that the Board will address the T.D.C. British Petroleum Claims and then the Board will go into a Closed Emergency Special Session Meeting. He discussed the procedures that are to be followed under Florida Statute Ch. 286. Drake Martin of Nicks, Patterson & Roche Law Firm appeared before the Board to report the three year anniversary of the oil spill is approaching, as well as the Statute of Limitations as to pursue litigation against B.P. He stated that decisions have to be made by April 20, 2013 as to pursuing litigation. Mr. Martin reported that B.P. has been properly presented with T.D.C.'s claim in a matter which was consistent with the Federal Legislation, at least ninety days in advance of pursuing litigation against B.P., giving B.P. expiration production the opportunity to confront our claim and to try to treat us responsibly, and negotiate a fair settlement without the necessity of litigation. He stated that an offer has been presented at the last minute which necessitated this emergency meeting. Mr. Martin reported on the T.D.C. claim, stating they approached the T.D.C. losses from a metric model by not just looking at the year over year growth or by comparing the T.D.C. revenues to prior years; stating that they looked at the economic realities that were going on in Gulf County. He discussed the comparison approaches used by B.P. Mr. Martin reported that this has allowed them to use their kind of model and compare it to B.P.'s comparison models; stating that Gulf County T.D.C. has experienced growth continuously since 2007, which puts the County in a difficult position in making an argument to show a loss. He stated that the total revenues in 2007 for Tourist Development Tax was \$642,000.00, in 2008, they were

\$692,000.00, in 2009, the revenues were \$732,000.00, and in 2010, they did not go down, they went up by \$9,000.00 for a total of \$741,000.00. He discussed the Risk Transfer Premium. Mr. Martin reported that the 2011 Revenue Funds were \$841,000.00 and the 2012 Revenue Funds eclipsed the 2011 before the fourth quarter of 2012; making the argument of future actual losses more difficult to present. He stated that they have negotiated with B.P. consistently leading up to January 19th when the claim had to be presented. Mr. Martin reported that an offer to resolve future losses for the T.D.C. has been presented, in the amount of \$246,000.00 in addition to the \$119,000.00 previously collected, for a total of \$365,000.00; stating this is approximately 50% of the 2010 Revenues. After discussion by County Attorney Novak, Chairman Smiley called for public comment. There was no public comment. County Attorney Novak discussed the procedure regarding the closed session meeting and the attendees. Upon discussion by County Attorney Novak, Commissioner Yeager motioned to proceed into the closed session meeting. Commissioner McDaniel seconded the motion, and it passed unanimously. Chairman Smiley called for a three minute recess from the emergency meeting.

The meeting did then recess at 9:20 a.m., E.T.

The meeting did then reconvene at 10:15 a.m., E.T.

County Attorney Novak discussed the last step regarding the closed session meeting is to bring it back out to the public session. Commissioner Yeager motioned to proceed with the ability to litigate based on the recommendation by Special Council. Commissioner McDaniel seconded the motion, and it passed unanimously (4-0). After discussion, Drake Martin of Nicks, Patterson & Roche Law Firm appeared before the Board to discuss "the box" that B.P. is placing the County in with regards to forcing the County to accept an all or nothing offer which is different from what was required in the past, stating there was an interim settlement for T.D.C. and they were more than willing to enter into a partial release at the time, noting this is a change in policy by B.P. to require the County accept all or nothing. After discussion by Mr. Martin, Commissioner Yeager motioned to approve the option if the opportunity arises to separate the two claims, contingent upon approval by Special Council. Commissioner McDaniel seconded the motion, and it passed unanimously (4-0). Chairman Smiley called for public comment. There was no public comment.

There being no further business, and upon motion by Commissioner Yeager, second by Commissioner McDaniel, and unanimous (4-0) vote, the meeting did then adjourn at 10:21 a.m., E.T.

**TYNALIN SMILEY
CHAIRMAN**

ATTEST:

**REBECCA L. NORRIS
CLERK**