

SPECIAL MEETING – MAY 8, 2018

The Board of County Commissioners, Walton County, Florida held a Special Meeting on May 8, 2018 at 1:00 p.m. at the Walton County Courthouse Annex in Santa Rosa Beach, Florida.

The following board members were present: Commissioner W. N. (Bill) Chapman, Chairman; Commissioner Tony Anderson, Vice-Chairman; Commissioner Sara Comander, Commissioner Cecilia Jones, and Commissioner Melanie Nipper. Mr. Larry Jones, County Administrator; Attorney Sidney Noyes, County Attorney; and Mr. Jay Tusa, TDC Executive Director; were also present.

Chairman Chapman called to order the Public Hearing to consider the Beach Activities Ordinance.

Attorney Sidney Noyes, County Attorney, briefly reviewed the Federal Court challenges to the current Beach Activities Ordinance (2016-24) in regards to obstructions and signage on the beach. The Federal Court ordered the ordinance be overturned. She reported this Public Hearing is to consider changes to the ordinance provisions as dictated by the Federal Court Order. She discussed the issues which have been caused by the proliferation of signs and obstructions on the beaches. Attorney Noyes presented the recommended changes to Sections 22-02 and 22-55 of the ordinance which would comply with the court order. The changes include: banning of obstructions both day and night, signs would be allowed during the day time hours and cannot be permanent, a limitation on the distance between signs, a limitation on the size of the signs.

Mr. Brian Kellenberger, Director of Beach Operations, discussed the obstructions on the beach and showed photos of the different types of obstructions. He reported the number of signs have increased due to the customary use issue. Mr. Kellenberger briefly discussed how the obstructions interfere with the duties of Code Enforcement and Beach Maintenance, the effects on

the beach aesthetics, and the safety issues caused by the obstructions. He reported the county trucks which are used at night are equipped with amber lighting to protect the wildlife. The amber lighting inhibits the ability to see the obstructions. Commissioner Jones asked what would be done with the fences in the case of emergencies. Mr. Kellenberger stated that officers are allowed to remove the obstructions.

Commissioner Comander voiced concern with the liberties that some vendors have taken with their businesses on the beach and the effects it has had on the beach aesthetics. Mr. Kellenberger discussed the vendor regulations and the allowance of signs at specific place permitted areas. Further discussion was held regarding appropriate signage and placement.

Ms. Melinda Gates, Coastal Resource Liaison, discussed the reasons the beaches are regulated; specifically for the protection of endangered wildlife habitats. She focused on the Endangered Species Act of 1973 which prohibits the unauthorized taking of endangered species and discussed the events surrounding Hurricane Dennis which required an Incidental Take Permit to allow for beach armoring. The Mitigation Plan was a requirement for the Incidental Take Permits and Ms. Gates reviewed how the plan addresses issues such as shoreline protection, ADA compliance, beach driving, and beach vending/vendor storage and wildlife protection. Commissioner Jones asked who would be responsible for the take caused by the obstructions. Attorney Noyes stated that the person who placed the obstruction. She said the county could possibly be held responsible if it was not addressed in an ordinance. Discussion was held on county responsibilities, requiring the signage be brought in at night, and sign regulations.

Attorney Noyes stated that South Walton Fire District (SWFD) had requested a change to a specific section and she recommended continuing that portion until a SWFD representative could be present.

Mr. Bob Brooke questioned what the legal definition of the word “take” was. Attorney Noyes responded any action that would impact the habitat of an endangered species. Ms. Gates reported that the take would be regulated by the U. S. Fish and Wildlife Service and stated a take could include killing of endangered wildlife, removal of habitat, prohibiting the nests, etc. It is defined in the Endangered Species Act.

Mr. Derek Berube voiced concern for the increased number of vendor signs and the effects it has had on beach aesthetics.

Ms. Leigh Moore stated she favored improving the aesthetics of the beach and encouraged the regulation of sign presentation.

Ms. Barbara Van Stavern, South Walton Turtle Watch, discussed the incidental take of the wildlife and how easily it can be done. Attorney Noyes asked what time the beach is cleared by the turtle watch teams. Ms. Van Stavern stated prior to 7:00 a.m.

Ms. Barbara Morano voiced support of the efforts to insure public safety and discussed the effects the signs and fences would have on tourism.

Commissioner Anderson stated the aesthetics of the beaches have a significant impact on tourism and voiced concern with vendor signage currently being used. Attorney Noyes stated that vendor sign standards can be included in the ordinance language to insure uniformity.

Attorney Kent Safriet spoke on behalf of several beach front property owners and discussed their opposition to portions of the ordinance. He agreed with the uniformity of the signs, but objected to the time limitation of sign placement. He voiced his opinion that this ordinance would not hold up to the First Amendment as it relates to the marking of private property. He asked that monopole signs be allowed along the property lines.

Ms. Lisa Boushy encouraged following the statutes which apply to no trespassing signs. She voiced support for the uniformity of the signs and suggested using the TDC marketing colors for all signs. She discussed recent tent violations and asked that the verbiage “by one or more poles, or a frame, and” be included in the tent definition. Ms. Boushy also suggested that racks be used for the storage at the toe of the dunes citing the piles of vendor equipment affect the wildlife habitats. Mr. Kellenberger stated that it was decided to leave the storage as is and discussed the equipment storage regulations. Attorney Noyes announced the changes to storage could not be considered at this time due to it not being advertised; however, the changes to the tent definition could be considered.

Commissioner Jones recommended using a beach as a pilot program to test the effectiveness of storage racks to aid in possible future changes to the ordinance. Attorney Noyes said she would meet with Mr. Kellenberger on that issue.

A brief discussion was held regarding language on the signs.

Commissioner Nipper questioned if private property signs could be placed in certain areas. Attorney Noyes replied that it could as long as the signs were placed 250 feet apart or the distance of the property if it is smaller than 250 feet.

Chairman Chapman expressed the need for demarcations to determine private property lines to enforce trespassing laws. He recommended one sign at the toe of the dune and one at the water’s edge which would eliminate having eight to 10 signs indicating private property. Attorney Noyes stated that according to trespass statutes if the property is less than five acres and has a single family residential home on the property, then no posted signs are required. The regulation being considered states the signs are to be placed 250 feet apart; this is twice the amount as required by trespass statutes for properties larger than five acres. Commissioner Jones suggested one small,

property marker indicator at the toe of the dune. Attorney Noyes stated the regulations would allow this type of marker. Discussion continued on utilizing TDC colors, permanent installation of the property markers, and specific size regulations for property markers.

Commissioner Nipper asked if the size of umbrellas had been defined. Attorney Noyes stated that the dimensions of umbrellas are limited by members of the public on private property under the Customary Use Ordinance (2016-23).

A brief discussion was held on recent tent violations and revising the definition of tent.

Commissioner Jones asked if the sign size being recommended is in keeping with State law. Attorney Noyes replied that State law regulates that no trespassing signs be 12 inches by 18 inches.

Motion by Commissioner Jones, second by Commissioner Comander, to approve the changes presented with the added language regulating the size, material, and color of the signs ensuring that all signs and supporting structures are constructed on white wood or wood-looking material and backgrounds, professionally printed, and text colors are to match the TDC logo colors.

Mr. Brooke asked if the changes would disallow signs such as campaign signs to be placed at the toe of the dune. Attorney Noyes replied it would not. Discussion was held regarding the signs being placed on the soft, sandy portion of land lying seaward of the seawall or the line of permanent dune vegetation.

Attorney Safriet stated the no trespassing sign at the toe of the dune is not sufficient and requested a four inch by four inch white post be permanently affixed on the sandy area of the beach to indicate private property/no trespassing. He discussed the placement of county trash receptacles which needed to be removed to prevent accidental takes.

Commissioner Comander called the question.

Discussion was held on whether the board action was according to the Federal Court Order and regulations for sign placement.

Chairman Chapman voiced his concern regarding the need for permanent signage to enable the enforcement of trespass laws at all hours and the placement of the county trash receptacles on the sandy areas of the beach. Attorney Noyes stated that the picture used by Attorney Sefriet to indicate the placement of the receptacle was taken prior to the adoption of the 2016 ordinance and that those receptacles have been moved. Mr. Kellenberger responded that all county trash receptacles are placed at the toe of the dune.

Ayes 4, Nays 1. Chapman Nay, Anderson Aye, Comander Aye, Jones Aye, Nipper Aye.

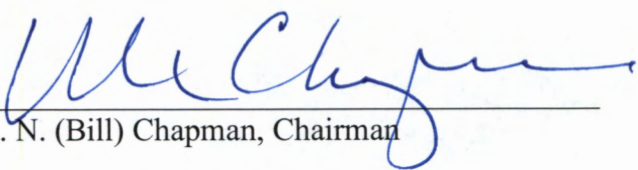
Motion by Commissioner Comander, second by Commissioner Jones, to change the tent definition language to include the following language "supported by one or more poles or frame and often secured by ropes fastened to pegs in the ground." Ayes 5, Nays 0. Chapman Aye, Anderson Aye, Comander Aye, Jones Aye, Nipper Aye.

Discussion ensued regarding the fence regulations and enforcement of the ordinance.


Attorney Noyes stated she would contact SWFD regarding the re-advertisement of the section they wished to address.

The meeting was adjourned at 2:01 p.m.

Approved:


W. N. (Bill) Chapman, Chairman

Attest:


Alex Alford, Clerk of Courts and County Comptroller