

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR
WALTON COUNTY, FLORIDA
AT THE SECOND TERM HEREOF,
IN THE YEAR OF OUR LORD,
TWO THOUSAND AND FIFTEEN**

REPORT

WE THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY SELECTED, IMPANELED AND SWORN, INQUIRING IN AND FOR THE BODY OF THE COUNTY OF WALTON UPON THEIR OATHS AS GRAND JURORS, DO PRESENT THE FOLLOWING REPORT.

At the request of the Office of the State Attorney, we have reviewed the operations and policies of Walton County government. Included in this review were operations of the Planning Department, Human Resource Department, and the Board of County Commissioners. Based on our review, we have determined that one witness who appeared before us was untruthful. For that reason, we have returned an indictment charging Patsy Blackshear with one count of Perjury in an Official Proceeding and one count of Perjury in an Unofficial Proceeding.

The issues leading to our review began in January 2015 when a Walton County employee doing a routine review of a file discovered a memorandum dated May 21, 2008, written by a planning department employee who was accepting responsibility for a miscalculation in determining the amount of money due Walton County for a recreation fee. According to the memorandum, this miscalculation resulted in Walton County failing to collect more than \$600,000.00. This memorandum was brought to the attention of the Office of the State Attorney and the Walton County Sheriff's Office and resulted in a seven-month investigation into multiple areas of Walton County government. As a result of that investigation this matter was brought before the Grand Jury for our review. During the course of our review, we have heard testimony from more than forty witnesses and reviewed hundreds of pages of documents. Based upon our review, we make the following findings and recommendations.

RECREATION FEES

The initial area of concern in this matter involved the failure of Walton County to correctly compute and collect recreation impact fees. This is a fee payable to the County based on the assessed value of land and is to be used to fund public recreation projects. At all relevant times this fee was set at five percent of the land value being developed.

In 2005, a project was being developed known as Lakeside at Blue Mountain Beach. According to the Property Appraiser's Office, the assessed value of this land was \$12,285,000.00. The recreation fee for this project should have been \$614,250.00. As a result of an error by a planning department employee, the fee was set at \$614.25. This resulted in Walton County failing to collect \$613,635.75. According to multiple witnesses, this mistake was discovered in 2008 and brought to the attention of Planning Department Director Patsy Blackshear. A memorandum was then written and placed in the file. There is no evidence that this error was ever brought to the attention of Ms. Blackshear's supervisors or the County Commissioners. Evidence indicates that no further action was taken to collect the unpaid fees.

Evidence of a second mistake involving a recreation fee calculation was also brought to our attention. The facts in this case are virtually identical to the one involving Lakeside at Blue Mountain Beach. The land in this development, Endless Summer, had an assessed value of \$4,111,205.00. The recreation fee for this project should have been \$205,560.25 but only \$20,560.25 was calculated and collected. This resulted in Walton County not receiving \$185,000.00. This error occurred in 2006 and was discovered in 2008. While a memorandum dated July 17, 2008, describing this mistake was located in the file, no witness accepted responsibility for writing the memorandum. Again, it appears that no action was ever taken to collect this fee.

We find the failure to collect almost \$800,000.00 in recreation fees to be egregious and unacceptable. For this reason, we make the following recommendations:

1. That the Planning Department continue a recently instituted peer review process to prevent errors;
2. That new software be purchased for the Planning Department that has the ability to calculate and track recreation fees to ensure accuracy;
3. That various levels of review be established, including at the director level, to prevent errors.

LETTERS OF CREDIT

Letters of credit are a line of credit issued by a bank that guarantee that required infrastructure will be completed by a developer. Prior to 2007, letters of credit were tracked by the Planning Department. Evidence before us indicated that between 20 and 25 letters were allowed to expire without the required infrastructure being completed. When this problem was discovered in 2007, responsibility for tracking letters of credit was transferred to the Engineering Department. One employee was assigned to this task who took it upon herself to improve the tracking system and she ensured that the projects with the expired letters of credit were completed by the developers. While evidence indicates that this employee is doing an excellent job using an Outlook Calendar

and Excel Spreadsheet, more needs to be done to prevent letters of credit from expiring in the future.

In order to adequately address this problem, we make the following recommendations:

1. That Walton County immediately take action to develop a formal method for tracking letters of credit. This method should be available to more than one person and should involve computer software designed for this purpose;
2. That a group or committee be established to study whether letters of credit are in the best interest of the County and whether an alternative process should be developed. This committee should receive input from all groups involved in the development process. It should be noted that the majority of the testimony we have received on letters of credit has recommended that they be eliminated and this should be considered.

PROPORTIONATE FAIR SHARE VERSUS IMPACT FEE

Proportionate Fair Share is a payment that is required for projects that are using road segments that are over capacity. These funds are to pay for improvements to the road segments to increase capacity or for connection roads. According to testimony that we have received, there are numerous problems with Proportionate Fair Share. It is based on a very complicated formula that relies on subjective traffic studies and does not allow for any predictability as to the amounts of the payments. Walton County contracts with outside engineering firms to provide this information at considerable cost. We have also heard testimony that this computation is using data that has not been updated since 2010 despite the Land Development Code requiring that the data be updated annually. This results in inaccurate calculations.

Impact Fees are an alternative to Proportionate Fair Share. In this method, a study is completed to determine which roads in the County are over-burdened and the fee is based on the square footage of a development or the number of houses in a subdivision. Testimony indicates that this method results in greater predictability of fees and more fairness in how the fees are calculated. Testimony also indicates that the majority of counties in Florida now use Impact Fees as opposed to Proportionate Fair Share. The testimony we have heard by far favors a move to the use of Impact Fees.

For these reasons, we make the following recommendations:

1. That the County conduct a study to compare Proportionate Fair Share and Impact Fees to determine which is best.

2. That the data used to calculate Proportionate Fair Share be updated as required by the Land Development Code so that accurate fees are assessed.
3. That the County determine which is most cost effective, whether to continue to use an outside engineering firm to perform the Proportionate Fair Share or Impact Fee computations or if they should be performed by County employees.

LAND DEVELOPMENT CODE AND COMPREHENSIVE PLAN

We have received considerable testimony regarding the Land Development Code and the Comprehensive Plan. The Comprehensive Plan establishes the general policies and objectives for development in the county. It is intended to provide the principles, guidelines, standards, and strategies for the orderly and balanced economic, social, physical, environmental, and fiscal development in the area. Testimony we have received indicates that Walton County was the last County in Florida to adopt a Comprehensive Plan and that mandatory updates required by the State were not completed in a timely manner. The Land Development Code contains the specific requirements for development and is the document that puts the policy of the Comprehensive Plan into action.

Numerous witnesses have testified to the problems with both the Comprehensive Plan and the Land Development Code. They are described as vague and ambiguous, internally inconsistent, and inconsistent with each other. These problems have made it necessary for County planners to interpret the meaning of both the Plan and the Code, sometimes leading to similar situations being treated differently. Employees have testified that these problems result in great frustration and low morale and turnover in the Planning Department. In addition, witnesses have said this allows individuals to try to use these ambiguities to their advantage and have resulted in many lawsuits and monetary loss for the County.

For these reasons, we make the following recommendation:

1. We strongly recommend that the Board of County Commissioners contract with outside consultants to review and recommend changes to both the Comprehensive Plan and the Land Development Code. The extent of these changes should be determined based on the advice of these experts. Based on the testimony we have received, we do not believe the County has sufficient staff to do this review and that Walton County would be best served by retaining an outside consultant.

BEEMAN STUDY

In 2004, Dr. Dan Beeman was retained by Walton County to conduct a study of the Planning Department. At the conclusion of the study, he made numerous recommendations of ways to improve County operations. Based upon our review of Dr. Beeman's recommendations and the testimony we have heard, we believe that very few of his suggestions were put in place. We also believe that had these suggestions been enacted, many of the problems outlined in this report could have been avoided. For this reason, we recommend that each County Commissioner, as well as staff, locate this report and read it. We believe this study should be used as a template for County operations. Each County Commissioner has committed to us that they would review this study and make its recommendations a priority as we move forward. We also recommend that this study be updated in order to take into account the changes that have occurred over the last eleven years.

CLERK'S AUDIT

We have heard testimony that the Clerk of Court has an Internal Audit Department that periodically conducts operational audits of various County departments. Evidence we have reviewed indicates that an audit of the Planning Department was performed in 2010. During that audit, it was discovered that County Administration had entered into a Letter of Agreement to retain the services of a consultant to provide guidance, leadership, and decision making services. This agreement obligated the County to pay \$8,000.00 per month to that consultant.

Numerous concerns were raised as a result of this agreement. Included in these were that the contract was not put out for bid, did not contain any standard contract clauses, and was not presented to the Board of County Commissioners for approval.

Testimony before the Grand Jury established that this consultant, while not a County employee, was acting as the Planning Director at the same time that an official Planning Director was also in place. This consultant routinely signed her name as the Director, attended various board meetings as the Director, and performed employee evaluations. Various witnesses testified that this made it difficult for the Planning Department to operate and employees were unaware of the proper chain of command.

While we find that the Internal Audit Department of the Clerk of Court is doing an excellent job, we believe that it may be understaffed, making it impossible to perform audits in a timely manner. As a result of the issues raised in this report, we believe that a forensic audit would be appropriate.

For that reason, we make the following recommendations:

1. That the State Auditor General be requested to perform both forensic and operational audits of the Walton County Planning Department;

2. That the number of auditors employed by Walton County be reviewed to determine whether it is consistent with industry standards. This review should determine if the number of auditors should be increased.

INVOLVEMENT OF COUNTY COMMISSIONER IN DAY TO DAY COUNTY OPERATIONS

We have heard substantial testimony regarding the role of a County Commissioner in the day to day operations of County government. Numerous witnesses have testified that the role of the Commission is to set policy and establish a budget. As a group, the Commission has authority over the County Administrator, County Attorney, and the Director of the Tourist Development Council. Many witnesses have stated that individually, Commissioners have little or no authority. Despite these limitations, evidence indicates that a particular Commissioner is very involved in directing the day to day operations of County government. Witnesses have testified that this is greater here than in other locations where they have worked.

Of particular concern are the actions of County Administrator Larry Jones and District Five Commissioner Cindy Meadows. Evidence we have heard indicates that both Commissioner Meadows and Administrator Jones became directly involved in the hiring and firing of Planning Department employees. Evidence before us indicates that in these instances the ordinary chain of command was not followed and direct supervisors were given little or no input in the decision-making process.

Evidence indicates that in one case an applicant with a connection to Commissioner Meadows was hired for a position with little input from the department supervisor. Despite having no experience in this position, the employee was hired at a higher salary than others who were already working in the identical position. In a second situation, a planning department employee was terminated with little or no input from the department director and without following the County's progressive disciplinary procedures. Evidence indicates that Commissioner Meadows wanted this employee terminated and that Larry Jones directly ordered the termination.

We have also heard testimony regarding Commissioner Meadows' involvement in a code enforcement issue that resulted in normal procedures not being followed.

For these reasons, we believe County Administrator Larry Jones and Commissioner Cindy Meadows should be reprimanded for their failure to follow proper procedures in the hiring, firing, and direction of County employees. We also believe that every person in County government should strictly adhere to the policies of the Human Resources Department including those dealing with the hiring and firing of employees.

County Commissioners should not be involved in the day to day operations of the County.

PLANNING DEPARTMENT REORGANIZATION

As we have previously written, we believe that an update to the Beeman Study should be done as soon as possible. As part of this study, we recommend that particular attention be given to the Planning Department's operating procedures, chain of command, management, communication, and interaction with other County departments.

We have also heard testimony that the Planning Department Director has requested the purchase of modern, updated software specifically designed for planning. We strongly support this purchase and believe that it should be made as soon as possible.

We also recommend that a more formal training process be established in the Planning Department. This should include areas of conflict resolution and team building. The previous "on the job training" is not sufficient for the difficult tasks facing the department.

Finally, we have heard testimony from many long-standing employees who believe that the County should strongly consider bringing all of the essential aspects of the Planning Department under one roof. They believe this will improve communications and functionality of the department. We realize this may be difficult and leave the ultimate decision to the Board of County Commissioners.

DEVELOPER INFLUENCE

We have received testimony that developers have had greater access to planning department offices than allowed to the general public. Witnesses have also indicated that developers have attempted to influence the decisions of individual employees. We believe that it is important for the County to monitor this situation and ensure that proper safeguards are in place to prevent outside influences from affecting planning department decisions.

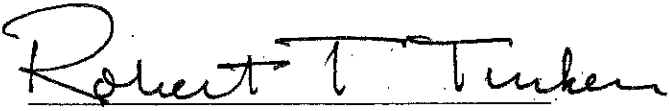
CONCLUSION

We as a Grand Jury believe that the implementation of the findings and recommendations in this report is critical to the improvement of our County. Each Commissioner has personally committed to review this report and implement the changes we have recommended. We expect the Commissioners to be held accountable for their commitment.

Finally, we write to compliment the many fine employees who work for Walton County. Often times these employees work under difficult circumstances. We have heard from many of these employees over the course of our review and appreciate what they do each and every day for Walton County. We strongly urge that great care be taken to avoid even the appearance of retaliation against the employees who have testified before us.

This Grand Jury is comprised of citizens from all areas of Walton County from various occupations and walks of life. We hope that our Report informs the public of issues to be addressed and that the Commissioners use it as the first step forward in a better future for Walton County.

DONE THIS 4th Day of September, 2015, in Walton County, Florida.


Foreperson