

**CALHOUN COUNTY BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING MINUTES  
JANUARY 9, 2018**

**PRESENT AND ACTING:**

**DANNY RAY WISE, CHAIRMAN  
GENE BAILEY, VICE-CHAIRMAN  
DARRELL MCDOUGALD  
DENNIS JONES  
JERAL HALL**

**MATT FUQUA, ATTORNEY  
CARLA A. HAND, CLERK OF COURT AND COUNTY COMPTROLLER  
SARAH WILLIAMS, CLERK ADMINISTRATIVE ASSISTANT**

Chairman Wise called the meeting held in the Regular Meeting room to order at 6:03 P.M.; CT.  
Commissioner Bailey led the Prayer and Pledge of Allegiance to the Flag.

**APPROVAL OF MINUTES AND VOUCHERS**

A motion to approve the minutes and vouchers as published on the agenda (the December 12, 2017 Regular Meeting Minutes; vouchers for warrants: accounts payable warrants – 1712-1LC, 1712-2EC, 1712-2GC, 1712-2GS, 1712-2RC, 1712-2SG, 1801-1E, 1801-1ES, 1801-1G, 1801-1L, 1801-1RD, 1801-1S, 1801-MED, 1801-UTL and payroll warrants – PR17-B38, PR17-B39, PR121417, PR122817) was made by Commissioner Bailey and seconded by Commissioner Jones. The motion passed unanimously 5-0.

**PUBLIC HEARING – COMPREHENSIVE PLAN AMENDMENT, CHOLLA PETROLEUM/NEAL LAND AND  
TIMBER COMPANY**

Attorney Fuqua stated there are three (3) Ordinances for adoption that were discussed at length during the Planning Commission Meeting prior to the regular Board meeting. Attorney Fuqua stated typically the presenters from the Planning Commission Meeting are asked if they would like their comments carried forward directly to the Board meeting, unless there were any presenters not present at the Planning Commission Meeting. Attorney Fuqua asked if this would be acceptable to both parties, for and against, the Comprehensive Plan amendment. Ms. Georgia Ackerman with the Apalachicola Riverkeeper stated she would like to add comments to her previous presentation.

Chairman Wise opened the floor to public comment.

(Included Comments from the Planning Commission Meeting)

Ms. Vinette Godelia, with the law firm Hopping, Green & Sams, P.A. who represents Cholla Petroleum and Neal Land and Timber Company regarding the Comprehensive Plan amendment, stated there was a detailed presentation in October for the transmittal hearing regarding the proposed amendment. Ms. Godelia stated the materials were sent to the relevant State agencies for review. Ms. Godelia stated they coordinated with the Department of Environmental Protection (DEP) informally as they did not submit comments to the amendment; spoke with the Department of Economic Opportunity who issued a letter with no comments or objections to the amendment, and communicated with the Apalachee Regional Planning Council (ARPC) who did provide comments and recommendations for the amendment. Ms. Godelia stated the Board should have received these comments, and stated she has

provided the Board a letter that was drafted and would be included with the package to respond to the comments from the ARPC with regard to certain functions of the way oil-drilling works. Ms. Godelia stated a month after the comment period had closed, late comments were received from the Florida Fish and Wildlife Conservation Commission (FWC) and the letter also responds to the comments received from that agency as well. Ms. Godelia stated she has provided the Board with a letter from Spooner Petroleum indicating their agreement with the proposed amendment.

Ms. Godelia provided the Board with an updated version of the draft amendment showing the changes that have been made. Ms. Godelia stated after conversations with the DEP and looking at the comments suggested by the ARPC and the FWC, some changes were made to the amendment. Ms. Godelia explained the summary of the changes made for the Board. Ms. Godelia stated references were inserted regarding the State's Environmental Resource Program to make sure it is understood these requirements would be complied with in the permitting process. Ms. Godelia stated initially the word "shall" was used when discussing where development would be allowed regarding oil and gas production, particularly in wetlands and floodplains, which has been replaced with the word "may" so the Board of County Commissioners has the ability to determine whether a particular well approval would be granted. Ms. Godelia stated other language was added as well to deal with floodplain areas to address, in particular, concerns from the FWC. Ms. Godelia stated language was added about the designation of Apalachicola and Chipola Rivers being outstanding Florida waters and that priority would be understood by the County and maintained. Ms. Godelia stated they also added the requirement of a conditional use approval process for every proposed well, so it will be clear that no well can be drilled in Calhoun County unless an applicant comes before the Board of County Commissioners for a Conditional Use Permit, and provides permits from the appropriate State and Federal agencies.

Ms. Georgia Ackerman, representing the Apalachicola Riverkeeper organization, provided the Board with a folder of handouts regarding the resolution passed by Apalachicola Riverkeeper, research on solar energy jobs, the Apalachicola Riverkeeper's recommended guidelines for the proposed amendment to the Comprehensive Plan, and information regarding the Jay, FL pipeline system spills and other spills around the country. Also included in the folder was a letter from their attorney, Robert N. Hartsell, P.A. regarding the amendment to the Comprehensive Plan and the recommended guidelines from the Apalachicola Riverkeeper. Ms. Ackerman stated the Apalachicola Riverkeeper supports solar farms and other sustainable forms of energy, and believes the economy should be stimulated in a way that does not jeopardize our natural resources. Ms. Ackerman stated the letter from their attorney outlines how the County can continue with a Comprehensive Plan that gives the best opportunity to maintain a clean environment. Ms. Ackerman asked the Board to carefully consider the list of fifteen (15) recommendations, as they would help to protect the County's natural resources. Ms. Ackerman asked the Board to table their decision on the Comprehensive Plan amendment, and meet with the Apalachicola Riverkeeper to discuss their recommendations.

(Comments added in the regular Board meeting)

Ms. Georgia Ackerman stated packets were provided to the Board at the Planning Commission Meeting, and she would like to highlight a couple more items. Ms. Ackerman directed the Board's attention to the amount of oil spilled at the Jay oil field, and stated these numbers are significant for the Board's considerations. Ms. Ackerman stated adopting the proposed amendments do not further Calhoun County's current Comprehensive Plan policies, goals, and objectives. Ms. Ackerman stated Apalachicola Riverkeeper remains steadfast in their belief that allowing a blanket approval for oil and gas activities conflicts with the existing policies of the Calhoun County Comprehensive Plan. Ms. Ackerman stated including the fifteen (15) recommendations suggested by the Apalachicola Riverkeeper would be in the



best interest of Calhoun County and surrounding counties that may experience negative impacts as a result of oil and gas activities in the County. Ms. Ackerman encouraged the Board to consider adopting and implementing the recommendations with the Comprehensive Plan. Ms. Ackerman asked the Board to table the adoption of the amendment for thirty (30) days in order to discuss the recommendations presented by Apalachicola Riverkeeper.

Commissioner McDougald stated the Board has been going through this process for a long time, and the Board has gone over a tremendous amount of information. Commissioner McDougald stated he has been available to speak with anyone who wanted to discuss the issue. Commissioner McDougald stated he would not want to delay this process any further.

Attorney Fuqua stated both parties would like their comments presented in paper form to be incorporated into the minutes as well. (See attachments)

There was no further public comment.

Attorney Fuqua read Ordinance #2018-01 by title.

#### **ORDINANCE #2018-01**

#### **AN ORDINANCE ADOPTING AN AMENDMENT TO THE CALHOUN COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida:

##### **SECTION I. Purpose and Intent.**

This Ordinance is enacted to amend the Calhoun County Land Development code as follows:

**SECTION 3.13.00** of the County Land Development Code is hereby amended to include the following language;

**9. Oil and gas exploration, development, and production subject to conditional use approval and state drilling and operating permits.**

##### **SECTION II. Conflicts**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Calhoun County Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

##### **SECTION III. Severability.**

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

##### **SECTION IV. Effective Date.**

This Ordinance shall take effect upon its passage as provided by law.



- ❖ Commissioner Bailey made a motion to adopt Ordinance 2018-01, amending the Land Development Code. Commissioner McDougald seconded the motion. The motion passed 4-1. Commissioner Jones opposed.

Attorney Fuqua read Ordinance #2018-02 by title. Attorney Fuqua stated the Calhoun County Planning Commission has recommended all three (3) Ordinances for approval.

### **ORDINANCE #2018-02**

**AN ORDINANCE AMENDING THE CALHOUN COUNTY COMPREHENSIVE PLAN, BY AND THROUGH PROCEDURES REQUIRED FOR LARGE-SCALE AMENDMENTS PURSUANT TO AUTHORITY UNDER STATE STATUTES SECTION 163.3184, SPECIFICALLY APPROVING CHANGES TO THE FUTURE LAND USE ELEMENT, AND PROVIDING FOR REPEAL OF ANY CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida:

WHEREAS, Chapter 125, Florida Statutes empowers the Board of County Commissioners of Calhoun County to prepare and enforce comprehensive plans for the development of the County; and

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers and requires the Board of County Commissioners to (a) plan for the County's future development and growth; (b) adopt and amend comprehensive plans, or elements to portions thereof, to guide the future growth and development of the county; and

WHEREAS, pursuant to Section 163.3174(1), Florida Statutes, the Board of County Commissioners of Calhoun County have designated themselves as the Local Planning Agency for the unincorporated area of Calhoun County; and

WHEREAS, supporting data and analysis documentation was prepared as background and justification for the Comprehensive Plan amendment; and

WHEREAS, the Board of County Commissioners of Calhoun County, Florida, acting as the Local Planning Agency, has prepared the proposed amendment to the Calhoun County Comprehensive Plan, and held a public hearing on the proposed amendment on October 24, 2017 at 4:30 p.m. and recommended approval of the amendment to the Board of County Commissioners; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, on October 24, 2017 at 6:05 p.m., the Board of County Commissioners of Calhoun County, Florida, held a public hearing, with due public notice having been provided, on the adoption of Comprehensive Plan amendment; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Board of County Commissioners of Calhoun County, Florida, held a public hearing on January 9, 2018, at 6:00 p.m. on the adoption of an ordinance for the Comprehensive Plan amendment, with due public notice having been provided, to obtain public comment, and having considered all written and oral comments received, including the data collection and analysis packages and recommendations of the Local Planning Agency, and comments of the appropriate State agencies; and



WHEREAS, in exercise of its authority the Board of County Commissioners of Calhoun County, Florida, has determined it necessary and desirable to adopt the revised Comprehensive Plan amendment to encourage the most appropriate use of land, water and resources, consistent with the public interest; and deal effectively with future issues that may result from the use and development of land within Calhoun County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida, as follows:

Section 1. Purpose and Intent.

This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended;

Section 2. Calhoun County 2010-2025 Comprehensive Plan amendment.

THE CALHOUN COUNTY 2010-2025 COMPREHENSIVE PLAN IS HEREBY AMENDED specifically approving changes to the Future Land Use Element (see Exhibit A).

Section 3. Copy on File.

A certified copy of the enacting ordinance, as well as certified copies of the Calhoun County Comprehensive Plan as revised shall be filed with the Clerk of the Circuit Court of Calhoun County, Florida, and copies shall be made available to the public for a reasonable publication charge.

Section 4. Transmittal to Department of Economic Opportunity.

The Board of County Commissioners for Calhoun County, Florida has, pursuant to Section 163.3184, Florida Statutes, transmitted the amendment to the Calhoun County 2010-2025 Comprehensive Plan to the Department of Economic Opportunity for review and determination of Compliance of the Plan with the provisions of Chapter 163, Part II, Florida Statutes and has received no objections to the Ordinance.

Section 5. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 6. Severability.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 7. Effective Date.

Pursuant to Section 163.3184, Florida Statutes, this Ordinance and the amended version of the Calhoun County 2010-2025 Comprehensive Plan shall not become effective until the 21 day period for affected parties to file a petition has expired and the Ordinance has been officially filed with the Secretary of State.

**EXHIBIT A**

**FUTURE LAND USE ELEMENT<sup>1</sup>**

**Policy 9.4.1**





Purpose: To provide land for timber, row crop farming and related agriculture and compatible activities. The agriculture land use category, accounts for about 86% of the land area in Calhoun County and includes mainly timberlands. Other land uses include cropland, pasture land, and other agricultural uses in large scale land holdings. The lands are primarily timber production holdings.

[density omitted]

Uses: Agricultural activities, livestock, aquaculture, agricultural/farm dwelling units, single family residential units, agricultural support services, structures and facilities, vacant land, places of worship, public facilities and grounds, public utilities, oil and gas exploration, development, and production, and neighborhood commercial where activities are compatible with adjacent land uses and are adequately buffered.

- ❖ Commissioner McDougald made a motion to approve Ordinance 2018-02, amending the Comprehensive Plan. Commissioner Bailey seconded the motion. The motion passed 4-1. Commissioner Jones opposed.

Attorney Fuqua read Ordinance 2018-03 by title.

#### **ORDINANCE #2018-03**

**AN ORDINANCE AMENDING THE CALHOUN COUNTY COMPREHENSIVE PLAN, BY AND THROUGH PROCEDURES REQUIRED FOR LARGE-SCALE AMENDMENTS PURSUANT TO AUTHORITY UNDER STATE STATUTES SECTION 163.3184, SPECIFICALLY APPROVING CHANGES TO THE FUTURE CONSERVATION ELEMENT, AND PROVIDING FOR REPEAL OF ANY CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida:

WHEREAS, Chapter 125, Florida Statutes empowers the Board of County Commissioners of Calhoun County to prepare and enforce comprehensive plans for the development of the County; and

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers and requires the Board of County Commissioners to (a) plan for the County's future development and growth; (b) adopt and amend comprehensive plans, or elements to portions thereof, to guide the future growth and development of the county; and

WHEREAS, pursuant to Section 163.3174(1), Florida Statutes, the Board of County Commissioners of Calhoun County have designated themselves as the Local Planning Agency for the unincorporated area of Calhoun County; and

WHEREAS, supporting data and analysis documentation was prepared as background and justification for the Comprehensive Plan amendment; and

WHEREAS, the Board of County Commissioners of Calhoun County, Florida, acting as the Local Planning Agency, has prepared the proposed amendment to the Calhoun County Comprehensive Plan,



and held a public hearing on the proposed amendment on October 24, 2017 at 4:30 p.m. and recommended approval of the amendment to the Board of County Commissioners; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, on October 24, 2017 at 6:05 p.m., the Board of County Commissioners of Calhoun County, Florida, held a public hearing, with due public notice having been provided, on the adoption of Comprehensive Plan amendment; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Board of County Commissioners of Calhoun County, Florida, held a public hearing on January 9, 2018, at 6:00 p.m. on the adoption of an ordinance for the Comprehensive Plan amendment, with due public notice having been provided, to obtain public comment, and having considered all written and oral comments received, including the data collection and analysis packages and recommendations of the Local Planning Agency, and comments of the appropriate State agencies; and

WHEREAS, in exercise of its authority the Board of County Commissioners of Calhoun County, Florida, has determined it necessary and desirable to adopt the revised Comprehensive Plan amendment to encourage the most appropriate use of land, water and resources, consistent with the public interest; and deal effectively with future issues that may result from the use and development of land within Calhoun County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida, as follows:

Section 1. Purpose and Intent.

This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended;

Section 2. Calhoun County 2010-2025 Comprehensive Plan amendment.

THE CALHOUN COUNTY 2010-2025 COMPREHENSIVE PLAN IS HEREBY AMENDED specifically approving changes to the Conservation Element (see Exhibit A).

Section 3. Copy on File.

A certified copy of the enacting ordinance, as well as certified copies of the Calhoun County Comprehensive Plan as revised shall be filed with the Clerk of the Circuit Court of Calhoun County, Florida, and copies shall be made available to the public for a reasonable publication charge.

Section 4. Transmittal to Department of Economic Opportunity.

The Board of County Commissioners for Calhoun County, Florida has, pursuant to Section 163.3184, Florida Statutes, transmitted the amendment to the Calhoun County 2010-2025 Comprehensive Plan to the Department of Economic Opportunity for review and determination of Compliance of the Plan with the provisions of Chapter 163, Part II, Florida Statutes and has received no objections to the Ordinance.

Section 5. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.



## Section 6. Severability.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## Section 7. Effective Date.

Pursuant to Section 163.3184, Florida Statutes, this Ordinance and the amended version of the Calhoun County 2010-2025 Comprehensive Plan shall not become effective until the 21 day period for affected parties to file a petition has expired and the Ordinance has been officially filed with the Secretary of State.

### **EXHIBIT A** **CONSERVATION ELEMENT**

#### MINERAL RESOURCES

##### MINING

**OBJECTIVE 8A:** Mining activity shall be regulated to ensure no adverse effect upon the quality of air, groundwater, surface water and wildlife.

**Policy 8.1:** A mining operation water use plan must be prepared and approved before new mining operations are permitted.

**Policy 8.2:** A minimum 50 foot natural setback shall be established and maintained for all mining activities. In addition, the County may require a vegetative or structural buffer between mining activities and adjacent existing and future uses.

**Policy 8.3:** A reclamation plan shall be approved by the County before mining activities are permitted.

**Policy 8.4:** The natural function of wetlands, and flood plains of the Chipola River and Apalachicola River shall be protected by prohibiting mining in 100 year flood plain areas, wetlands and within 100 feet of the Apalachicola River.

#### OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

**OBJECTIVE 8B:** Oil and gas exploration, development, and production shall be regulated consistent with state and federal permitting requirements.

**Policy 8.5:** In those areas of the County where oil and gas exploration, development, and production facilities are an allowable use, such use shall be subject to all applicable regional, state and federal requirements for drilling, production, and transportation. Drilling, operations, site design and stormwater management activities are regulated by the Florida Department of Environmental Protection (FDEP). The requirement shall be deemed satisfied upon issuance of the applicable FDEP permits, in compliance with **Part IV of Chapter 373, F.S., Chapter 62-330 Florida Administrative Code** and the criteria established in Chapter 62C-25 through 62C-30, Florida Administrative Code, as those rules exist as of **January 9, 2018, the adoption date of this amendment to the County's Comprehensive Plan.**



Policy 8.6: Notwithstanding other provisions of the Comprehensive Plan and the Land Development Code, oil and gas exploration, development, and production is permitted subject to the following requirements:

- a. May ~~shall~~ be allowed in or near wetlands where activities and/or development mitigates any unavoidable impacts to wetlands consistent with state and federal standards as determined by the appropriate state and federal agencies through FDEP or the United States Army Corps of Engineers;
  - b. May ~~shall~~ be allowed in the floodplain and shall comply with the Calhoun County Floodplain Management Ordinance. To the extent development is proposed in the floodplain, the applicant shall demonstrate that proposed development, including well heads and onsite storage, will be designed to operate safely in the floodplain. Further, the storage of crude oil, or the use or storage of the drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas, which are regulated under chapter 377, Florida Statutes, may be allowed in the floodplain.
  - c. May ~~shall~~ be allowed in high or prime aquifer recharge areas subject to review by the Northwest Florida Water Management District for appropriate safeguards to protect aquifer zones. The developer shall provide documentation demonstrating coordination during the conditional use review process.
  - d. May be allowed where activities and/or development provides the highest protection to the Apalachicola and Chipola Rivers, state designated Outstanding Florida Waters, in conformance with the Florida Department of Environmental Protection's policy under section 62-302.700 Florida Administrative Code.
  - e. Shall be subject to the conditional use review requirements of the Land Development Code.
- ❖ Commissioner Bailey made a motion to approve Ordinance 2018-03, amending the Comprehensive Plan. Commissioner Hall seconded the motion. The motion passed 4-1. Commissioner Jones opposed.

#### **OATH OF OFFICE – IDA BOARD MEMBER**

Attorney Fuqua administered the Oath of Office for the IDA Board to Mr. John Morgan Davis.

#### **PROCUREMENT OF ASSET INVENTORY SOFTWARE AND UCC READABLE TAGS**

Clerk Hand requested the Board purchase with available funds in 01513-51349 asset inventory software with tags so the Clerk's Office would be able to perform the annual inventory.

- ❖ Commissioner Bailey made a motion to approve the purchase of the asset inventory software and tags. Commissioner Hall seconded the motion. The motion passed unanimously 5-0.

#### **APPROVAL OF INMATE MEDICAL RENEWAL**

Clerk Hand stated she would like to discuss this item at the January 23, 2018 Board meeting. Clerk Hand stated she was promised an additional quote and had not received it by tonight's meeting.

#### **APPROVAL OF FORM FOR REPORTING ACCIDENTS (AUTO, ECT)**





Clerk Hand stated her office has developed a form using Google Docs to record accidents in various locations that can be sent directly to a spreadsheet. Clerk Hand stated she would like to speak with all the Department Heads and see if they would be able to incorporate this form so the Clerk's Office would have immediate knowledge of any type of accident that has happened.

Clerk Hand stated there are employees other than Board employees who drive County owned vehicles, such as the Health Department and the Sheriff's Department. Clerk Hand stated when a County employee is involved in an accident a blood test (drug test) is conducted. Clerk Hand asked the Board if they would like this rule to apply to everyone who drives a County owned vehicle.

- ❖ Commissioner McDougald made a motion for any employee who drives a County owned vehicle to be required to have a blood test if they are involved in an accident. Commissioner Bailey seconded the motion. Commissioner Bailey stated he believes if Board employees are held to this standard, anyone else driving County vehicles should also be required to follow the same standard. There was further discussion about accidents involving County vehicles. Commissioner Jones asked whether a urine sample or blood test is required. Clerk Hand said she originally stated a blood test but it is a drug test from a urine sample. Commissioner McDougald stated he thought the policy stated a blood test would be conducted for any employee involved in an accident involving a County owned vehicle. Mr. Joe Wood stated he thought the policy read a urine test unless the employee was injured and unconscious. Commissioner McDougald stated it does not matter to him either way, blood or urine test, as long as everyone comes under the same rule. Mr. Wood stated he believed a urine test is what has been conducted in the past. Commissioner McDougald stated he would be fine with a urine test being conducted. Commissioner Jones and Commissioner Bailey stated a blood test is more accurate. There was further discussion about blood and urine tests.
- ❖ Commissioner Bailey made a motion to amend Commissioner McDougald's motion to state a blood test would be needed. Chairman Wise seconded the motion. The motion passed unanimously 5-0.
- ❖ Amended motion: Commissioner McDougald made a motion for any employee or non-BOCC employee who drives a County owned vehicle to be required to have a blood test if they are involved in an accident. Commissioner Bailey seconded the motion. The motion passed unanimously 5-0.

#### **SOLID WASTE FRANCHISE AGREEMENT**

Attorney Fuqua stated Waste Pro has provided a new contract with the updated rate information, but Commissioner Bailey has a few changes he would like made in the contract. Attorney Fuqua stated there is a reference in the contract that talks about imposing the solid waste fee through ad valorem taxes, which Commissioner Bailey would like stricken. Attorney Fuqua stated there is another provision that states the service is freely assignable and he suggests changing it to read the service is assignable but would require County consent, which shall not be unreasonably withheld. There was further discussion about the contract.

- ❖ Commissioner Bailey made a motion to amend the solid waste franchise agreement. Commissioner McDougald seconded the motion. The motion passed unanimously 5-0.

#### **ANIMAL COALITION OF CALHOUN COUNTY**

Ms. Becky Parker addressed the Board about the need for animal control in Calhoun County. Ms. Parker stated there are many grants for animal control in the State of Florida that could be utilized. Ms. Parker stated she would need the County's help to get these grants started. Ms. Parker stated she receives calls often for help with animal control, and when the Sheriff Department or Police Department is called,



they do nothing. Ms. Parker stated Florida Statute 828.73 specifies if there is no animal control in an area, it is up to the County to ensure the County Sheriff and City Police take care of the matter and follow the laws. Ms. Parker stated a County citizen has offered to donate five (5) acres of land for use as an animal rescue facility. Ms. Parker stated there is a petition circulating requesting animal control be implemented in the County. Commissioner Hall stated the citizen that offered five (5) acres has also stated he could possibly donate ten (10) acres. Commissioner McDougald stated the County has looked into the animal control issue before, and it has been cost prohibitive in the past. Commissioner McDougald stated the possibility of donated land would be a start, but he was unfamiliar with grants for animal control. Ms. Chelsea Snowden stated she has tried to look for animal control grants, but has been unsuccessful in locating any. Ms. Snowden stated she would be happy to meet with Ms. Parker to discuss any grants Ms. Parker has found that could help the County get started with animal control. Ms. Parker stated she has many people who have expressed they would be willing to volunteer to help with animal control. Ms. Parker asked the Board to ensure the City Police and the County Sheriff are enforcing laws protecting animals. Ms. Parker stated during the freezing weather someone came across three (3) dogs in the County that were chained up with no food, water, or shelter. Ms. Parker stated she along with others provided food, fresh water, shelter and bedding for the dogs and were instructed by City Police (Town of Altha) not to go back on the property again. Ms. Parker stated one of the dogs was very emaciated and sick, and no animal should be allowed to get into this state of health with no repercussions to the owner. Ms. Jessi Foreman, an employee of Critter Care veterinary clinic, stated she was one of the volunteers who helped with the three (3) dogs. Ms. Foreman stated not only was it disturbing to see the animals in the state they were in, it is a violation of the Florida Statutes and against the law for those animals to be treated in that manner. Ms. Foreman stated they were told by the Sheriff's Department not to go back to the property because they were trespassing, yet the Sheriff's Department did nothing for the animals. Ms. Foreman stated even if it takes a while to get animal control established in the county, the laws protecting animals still need to be enforced. There was further discussion about animal control. Chairman Wise stated animal control is definitely a problem and needs to be taken care of in the County.

#### **CHRIS KILLENBERG, COMMUNITY ENERGY SOLAR – SOLAR FARM**

Mr. Killenberg provided the Board with several handouts regarding solar farms, and stated Community Energy Solar is looking into developing a large-scale solar farm on Porter Grade Road. Mr. Killenberg stated the sole item missing from being able to move forward is a contract to sell the power from this facility. Mr. Killenberg stated several months ago Gulf Power announced a request for information for large-scale solar projects in their territory, which is a step toward them awarding contracts to buy power from one or more solar farms. Mr. Killensberg stated with this possibility, Community Energy Solar is preparing to place a bid and perhaps be able to start the approval process for the solar farm project. Mr. Killensberg stated he wanted to introduce the project to the Board, and ask if the County would provide a letter of general support for a solar farm. Mr. Killensberg stated he provided the Board with a draft letter to submit to Gulf Power. Attorney Fuqua stated the Board would need to make sure the letter states the County is in favor of solar power and clean energy, but would not want the letter to state the County is in favor of a particular project to avoid any issues when it comes to issuing a conditional use permit for any solar farm projects. Mr. Killensberg stated the project would be a fifty (50) megawatt project, which over the course of a year would generate about the amount of power 12,000 households would use. Mr. Killensberg stated the power would go directly into the power lines at the project and be distributed throughout Gulf Power's network. Mr. Killensberg stated leases are in place with the landowners of the site on Porter Grade Road, and the land is currently used for timber production. Commissioner McDougald asked what the timeline for the project would be. Mr. Killensberg stated if things went smoothly, construction would start in 2019 and operation would begin in 2020.

Commissioner Bailey asked when the letter of support would be needed. Mr. Killensberg stated their proposal is due to Gulf Power on January 19. There was further discussion about the solar farm. Chairman Wise asked if there would be any permanent jobs at the solar farm after construction. Mr. Killensberg stated there would be three (3) or four (4) permanent jobs after construction. Mr. Killensberg stated during the construction period there could be 100 to 150 jobs. Mr. Killensberg stated some of the jobs during construction would likely be sourced locally, especially where large equipment is needed. Mr. Killensberg stated he works on the development of the project, and the investor would choose the construction company, but he could encourage them to use local contractors for the project and drive as much business as possible to Calhoun County. There was Board consensus for a letter to be drafted and sent to Mr. Killensberg.

#### **SANDY KELLY – SHIP BIDS**

Attorney Fuqua stated it is his understanding that bids for the Laura Snowden project not be considered due to other items that need to be added to the bid. Chairman Wise stated the motion was made at an earlier meeting to place Ms. Snowden in the next funding cycle as she was written up originally, and it has come to his attention the bid has been re-written. Chairman Wise stated he would like Ms. Snowden's project to be re-bid as originally written, with the addition of a hot water heater. Commissioner Bailey stated the ad could be run next week by itself. Ms. Kelly stated the hot water heater has been included in the bid submitted for opening tonight. Ms. Kelly stated Ms. Snowden has requested some additional items. Chairman Wise reiterated the original write-up specifications should be used, with the addition of the hot water heater. Ms. Kelly stated she advertise for the Snowden project bids to be opened at the next Board meeting.

Ms. Kelly stated representatives from the USDA Office in Marianna would be visiting the County on January 24 to help any citizens with applications for their programs. Ms. Kelly stated the advertisement for this would appear in tomorrow's paper. Chairman Wise asked if the USDA Office would be visiting the County once per week. Ms. Kelly stated the USDA Office would visit the County once per month to see how much interest they receive, and would be willing to come two (2) days per month if needed.

Ms. Kelly requested the Board approve payment to Gulf Coast Home Solutions for the work done on the Paige project. Ms. Kelly stated the project was supposed to be completed in December, but weather issues prevented the project from being completed on time. Ms. Kelly stated the project has been inspected.

- ❖ Commissioner McDougald made a motion to approve payment to Gulf Coast Home Solutions for the Paige project. Commissioner Jones seconded the motion. The motion passed unanimously 5-0.

Attorney Fuqua opened and read aloud the SHIP bids, excluding the bids for Ms. Laura Snowden.

		<b>"S.H.I.P." JOBS</b>				
Client Names	County Estimate	Gulf Coast Home Solutions, LLC (Local Bidder)	Chariot Construction	Mainstreet Property Services	Guyson Construction (Disqualified, all required documentation was not included in the bid packet)	Gadcon Construction (Disqualified, all required documentation was not included in the bid packet)
Janice Baker (Williams)	<b>\$12,260.00</b> 20% cap \$2,452.00 <b>\$14,712.00</b>	\$11,050.00	-----	\$10,750.00	-----	\$13,006.16
Arzella Smith	<b>\$13,875.00</b> 20% cap \$2,775.00 <b>\$16,650.00</b>	-----	\$11,450.00	\$15,800.00	-----	\$16,160.97
Jon Pippen	<b>\$11,650.00</b> 20% cap \$2,330.00 <b>\$13,980.00</b>	\$12,550.00	-----	\$13,250.00	-----	\$20,470.00
Ella Mae Peterson	<b>\$6,695.00</b> 20% cap \$1,339.00 <b>\$8,034.00</b>	-----	\$8,850.00	-----	-----	\$8,111.23

Commissioner McDougald asked Mr. Dowling Parrish if Gadcon Construction is a contractor the Board has rejected bids from in the past. Mr. Parrish indicated an affirmative. Commissioner McDougald stated the last Board had some issues with this contractor getting work completed, and believes the Board of Commissioners voted to reject bids from Gadcon Construction due to the problems they had. Attorney Fuqua stated he is unsure if the Board voted to reject bids from this contractor previously. Clerk Hand stated she believes a project was taken from Gadcon Construction previously, but does not believe the contractor was banned. There was further discussion about Gadcon Construction.

- ❖ Commissioner Bailey made a motion to accept the bids from Gadcon Construction, contingent upon the contractor not being banned. Commissioner McDougald seconded the motion. The motion passed unanimously 5-0.

- ❖ Commissioner McDougald made a motion to accept all low bids under the cap provided all paperwork be in order, and for Ms. Kelly to work with the contractor with the low bid on the Peterson job to see if they would meet the cap. Commissioner Jones seconded the motion. The motion passed unanimously 5-0.

Attorney Fuqua stated Guyson Construction nor Gadcon Construction included the necessary paperwork with their bids packets, including insurance and licensing information. Commissioner McDougald asked

if the invitation to bid states these items must be included. Ms. Kelly stated this instruction is listed on the sheet given to the contractors. Commissioner McDougald stated the Board has found before that if the rule is not held to strictly, the rule will not be followed.

- ❖ Commissioner McDougald made a motion to **disqualify** the bids (**Guyson and Gadcon**) without the proper paperwork included. Commissioner Bailey seconded the motion. The motion passed unanimously 5-0.

#### **KEITH MADDOX, EMS DIRECTOR**

Ms. Snowden and Mr. Maddox opened bids for the ambulance retrofit and repair and read them aloud.

<b>Ambulance Retrofit and Repair</b>	
<b>Contractor</b>	<b>Total Base Bid</b>
EVT Enterprises	\$86,657.42
Frazier Built	\$103,776.32

Commissioner Bailey asked if Mr. Maddox is familiar with EVT Enterprises. Mr. Maddox stated the company is new, but he is familiar with the vehicle mechanics. Mr. Maddox stated some of the employees have done some emergency vehicle work for their ambulances. Commissioner McDougald asked what the turnaround time for the project would be. Ms. Snowden stated the bid lists eight (8) to ten (10) weeks. Mr. Maddox stated Frazier Built would probably take a little longer with being located in Houston, Texas.

- ❖ Commissioner McDougald made a motion to accept the low bidder, EVT Enterprises. Commissioner Jones seconded the motion. Attorney Fuqua stated the address for the business sounds familiar, and it should be made sure this is not the same company that was awarded the bid last, operating under a different name. Ms. Snowden stated a fully executed contract would be drafted for the project and there would be provisions in the contract to ensure the work is completed in a timely manner and that the County can get out of the contract if needed. Mr. Maddox stated he knows the owner of EVT Enterprises is not the same owner of the previous company awarded the bid. There was further discussion about the company. Commissioner Bailey stated the company would not be allowed to begin work until a contract has been signed. There was further discussion about a contract. The motion passed unanimously 5-0.

Ms. Snowden stated Mr. Maddox would be bringing a Resolution before the Board at the next meeting regarding a grant to help the Volunteer Fire Departments get new AED batteries and pads. Ms. Snowden stated there is no match requirement for the grant. Mr. Maddox stated the Bureau of EMS gives the grant to each county every year and no match is required, only a Resolution to utilize the funds. Mr. Maddox stated the grant requires the funds are to improve emergency medical service in the community. Mr. Maddox stated all the Volunteer Fire Departments are in need of these batteries and pads, and would like to utilize the grant to help them purchase these.

#### **JACK HUSBAND, SOUTHEASTERN CONSULTING ENGINEERS – SCOP SUGGS ATTAWAY PROJECT**

Mr. Husband stated C.W. Roberts is continuing construction and progressing well on the SCOP Suggs Attaway Road project and is progressing well. Mr. Husband stated one lift of asphalt has been placed, and the pipe work is nearing completion. Mr. Husband stated there have been no pay requests received at this time. Mr. Husband stated change order #1 is currently being prepared, and they would be working with the County staff and the contractor on the change order. Mr. Husband stated the change order should include an added cross drain and two mitered end sections, an asphalt patch at the pipe

location, and an asphalt patch in the south lane of the west end of the project. Mr. Husband stated once the job is complete they would prepare the close out documents for the project upon approval of the last pay request. Commissioner Bailey asked why a newly paved road needs to be patched. Mr. Husband stated as the road was being paved, the asphalt began to crack severely in one small area. Mr. Husband stated he inspected the road and feels the area needs to be patched. Mr. Husband stated the area was properly compacted, but there is a small area with possibly bad soil below the base of the road. There was further discussion about the asphalt that needs to be patched. Mr. Husband stated more time might need to be requested for the completion of the project.

#### **TIM JENKS – MAINTENANCE DEPARTMENT**

Mr. Jenks stated the Maintenance Department has been staying busy. Mr. Jenks stated fencing had to be replaced at Sam Atkins Park today from where a vehicle went through a couple fences, and he is getting the ball fields ready to have more clay placed on them.

Mr. Jenks stated there would be a TRANE kickoff meeting on Friday, January 12, in the EOC at 10:00. Mr. Jenks invited any Commissioners available at that time to attend. Mr. Jenks stated the courthouse lighting retrofit is complete, and some electrical work for the HVAC has been started. Mr. Jenks stated TRANE has signed him up to take a class in Mobile, AL February 6 through 9 with all expenses paid.

Mr. Jenks stated he was asked to look at the leak in the old courthouse roof. Mr. Jenks stated he spoke with the roofing contractor who replaced the roof, and he said if the roof were leaking anywhere, it would be behind one of the chimneys. Mr. Jenks stated he went into the attic today and found a leak behind a chimney. Mr. Jenks stated the air handlers are in the ceiling and produce condensation, and he feels this may be the reason for other damage in the old courthouse. Mr. Jenks stated the roofing contractor who replaced the roof would address the roof leak, but an A/C contractor would be needed to look at the air handlers in the ceiling. There was further discussion about the A/C system.

- ❖ Commissioner Bailey made a motion for Mr. Jenks to look at pricing to repair the roof and A/C system and bring the pricing before the Board for their consideration. Commissioner Hall seconded the motion. The motion passed unanimously 5-0.

Mr. Jenks stated Mr. Ricky Couch is on vacation this week, so he is picking up inmates to help with work this week.

#### **CLIFFORD EDENFIELD – ROAD DEPARTMENT**

Mr. Edenfield stated the Road Department would be paving the basketball court at Hugh Creek Park tomorrow (with recreation funds). Mr. Edenfield stated the John F. Bailey Road project should be started next week. Mr. Edenfield stated the barn at the Road Department has been completed with a concrete slap, and a bathroom is under construction so a porta potty is no longer needed to be rented monthly for the prisoners to use. Mr. Edenfield stated they have been preparing the tractors for spring mowing, and would have to purchase four (4) tires for two (2) of the tractors, and another tractor would need new tires approximately half-way through the mowing season. Mr. Edenfield stated a set of tires lasts about four (4) years.

Chairman Wise stated he received a call from Howard Johnson Sr. complimenting the work done by the Road Department on Pippen Cemetery Road. Mr. Edenfield stated he enjoyed working with Mr. Johnson and learning more about the history of Calhoun County from him. Chairman Wise stated Mr. Johnson mentioned a culvert on a curve of the road that could be widened, and stated Mr. Ken Settlemire has a pipe that could be purchased to use if widening the road is a possibility. Commissioner Bailey stated Mr.



Settlemire was asking \$1,500 for the pipe. Mr. Edenfield stated the Road Department could probably purchase a pipe from Gulf Atlantic for less money, and would look into the pipe and widening the road. There was further discussion about pipes and reworking the road.

Ms. Angie Smith addressed the Board with an update about the HMGP (Hazard Mitigation Grant Program) projects. Ms. Smith stated the ad and specification packet for all four (4) of the HMGP projects (Black Bottom Road, Troy McCroan Road, Bears Head Road, and Sam Duncan Road) has been submitted to she and Mr. Edenfield for review while they are waiting for the contracts to come back from the State. Ms. Smith stated Mr. Ford has staked out the right of way on Troy McCroan Road. Ms. Smith presented the Board for approval and execution a task order from ARCADIS for all four (4) HMGP projects not to exceed the amount of \$33,486.00, which is \$4,000 less than allowed for project management that can be used toward the County administration costs for the projects. There was further discussion about ARCADIS. Commissioner Bailey asked if this would fall under the purchasing policy. Ms. Smith stated ARCADIS is working with the County under an old Emergency Management contract. Ms. Smith stated the company oversaw phase one (1) of the project, and this would allow them to oversee phase two (2) as well. Commissioner Jones asked if the County could oversee the project and not have to pay another company to do the work. Mr. Edenfield stated he does not believe the County is equipped to do some of the quarterly reports to the State. Ms. Smith stated the County would also not be able to charge for the entire amount allowed for the project management, nor would there be anyone who has the time to complete all the reports. There was further discussion about project management for the HMGP projects.

- ❖ Commissioner Bailey made a motion to approve the task order from ARCADIS for the HMGP projects, not to exceed \$33,486.00. Commissioner McDougald seconded the motion. The motion passed unanimously 5-0.

#### **RITA MAUPIN – DIRECTOR OF LIBRARY SERVICES**

Ms. Maupin provided the Board with the statistical report for December for the County libraries. Ms. Maupin stated there were 8,121 patron visits made to the six (6) libraries, 8,450 adult and juvenile print or electronic format titles were checked out, and 123 adult and 23 youth titles were added to the circulating collection. Ms. Maupin stated the libraries have 128 adult and patron computers currently placed in the branches, and eleven (11) have been picked for updating. Ms. Maupin stated old computers are being cannibalized to save parts for later use. Ms. Maupin stated 180 patrons received assistance in the use of patron computers, 281 families were helped with food stamps, 81 patrons were helped with e-government assistance programs, and 35 parent and child time emergent reading programs were provided at the libraries and in childcare centers. Ms. Maupin stated security cameras were installed at the Blountstown Library in the patron computer areas, and they were able to catch someone stealing a camera from one of the computers and the police were able to recover the stolen camera because of the surveillance footage.

#### **DOWLING PARRISH – BUILDING OFFICIAL**

Mr. Parrish stated he inspected Mr. Buddy Kyle's home and has determined the repair costs would be around \$12,000.00. Chairman Wise asked if Mr. Parrish could work up a bid package for the repairs. Mr. Parrish stated if it was the Board's wish to advertise for bids, he would prepare a bid package.

- ❖ Chairman Wise made a motion for Mr. Parrish to prepare a bid package and advertise for bids to repair Mr. Kyle's home. Commissioner Bailey seconded the motion. The motion passed unanimously 5-0.

Mr. Parrish stated Ms. Maxine Hand's home caught fire and she has no insurance to cover the repairs. Mr. Parrish stated there was major damage done, and there is an eight (8) to ten (10) foot area where the fire burned her home on the north side around the fireplace. Mr. Parrish stated he went out to the house and got electricity back on in the habitable part of the house, and Mr. Kevin Brown was supposed to go today and put something over the hole and try to cut some of the burnt wires out of the home. Commissioner Bailey asked if the repairs could be made using the SHIP program. Mr. Parrish stated the home should be able to be repaired under the SHIP emergency funds. Ms. Kelly stated the Board would have to waive their policy of one time repairs under the SHIP program because Ms. Hand's home has been repaired using SHIP funds previously. Commissioner Bailey asked if an appraisal and write-up could be completed and brought to the next Board meeting. Mr. Parrish stated he could have this completed by the next Board meeting.

- ❖ Commissioner Bailey made a motion for Mr. Parrish to perform an appraisal and write-up for Ms. Hand's home and look for a way to qualify Ms. Hand for SHIP emergency funds. Commissioner Jones seconded the motion. The motion passed unanimously 5-0.

Mr. Parrish stated he believes Gulf Coast Home Solutions is within the 5% local preference on one of the SHIP bids for Ms. Janice Baker Williams. Mr. Bailey stated the Board has not encountered this since he has been a Commissioner, so he is not sure how this should be handled. Commissioner McDougald stated in the past if a local bidder were within 5% of a non-local bidder, the local bidder would be given preference. Mr. Parrish asked the Board to clarify the bid write-up for Ms. Snowden. The Board indicated the original write-up was to be used, with the addition of a hot water heater. Commissioner Jones asked if the Board were going to award the Janice Baker Williams bid to Gulf Coast Home Solutions under the 5% preference for local bidder rule. Chairman Wise stated he would have no problem with this since it is policy.

- ❖ Commissioner Bailey made a motion for the Board to vote using separate motions in the future when a local contractor is awarded a project under the 5% rule. Chairman Wise seconded the motion. The motion passed unanimously 5-0.

Clerk Hand asked if this would apply to the bids awarded tonight. Commissioner Bailey stated the Board would arbitrarily award the bid to the contractor with local preference, but in the future, the Board would make a separate motion in order to award a contractor a job with local preference under the 5% rule. There was further discussion about the 5% rule.

#### **JOE WOOD – DIRECTOR OF OPERATIONS**

Mr. Wood stated the process of soliciting for design build services for the jail kitchen have begun. Mr. Wood asked the Board if they would agree to serve as the scoring committee for the proposals on the design build services. Mr. Wood stated this would be similar to what the Board does when scoring companies for CEI services. Mr. Wood stated the proposals would be based upon qualifications, price, and other factors. Commissioner Bailey asked if this would fall under CCNA (Consultant Competitive Negotiation Act) and if scoring criteria would be furnished. Mr. Wood stated the scoring criteria has already been developed. Commissioner Bailey asked if the criteria would be distributed to the Board and to the proposers. Ms. Snowden stated this would be included in the proposal packets to the contractors. There was Board consensus to serve as the scoring committee for design build services for the jail kitchen. Mr. Wood stated proposals would be received until 2:00 p.m. Thursday February 8, and the proposals would be delivered to the Board Thursday afternoon. Mr. Wood stated the project would be awarded at the February 13 Board meeting.

Mr. Wood stated he was contacted by Mr. Charles Durant, CEO of Calhoun Liberty Hospital, and was told a copy of the discount rate agreement for inmate healthcare was needed for an audit. Mr. Wood stated Calhoun Liberty Hospital has been giving the County a 65% discount on all inmate medical bills. Mr. Wood stated a written agreement was not located, and after some research, it was determined that this agreement has been in effect since 2011 and was possibly a verbal agreement. Mr. Wood stated he has a document prepared outlining the agreement that was made for the 65% percent discount so the hospital has something in writing for their records. Mr. Wood stated he would also like to implement a formal agreement with the hospital stating a 65% discount would continue to be received for inmate healthcare.

- ❖ Commissioner McDougald made a motion to sign the letter drafted for the hospital, and to have a formal agreement drafted for the Chairman to sign for the 65% discount for inmate healthcare. Commissioner Jones seconded the motion. The motion passed unanimously 5-0.

#### **CHELSEA SNOWDEN – PROJECTS AND GRANTS COORDINATOR**

Ms. Snowden stated the SCOP (Small County Outreach Program) CR 392 project came in over budget, and DOT agreed to furnish the extra construction funds needed to complete the project as designed. Ms. Snowden presented the Board with the first amendment to the SCOP CR 392 project for DOT to add extra funds in the amount of \$32,859.00.

- ❖ Commissioner Bailey made a motion to approve the first amendment to the SCOP CR 392 project. Commissioner Hall seconded the motion. The motion passed unanimously 5-0.

Ms. Snowden presented the Board with Resolution 2018-01, allowing the Chairman to enter into and execute the first amendment to the SCOP CR 392 agreement with DOT.

- ❖ Commissioner Bailey made a motion to approve Resolution 2018-01. Commissioner Hall seconded the motion. The motion passed unanimously 5-0.

Ms. Snowden stated she received an email regarding the State Comprehensive Outdoor Recreation Plan who would be hosting an open house series on January 23 in Tallahassee from 5:00 to 8:00 in the evening. Ms. Snowden stated they would be discussing FRDAP (Florida Recreation Development Assistance Program) as well as needs in the different communities in the State concerning recreation and park development, so she would like to attend the workshop. Ms. Snowden stated she would be missing the next Board meeting for the workshop, and would try to prepare anything needed from her prior to the meeting.

Ms. Snowden stated the pre-construction meeting for the LAP (Local Agency Program) Chipola Road Sidewalk project has been set for January 18 at 1:00 p.m.

Ms. Snowden stated the pre-construction meeting for the CIGP (County Incentive Grant Program) John F. Bailey Road was held last Thursday, and the notice to proceed would be issued on January 15 to start the project.

Ms. Snowden stated the bid for the brick re-pointing of the old courthouse has been advertised, and would be opened on February 13 at the regular Board meeting.

Ms. Snowden stated she would be in Chipley tomorrow, Wednesday January 10, for an FDOT Local Agency Program (LAP) symposium.

Commissioner Bailey inquired about CDBG (Community Development Block Grant) bids. Ms. Snowden stated bids for the CDBG project would be opened at the January 23 Board meeting.

**JUSTIN FORD, DEWBERRY ENGINEERS, INC. /PREBLE-RISH – COUNTY ENGINEER**

Mr. Ford stated the agreements for Alliance Road and Silas Green Road have been received, and task orders allowing them to start on the design phases of the projects would be presented at the next Board meeting or soon thereafter. Ms. Snowden stated the Silas Green Road agreement would be for design only, and the construction funds would be available in two (2) years. Ms. Snowden stated the Alliance Road agreement is for design and construction.

**ADAM JOHNSON – INTERIM EMERGENCY MANAGEMENT DIRECTOR**

Mr. Johnson stated information for permitting Watson Pit was included in the Board's agenda packets. Mr. Johnson stated past violations have been rectified, and moving forward they are working with Mr. Ford and Mr. Snowden to meet FDEP (Florida Department of Environmental Protection) requirements for filing an application to permit Watson Pit as an offsite disposal for yard trash and strictly vegetative debris only. Mr. Johnson stated the pre-authorization sheet has been submitted, but he wanted to confirm with the Board to ensure they approve the actions taken thus far, and would like to move forward with permitting Watson Pit as a disaster debris management site. Mr. Johnson stated there is a \$100 permitting fee, but FDEP has agreed to waive this fee with Calhoun being a small county. Mr. Johnson stated FDEP would be conducting an inspection on February 5. Commissioner McDougald asked if this is the only area designated for a debris management site. Mr. Johnson stated there were no areas designated before beginning the permitting process for Watson Pit. Mr. Johnson stated there are a couple other sites in the works for permitting. Mr. Wood stated the other sites would be temporary gathering sites for debris in the event of a natural disaster.

Mr. Johnson stated the IT support and tech upgrades workshop would need to be rescheduled due to a scheduling conflict. Mr. Johnson stated the next two (2) Board meetings already have workshops scheduled an hour before the regular meeting, and suggested the Board could hold the workshop on February 27 at 5:00 p.m. There was Board consensus to hold the workshop on February 27 at 5:00 p.m.

Mr. Johnson stated Emergency Management has several old computers, monitors, and other equipment that needs to be disposed of or has already been declared surplus and have not been disposed. Clerk Hand stated only one of the items is currently listed on the fixed asset list, and the others have either already been deleted or were not valuable enough to be placed on the fixed asset list.

- ❖ Commissioner Hall made a motion to declare the items surplus and disposable. Commissioner Jones seconded the motion. The motion passed unanimously 5-0.

Mr. Johnson stated on February 5 through 9 he and Ms. Bobbi Jo Chambers would be attending the Annual Florida Emergency Preparedness Association Conference in St. Augustine, Florida. Mr. Johnson stated he has made the Regional Emergency Management Coordinator aware he would be away in the event something were to happen in their absence.

**CARLA A. HAND – CLERK OF COURT AND COUNTY COMPTROLLER**

Clerk Hand asked the Board if they would like to approve the negotiations of the County's insurance company in regard to the auto accident involving a County vehicle for a settlement in the amount of \$15,000.00. Clerk Hand stated there was an accident involving a County vehicle that was reported, and the driver of the other vehicle sustained injuries. Clerk Hand stated the insurance company believes this is a good settlement offer. Commissioner McDougald asked if the vehicle was assigned to a Board

employee. Clerk Hand stated the vehicle involved in the accident was a Health Department vehicle, which is in the County's name and insured by the County. Commissioner Bailey stated the insurance company has stated this is not going to cost the County any money, but are they also saying this would not cause the premium to increase. Clerk Hand stated there is no deductible for the settlement, but the insurance company has not stated the whether or not the premium would increase.

- ❖ Commissioner Bailey made a motion to approve settlement with the insurance company for \$15,000.00. Commissioner McDougald seconded the motion. The motion passed unanimously 5-0.

Clerk Hand stated Road Department Asset #1502, a 1993 Dodge truck, is no longer operational and the Road Department would like the Board to declare the asset obsolete and permit them to dispose of the vehicle by auction with other items.

- ❖ Commissioner Bailey made a motion to declare asset 1502 obsolete and to hold for auction. Commissioner Hall seconded the motion. Mr. Edenfield asked the Board if all the auction items could be gathered to have an auction as soon as possible. There was further discussion about auction items. Mr. Edenfield stated if all the items could be gathered at the Road Department from EMS and the Volunteer Fire Departments, the auction could be held there. The motion passed unanimously 5-0.

Clerk Hand asked Mr. Snowden to address the Board about the Boundary and Annexation Survey. Mr. Snowden stated the Census Bureau has requested the County review their website to see if our boundaries match their records. Mr. Snowden stated there were several (City of Blountstown) annexations last year. Mr. Snowden asked if the County is obligated to do this research for the Census Bureau. Attorney Fuqua stated the County is not obligated to do any review, and Commissioner McDougald stated the request could be sent to the City. Mr. Snowden asked the Board who would be responsible for reporting conservation easements and their location to the DEP, who wants to add these to their database. Mr. Snowden stated a Statute has been passed requiring the DEP to add conservation lands and easements in the State of Florida that are owned by the federal government, counties, municipalities, and the FDOT to the existing database. There was discussion about whether the County owns any conservation easements. It was determined the County does not own any conservation easements, but that Mr. Snowden would be the point of contact. Mr. Snowden stated one of the State agencies has made mistakes on what the County elevated and what the County bought in regards to some FEMA acquisitions. Mr. Snowden stated this is potentially a very time consuming task to rectify, but he would be the point of contact for this project as well. Mr. Snowden stated if he has to fix mistakes made in the past by others, there may be some additional costs involved but he would make his best effort to correct the mistakes made.

#### **COMMISSIONER TIME**

#### **COMMISSIONER MCDUGALD**

Nothing to report.

#### **COMMISSIONER JONES**

Nothing to report.

#### **COMMISSIONER BAILEY**

Commissioner Bailey asked Clerk Hand about the agenda item for retaining messages from County cell phones for public record retention purposes. Clerk Hand stated she has provided the Board a handout to

read on the subject. Commissioner McDougald asked how this applies to the Board. Attorney Fuqua stated the Board's private cell phones do not count, but they should not send anything on their cell phones period through text message regarding County business other than to tell someone to call them. Clerk Hand stated this applies to anyone who works for the County. Attorney Fuqua stated the County does not have the mechanism larger counties have that capture this information and save it to a database. Attorney Fuqua stated emails can be sent and are more easily retained, but even through email, he suggests only responding for someone to call them to speak about anything.

Commissioner Bailey asked Mr. Johnson how much comp time he has. Mr. Johnson stated he has accumulated approximately 41 hours of comp time. Commissioner Bailey addressed the accumulation of compensatory time with all Department Heads and the need for employees to use it as earned. Commissioner Bailey stated Mr. Johnson would need to decide how he could take some time off and asked Mr. Johnson when would be the best time for him to take the time off. Mr. Johnson stated he could take some time off on Friday afternoons. There was Board consensus for Mr. Johnson to take the time off whenever was most convenient for him.

**COMMISSIONER HALL**

Nothing to report.

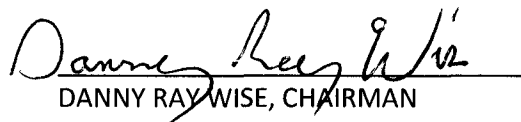
**CHAIRMAN WISE**

Nothing to report.

**ATTORNEY TIME**

Attorney Fuqua stated the County is in litigation with the Apalachicola Riverkeeper over the Spooner Oil Conditional Use Permit. Attorney Fuqua stated he has met with the lawyer for Spooner Petroleum and they have filed a motion to dismiss, which he has agreed with in papers he filed with the court. Attorney Fuqua stated Spooner Oil's attorney is handling the case.

There being no further business, the meeting adjourned at 8:35 p.m., CT.

  
DANNY RAY WISE, CHAIRMAN

ATTEST:

  
CARLA A. HAND, CLERK



**Robert N. Hartsell, P.A.**  
61 NE 1<sup>st</sup> Street, Suite C  
Pompano Beach, Florida 33060  
Hartsell-Law.com

January 2, 2018

Calhoun County Board of County Commissioners  
20859 Central Avenue E., Room 130  
Blountstown, FL 32424

*Re: Comments and Submittal for Calhoun County Comprehensive Plan and Land Development Code Amendments proposed by Neal Land & Timber Co., Inc. and Cholla Petroleum Inc.*

Dear Calhoun County Board of County Commissioners:

As you may be aware, my name is Robert N. Hartsell, Esq. and our law firm represents the Apalachicola Riverkeeper in a legal capacity. Neal Land & Timber Co., Inc., and Cholla Petroleum, Inc. have submitted proposed amendments to the Calhoun County Comprehensive Plan and Land Development Code for the general inclusion of oil and gas exploration, development, and production throughout the County, including within environmentally sensitive areas, wetlands, floodplains, and aquifers.

On October 23, 2017, we submitted comments on behalf of Apalachicola Riverkeeper detailing the internal inconsistencies that would be created with the adoption of the proposed Comprehensive Plan Amendments, in direct discord with Florida Statutes § 163.3194 (2017). Please See Attachment 1.

The Comprehensive Plan is committed to encouraging the existing agriculture and silvicultural pursuits, as well as the protection of the wetlands. Adopting the proposed amendments do not further the Calhoun County's current Comprehensive Plan policies, goals, and objectives.

While Apalachicola Riverkeeper remains steadfast in its belief that allowing a blanket approval for oil and gas activities conflicts with the existing policies of the Calhoun County Comprehensive Plan, it is the mission of the Apalachicola Riverkeeper to ***provide stewardship and advocacy for the protection of the Apalachicola River and Bay, its tributaries and watersheds, in order to improve and maintain its environmental integrity and to preserve the natural, scenic, recreational, and commercial fishing character of these waterways.***

To that end, Apalachicola Riverkeeper submitted fifteen (15) recommendations to be considered for inclusion in the Comprehensive Plan Amendment. See Attachment 1, p. 12 -16.

These recommendations further the protection of Calhoun County's environmentally sensitive areas and natural resources, and it would be in the best interest of the County, and adjacent counties that may experience negative impacts as a result of oil and gas activities in Calhoun County, for the recommendations to be considered, adopted, and implemented into the Amended Comprehensive Plan.

Please kindly ensure that these comments, and the attached documents, are included in the record and distributed to the Commissioners prior to the January 9, 2018 adoption meeting.

***Calhoun County Comprehensive Plan Amendments Obliterate Environmental Protections***

The Calhoun County Comprehensive Plan was adopted to preserve the natural resources of the County, and its goals, policies, and objectives specifically protect the environmentally sensitive lands, wetlands, floodplains, and aquifers from developments that would have an adverse effect on these areas and resources. The blanket approval of oil and gas exploration, development, and production proposed by Neal Land & Timber Co. and Cholla Petroleum, Inc. obliterates the current protections provided in the 2010-2025 Calhoun County Comprehensive Plan. See Attachment 2.<sup>1</sup>

Oil and gas exploration, development, and production has the potential to negatively impact the adjacent land uses, the bodies of water that flow through the Agricultural Land Designation such as wetlands, tributaries into the Apalachicola Bay and River, as well as the floodplains, aquifers, and environmentally sensitive areas that are protected by the Calhoun County Comprehensive Plan.

Calhoun County Commissioners have a responsibility to do what is in the best interest of the County, including ensuring the natural resources and environmentally sensitive lands are afforded protections required under the Comprehensive Plan.

The Comprehensive Plan Amendments allow for a blanket approval of oil and gas exploration on lands that currently have stricter protections from less invasive activities, such as agriculture and silviculture activities.<sup>2</sup>

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<sup>1</sup> Proposed comprehensive plan amendments allows: for oil and gas, exploration, development, and production "in or near wetlands," "on or over wetlands or other surface waters," "in the floodplain," "in high or prime aquifer recharge areas," and allow for the "storage of crude oil...drilling fluids, procedure waters, and other wastes...in the floodplain."

<sup>2</sup> See FLUE Policy 8.6 (The functional viability and productivity of wetlands will be protected (including protecting the natural topography and hydrology) by only undertaking silviculture activities when no surface water is on the site.); Conservation Element Floodplains Objective 3 Policy 3.4 (Use and storage of hazardous materials shall be prohibited in the 100 year floodplain.); Conservation Element Wetlands Objective 4, Policy 4.2 (The County shall protect and conserve the natural functions of existing fisheries, rivers and lakes by requiring all new development, except water dependent development such as ramps and marinas, to maintain a minimum 50 foot natural buffer from all surface water bodies.)



To permit oil and gas drilling, extraction, and production activities in floodplain areas and aquifer recharge areas would be in itself inconsistent with the Calhoun County Comprehensive Plan, since such activities are prohibited in provisions throughout the Plan:

<i>Natural Resource:</i>	Current Comprehensive Plan Protections:	Proposed Amendments:
<i>Wetlands</i>	Silviculture activities <b>only allowed</b> when no surface water on site.	Allows for oil and gas activities, <b>in, near, on, or over</b> wetlands.
<i>Floodplains</i>	<b>No storage</b> of hazardous material allowed.	Allows for oil and gas activities <b>in</b> floodplain.  Allows for <b>storage of hazardous material</b> in floodplain .
<i>Surface Water</i>	<b>50 foot natural buffer</b> for all new development.	Allows for oil and gas activities <b>on or over</b> surface water
<i>Aquifers</i>	<b>Zones of Exclusion</b> for development activities, and specifically prohibits activities that require the storage, use production, or transportation of petroleum products	Allows for oil and gas activities <b>in high prime or recharge aquifer</b> areas.

To allow hazardous materials to be stored in floodplains and to permit extraction in environmentally sensitive areas would not be a route to “ensuring the highest environmental quality possible” since such activities create monumental risks to Calhoun County silvicultural, aquifer recharge areas, and the overall viability of the Apalachicola River basin.

Calhoun County provides for the protection, conservation, and preservation of the environmentally sensitive areas, wetlands, floodplains, aquifers, tributaries, and overall viability of the Apalachicola Riverbasin, while prohibiting development and storage of hazardous materials that could adverse effect the natural resources within Calhoun County.

The adoption of the proposed amendments dismantles these protections adopted within the Comprehensive Plan, and additional provisions are necessary to ensure that the environmentally sensitive lands and natural resources of Calhoun County are protected from oil and gas activities.

***Adoption of Recommendations Affords Environmental Protections***

The adoption of the proposed amendments as they stand would negate the goals, policies, and objectives codified in the 2015-2025 Calhoun County Comprehensive Plan. The existing plan provides for the encouragement of existing agricultural activities, and the conservation of environmentally sensitive areas and natural resources such as wetlands, floodplains, and aquifers. The proposed amendments allow for oil and gas exploration, development, and production, within the areas of the County that are specifically protected by the goals, objectives, and policies of the adopted Comprehensive Plan, creating an apparent internal inconsistency.

The recommended proposals by Apalachicola Riverkeeper protects the environmentally sensitive areas and natural resources of Calhoun County by setting specific guidelines for oil and gas activities. In the event of an environmental disaster, Calhoun County must be prepared to restore the natural resources detrimentally affected, and the recommended proposals places the financial responsibility for restoring natural resources after oil and gas spills on the Developers themselves rather than relying on state and federal agency actions, or worse, on the citizens of Calhoun County and adjacent jurisdictions.

Upon submission of the proposed Comprehensive Plan Amendment and record from the transmittal hearing to the appropriate regulatory agencies, the Apalachee Regional Planning Council “***strongly recommends***” that Calhoun County consider implementing the fifteen (15) recommendations submitted by Apalachicola Riverkeeper as the County “explores policy impacting [oil and gas activities] in potentially sensitive environmental areas.” Please see Attachment 3 (emphasis added).

<i>Natural Resource:</i>	Current Comprehensive Plan Protections:	Proposed Amendments:	Apalachicola Riverkeeper Recommended Guidelines:
<i>Wetlands</i>	Silviculture activates <b>only allowed</b> when no surface water on site.	Allows for oil and gas activities, <b>in, near, on, or over</b> wetlands.	Oil and gas activities <b>not permitted within 1000 feet</b> of jurisdictional wetlands.  <b>No disposal or storage</b> of oil, gas, or chemicals.

			<p>Must have <b>Emergency Response Plan.</b></p> <p>Must have <b>Oil Recovery and Remediation Plan</b></p> <p>Must have <b>Monitoring Impacted Wetlands Plan</b></p> <p>Applicant must agree to <b>cover cost of prevention, cleanup, and monitoring</b> of wetlands.</p>
<i>Floodplains</i>	<b>No storage</b> of hazardous material allowed.	<p>Allows for oil and gas activities in floodplain.</p> <p>Allows for <b>storage of hazardous material</b> in floodplain.</p>	<p>Oil and gas activities <b>not permitted within 1000 feet</b> of 100 year floodplain</p> <p><b>No disposal or storage</b> of oil, gas, or chemicals.</p> <p>Must have <b>detailed oil spill response plan.</b></p>
<i>Surface Water</i>	<b>50 foot natural buffer</b> for all new development.	Allows for oil and gas activities <b>on or over</b> surface water	<p>Oil and gas activities <b>not permitted within 1000 feet</b> potable wells</p> <p><b>Monitoring</b> of surface and groundwater <b>within 250 feet.</b></p>

			<p>Must have <b>detailed oil spill response plan.</b></p> <p>Must have <b>plan to prevent oil and chemicals</b> from entering nearby streams.</p> <p>Must have <b>plan to clean up and remediate</b> impacted streams.</p> <p>Must have <b>plan to monitor</b> affected streams.</p> <p>Applicant must agree to <b>cover cost of prevention, cleanup, and monitoring</b> of streams.</p>
<i>Aquifers</i>	<b>Zones of Exclusion</b> for development activities.	Allows for oil and gas activities in <b>high prime or recharge aquifer</b> areas.	<p>Oil and gas activities <b>not permitted</b> within <b>1000 feet</b> of aquifer recharge areas.</p> <p><b>No disposal or storage</b> of oil, gas, or chemicals.</p> <p>Must have <b>detailed oil spill response plan.</b></p>

Apalachicola Riverkeeper respectfully requests the Commissioners to adopt and incorporate the recommended guidelines by Apalachicola Riverkeeper, as strongly advised by the Apalachee Regional Planning Council, which is made up of adjacent counties, in order to strengthen the protection of groundwater and surface water from pollution and also provide the County the ability to maintain better control of the quality of life as well as the use of County resources as part of oil and gas development.

We also respectfully request that the Commissioners table this decision for 30 days, until the County has had the opportunity to further consider the recommendations in an open discussion between the Commissioners and representatives of Apalachicola Riverkeeper. Tabling the discussion could avoid lengthy delays and a more expedient resolution to understanding what these recommendations are intended to accomplish. Calhoun County has the opportunity to ensure that the regulation of oil and gas activities remains under the local control of the County, and set in place Comprehensive Plan Amendments that ensure the environmentally sensitive areas and natural resources retain the protection afforded under the current Plan.

Respectfully,

/s/ Robert Hartsell, Esq.  
Florida Bar No. 636207

## ATTACHMENT 1



**Robert N. Hartsell, P.A.**  
61 NE 1<sup>st</sup> Street, Suite C  
Pompano Beach, Florida 33060  
Hartsell-Law.com

October 23, 2017

Calhoun County Board of County Commissioners  
20859 Central Avenue E., Room 130  
Blountstown, FL 32424

Re: Comments and Submittal for Calhoun County Comprehensive Plan and Land Development Code Amendments proposed by Neal Land & Timber Co., Inc. and Cholla Petroleum Inc.

Dear Calhoun County Board of County Commissioners:

By way of introduction, my name is Robert N. Hartsell, Esq. and our law firm represents the Apalachicola Riverkeeper in a legal capacity. As you are aware, Neal Land & Timber Co., Inc., and Cholla Petroleum, Inc. have submitted proposed amendments to the Calhoun County Comprehensive Plan and Land Development Code for the general inclusion of oil and gas exploration, development, and production throughout the County, including within environmentally sensitive areas, wetlands, floodplains, and aquifers.

Please find below comments on behalf of Apalachicola Riverkeeper for distribution to the Commissioners for consideration and inclusion into the record of the transmittal hearing during the Planning Commission meeting to be held on October 24, 2017.

***I. Apalachicola Riverkeeper***

As was discussed in our comment letter dated September 25, 2017, in opposition to the Spooner Exploratory Oil and Gas Well Special Exception for Conditional Use, Apalachicola Riverkeeper, a 501c3 membership-supported non-profit corporation, was established to *provide stewardship and advocacy for the protection of the Apalachicola River and Bay, its tributaries and watersheds, in order to improve and maintain its environmental integrity and to preserve the natural, scenic, recreational, and commercial fishing character of these waterways.*

The general approval of oil and gas exploration, development, and production in the environmentally sensitive areas, wetlands, floodplains, and aquifers of Calhoun County is very concerning to Apalachicola Riverkeeper, as a number of its 1500 supporting members live in the County, visit these premiere natural resources regularly, enjoying numerous recreational activities in the watershed, and some of the members depend upon the purity of the waterways for their livelihood.

The protection of these areas is of the utmost importance, as is evident by the strict requirements in the Calhoun County Comprehensive Plan and Land Development Code that regulates land use to “conserve unique and environmentally sensitive lands and resources from adverse impacts of development. These Conservation Areas include, at a minimum, **all wetlands, floodplains, and other environmentally sensitive resources identified in other sections of this Plan. ...**” FLUE Objective 4 (emphasis added).

Apalachicola Riverkeeper firmly believes the adoption of the proposed amendments creates internal inconsistencies with the Comprehensive Plan in violation of Sections 163.3177(1) and 163.3184<sup>1</sup>, Florida Statutes, (2017). The 2015-2025 Calhoun County Comprehensive Plan and Land Development Code, illustrates the commitment to protect the viability of the Apalachicola Riverbasin, and the proposed amendments render these protections obsolete.

## ***II. Legal Requirement for Comprehensive Plan Amendments to Remain Consistent with Goals, Policies, and Objectives of the Comprehensive Plan in its Entirety***

Section 163.3177(1) of the Community Planning Act, mandates a comprehensive plan shall provide principles, standards, and strategies for future development. These principles and strategies are intended to guide future development decisions in a consistent manner and shall contain programs and activities to ensure such principles and strategies are enforced. Fla. Stat. § 163.3177(1) (2017). The Calhoun County Comprehensive Plan and Land Development Code set forth numerous protections for the natural resources within the County, and any proposed amendments must be consistent therewith.

In *Pinecrest Lakes, Inc. v. Shidel*, the Fourth District Court of Appeal held,

Section 163.3194 requires that all development conform to the approved Comprehensive Plan, and that development orders be consistent with the Plan. **The statute is framed as a rule, a command to cities and counties that they must comply with their own Comprehensive Plan after they have been approved by the State. The statute does not say that local governments shall have some discretion as to whether a proposed development should be consistent with the Comprehensive Plan. Consistency with a Comprehensive Plan is therefore not a discretionary matter.**

795 So. 2d 191 (Fla. 4<sup>th</sup> DCA 2001) (emphasis added).

Local governments are legally required to follow the policies and objectives included in the approved comprehensive plan and to only consider initiating changes which are consistent with the adopted provisions. Fla. Stat. § 163.3194(1)(a)(2017). The 2010-2025 Calhoun County Comprehensive Plan and Land Use Development Code provides policies to protect environmentally sensitive lands, wetlands, floodplains, and aquifers, as well as the 86% of Calhoun County that is used for silvicultural production.

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<sup>1</sup> “In compliance” means consistent with the requirements of ss. 163.3177...” Fla. Stat. § 163.3184 (1)(b) (2017).



For example, the Future Land Use Element states, “[t]he County’s wetlands shall be conserved and protected...” and the County “shall allow existing development patterns to continue while protecting environmentally sensitive land, farm lands and timber lands from encroachment.” **FLUE Objective 6; FLUE Objective 8.**

The Comprehensive Plan calls for protection of existing uses, such as silvicultural, and the protection of environmentally sensitive lands, wetlands, floodplains, and aquifers. The proposed amendments suggest adopting a general approval for oil and gas exploration, development, and production, in environmentally sensitive areas throughout the County, creating apparent inconsistencies that cannot be ignored.

### ***III. Neal Land & Timber Co. and Cholla Petroleum, Inc.’s Proposed Amendments and Internal Inconsistencies***

The 2010-2025 Calhoun County Comprehensive Plan includes goals, policies, and objectives to preserve the natural resources of the County, specifically, to protect wetlands, floodplains, and aquifers, from developments that would have an adverse effect on these environmentally sensitive areas and resources. The blanket approval of oil and gas exploration, development, and production, proposed by Neal Land & Timber Co. and Cholla Petroleum, Inc., renders obsolete the current protections provided in the 2010-2025 Calhoun County Comprehensive Plan.

#### ***A. Proposed Calhoun County Comprehensive Plan Text Amendment FLUE Policy 9.4.1 and Inconsistency with Comprehensive Plan***

Objective 9 of the 2010-2025 Calhoun County Comprehensive Plan, begins by stating, “[t]he following Land Use Categories are established to protect timber lands and agricultural lands from encroachment ... prevent development from destroying wetlands and polluting adjacent water bodies...” Policy 9.4 the Agriculture Land Use Designation, further establishes that the “intent is to protect the natural environment, especially ground and surface water quality.”

The text provided below is the proposed amendment, the underlined section is the requested revision:

#### **Proposed Future Land Use Element, Policy 9.4.1**

##### **Purpose:**

To provide land for timber, row crop farming and related agriculture activities. The Agriculture land use category accounts for about 86% of the land area in Calhoun County and includes mainly timberlands. Other land uses include cropland, pasture land, and other agricultural uses in large scale land holdings. The lands are primarily timber production holdings.

[Density omitted]

Use: Agricultural activities, livestock, aquaculture, agricultural/farm dwelling units, single family residential units, agricultural support services, structures and facilities related to agricultural activities, agricultural product processing facilities, vacant land, places of worship, public facilities and grounds, public utilities, oil and gas exploration, development, and production, and neighborhood commercial where activities are compatible with adjacent land uses and are adequately buffered.

The 2010-2025 Calhoun County Comprehensive Plan Agricultural Land Use Designation, explicitly identifies restrictive and exclusive allowable uses that are *compatible* with adjacent land uses and adequately buffered. The Community Planning Act defines “compatibility” as “a condition in which land uses or conditions can *coexist in relative proximity* to each other in *a stable fashion over time* such that *no use or condition is unduly negatively impacted* directly or indirectly by another use or condition.” Fla. Stat. § 163.3164(9) (2017).

The above revision conflicts with various provisions throughout the 2010-2025 Calhoun County Comprehensive Plan. Oil and gas exploration, development, and production, has the potential to negatively impact the adjacent land uses, as well as the bodies of water that flow through the Agricultural Land Use designation, and into wetlands, tributaries, the Apalachicola Bay and River, through floodplains, aquifers, and environmentally sensitive areas that are protected by the Calhoun County Comprehensive Plan.

The addition of “oil and gas exploration, development, and production,” into the **Agriculture Land Use 1 per 10** contradicts Comprehensive Plan Goals, Objectives, and Policies which list the compatible and allowable uses, as well as the specific prohibition of any operations that could impede or divert the flow of surface waters:

*Agricultural activities includes all necessary farming and forestry operations which are **normal** and **customary** for the area, such as site preparation, cleaning, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, construction of access roads, and placement of bridges and culverts, provided such operations do not impede or divert the follow [sic] of surface waters.*

**FLUE Policy 8.5 – Conservation** (emphasis added).

The extraction of petroleum resources, installation of drilling equipment, and placement of storage tanks, would not be considered “*normal*” and “*customary*” activities for Calhoun County’s agricultural areas.

The 2010-2025 Calhoun County Comprehensive plan provides policies for mining activities in the Conservation Element of the Plan; however, traditional mining is sufficiently dissimilar from oil and gas exploration, development, and production, which has been specifically omitted from the plan due to incompatibility. The proposed text amendment is also inconsistent with the Future Land Use Element, which provides,

*Calhoun County shall encourage existing bona-fide agricultural and silvicultural pursuits to continue and to be required to follow the best management practices as outlined in the most current issue of the publication titled Silviculture Best Management Practices Manual and Management Guidelines for Forested Wetlands in Florida, Florida Department of Agricultural and Consumer Service, Division of Forestry, and the requirements of Chapter 373 and 403, F.S.*

*The functional viability and productivity of wetlands will be protected (including protecting the natural topography and hydrology) by only undertaking silviculture activities when no surface water is on the site.*

**FLUE Policy 8.6** (emphasis added).

Allowing a blanket approval for oil and gas exploration, production, and development as an activity permitted in the Agricultural Land Use designation conflicts with existing policies of the 2010-2025 Calhoun County Comprehensive Plan. Adopting the proposed amendments do not further the Calhoun County's current Comprehensive Plan policies, goals, and objectives. As stated above, the current Comprehensive Plan is committed to encouraging existing agriculture, silvicultural pursuits, and protection of environmentally sensitive areas and natural resources.

***B. Proposed Calhoun County Comprehensive Plan Text Amendment Conservation Element Mining and Inconsistency with Comprehensive Plan***

The proposed amendments to the Calhoun County Comprehensive Plan disrupts the existing integral environmental safeguards, which protect environmentally sensitive areas like wetlands, tributaries, aquifer recharge areas, and floodplains.

**Proposed Conservation Element**

**MINING**

**OBJECTIVE 8A:** Mining activity shall be regulated to ensure no adverse effect upon the quality of air, groundwater, surface water and wildlife.

**Policy 8.1:** A mining operation water use plan must be prepared and approved before new mining operations are permitted.

**Policy 8.2:** A Minimum 50 foot natural setback shall be established and maintained for all mining activities. In addition, the County may require a vegetative or structural buffer between mining activities and adjacent existing and future uses.

**Policy 8.3:** A reclamation plan shall be approved by the County before mining activities are permitted.

Policy 8.4: The natural functions of wetlands, and flood plains of the Chipola River and the Apalachicola River shall be protected by prohibiting mining in 100 year flood plain areas, wetlands and within 100 feet of the Apalachicola River.

#### OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

Objective 8B: Oil and gas exploration, development, and production shall be regulated consistent with state and federal permitting requirements.

Policy 8.5: In those areas of the County where oil and gas exploration, development, and production facilities are an allowable use, such use shall be subject to all applicable regional state and federal requirements for drilling, production, and transportation. Drilling, operations, site design and stormwater management activities are regulated by the Florida Department of Environmental Protection (FDEP). This requirement shall be deemed satisfied upon issuance of the applicable FDEP permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, Florida Administrative Code, as those rule exist as of ,2017, the effective date of this amendment to the County's Comprehensive Plan.

Policy 8.6: Notwithstanding other provisions of this Comprehensive Plan and the Land Development Code, oil and gas exploration, development, and production is permitted subject to the following requirements:

- a. Shall be allowed in or near wetlands where activities and/or development mitigates any unavoidable impacts to wetlands consistent with state and federal standards as determined by the appropriate state and federal agencies through FDEP or the United States Army Corps of Engineers;
- b. Shall be allowed in the floodplain and shall comply with the Calhoun County Floodplain Management Ordinance. Further, the storage of crude oil, or the use of storage of the drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas, which are regulated under chapter 377, Florida Statutes, may be allowed in the floodplain.
- c. Shall be allowed in high or prime aquifer recharge areas subject to review by the Northwest Florida Water Management District. The developer will be required to provide documentation demonstrating coordination during the conditional use review process.

The proposed amendments to the Conservation Element does anything but **conserve** the environmentally sensitive areas, wetlands, floodplains, and aquifers in Calhoun County.

Rather, the amendments create a blanket approval of oil and gas exploration, development, and production, presenting inherent risks to Calhoun County groundwater, creeks, streams, and the overall viability of the Apalachicola Riverbasin, which are specifically protected from such activities, as delineated below.

The proposed section titled, "Oil and Gas Exploration, Development, and Production" disregards the Conservation Element Goal Statement, which calls on decision-makers to "[c]onserve, protect and appropriately manage the natural resources of Calhoun County to ensure the highest environmental quality possible without unduly compromising the economic use of such resources."

The proposed amendments are also directly inconsistent with the following provisions of the Conservation Element,

*The County shall **protect the natural functions of the 100-year floodplain** to the extent that flood-carrying and flood storage capacity are maintained.*

**Conservation Element Floodplains Objective 3** (emphasis added).

*Use and storage of hazardous materials shall be **prohibited** in the 100 year floodplain.*

**Conservation Element Floodplains Objective 3, Policy 3.4** (emphasis added).

*The County's wetlands shall be **conserved and protected** from functional alterations from new development consistent with FLUE Objective 6 and implementing policies.*

**Conservation Element Wetlands Objective 4** (emphasis added).

*The County shall **protect and conserve** the natural functions of existing fisheries, rivers and lakes by requiring all new development, except water dependent development such as ramps and marinas, to maintain a minimum 50 foot natural buffer from all surface water bodies.*

**Conservation Element Wetlands Objective 4, Policy 4.2** (emphasis added).

To permit oil and gas drilling, extraction, and production activities in floodplain areas and prime aquifer recharge areas would be in itself inconsistent with the Calhoun County Comprehensive Plan, since such activities are prohibited in the above mentioned provisions. To allow hazardous materials to be stored in floodplains and to permit extraction in environmentally sensitive areas would not be a route to "ensuring the highest environmental quality possible," since such activities create monumental risks to Calhoun County silvicultural, aquifer recharge areas, and the overall viability of the Apalachicola Riverbasin.

### ***C. Further Incompatibility with the Existing Comprehensive Plan***

The 2010-2015 Calhoun County Comprehensive Plan includes integral safeguards to protect environmentally sensitive areas. The Amendment Proponents fail to contemplate how the suggested revisions are contrary to numerous policies throughout the Plan.

The proposed amendment text is also inconsistent with additional provisions, such as: **Conservation Element, Objective 3, Policy 3.4; FLUE Objective 4, Policy 4.2, 4.6; FLUE Objective 5; Infrastructure Element, Objective 1, Policy 1.3, 1.6.**

Various fundamental concerns are apparent throughout the Comprehensive Plan. For example, the prohibition of the storage of hazardous material in floodplain areas. This prohibition is not only mentioned in the above, **Conservation Element, Objective 3, Policy 3.4**, but is also included in **Future Land Use Element, Objective 4, 4.2:**

*Developers shall be required to: 4) prohibit the storage of hazardous waste or materials within the flood plain.*

#### **Future Land Use Element, Objective 4, 4.2.**

Furthermore, Future Land Use Policy, Objective 4, Policy 4.6, incorporates another grave concern for Calhoun County, the protection against contamination of the Apalachicola water resources.

*The County shall limit development activities which have the potential to contaminate water resources, soil or crops, including requiring developers to use appropriate soil erosion mitigation measures during construction.*

*Non water-dependent development shall maintain a 50 foot setback from all water bodies and wetlands and all development must be consistent with the resource protection policies adopted with this Plan.*

#### **Future Land Use Policy, Objective 4, Policy 4.6 (emphasis added).**

The Amendment Proponents are requesting a blanket approval for oil and gas exploration, development, and production, in environmentally sensitive areas when the current Comprehensive Plan already has restrictions in place to limit such destruction.

*The County shall protect potable water wellfields and aquifer recharge areas from adverse impacts of development by implementing the following policies:*

*The County shall protect waterwells and waterwell cones of influence by creating well head protection areas and well head zones of exclusion. Zones of exclusion shall consist of all land within a two hundred (200) foot radius of the wellhead wherein no development shall be permitted. Well head protection areas shall extend for an additional radius of three hundred (300) feet from the well head*

*creating a minimum 500 foot radius protection zone. Within these areas, the following will be prohibited: 1) landfills; 2) facilities for the bulk storage, handling, or processing of material on the Florida Substance List; 3) Activities that require the storage, use production, or transportation of restricted substances, agricultural chemicals, petroleum products, hazardous toxic waste, medical waste, and like; 4) feedlots or other commercial animal facilities; 5) wastewater treatment plants, percolation ponds, and similar facilities; 6) excavation of waterways or drainage facilities which intersect the water table. All development adjacent to well heads shall be consistent with provisions of Chapter 40A-3, F.A.C., regarding the regulation of wells.*

**Future Land Use Element, Objective 5, Policy 5.2 (emphasis added).**

The concern for causing destruction to the Apalachicola Riverbasin is made apparent in the Infrastructure Element of the Calhoun County Comprehensive Plan, the goal statement provides, "[t]he functions of the natural groundwater aquifer recharge areas within the county will be protected and maintained." **Infrastructure Element.**

The proposed amendments allowing for oil and gas extraction, development, and production in aquifer recharge areas is directly inconsistent with the Infrastructure Element of the plan which provides for Aquifer Recharge Protection.

*The County shall prohibit new development which will contaminate ground water supplies as a result of improper site development activities within areas of high aquifer recharge.*

**Infrastructure Element, Aquifer Recharge Protection, Objective 1.**

*Moderate to high aquifer recharge zones of the Floridian Aquifer shall be protected from contamination through the adoption of this Plan and implementation of the LDR's by:*

- a. Limiting impervious surfaces constructed within such areas to 50% of the total area of a given parcel;
- b. Allowing only residential, public/semi-public, commercial and/or light industrial uses;*
- c. Managing storm water flow on roadways and developments sites so as to eliminate sedimentation and non-point pollution in the surrounding wetlands and recharge zone;
- d. Requiring the use of package waste water treatment facilities for commercial, industrial, and/or semi-public development utilizing hazardous materials in accordance with FDEP guidelines; and

e. Limiting residential densities in areas not serviced by sanitary sewer and potable water service in accordance with Policies 3-2 and 3-5 of the Future Land Use Element.

**Infrastructure Element, Aquifer Recharge Protection, Objective 1, Policy 1.6.**

***IV. Conclusion***

The adoption of the proposed amendments would negate the goals, policies, and objectives codified in the 2015-2025 Calhoun County Comprehensive Plan. The existing Plan provides for the encouragement of existing agricultural activities, and the conservation of environmentally sensitive areas such as wetlands, floodplains, and aquifers. The proposed amendments attempt to allow for oil and gas exploration, development, and production, within the areas of the County that are specifically protected by the goals, objectives, and policies of the adopted Comprehensive Plan, creating an apparent internal inconsistencies.

The Community Planning Act, requires all and development activities to be consistent with objectives, goals, and policies within the Comprehensive Plan. Section 163.3194(3), Fla. Stat. (2017).

Throughout the Comprehensive Plan, Calhoun County provides for the protection, conservation, and preservation of the environmentally sensitive areas, wetlands, floodplains, aquifers, tributaries, and overall viability of the Apalachicola Riverbasin, while prohibiting development and storage of hazardous materials that could adversely affect the natural resources within Calhoun County. The adoption of the proposed amendments dismantle the protections adopted within the Comprehensive Plan and creates internal inconsistencies that require the denial of the proposed amendments.

Apalachicola Riverkeeper respectfully requests the Commissioners to deny the proposed amendments to allow for oil and gas exploration, development, and production in the Comprehensive Plan and Land Development Code based upon internal inconsistency with provisions of the Comprehensive Plan and the potential of degrading the surface and groundwater quality of the Apalachicola Riverbasin, as described above.

Notwithstanding our position that the adoption of the proposed amendments creates internal inconsistencies with the Comprehensive Plan, it is the spirit of Apalachicola Riverkeeper to working with all levels of local, state, and national agencies and other stakeholders to develop reasonable, equitable, and sustainable uses of the water resources of the Apalachicola River system. To that end, please see the attached proposed guidelines that, while not curing the internal inconsistencies, will provide some protection against contamination and degradation of the environmentally sensitive areas and natural resources within Calhoun County if this honorable Commission decides to move forward with approving the proposed amendments for oil and gas exploration, development, and production.



Respectfully,

/s/ Robert N. Hartsell

Robert N. Hartsell, Esq.

**EXHIBIT A**

## **Apalachicola Riverkeeper's Recommended Guidelines for Proposed Amended Calhoun County Comprehensive Plan**

Re: Notwithstanding the concerns set forth in the Comment Letter to which this Exhibit is attached, the Apalachicola Riverkeeper has drafted the following recommendations to be included as policies to be added to the Calhoun County Comprehensive Plan to strengthen the protection of groundwater and surface water from pollution that could result from the approval of oil and gas exploration, production, and development in Calhoun County.

1. Designate the Proposed Amendment to be allowed as "site specific" for only the designated area proposed and portions of parcels that meet the criteria outlined in Item 2 below, applicants shall attach a legal description of proposed development areas.
  - a. For example, instead of amending the entire "Agricultural Land Use" designation, provide for oil and gas exploration, development, and production in "site specific" areas where a conditional use permit has been approved, and the absence of wetlands, floodplains, and aquifer recharge areas has been confirmed. Rather than permitting oil and gas exploration, development, and production on any parcel designated as "Agricultural."
2. Oil and gas exploration, development, and production shall not be a "permitted use" within 1000 feet of jurisdictional wetlands, areas within the one hundred year floodplain, aquifer recharge areas, in habitats utilized by endangered and threatened species, or the Cone of Influence for public or community or individual residential potable wells.
3. Fracking, the use of high pressure, acid, or other toxic chemicals during drilling or production of oil and gas will not be permitted by the Calhoun County Comprehensive Plan.
4. In all areas of lost circulation – areas where drilling fluids are lost in the well bore – shall be reported immediately to the County. All drilling will cease until the county is satisfied that drilling fluids have not entered the underlying aquifers.
5. In the event of lost circulation events – drilling will cease until the County is satisfied that a modified drilling plan has been submitted which safeguards drinking waters.
6. No drilling or pad or road construction will take place inside of any jurisdictional wetlands.
7. No disposal or storage of oil, gas, or chemicals derived from production shall be allowed on site, nor in any environmentally sensitive areas (wetlands, flood plains, or aquifer recharge areas).
8. No flaring of gas is allowed. No deep injection wells are allowed for disposal of new or used drilling or production fluids or chemicals derived from the production of oil and gas.

9. Monitoring of surface and groundwater in a circumference within 250 feet for all chemicals and potential contaminants used during the development, operation, and production of the oil and gas development shall begin 45 days prior to construction on the proposed site for the operation and continue for 20 years after the development ceases operation.
10. All applications for oil and gas exploration, production, and development will include:
  - a. A detailed emergency oil spill response plan that will be separately approved by Calhoun County in addition to DEP and EPA.  
The Emergency Plan shall contain:
    - i. A contact list of names and phone numbers of the Applicant's employees and County, State, and Federal officials who should be notified in the event of a spill. The contact list shall be posted at the oil drilling site and routinely advertised in the local newspaper.
    - ii. Provisions for accidents on-site or off-site during transportation or storage.
    - iii. As the Gulf Coastal Plain is frequently hit by hurricanes and tropical storms, the Emergency Plan should include – the safeguarding of all chemicals derived from production on site – that will be taken before an approaching Category 1 Hurricane. The driller shall provide the cost of a complete independent inspection of the drill site after each storm has passed.
  - b. An independent ecological field team will survey the drilling pad and the surrounding area for the presence of Federally and State listed threatened and endangered species as well as State protected species at the driller's expense. The field team will be guided by the Florida Natural Inventory's (FNAI's) "Standard Data Report" for the area covered to include sighted species as well as those which are potentially present.
  - c. All federally jurisdictional wetlands shall be identified by the County at driller's expense and the driller will devise an Emergency Response Plan to prevent contamination of any such wetlands.
  - d. The driller shall devise and submit an oil recovery and remediation plan in the event the precautionary steps outlined above prove inadequate and oil does contaminate any jurisdictional wetlands.
  - e. The driller shall submit a plan for monitoring impacted wetlands to determine the extent of the pollution and where that pollution is conveyed to after occurrence and until there is no detectable trace of the spill.

- f. As mentioned above, the Applicant shall devise a plan to prevent oil or other chemicals derived from production from entering nearby streams, the Applicant shall devise a specific plan to clean up and remediate impacted streams, and shall devise a monitoring plan to determine the distribution of oil and chemicals once they have entered a stream.
- g. The Applicant must agree to cover all costs of such prevention, cleanup, and monitoring of wetlands and streams in the vicinity of the oil well under consideration.
- h. Each Oil and Gas exploration, development, or production permit Applicant shall annually contribute to a "Calhoun County Oil and Gas Impact Fund" in the amount of \$100,000 for training and development of emergency Calhoun County responders in oil and gas accidents and response.
- i. Applicants shall post a bond or Letter of Credit (also mentioned in Item 8) in an amount sufficient to cover mitigation for oil spills, leaks, damage to environmentally sensitive properties, private lands, wildlife, and degradation of ground and surface water. Annual payments shall be made to the County so long as the project remains in operation. Bond will remain in effect for 20 years after the operation ends.
- j. All records related to the geology encountered during the pre-development testing and drilling will be provided to the County's hydrogeologist and become public information when the application is filed.
- k. A record of the driller's history including a report of accidents, spills and legal violations will be supplied with the application.
- l. A record of the leaseholder's history including a report of accidents, spills and legal violations will be supplied with the application.
- m. A record of all consultants' history including a report of accidents, spills and legal violations will be supplied with the application.
- n. Documentation that demonstrates a high potential for the existence of oil in the ground and available in quantities that are economically feasible to produce.
- o. Certification that all vehicles, casings, processes and procedures proposed are state of the art and the most environmentally protective (i.e., triple casing of wells, triple walled barges and trucks for transporting all products that are toxic or potentially harm ground or surface water to and from the site).

11. By November 30<sup>th</sup> of 2017, Calhoun County shall adopt an oil drilling impact fee ordinance that will require each oil drilling proposals to post a bond or Letter of Credit in an amount sufficient to cover mitigation for oil spills, leaks, damage to environmentally sensitive properties, wildlife, and degradation of ground and surface water and to annually contribute to a "Calhoun County oil and gas impact fund" in the amount of \$TBD for:
  - a. Training and development of emergency Calhoun County responders in oil and gas accidents and response and Payments shall be made to the county so long as the project remains in operation. Bond will remain in effect for 20 years after the operation ends or longer until all oil and gas damage is known to be remediated.
  - b. The County's cost for road maintenance from increased traffic and transportation of large transport equipment and other County resources, and
  - c. Employment/contracting of a Hydrogeologist and/or other technical experts to review oil and gas (exploration, production, and transportation) developments applications, monitoring reports, and perform monthly site inspections on behalf of the County. Public review and comment should also be made a part of the County's review.
12. Oil drilling applicants shall maintain a sufficient supply of equipment such as booms and deployment equipment to respond to the 1 in 100 year oil spill or that equivalent during the 1 in 500 year storm event as specified by a licensed engineer.
13. By March 2018, Calhoun County shall seek technical assistance from the Division of Emergency Management to educate and train local officials and, employees as a fully trained back up to the operators and other state and federal response contractors for oil spill response actions using the funding from the "Calhoun County Oil and Gas Impact Fund" specified in Item 7.h above.
14. Project suspension should be ordered when a drill site and the surrounding area is inundated or wet, due to inundation from groundwater or intense rainfall events. No road or drill pad construction will take place except under dry conditions which is defined as dry to the touch at the surface of the soil.
15. Monitoring before and routinely (no more than 3 years) after the start of construction of the ground topography and underground geology that will document any movement, shifts depression or rising of the strata.

## ATTACHMENT 2

# DRAFT COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE TEXT AMENDMENTS<sup>1</sup>

## FUTURE LAND USE ELEMENT

### Policy 9.4.1

Purpose: To provide land for timber, row crop farming and related agriculture and compatible activities. The Agriculture land use category, accounts for about 86% of the land area in Calhoun County and includes mainly timberlands. Other land uses include cropland, pasture land, and other agricultural uses in large scale land holdings. The lands are primarily timber production holdings.

[density omitted]

Uses: Agricultural activities, livestock, aquaculture, agricultural/farm dwelling units, single family residential units, agricultural support services, structures and facilities related to agricultural activities, agricultural product processing facilities, vacant land, places of worship, public facilities and grounds, public utilities, oil and gas exploration, development, and production, and neighborhood commercial where activities are compatible with adjacent land uses and are adequately buffered.

## CONSERVATION ELEMENT

### MINERAL RESOURCES

#### MINING

OBJECTIVE 8A: Mining activity shall be regulated to ensure no adverse effect upon the quality of air, groundwater, surface water and wildlife.

Policy 8.1: A mining operation water use plan must be prepared and approved before new mining operations are permitted.

Policy 8.2: A minimum 50 foot natural setback shall be established and maintained for all mining activities. In addition, the County may require a vegetative or structural buffer between mining activities and adjacent existing and future uses.

Policy 8.3: A reclamation plan shall be approved by the County before mining activities are permitted.

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<sup>1</sup> Proposed new language indicated by underlining; deletions of existing language by ~~strike through~~.



Policy 8.4: The natural function of wetlands, and flood plains of the Chipola River and the Apalachicola River shall be protected by prohibiting mining in 100 year flood plain areas, wetlands and within 100 feet of the Apalachicola River.

#### OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

OBJECTIVE 8B: Oil and gas exploration, development, and production shall be regulated consistent with state and federal permitting requirements.

Policy 8.5: In those areas of the County where oil and gas exploration, development, and production facilities are an allowable use, such use shall be subject to all applicable regional, state and federal requirements for drilling, production, and transportation. Drilling, operations, site design and stormwater management activities are regulated by the Florida Department of Environmental Protection (FDEP). This requirement shall be deemed satisfied upon issuance of the applicable FDEP permits, in compliance with Part IV of Chapter 373, F.S., Chapter 62-330 Florida Administrative Code and the criteria established in Chapter 62C-25 through 62C-30, Florida Administrative Code, as those rules exist as of \_\_\_\_\_, 2017, the effective date of this amendment to the County's Comprehensive Plan.

Policy 8.6: Notwithstanding other provisions of this Comprehensive Plan and the Land Development Code, oil and gas exploration, development, and production is permitted subject to the following requirements:

- a. ~~May~~ Shall be allowed in or near wetlands where activities and/or development mitigates any unavoidable impacts to wetlands consistent with state and federal standards as determined by the appropriate state and federal agencies through FDEP or the United States Army Corps of Engineers;
- b. May be allowed on or over wetlands or other surface waters where activities and/or development provides the highest protection to the Apalachicola and Chipola Rivers, state designated Outstanding Florida Waters, in conformance with the Florida Department of Environmental Protection's policy under section 62-302.700, Florida Administrative Code.
- c. ~~May~~ Shall be allowed in the floodplain and shall comply with the Calhoun County Floodplain Management Ordinance. Further, the storage of crude oil, or the use or storage of the drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas, which are regulated under chapter 377, Florida Statutes, may be allowed in the floodplain.
- d. ~~May~~ Shall be allowed in high or prime aquifer recharge areas subject to review by the Northwest Florida Water Management District. The developer will be required to provide documentation demonstrating coordination during the conditional use review process.

- e. Shall be subject to the conditional use review requirements of the Land Development Code.

# **CALHOUN COUNTY LAND DEVELOPMENT CODE**

## **ARTICLE III**

### **DEVELOPMENT AND SUBDIVISION REVIEW PROCEDURES**

#### **3.13.00 PLANNING REVIEW**

A. Types of Development Subject to Planning Review: The following types of development are subject to planning review and approval:

1. Development within the conservation or environmentally sensitive areas;
2. All commercial and office development;
3. All multiple family development, mobile home parks and townhouses;
4. Public facilities;
5. Churches, community houses, group homes;
6. Boat ramps, marinas, parks, recreational vehicle facilities; and
7. Subdivisions and planned unit developments shall follow the subdivision review procedures contained in Section 3.16.00 of this Code.
8. Development which does not apply as eligible for the Staff Review process or the Full Review Process.
9. Oil and gas exploration, development, and production subject to state drilling and operating permits and conditional use approval.

## ATTACHMENT 3

# Apalachee Regional Planning Council

Serving Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson,  
Liberty, Leon and Wakulla Counties and their municipalities



November 9<sup>th</sup>, 2017

Frank Snowden  
Calhoun County Planning  
Calhoun County Courthouse  
20858 Central Avenue East  
Blountstown, Florida 32424

Dear Mr. Snowden:

Apalachee Regional Planning Council has reviewed the proposed amendment 17-2ESR and forwards no official objection. However, the Council strongly recommends that the County consider the following as it explores policy impacting this new productive opportunity in potentially sensitive environmental areas:

- Implement recommendations 1-15 provided by Robert N. Hartsell, P.A. on behalf of the Apalachicola River Keepers pending their review and changes recommended by an independent hydro-geologist, well-site geologist, and biologist.
- Add language that holds private drilling entities to enact all environmental best management practices related to their operation. Examples include:
  - ISO 14000 Management of Environmental Impacts
  - Closed-loop drilling systems
  - Pitless waste disposal
  - Flareless completions

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Fetchick".

Richard Fetchick, Regional Planner

**OFFICE**  
2507 Callaway Rd, Ste 200  
Tallahassee, Florida 32303

**CONTACT**  
850.488.6211  
[www.thearpc.com](http://www.thearpc.com)

January 9, 2018

Calhoun County Board of County Commissioners  
20859 Central Avenue E., Room 130  
Blountstown, FL 32424

Re: Response to Comments on Amendments to the Calhoun County Comprehensive Plan

Dear Commissioners:

On behalf of Neal Land & Timber Co. (Neal) and Cholla Petroleum, Inc. (Cholla) please see below responses to comments received from the Florida Fish and Wildlife Conservation Commission (FWC) and the Apalachee Regional Planning Council (ARPC) regarding the amendments to the Calhoun County Comprehensive Plan and Land Development Code (Amendments).

**FWC Comments**

**Response:**

With regard to locating drilling operations, drilling sites are selected based on geology, e.g. where the drilling target is located in the subsurface, as well as the avoidance of surface impacts to habitats, listed species, and cultural resources to the greatest extent practical. Consequently, all drilling projects are preceded by a detailed wildlife and wetlands survey and a cultural resources survey. In past operations in Florida, these surveys are used to select locations for drilling pads and access roads, thereby avoiding or minimizing undue impacts. Lampl Herbert monitors the site construction and provides follow up inspections of wetlands and wildlife conditions.

Directional drilling is a method that allows a well to be drilled from a surface pad in one location towards a predetermined subsurface geologic target in another location. Use of directional drilling, however, may be limited by geologic conditions or by the distance from the surface pad to the "bottom-hole" target. In most instances directional distances can be up to a half mile or more.

Directional drilling is not new in Florida, it has been used for 30-50 years in the Big Cypress National Preserve, the Corkscrew Swamp Sanctuary, the Blackwater River State Forest, and in the Jay Field along the Escambia River floodplain to minimize and/or avoid direct adverse impacts in these wetland and riverine habitats. Proposed oil and gas

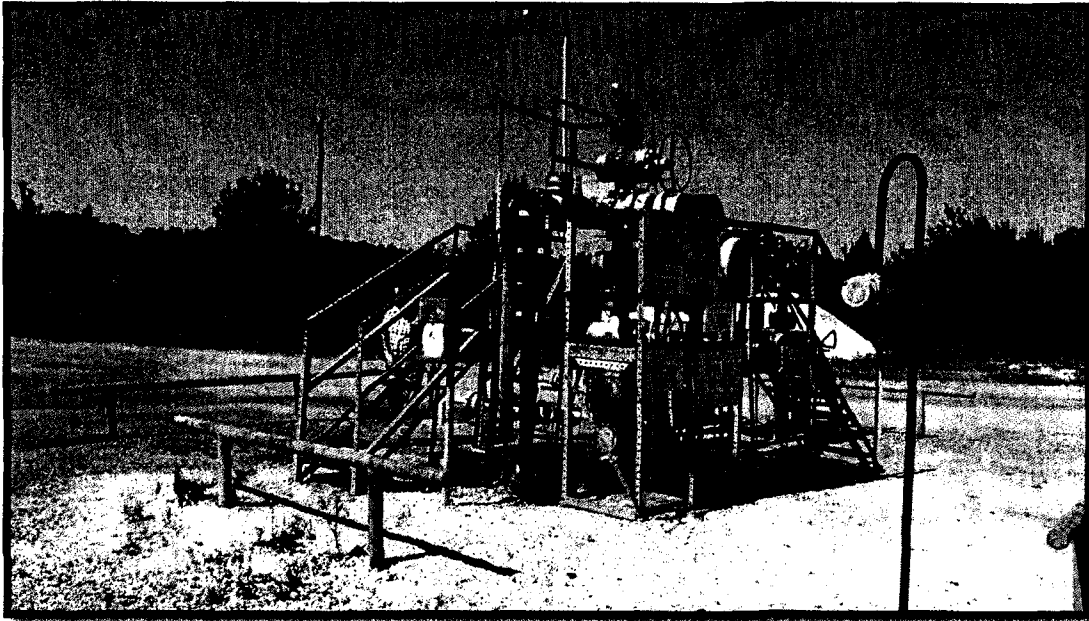
activities in Calhoun County would follow the same site selection and development methods, and all currently proposed work in the County will occur in upland areas within the FEMA designated floodplain. Furthermore, all oil and gas activities, regardless of availability of directional drilling technology or potential impacts to wetlands, are subject to state and federal regulation.

With regard to the siting of oil and gas development and production facilities within wetlands and floodplains, based on Florida regulatory requirements, all proposed activities would be conducted on lands that have been vetted for the potential for adverse impacts and any adverse impacts are avoided, minimized, or mitigated. Both Florida Department of Environmental Regulations and the U.S. Army Corps of Engineers would regulate any activities proposed for wetland areas. In addition, the Federal Emergency Management Agency provides guidance to participating counties on specific topics and engineering design criteria.

Finally, best management practices for protecting well heads and onsite storage from inundation will apply because oil and gas activities in Florida utilize preparation and mitigation best management practices (BMPs) to address flood hazards. These BMPs are developed by comparing the elevation and terrain of the drilling location with the flood elevation datum for 100-year and 500-year storm events. The resulting engineering designs are well known and practiced throughout Florida and the country. Examples of these designs are available in South Florida operations in the Big Cypress National Preserve and along the Escambia River in Escambia and Santa Rosa Counties. **Figure 1** is an example of a well-head production facility in the Jay Field designed to operate within the 100-year Escambia/Conecuh River floodplain.

The BMPs would include providing an engineer-designed dike/berm around the drilling location to protect the work area from flooding, and elevating the production facilities—including chemical storage and crude oil tanks—to elevations above flood height on filled land within the diked area. All control equipment is flood-proofed or elevated. See **Attachment 1** for discussion of the applicable federal guidelines and BMPs which apply to oil and gas activities in Florida.

OR BOOK 16 PAGE 535



*Figure 1: An oil and gas production facility designed to operate in the Jay Field of west Florida adjacent to the Escambia/Conecuh River floodplain.*

**ARPC Comment 1- "Implement recommendations 1-15 provided by Robert N. Hartsell, P.A. on behalf of the Apalachicola River Keepers pending their review and changes recommended by an independent hydrogeologist, wellsite geologist, and biologist."**

**Response-**

The proposed requirements submitted by Mr. Hartsell and the Apalachicola Riverkeeper lack any legal basis under the State of Florida's regulatory structure for oil and gas activities. As a result, no response to these comments is necessary.

**ARPC Comment 2- "Add language that holds private drilling entities to enact all environmental best management practices related to their operation. Examples include:**

- ISO 14000 Management of Environmental Impacts
- Closed-loop drilling systems
- Pitless waste disposal
- Flareless completions.

OR BOOK 16 PAGE 536



**Response-**

Florida Department of Environmental Protection (FDEP) regulations for well drilling and operating permits address the requirements for drilling activities referenced above. For example:


- The State of Florida typically requires closed-loop drilling systems in environmentally sensitive areas.
- FDEP air pollution standards govern flares used during testing.
- FDEP air rules prohibit the use of flares during production -- except in emergency situations.

In addition, applicants for drilling projects currently proposed for Calhoun County have agreed to containerize all waste for offsite disposal. Reserve pits will not be used.

Thank you for your attention to this matter. Should you need additional information or materials please feel free to contact Lampl Herbert Consultants at (850) 222-4634 Extension 101.

Sincerely,

**LAMPL HERBERT**



**Linda L. Lampl, Ph.D.**  
President/CEO



**Thomas A. Herbert, Ph.D., P.G.**  
Vice President, Florida Professional Geologist #5



**Gregory M. Hitz, P.G.**  
Senior Geologist, Florida Professional Geologist #2155

OR BOOK 16 PAGE 537

## ATTACHMENT 1

### Oil and gas drilling and production operations in floodplain areas

1. Oil and gas operations in floodplain areas are regulated by county authority vis-à-vis the regulations of the National Flood Insurance Program (NFIP). Calhoun County participates in the program and must implement and enforce federal guidelines for floodplain construction to continue as a participant.
2. Calhoun County has the responsibility for approving floodplain development and does so based on the federal guidelines.
3. Requirements can be found in the Code of Federal Regulations Title 44 Sections 59-65. Development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials (44CFR 59.1.)
4. In floodways the oil and gas company will have to demonstrate through an engineering study that there will be no increase in flood height during the discharge of the 1% chance flood. The registered engineer must demonstrate with PE-sealed drawings and designs that:
  - The base flood elevation (BFE) has been determined for the project site and the construction is either elevated above the 100-year flood event, or
  - The design is flood proofed, or
  - Facilities can be relocated outside the base flood elevation area
5. Flood proofing includes such features as:
  - Protective dikes or berms
  - Anchoring of equipment
  - Flood fencing of wellhead equipment, meters and valves, electrical meters and supply lines
  - Positioning of tanks with oil and/or chemicals above the 500-year BFE
  - Spill protection designs/protocols
  - Interior protective berms
  - Impermeable liners
  - Groundwater monitoring on a regular basis
  - Inventories and gauging of tanks storing chemicals
  - Management of crude oil tank storage

CR BOOK 16 PAGE 538

6. The county would also have permit materials submitted that include:
  - A location plat showing elevations and placement of well and equipment
  - A Spill Prevention and Counter Measure Plan (also an FDEP requirement)
  - An Emergency Evacuation Plan that outlines the steps to be taken if a flood of record is anticipated
  - All applicable state and federal permits which would include:
    - FDEP drilling permit
    - FDEP stormwater facility design permit
    - USACE 404 permit for wetlands
7. Ultimately, these documents will be reviewed by the Oil and Gas Program Office of FDEP and the agency inspectors will review as-built compliance from the engineer of record



625 Highland Colony Parkway  
Suite 101  
Ridgeland, Mississippi 39157  
601.969.1831  
601.353.4117 Fax  
mspooner@spoonercompanies.com

January 9, 2018

Calhoun County Board of County Commissioners  
20859 Central Avenue E., Room 130  
Blountstown, FL 32424

RE: Proposed Amendments to the Calhoun County Comprehensive Plan

Dear Commissioners:

I am writing to inform you that Spooner Petroleum Company supports the amendments to the Calhoun County Comprehensive Plan submitted by Neal Land & Timber Co. and Cholla Petroleum, Inc.

Sincerely,

A handwritten signature in black ink, appearing to read "Michal Spooner". The signature is written in a cursive, flowing style.

Michal Spooner  
President

MS/tm

**RESOLUTION OF CALHOUN COUNTY, FLORIDA  
RESOLUTION NO. 2018-01**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF  
CALHOUN COUNTY, FLORIDA, AUTHORIZING THE CHAIRMAN OF THE  
BOARD OF COUNTY COMMISSIONERS TO EXECUTE AND ENTER INTO  
THE "FIRST AMENDMENT TO THE SMALL COUNTY OUTREACH  
PROGRAM AGREEMENT"**

**WHEREAS**, Calhoun County, Florida, and the Florida Department of Transportation entered into a Small County Outreach Program Agreement, whereby the Department agreed to provide financial assistance directly related to the widening, resurfacing and improving drainage components on County Road 392; and,

**WHEREAS**, the State of Florida, Department of Transportation and the County mutually agree to amend the Agreement by **increasing** the Department's maximum participation of \$1,999,814 by \$32,859 which brings the amended maximum Department Participation to \$2,032,673.00 (Two Million Thirty-Two Thousand Six Hundred Seventy-Three Dollars).

**WHEREAS**, the "First Amendment to the State of Florida, Department of Transportation, Small County Outreach Program" requires that a Resolution be passed by the Board of County Commissioners of Calhoun County, Florida authorizing the Chairman of the Board of County Commissioners of Calhoun County, Florida, to execute and enter into the "First Amendment State of Florida, Department of Transportation, Small County Outreach Program Agreement attached hereto.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Calhoun County, Florida, as follows:

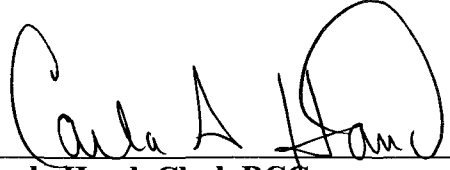
1. The Chairman of the Board of County Commissioners of Calhoun County, Florida, is authorized to enter into and execute the "First Amendment to State of Florida, Department of Transportation, Small County Outreach Program Agreement" attached hereto as EXHIBIT "A".

**DULY PASSED AND ADOPTED** by the Board of County Commissioners of Calhoun County, Florida, this 9<sup>th</sup> day of January, 2018.

**CALHOUN COUNTY  
BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
Danny Ray Wise Chairman, BCC

**ATTEST:**

  
\_\_\_\_\_  
Carla Hand, Clerk BCC