

**MINUTES OF MEETING  
BOARD OF COUNTY COMMISSIONERS  
ST. JOHNS COUNTY, FLORIDA  
APRIL 17, 2001  
(2:30 P.M.)**

Proceedings of a special meeting of the Board of County Commissioners of St. Johns County, Florida, began and held in the Auditorium at the County Administration Building, #4020 Lewis Speedway (County Road 16-A) and U.S. 1 North, St. Augustine, Florida.

Present were: Mary Kohnke, District 4, Chair  
Marc Jacalone, District 3, Vice Chair  
Nicholas Meiszer, District 1  
John Reardon, District 2  
James E. Bryant, District 5  
Ben W. Adams, Jr., County Administrator  
Daniel Bosanko, Deputy County Attorney  
Judy Hamilton, Deputy Clerk

(04/17/01 - 1 - 2:30 p.m.)

The meeting was called to order by Chair Kohnke.

(04/17/01 - 1 - 2:30 p.m.)

PUBLIC HEARING - VERIFIED COMPLAINT THE SIERRA CLUB, PURSUANT TO SECTION 163.3215, FLORIDA STATUTES, FOR REVIEW OF THE REZONING DEVELOPMENT ORDER OF THE ST. JOHNS COUNTY COMMISSIONERS, RESOLUTION NO. 2001-30. THE VERIFIED COMPLAINT AND REQUEST FOR PUBLIC HEARING WAS FILED WITH THE COUNTY ON MARCH 23, 2001. IN SUBSTANTIVE PART, IT ALLEGES THAT RESOLUTION 2001-30, WHICH IS THE DEVELOPMENT ORDER FOR THE NOCATEE DRI, IS NOT IN COMPLIANCE WITH THE ST. JOHNS COUNTY COMPREHENSIVE PLAN. CONSIDERATION OF THIS MATTER HAS BEEN SET FOR PUBLIC HEARING AT 2:30 P.M. ON APRIL 17, 2001

Proof of publication of the notice of public hearing, in the matter of Resolution #2001-30 Nocatee DRI, was received having been published in *The St. Augustine Record* on April 3, 2001; and, proof of publication of the notice of special meeting in the matter of Resolution #2001-30 Nocatee DRI was received, having been published in *The St. Augustine Record* on April 4, 2001.

Janet Beason, Court Reporter, was in attendance.

The meeting recessed at 2:31 p.m. and reconvened at 2:39 p.m.

(2:39 p.m.) Bosanko stated this was a hearing on a verified complaint, filed by the Sierra Club, pursuant to Section 163.3215, Florida Statutes, on review of the Development Order of the St. Johns County Commission Resolution Number 2001-30. Bosanko had just been informed that the attorney for the Sierra Club, Peter Belmont, was not present, and that Belmont had not received notice of the hearing today. Bosanko stated he could not verify that notice had been given to Belmont. Bosanko advised the Board they were required to hold the public hearing within 30 days of the verified complaint. Bosanko further advised the Board of a motion for recusal which had been filed, which should not be addressed until the public hearing was started. (2:41 p.m.) Bosanko stated that the motion for recusal was signed by Deborah Andrews, who was listed as counsel for the Sierra Club along with Peter Belmont. As such, Bosanko stated one position could be that Andrews was there as

counsel and therefore they have had notice and they were making an appearance. Bosanko did think they should hear from Andrews, as well as the representative for the developer on the issue. Bosanko restated that the issue was whether the hearing could be done today and recommended the Board ask Andrews to address the issue.

(2:42 p.m.) Deborah Andrews, 11 N. Roscoe Blvd., attorney representing the Sierra Club, stated she had filed the motion for recusal in this matter. She told the Board that she spoke with Belmont yesterday and he did not receive official notice of this hearing, even though he is counsel listed on the verified complaint. Andrews requested revelation of ex-parte communications from each Commissioner. (2:47 p.m.) Discussion was held by the Board and questions from the Board were answered by Legal about the notification process. Bosanko advised the Board that a letter or copy of the notice should have been sent to Belmont. However, Bosanko stated the issue was not entirely clear, because Andrews had revealed herself in the motion for recusal as one of the attorneys for the Sierra Club and she had known about the hearing for over a week. (2:49 p.m.) Bosanko told the Board the only issue they needed to consider right now was whether to start the hearing. He suggested the Board ask Andrews if the Sierra Club and its counsel did not want a hearing today, what days would they be available. Further discussion ensued. Andrews responded that Belmont was lead counsel and she believed they should take that matter up with him. She stated she was there on the motion for recusal and to bring those issues to the Board's attention. Bosanko then suggested they ask for a statement of the position of the developer, who was the party in interest. Meiszer and Reardon requested a list of all the individuals who received notice by mail of this hearing. Jacalone believed the hearing should be held today.

(2:52 p.m.) John Duvall, 101 East Adams Street, Jacksonville, one of the attorneys for the developer, stated their position was that the attorneys for Sierra Club had actual notice of the hearing, as did the developers. They stated Andrews had stated she spoke with Belmont yesterday concerning the hearing, so they knew about the hearing, and Duvall preferred the hearing go forward. Duvall stated that if no Board action was taken within the 30-day period, then the Sierra Club was free to file their complaint in Circuit Court and proceed with the litigation. Duvall said it was their position that no further hearing was required by the Board, but they were prepared to go forward if the Board so chose. Further discussion ensued.

Bosanko stated the County Attorney's Office was taking the position that this was a quasi judicial hearing and it should have been noticed. Bosanko further stated he had not been able to determine who, if anyone, was sent a written copy by mail of the newspaper advertisement notice of the hearing. (2:55 p.m.) Bosanko suggested some options to the Board. Bosanko had tried to contact Belmont, but was unable to do so. Discussion was held on proper notification. (3:01 p.m.) Bosanko advised the position of the County Attorney's Office, stating it was important to protect the decisions of the Board of County Commissioners in this type of case. He stated the possibility of this going to Circuit Court where they could have a whole new trial, bring in new witnesses, and they could decide whether the Development Order was consistent with the Comp Plan or not, and they could consider evidence that the Board had never even heard of before and they could overrule the Board, based on such evidence. Sisco and Bosanko believed that was inherently wrong and illegal. Bosanko reiterated that the decision of whether the DO was consistent with the Comp Plan should be based solely on the evidence that was presented to the Board. He further reiterated they needed to have proper notice to have a public hearing. (3:03 p.m.) Bosanko stated the County Attorney's position was that this type of verified complaint required a public hearing, because it was a quasi judicial hearing that had to be a public hearing, and to make the record that was necessary to go to court, they have to have a public hearing. (3:05 p.m.) James Sisco, County Attorney, entered the meeting. He confirmed that the appropriate action was having a quasi judicial hearing. Further discussion was held by the Board on the issue at hand.

(3:10 p.m.) *Reardon* moved that they conduct these hearings, reschedule them for Monday, April 23, 2001, at 9:00 a.m. *Bosanko* advised that the most conservative approach would be to continue the hearing to Friday, April 20, 2001.

(3:11 p.m.) **Motion by Reardon, seconded by Bryant, to reschedule this hearing for Friday morning, April 20, 2001, at 9:00 a.m., as recommended by counsel.** After further discussion, the meeting recessed at 3:14 p.m. and reconvened at 3:18 p.m. *Kohnke* stated there was a motion and a second on the floor for Friday, April 20, 2001, at 9:00 a.m. Notice would be sent via Federal Express to Belmont. (3:19 p.m.) *Andrews* stated her position on the issue, and said they did not waive rights to the hearing today and did not consent. *Sisco* stated he heard *Andrews* say she would not consent and would not waive the notice of hearing, which should end it right now. Further discussion ensued.

(3:38 p.m.) **Motion by Reardon, seconded by Kohnke, carried 5/0 via roll call vote**

<b>Jacalone</b>	<b>yes</b>
<b>Kohnke</b>	<b>yes</b>
<b>Bryant</b>	<b>yes</b>
<b>Meiszer</b>	<b>yes</b>
<b>Reardon</b>	<b>yes</b>

**to call the question.**

**Motion by Reardon, seconded by Bryant, carried 4/1 via roll call vote**

<b>Kohnke</b>	<b>yes</b>
<b>Bryant</b>	<b>yes</b>
<b>Meiszer</b>	<b>yes</b>
<b>Reardon</b>	<b>yes</b>
<b>Jacalone</b>	<b>no</b>

**to continue the hearing until Friday, April 20, 2001, at 9:00 a.m.**

It was confirmed notification would be sent to Belmont and *Andrews*

(3:40 p.m.) **Motion by Reardon, seconded by Jacalone, carried 5/0, to adjourn the meeting.** There being no further business to come before the Board, the meeting thereupon adjourned at 3:40 p.m.

#### REPORTS:

1. Order Approving Tariff Revisions in regard to Petition for approval of Demand-Side Management Adjustment Rider by Florida Power & Light Company before the Florida Public Service Commission, filed with the Clerk of Courts on April 6, 2001
2. St. Johns Board of County Commissioners Check Register, dated 04/09/01, Check Number 302297 through 302334, totaling \$61,337.52
3. St. Johns Board of County Commissioners Check Register, dated 04/12/01, Check Number 302335 through 3302543, totaling \$809,034.40
4. St. Johns Board of County Commissioners Check Register, dated 04/12/01, Check Number 302544, totaling \$3,000.00

CORRESPONDENCE:

1. Change of Address for R. Hutch Stevens, 239 S. Roscoe Blvd., Ponte Vedra Beach, FL 32082, Housing Finance Authority

Approved\_\_\_\_May 8\_\_\_\_\_, 2001

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By:\_\_\_\_\_

Mary F. Kohnke, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By:\_\_\_\_\_

Deputy Clerk