

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
APRIL 20, 2001
(9:00 A.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
 James E. Bryant, District 5
 Ben W. Adams, Jr., County Administrator
 Daniel Bosanko, Deputy County Attorney
 Isabelle Lopez, Assistant County Attorney
 Judy Hamilton, Deputy Clerk

Commissioner John Reardon arrived later in the meeting.

(04/20/01 - 1 - 9:02 a.m.)
CALL TO ORDER

The meeting was called to order by Chair Kohnke.

The roll was called by the Deputy Clerk

(04/20/01 - 1 - 9:03 a.m.)

PUBLIC HEARING - VERIFIED COMPLAINT OF 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. *THIS SPECIAL MEETING IS CONTINUED FROM THE PUBLIC HEARING THAT WAS SCHEDULED FOR 2:30 P.M. ON APRIL 17, 2001.* 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

Proof of publication of notice of meeting for continued special meeting on Resolution #2001-30, Nocatee Development DRI, was received, having been published in *The St. Augustine Record* on April 19, 2001.

Janet Beason, Court Reporter, was present.

(9:07 a.m.) Commissioner John Reardon, District 2, entered the meeting.

The Commissioners revealed any new ex-parte communications. Meiszer had none. Jacalone had none. Kohnke stated she spoke to the press, Pope and Trample, about this; Lynn Pappas on filing of the verified complaint; Roger O'Steen who asked when they were hearing it; and, yesterday radio people asked what the Commissioners were doing today, and she informed them they were discussing the verified complaint whether to approve or not. Bryant disclosed contacts on Tuesday with Teresa Bishop at her office, about not

finding any new information; Lynn Pappas regarding Gen. Doug Burnett wanted to meet her and talk with her about some things; Roger O'Steen about golf; Harry Francis, about the County's intentions at the Palm Valley Bridge. Reardon disclosed ex-parte communication with Bosanko regarding Belmont, the attorney, not showing up at the hearing; concerns and problems; people in general about what the problem was; Samantha, the reporter; Deborah Andrews about the problems and she said she would disclose it when it was her time to speak. Kohnke discussed their procedures with their attorneys.

(9:12 a.m.) Bosanko stated he had talked to each Commissioner and advised them it was the County Attorney's position that this should be a quasi judicial hearing and also that it is the County Attorney's position that due process requires the Nocatee representatives the opportunity to participate and defend themselves because they may lose a valuable property right in this matter and due process requires that. The people had been notified by Fax, by telephone, and by Federal Express notice.

(9:13 a.m.) Bosanko then addressed the Motion for Recusal, which had been filed in this matter by Deborah Andrews, representing the Sierra Club, asking that two of the Commissioners be recused, or removed, from the hearing of this matter. That was Commissioner Bryant and Commissioner Kohnke. Bosanko's advice was that Florida Statutes required them to participate and vote if they were in attendance unless there was an appearance of a conflict meeting the statutory standard or if there was an actual conflict meeting the statutory standard. Bosanko did not see that there was any allegation that there was such a conflict in this motion; therefore, he did not believe that statute allowed them to be present and not participate. There was also Florida case law that says just because they may have taken positions before on the matter, they could not be recused by a court from participating as elected officials to carry out this function. It is a separation of powers issue, as well as other things. The Board has no authority to remove any of its members anyway, even if there were a conflict of interest, it was only for the individual to make the decision whether they would step down until a court rules. For those reasons Bosanko recommended the motion for recusal be denied. (9:15 a.m.) Deborah Andrews presented the motion for recusal. Discussion was held on the motion. (9:22 a.m.) Kohnke did not recuse herself. Bryant stated under Florida Statutes he had no reason to recuse himself. (9:23 a.m.) **Motion by Jacalone, seconded by Bryant, carried 5/0, to deny.**

(9:23 a.m.) Bosanko pointed out steps of procedure had been provided to participants. The presentation of the case was made by the Planning Department. Isabelle Lopez, representing Staff, introduced Teresa Bishop, Planning Director, who presented the case, and stated Staff had heard no new evidence. (9:30 a.m.) Bosanko clarified that he did not advise Bishop in any of her statements. Discussion ensued on the points of the verified complaint. (9:40 a.m.) Next, opening statements were made by the applicant's representative, Deborah Andrews. Verification was discussed that Andrews was representative of the Sierra Club. Andrews answered Kohnke that she was representing the Sierra Club. (9:42 a.m.) Andrews asked that Bishop be sworn in. Bishop was thus sworn in by Bosanko. Andrews then asked questions of Bishop. (9:56 a.m.) Deborah Andrews made opening statements. (9:58 a.m.) Marsha Tjoflat, 200 W. Forsyth Street, Suite 1400, Jacksonville, representing Nocatee DRI, made opening statements. (10:00 a.m.) Andrews made presentation of evidence. Andrews questioned Scott Clem, Director of Growth Management Services, after having Clem sworn in. (10:08 a.m.) Bosanko entered a letter from Andrews into evidence. (10:09 a.m.) Andrews asked questions of Rhodes Robinson, Environmental Services, Inc., 8711 Perimeter Park Blvd., Suite 11, Jacksonville, environmental consultants. (10:12 a.m.) Andrews asked questions of Richard Prosser, president of Prosser, Hollock, Inc., 13901 Sutton Place Drive South, Jacksonville, planners for Nocatee. (10:15 a.m.) Andrews asked questions of Julie Parker, 290 Palmetto Road, St. Johns County Sierra Club coordinator. (10:17 a.m.) Andrews rested her case.

The meeting recessed at 10:18 a.m. and reconvened at 10:26 a.m.

(10:26 a.m.) Tjoflat made opening statements. (10:27 a.m.) Tjoflat asked questions of Doug Miller, president of England, Thimms, & Miller, 14775 Old St. Augustine Road, Jacksonville, engineer on Nocatee basic infrastructure. (10:32 a.m.) Andrews cross-examined Miller. (10:38 a.m.) Tjoflat re-examined Miller. Visual display was used. (10:43 a.m.) Tjoflat questioned Rhodes Robinson. (10:49 a.m.) Andrews cross-examined. (10:54 a.m.) Tjoflat cross-examined. (10:54 a.m.) Tjoflat asked questions of Prosser. (10:58 a.m.) Andrews cross-examined Prosser. (11:01 a.m.) Tjoflat re-examined. (11:02 a.m.) Tom Ingram, 200 W. Forsythe, Suite 1400, Jacksonville, answered questions of the Board. Lynn Pappas, answered questions.

Public comment was then received. (11:07 a.m.) Christine Golay, 333 Arpieka Avenue, St. Augustine, said no to the Comprehensive Plan and she was opposed to Nocatee. (11:10 a.m.) Ellen Whitmer, 1178 Natures Hammock Rd. S., Fruit Cove, spoke in support to the verified complaint and in opposition of the Nocatee project. (11:11 a.m.) Julie Parker, 290 Palmetto Road, spoke in opposition to the New Town concept.

(11:12 a.m.) Rebuttal was made by Tjoflat. (11:13 a.m.) Andrews made her closing remarks. (11:34 a.m.) Lopez made closing comments. (11:35 a.m.) Bishop made her closing comments. (11:37 a.m.) The issue was brought back to the Board. Discussion ensued. (11:40 a.m.) **Motion by Jacalone, seconded by Bryant, carried 3/2, via roll call vote:**

Bryant	yes
Meiszer	no
Reardon	no
Jacalone	yes
Kohnke	yes

that no action be taken on the verified complaint and that the original development order is in compliance and is consistent with the St. Johns County Comprehensive Plan.

(11:45 a.m.) **Motion by Jacalone, seconded by Reardon, carried 5/0, that the Sierra Club does have standing, as explained by Bosanko.**

(11:52 a.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 adjourned at 11:52 a.m.

Approved____May 15_____, 2001

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By:_____

Mary F. Kohnke, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By:_____

Deputy Clerk