

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
MARCH 4, 2003
(8:00 A.M.)**

Proceedings of a special/regular 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: James E. Bryant, District 5, Chair
Karen Stern, District 2, Vice Chair
Nicholas Meiszer, District 1
Bruce Maguire, District 4
David Halstead, Assistant County Administrator
Daniel Bosanko, County Attorney and Michael Hunt, Assistant County Attorney
Lenora Newsome, Deputy Clerk

Commissioner Marc Jacalone, District 3, was not yet present at the meeting.

(03/03/03 - 1 - 8:10 a.m.)

The Special Meeting was called to order by Chairman Bryant.

(03/03/03 - 1 - 8:10 a.m.)

1. 8:00 AM - CLOSED SESSION - THIS IS A PRIVATE, ATTORNEY - CLIENT MEETING OF THE BOARD OF COUNTY COMMISSIONERS HELD IN ACCORDANCE WITH SECTION 286.011(8), FLORIDA STATUTES BECAUSE THE COUNTY ATTORNEY'S OFFICE IS REQUESTING ADVICE FROM THE BOARD REGARDING SETTLEMENT NEGOTIATIONS AND STRATEGY RELATED TO LITIGATION EXPENDITURES. THE MEETING WILL BE CONFINED TO DISCUSSION OF SETTLEMENT NEGOTIATIONS OR STRATEGY SESSIONS RELATED TO LITIGATION EXPENDITURES PERTAINING TO THE CURRENTLY PENDING APPEAL OF THE FINAL ORDER IN THE CIRCUIT COURT REGARDING POSSIBLE OVERTURNINGS OF INTERCOASTAL UTILITIES, INC. ENTERED BY THE BOARD OF COUNTY COMMISSIONERS IN RELATION TO ST. JOHNS WATER AND SEWER AUTHORITY DOCKET NO. 2001-0007-0023. THE SPECIAL MEETING HAS BEEN ADVERTISED FOR 8:00 A.M., AND A COPY OF THAT ADVERTISEMENT IS ATTACHED, WHICH NAMES THE PERMITTED ATTENDEES AT THE PRIVATE MEETING. CONFERENCE ROOM "A" HAS BEEN RESERVED FOR THIS MEETING. A COURT REPORTER WILL MAKE A RECORD OF WHAT IS SAID AT THIS PRIVATE MEETING. THAT RECORD WILL BE MADE AVAILABLE TO THE PUBLIC AFTER THE TERMINATION OF THE LITIGATION. PRIOR TO AND AT THE END OF THIS MEETING THE COUNTY ATTORNEY WILL MAKE CERTAIN REQUIRED ANNOUNCEMENTS
 - A. Call to order of Special Meeting by Chair
 - B. County Attorney announces the Private Attorney/Client Meeting will commence at 8:00 a.m. and is estimated to last one hour.
 - C. Chair announces the Closed Client/Attorney Meeting in Conference Room A

- D. Chair announces specific names of persons attending the meeting.
- E. Meeting Attendees move to Conference Room A for the Closed Session. At conclusion of meeting the Chair will reconvene the Special Meeting and announce termination of the Closed Attorney/Client Settlement Meeting.

Bosanko announced that he would like to inform the Board that he needed advice concerning the lawsuit between Intercoastal Utilities, Inc. and the Board of County Commissioners of St. Johns County related to the current appeal of the Final Order in the Circuit Court regarding Possible Overearnings of Intercoastal Utilities, Inc., entered by the Board of County Commissioners in relation to St. Johns County Water and Sewer Authority Docket No. 2001-0007-0023. Florida Statute 286.011 allows the Board to hold a private meeting in order to provide that advice. The subject matter of the meeting shall be confined solely to settlement negotiations and strategy sessions related to litigation expenditures. The meeting will commence at 8:00 a.m. in Conference Room A, or as soon as thereafter as possible, and is estimated to last approximately 45 minutes.

Bryant announced that Commissioner Jacalone had not arrived yet and would be here shortly. He announced the names of the persons to attend the meeting: James E. Bryant; Nicholas M. Meiszer; Marc A. Jacalone; Karen R. Stern; Bruce A. Maguire; Daniel J. Bosanko, Esquire; Michael D. Hunt, Esquire; and Kathryn Cowdery, Esquire, Special Counsel to the Board; and Kathy Ardito, the Court Reporter. (8:12 a.m.) The Board moved to Conference Room A. (8:13 a.m.) Jacalone entered the meeting.

Bryant announced the reopening of the public meeting and that the Special Closed Meeting between the County Attorney and Board of County Commissioners was over. The meeting adjourned at 8:54 a.m.

(03/03/03 - 2 - 9:07 a.m.)

CALL TO ORDER BY CHAIR

The Regular Meeting was called to order by Chair Bryant.

(03/03/03 - 2 - 9:07 a.m.)

The Invocation was given by Bryant. The Pledge of Allegiance was led by Jacalone.

(03/03/03 - 2 - 9:08 a.m.)

ROLL CALL

Bryant stated that all five Commissioners were present.

(03/03/03 - 2 - 9:08 a.m.)

PROCLAMATION DESIGNATING MARCH 2003 AS ARCHEOLOGY MONTH

Bosanko read the Proclamation. Linda Chandler, President of the St. Augustine Archeological Association, received the Proclamation and presented the Commissioners with a poster of Florida Archeology Month.

(03/03/03 - 2 - 9:12 a.m.)

PUBLIC COMMENT

There were no public comments.

(03/03/03 - 3 - 9:13 a.m.)
DELETIONS TO CONSENT AGENDA

Halstead requested to pull Item #4 to reschedule it to a later date.

(9:13 a.m.) **Motion by Jacalone, seconded by Bryant, carried 5/0, for adoption of the previous proclamation.**

(03/03/03 - 3 - 9:13 a.m.)
APPROVAL OF CONSENT AGENDA

Motion by Jacalone, seconded by Bryant, carried 5/0, to approve the Consent Agenda as amended.

1. Approval of the Cash Requirement Report
2. Approval of Minutes:
2/5/2003 - BCC Joint Meeting (with the City of St. Augustine and St. Augustine Airport Authority)
2/11/2003 - BCC Regular Meeting
3. Motion to direct the County Administrator to execute the ATM License Agreement between St. Johns County and Wachovia Bank
4. Motion to adopt a Resolution recognizing unanticipated revenue in the amount of \$306,419 and increase the expenditure budget of the Local Housing Trust Fund by the same amount

This item was pulled and will be rescheduled at a later date.

5. Motion to adopt **Resolution No 2003-38**, recognizing unanticipated General Fund revenues in the amount of \$15,000 from a donation by the St. Johns Council on Aging and appropriate them for use in the expansion of the fire suppression system at the County's Marine Street facility

RESOLUTION NO. 2003-38

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AMENDING THE FISCAL YEAR 2003 GENERAL FUND REVENUE BUDGET TO RECEIVE UNANTICIPATED REVENUE FROM DONATIONS AND AUTHORIZE ITS EXPENDITURE AT THE COUNTY'S MARINE STREET FACILITY

6. Motion to allow the County Administrator, or his designee, to award Bid No. 03-40, for the purchase of One (1) Sewer Vacuum Truck to Mauldin International Truck (*See attachment "A"*)

(03/03/03 - 3 - 9:13 a.m.)
ADDITIONS/DELETIONS TO REGULAR AGENDA

Bosanko requested to add a memo regarding outside attorney fees as Item 9A and he also added an agreement regarding the Taylor Woodrow Community Development District prohibition on sale of wetlands as Item 14A.

(03/03/03 - 4 - 9:15 a.m.)
APPROVAL OF REGULAR AGENDA

Motion by Jacalone, seconded by Stern, carried 5/0, to approve the Regular Agenda as amended.

(03/03/03 - 4 - 9:15 a.m.)

1. CONSIDER ACCEPTANCE/REJECTION OF A SETTLEMENT AGREEMENT IN THE INVESTIGATION OF POSSIBLE OVERTURNINGS OF INTERCOASTAL UTILITIES, INC., ST. JOHNS WATER AND SEWER AUTHORITY DOCKET # 2001-0007-0023

Bosanko introduced Kathryn Cowdery, Special Counsel to the Board, who summarized the main points included in the Settlement Agreement. (9:19 a.m.) **Motion by Jacalone, seconded by Meiszer, that St. Johns County accept the Settlement Agreement in Investigation of Possible Overearnings of Intercoastal Utilities, Inc., St. Johns County Water and Sewer Authority Docket #2001-0007-0023.**

(9:20 a.m.) Martine Slemph, 2635 Lighthouse Bend Drive, representing the Sawgrass Association, spoke in favor of the Settlement Agreement.

(9:22 a.m.) Steve Reilly, 3705 Widelow Circle, Tallahassee, representing the ratepayers, stated that this Settlement Agreement is better than the Final Order. **The motion Carried 5/0.** Bosanko left the meeting.

(03/03/03 - 4 - 9:24 a.m.)

2. CONSIDER AUTHORIZING THE TRANSFER OF \$27,500 FROM THE GENERAL FUND RESERVES TO HOSPITALS-REFUND OF PRIOR YEAR REVENUE FOR PAYMENT OF SERVICES PROVIDED BY FLAGLER HOSPITAL DURING FY 2001

Joe Vonasek, Director, Office of Management and Budget, reviewed this item. Meiszer mentioned that there should be a policy in regards to aging accounts. Bryant stated that he supported it. (9:29 a.m.) **Motion by Jacalone, seconded by Stern, carried 5/0, to authorize the transfer of \$27,500 from the General Fund Reserves (0083-59920) to Hospitals-Refund of Prior Year Revenues (0061-59301) for payment of services provided by Flagler Hospital during FY 2001.**

(03/03/03 - 4 - 9:31 a.m.)

3. CONSIDER APPROVAL AND SUBMISSION TO THE STATE, THE REVISED LOCAL HOUSING ASSISTANCE PLAN FOR THE SHIP PROGRAM FOR FISCAL YEARS: 02/03 - 03/04 - 04/05

Dana Hunt, Ship Program Administrator, gave a brief presentation on the history and progress of the SHIP Program, Exhibit A, utilizing the overhead projector. She stated that they are trying to get the Local Housing Assistance Plan for the years 2002 through 2005 adopted today, Exhibit B. Discussion followed on the criteria for participating in the SHIP Program, the partnership aspect regarding the funding, and the dollar amount lost to the County if the SHIP Program is eliminated by the Legislature. (9:54 a.m.) Tom Crawford, Director of Housing and Community Services, stated the proposal is to eliminate the Local and State Trust Funds, along with numerous other Trust Funds in the State, and the Government's proposed budget is to fund housing at about 70%, but there is no guarantee that will occur. Bryant stated that the State is trying to utilize the Trust Funds to balance the budget this year. Meiszer stated that the whole program is

in danger of being eliminated. (9:57 a.m.) **Motion by Stern, seconded by Jacalone, carried 5/0, to approve and submit to the State, the revised Local Housing Assistance Plan for the SHIP Program for fiscal years; 02/03 - 03/04 - 04/05.**

(03/03/03 - 5 - 9:58 a.m.)

4. UPDATE ON LIBRARY SERVICES AND ITS CAPITAL IMPROVEMENT PROGRAM

Mary Jane Little, Director of Library Services, provided an overview of the Library System and highlighted their CIP Projects; utilizing visual display, Exhibit A, the customer service policy, the library circulation figures, and library patron visits. She stated that they pride themselves in being Florida's First Public Library established in 1874.

(10:04 a.m.) Cheryl Hirschi, Branch Manager of the Main Library, gave an update on the Main Library's special collections, customer service, January 2003 statistics, virtual library, children's programs, adults programs, special services, community outreach, public services staff, volunteers, and goals for 2004.

(10:11 a.m.) Valerie Peischel, Branch Manager Hastings Library, gave an update on the Hastings Branch Library, utilizing visual display.

(10:18 a.m.) Daniel Markus, Branch Manager, Bartram Trail Branch Library, gave an update on the Bartram Trail Branch Library, utilizing visual display. He gave an overview on the Library's goals, statistics, patrons, collection, and programs.

(10:23 a.m.) Betty Ann Frederick, Branch Manager, Ponte Vedra Beach Branch Library, gave an update, utilizing visual display.

The meeting recessed at 10:42 a.m. and reconvened 10:48 a.m. (10:48 a.m.) Allen MacDonald, Finance Director, entered the meeting.

(10:48 a.m.) Jane Karp, Project Director, Library Elderly Outreach and Information and Referral System, gave an update on the LEO at the library, utilizing visual display.

(10:54 a.m.) Jae Minor, Technical Services Director, gave an update on technical services at the library, utilizing visual display.

(10:58 a.m.) Saul Hirschman, gave the history and the uses of the present library.

(11:07 a.m.) Little provided an overview and the CIP request. Maguire spoke on one of the items in the CIP request, the portico cher for the Ponte Vedra Library. He requested the BCC consider funding \$85,000 for a new RFP for a portico cher for the Library.

(11:13 a.m.) *Motion by Maguire, to put the money back into the building to correct the deficiencies.* Motion died for lack of a second. Meiszer spoke on the budget and the remodeling. Discussion followed on the construction cost.

(11:17 a.m.) Carolee Bertisch, 104 Cypress Lagoon Court, President of Friends of the Library Ponte Vedra Beach, spoke in favor of the beautification and entrance changes to the Library.

(03/03/03 - 5 - 11:20 a.m.)

5. A REIMBURSEMENT AGREEMENT FOR ST. AUGUSTINE LITTLE LEAGUE FOR PARTIAL PAYMENT OF ELECTRIC BILLS

Shorty Robbins, Administrative Manager for the Recreation and Parks Department, stated that St. Augustine Little League is requesting consideration of reimbursement of their annual electric bill for their ballfield complex. She gave a brief history of the St. Augustine Little League. Discussion followed on the budget and the electric bill expense. Bryant mentioned two emails in support of the request from Marty Martin and Bernie Huffman, Exhibits A and B.

(11:24 a.m.) Ed Wuellner, Member of the Board of Directors of St. Augustines Little League, spoke on the Little League's expenses. He stated that there were over 1,000 children participating in the program and over 100 adult volunteers. Jacalone spoke on ways the County could help the program. He mentioned that Brad Davis spoke to the Board about improving the road that goes to the facility and nothing was ever done. Jacalone asked the Board's support in looking at the roadway that leads to the facility, determine if it is a County road, get a price on it, and have the Staff report back to the Board in a couple of weeks. Discussion followed on how many baseball diamonds there were, how many teams there were, and the programs. (11:35 a.m.) **Motion by Jacalone, seconded by Stern, carried 5/0, to authorize the Chairman to execute the Reimbursement Agreement between the County and the St. Augustine Little League for Partial Payment of Electric Bills and to transfer \$16,000 from General Fund Reserves 0083-59920 to 0080-554300 Utilities and change the start date from March 1 to March 4.**

(03/03/03 - 6 - 11:37 a.m.)

6. CONSIDER ADOPTION OF A RESOLUTION SUPPORTING THE CREATION OF A NEW ST. JOHNS COUNTY METROPOLITAN PLANNING ORGANIZATION (MPO)

Scott Clem, Director of Growth Management Services, gave a presentation on the MPO process, utilizing visual display. (11:42 a.m.) Bosanko re-entered the meeting. Clem stated the important decision that needs to be made now is, whether to expand the existing First Coast MPO to incorporate this new urbanized area centered around St. Augustine, or alternatively to create a new St. Johns County MPO, which would include a couple of alternatives; 1) is to include only the St. Augustine urbanized area and surrounding areas, or alternatively 2) could go to the whole County and incorporate the entire County into this MPO. He gave information on the existing MPO. Bryant questioned the boundaries of the MPO. Clem responded that it was the Board's choice and suggested it was desirable to go with a countywide MPO. Bryant questioned what would happen if they couldn't reach an agreement. Clem replied that it was not clear, but the regulations basically anticipate that there will be an agreement. Discussion followed on the countywide MPO being the best alternative to take, on being penalized, there being a limit to the size of an MPO, and having at least 50,000 people to be an MPO. (12:01 p.m.) Jacalone left the meeting. Clem reviewed the five alternatives of the MPO. He stated that the next step is to obtain an agreement from our partners and submit an agreement to the Governor's Office by the April 30th deadline. Clem recommended going with a countywide MPO. (12:08 p.m.) **Motion by Maguire, seconded by Bryant, to adopt Resolution No. 2003-39, supporting the creation of a new St. Johns County MPO, which is Alternate E, with respect to the First Coast MPO.**

(12:14 p.m.) Don Beatty, 808 Mill Pond Court, spoke on this being a regional issue. **The motion carried 4/0 with Jacalone absent.**

RESOLUTION NO. 2003-39

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, SUPPORTING THE CREATION OF A NEW METROPOLITAN PLANNING ORGANIZATION FOR ST. JOHNS COUNTY INCORPORATING THE NEWLY DESIGNATED ST. AUGUSTINE URBANIZED AREA AND THE OTHER URBANIZED AREAS WITHIN THE NORTHERN PORTION OF ST. JOHNS COUNTY

(03/03/03 - 7 - 12:16 p.m.)

7. CONSIDER TWO APPOINTMENTS TO THE INDUSTRIAL DEVELOPMENT AUTHORITY

Moved to the afternoon. (See page 13)

(03/03/03 - 7 - 12:16 p.m.)

8. CONSIDER AN APPOINTMENT TO THE CHILDREN'S COMMISSION

Moved to the afternoon. (See page 14)

(03/03/03 - 7 - 12:16 p.m.)

9. CONSIDER (RE) APPOINTMENT TO THE COMMERCE POSITION ON THE HOUSING FINANCE AUTHORITY.

Moved to the afternoon. (See page 14)

(03/03/03 - 7 - 12:16 p.m.)

- 9A. MEMORANDUM FOR OUTSIDE ATTORNEY FEES

Moved to the afternoon. (See page 14)

Bryant mentioned moving Items 7, 8, 9, 9A, and the Commissioners' Reports, County Administrator's Report, County Attorney Report and the Clerk of Court Report to the end of the afternoon session. The meeting recessed for lunch at 12:16 p.m. and reconvened at 1:39 p.m. with Jacalone, Bryant, Stern, Meiszer, Maguire, Halstead, Lopez, and Deputy Clerk Cecelia Aldrich present.

(03/04/03 - 7 - 1:39 p.m.)

COMMISSIONERS' REPORTS

Commissioner Meiszer:

Meiszer announced that the Switzerland Point Middle School collected 10,250 pounds of animal food for donation to the Humane Society and \$500.00 for rehabilitation of wild animals. He applauded the children for their efforts. Meiszer also said he wanted to correct an error from the previous Board meeting and noted that there are 10 CDDs that are in process in the County. He said the point he wanted to make was that they are on the increase and appears to be a new trend in financing.

(1:42 p.m.)

Commissioner Stern:

Stern reported that she had attended the first meeting of the St. Johns River Restoration Group and that Mayor John Delaney was elected Chairman. The group is responsible

for taking recommendations from the two-day St. Johns River Summit and developing a plan of action to protect the St. Johns River. She briefed the commissioners on a follow-up meeting scheduled for March 28th. She reviewed the purpose of the group and the upcoming meeting, as well as, identifying some of the involved parties. She asked for the Commission's commitment to support the group. (1:45 p.m.) Bryant gave Stern the go ahead. Stern said she would forward a copy of a recent press release that indicates items that the Water Management District and the DEP may be asking staff for. Stern then referred to a letter, from Jim Sutton of the St. Johns Vision Group, asking for a resolution from the Board that supports the vision process. (1:48 p.m.) Jacalone said he wouldn't have a problem with a resolution being drafted and presented to the Board for its' vote. He said he would need information on the St. Johns River Restoration Group before offering his support. Stern said she would get information to the Board members. (1:49 p.m.) Lopez said the issue of staff involvement came up when the Visioning group was created and she noted that there could be Sunshine Law issues with regard to staff serving on some committees. (1:50 p.m.) Referring to the River Restoration group, Jacalone said he was hesitant to allow the use of staff before having ample information. He recommended that Stern work with the attorney's office to draft a resolution and place it on the agenda for the Board to decide if it will support the group. (1:52 p.m.) Stern noted she was appointed to the group and said she would get with the legal department. She noted that March is Women's History month and in that regard, the Enterprising Women's Leadership Institute (EWLI) has declared March 27th as International Women's Day in St. John's County. She said the EWLI has requested that the County issue a Proclamation in its' honor and have requested it be placed on the March 25th agenda. (1:53 p.m.) Bryant instructed Stern to have Staff generate the proclamation.

(1:53 p.m.)

Commissioner Jacalone:

There was no report.

(1:53 p.m.)

Commissioner Maguire:

There was no report.

(03/04/03 - 8 - 1:53 p.m.)

ASSISTANT COUNTY ADMINISTRATOR'S REPORT

Halstead reported that the Engineering Division will hold a public meeting for the Roberts Road Improvement Project on March 6th, 2003 from 5:30 p.m. to 7:00 p.m. at the Cunningham Creek Elementary School, 1205 Roberts Road. He noted that it is anticipated that one or more Commissioners may attend the meeting. In another matter, Halstead noted that Jacalone had previously asked the County to study the speed limit on West Sixteenth Street. As a result, he reported that the Traffic and Transportation Section conducted the study and the recommendation is to increase the speed from 25 mph to 30 mph.

(03/04/03 - 8 - 1:56 p.m.)

COUNTY ATTORNEY'S REPORT

Lopez reported that the County won the Fifth District Court of Appeals case regarding the constitutionality of the County's Special Use provision.

(03/04/03 - 9 - 1:56 p.m.)
CLERK OF COURT'S REPORT

There was no report.

(03/04/03 - 9 - 1:56 p.m.)

10. PUBLIC HEARING - PUD 2002-23 BANK OF ST. AUGUSTINE - THIS REQUEST SEEKS TO REZONE 1.19 ACRES LOCATED AT 900 SR 16 (AT THE CORNER OF SR 16 AND WOODLAWN ROAD) FROM OPEN RURAL (OR) TO PLANNED UNIT DEVELOPMENT (PUD) TO CONSTRUCT A 4,000 SF BANK/OFFICE BUILDING WITH FOUR DRIVE-THROUGH TELLERS AND A WALK-UP ATM IN PHASE I AND A BUILDING EXPANSION OF 1,481 SF IN PHASE II. THE SUBJECT PROPERTY IS LOCATED WITHIN THE MIXED USE DISTRICT (MD) FUTURE LAND USE DESIGNATION

Proof of publication of Notice of Public Hearing on rezoning of property at 900 State Road 16 was received, having been published in *The St. Augustine Record* on February 17, 2003.

Nicole Clayton, Planner II, explained the request and identified the property on the overhead, on the Future Land Use Map. She identified the proposed infrastructure, including the sewer system and other utilities. Clayton described the phases of development and explained the rationale for the requested waiver to the right-of-way buffer. (2:00 p.m.) Bryant said he had no problem with the waiver. Maguire asked where City water is in relation to the proposed project. (2:01 p.m.) Clayton acknowledged that City sewer would serve the site. Frank DiMare, 3545 U.S. 1 South, representing the Bank of St. Augustine, stated that the County has water and sewer on the south side of SR 16, and the City serves the north side, and this location. He noted that they hope to get the City sewer system there with Phase II and then would be able to increase the square footage. (2:02 p.m.) Maguire asked about vegetation at the site. Discussion about the buffer followed. (2:03 p.m.) Meiszer and DiMare discussed whether the site would be for the bank only if square footage was increased. DiMare said it would likely be the bank only, but could not guarantee that. (2:04) **Motion by Jacalone, seconded by Stern, carried 5/0, to enact Ordinance No. 2003-13, adopting Findings of Fact 1 through 6, contained within the packet.**

ORDINANCE NO. 2003-13

**AN ORDINANCE OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, REZONING LANDS AS
DESCRIBED HEREINAFTER FROM OPEN RURAL (OR)
TO PLANNED UNIT DEVELOPMENT (PUD);
PROVIDING FINDINGS OF FACT; PROVIDING A
SAVINGS CLAUSE; REQUIRING RECORDATION; AND
PROVIDING AN EFFECTIVE DATE**

(2:05 p.m.) Maguire asked about the proximity, and/or overlap, of City and County utilities and if there was any kind of agreement between the two. It was noted that the subject area and 312 are the only locations in the County where this occurs. (2:06 p.m.) Meiszer noted there is an existing agreement and it can be modified by the City Manager and the County Administrator.

(03/04/03 - 9 - 2:06 p.m.)

11. PUBLIC HEARING - REZ 2002-32 SHANK/MCCORMAC - THIS REQUEST SEEKS TO REZONE APPROXIMATELY 0.60 ACRES LOCATED AT 5024, 5038,

5042 AND 5054 A1A SOUTH FROM COMMERCIAL GENERAL (CG) TO RESIDENTIAL SINGLE FAMILY THREE (RS-3). THE REQUESTED ZONING CHANGE WOULD ALLOW FOR THE SITE TO REMAIN IN COMPLIANCE WITH THE COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION OF RESIDENTIAL C COASTAL AND FOR THE DEVELOPMENT OF FOUR SINGLE FAMILY RESIDENTIAL LOTS

Proof of publication of Notice of Public Hearing on rezoning of property located at 5024 A1A South was received, having been published in *The St. Augustine Record* on February 17, 2003.

Danielle Mayoros, Planner II, explained the request for the change in zoning. (2:08 p.m.) Bryant indicated he wasn't concerned about down zoning, but did express concern about a developer of the adjacent commercial lot having to comply with more stringent setback requirements. (2:09 p.m.) Lopez said the issue was raised earlier and she recalled the applicant saying they would support their neighbor if they chose to down zone along with them. She said, though unfortunate, with a straight rezoning, they would have to meet the buffer requirements. (2:10 p.m.) Bryant requested to go on record as stating that if the adjacent lot comes before the Board for development, as commercial, he would be supportive of a Variance. Maguire declared *ex parte* communication. Jacalone asked if there were buffer, or setback triggers that would affect the development of the remaining commercial parcel. (2:11 p.m.) Mayoros said it was a combination of both and primarily becomes a building setback issue. Discussion followed regarding the setback and it was noted that the buffer can be incorporated into the yard requirement.

(2:12 p.m.) Marc McCormac, co-applicant, stated that he had previously spoken to the adjacent property owner who had questions on the rezoning and indicated he was in support of their setbacks remaining the same.

(2:13 p.m.) Judith Ginn, 6784 A Avenue, St. Augustine, noted that she owned the lots next door to the subject property. She stated that the property owners on the other side of the subject property asked her to speak for them also, though they had not submitted a written request. Ginn said they both object to the rezoning request and stated that the change in setback requirement would put her in the position of losing almost one entire building lot. She noted that Staff has told her she could apply for a variance, but she feels there is no guarantee that it would be approved in the future. She commented that she purchased the lot as commercial property and expressed concern that the down zoning will devalue it. Ginn identified the lots on the overhead, Exhibit A. She said she would be substantially impacted by this zoning change and asked the Board to deny the request. (2:17 p.m.) Maguire asked if there was any way to attach a guarantee to the property regarding the setback requirements. (2:18 p.m.) Lopez indicated that it would be governed by the Land Development Code. (2:19 p.m.) Mayoros commented that a variance is good for one year and that it could be extended for one year by Board approval. (2:21 p.m.) Ginn said that was helpful, but that she and her husband do not yet know what they want to do with the property. (2:22 p.m.) Jacalone asked about the dimensions of the lots she owns. He commented that both parties need to be considered and he didn't think her property would be devalued to the point that it couldn't be developed, it would just require a larger side yard. He suggested that Ginn get a copy of the minutes for future use. (2:26 p.m.) Meiszer talked about the rezoning and considered this a spot zoning. He suggested that a solution might be for Ginn to apply for a rezoning at this time. (2:29 p.m.) Lopez commented that the lot is not unbuildable, there is just less buildable space. (2:30 p.m.) Meiszer said that having a copy of the record is no protection for Ginn, but waiving the lot requirement at the same time this zoning is approved would. (2:31 p.m.) Lopez responded that

unfortunately, there isn't a variance request before the Board for that, the request advertised is the one currently before the Board. There was more discussion on the measurements of the lots in question. Maguire pointed out that it is likely a retention pond would have to be installed and given the number of required parking spaces, it doesn't appear the single lot is a buildable lot. It was noted that there is multi use on the 30' buffer. (2:35 p.m.) Lopez addressed the spot zoning and pointed out that RS-3 zoning is adjacent to this lot. Discussion followed about most of the zoning in the area being residential and therefore this rezoning would be compatible. (2:38 p.m.) **Motion by Jacalone, seconded by Stern, carried 5/0, to enact Ordinance No. 2003-14 , known as REZ 2002-32 Shank/McCormac Rezoning adopting Findings of Fact 1-4, contained in the packet, to support the motion.**

ORDINANCE NO. 2003-14

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF COMMERCIAL GENERAL (CG) TO RESIDENTIAL SINGLE FAMILY (RS-3); MAKING FINDINGS OF FACT; REQUIRING RECORDATION; AND PROVIDING AN EFFECTIVE DATE

(03/04/03 - 11 - 2:38 p.m.)

12. PUBLIC HEARING - REZ 2002-30 NORTH RIVER ISLAND - THIS REQUEST SEEKS TO REZONE APPROXIMATELY 5.432 ACRES LOCATED AT 166 OAK AVENUE FROM COMMERCIAL HIGHWAY TOURIST (CHT) TO RESIDENTIAL SINGLE FAMILY THREE (RS-3). THE REQUESTED ZONING CHANGE WOULD ALLOW FOR THE SITE TO REMAIN IN COMPLIANCE WITH THE COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION OF RESIDENTIAL C COASTAL AND FOR THE DEVELOPMENT OF 15 SINGLE FAMILY RESIDENTIAL LOTS

Proof of publication of Notice of Public Hearing on Rezoning of property at 166 Oak Avenue, North River Island was received, having been published in *The St. Augustine Record* on February 17, 2003.

Danielle Mayoros, Planner II, reviewed the request. (2:40 p.m.) John Metcalf, 1104 Mill Creek Drive, representing Mark Ambach, stated that the site was platted in 1926 and permitted as a marina in 1986. He explained how the property was re-platted. (2:41 p.m.) Jacalone asked if there were any plans for a marina, or dock permits. Metcalf said no to the Marina and that docking would be for lot owners. (2:41 p.m.) Stern declared exparté communication. She noted that they are decreasing the density from what is allowed. (2:43 p.m.) Metcalf identified the existing roadways and noted that there was an interior road planned that was never built. He also showed the proposed new road that would serve the lots.

Public Comment

(2:46 p.m.) Vivian Browning, 40 Beachcomber Way, St. Augustine, said she is a neighbor of the project and indicated she is in favor of it. She commented that the development will increase the tax base and there was no concern from the community expressed at a recent meeting. Browning stated that Oak Avenue has always been an open public road.

(2:48 p.m.) Maguire declared exparté communication. **Motion by Jacalone, seconded by Maguire, carried 5/0, to enact Ordinance No. 2003-15, known as REZ 2002-30, North River Island Rezoning, adopting Findings of Fact 1 through 4, contained in the packet.**

ORDINANCE NO. 2003-15

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF COMMERCIAL HIGHWAY AND TOURIST (CHT) TO RESIDENTIAL SINGLE FAMILY (RS-3) MAKING FINDINGS OF FACT; REQUIRING RECORDATION; AND PROVIDING AN EFFECTIVE DATE

(03/04/03 - 12 - 2:48 p.m.)

13. PUBLIC HEARING - PNZVAR 2002-023 NORTH RIVER ISLAND - THIS REQUEST SEEKS A NON-ZONING VARIANCE TO REDUCE THE UPLAND BUFFER REQUIRED IN ARTICLE IV, OF THE LAND DEVELOPMENT CODE AND MITIGATE THE REDUCTION WITH OFF-SITE PRESERVATION OF LAND THAT INCLUDES AN INTACT MARITIME HAMMOCK/COASTAL STRAND COMMUNITY. THE PROPERTY, AS CURRENTLY ZONED, REQUIRES A 50' UPLAND BUFFER PER SECTION 4.01.06.A.2, LDC. HOWEVER, THIS AREA ALSO IS CURRENTLY PLATTED AND IF THE LOTS WERE USED WITHOUT REPLATTING, A 25' UPLAND BUFFER WOULD BE REQUIRED AS PER SECTION 4.01.02.E, LDC. THE APPLICANT HAS ALSO REQUESTED A ZONING CHANGE TO RESIDENTIAL. THE PROPERTY IS LOCATED OFF A1A IN THE SURFSIDE SUBDIVISION

Proof of publication of Notice of Public Hearing on Proposed Non-Zoning Variance for North River Island was received, having been published in *The St. Augustine Record* on February 17, 2003.

Jan P. Brewer, Environmental Manager, explained that the rezoning has just been approved and now a variance to the buffer is required. She referred to the North River Island Buffer Mitigation Plan and identified the spoil island. Brewer reviewed property that will be deeded over to an appropriate state agency and portions to be placed under a conservation easement. She showed the upland area recommended to be deeded over to the County. (2:53 p.m.) Jacalone asked if the island is a recognized, permitted spoil island. Brewer responded in the affirmative, and noted that DEP permits spoil sites. (2:54 p.m.) Jacalone and Brewer discussed the buffer. It was noted that the applicant will have to supply a drainage plan before development of the intracoastal frontage lots. (2:57 p.m.) Locklear said the lots would have to drain to the roadway unless they can permit something different through the District. It was noted that drainage would not be allowed into the intracoastal waterway. (2:58 p.m.) Stern disclosed exparté communication and also expressed concern about the spoil island. (2:59 p.m.) Jacalone declared exparté communication and queried inappropriate placement of fill material and possible runoff into the salt marsh and the intracoastal, as a result of the development of the project. Maguire pointed out that the property to be conveyed to the County is a very valuable piece of property and commended staff. (3:01 p.m.) **Motion by Jacalone, seconded by Stern, carried 5/0, to approve Non-Zoning Variance 2002-023, adopting Findings of Facts 1 through 6, to support the motion.**

(03/04/03 - 13 - 3:01 p.m.)

14. PUBLIC HEARING - NONZONING VARIANCE 02-0026 - NORTH RIVER ISLAND - THIS REQUEST SEEKS A NON-ZONING VARIANCE TO THE REQUIREMENTS REGARDING EASEMENTS IN PLATTED SUBDIVISIONS. THE PROJECT IS A 15 LOT SUBDIVISION LOCATED ON THE INTRACOASTAL AT THE WEST END OF OAK AVENUE AND IS A REPLAT OF A PORTION OF THE SURFSIDE SUBDIVISION. THE APPLICANT IS PROPOSING TO USE EASEMENTS TO ACCESS LOTS 3 AND 4 AT THE NORTH END OF THE PROPOSED SUBDIVISION AND LOTS 13, 14 AND 15 AT THE SOUTH END OF THE PROPOSED SUBDIVISION. THE PROPOSED EASEMENTS ARE 25' IN WIDTH WITH A 12' WIDE STABILIZED SURFACE. NO TURN-AROUND IS PROVIDED AT THE END OF THE EASEMENT

Proof of publication of Notice of Public Hearing on a Non-Zoning Variance for property at Surfside Subdivision in Vilano Beach was received, having been published in *The St. Augustine Record* on February 17, 2003.

Darrell Locklear, Chief Project Engineer, reviewed the project and described the lots. (3:03 p.m.) Jacalone asked Locklear to explain what the applicant wants to do. Locklear described the turn-around at the north end and how the roadway ends at the south end. (3:06 p.m.) Maguire asked for, and received, conformation that the Fire Department had reviewed the plans. Meiszer asked for definition on the stabilized surface. (3:08 p.m.) Stern disclosed exparté communication. (3:09 p.m.) Metcalf stated that the road would be paved with asphalt. (3:10 p.m.) **Motioned by Bryant, seconded by Stern, carried 5/0, to approve NZVAR 2002-0026 based upon the evidence provided for all the Findings of Fact 1 through 5, to support the motion.**

(3:10 p.m.) Bryant called a five-minute break and the meeting reconvened at 3:17 p.m. with Dan Bosanko, County Attorney, present.

(03/04/03 - 13 - 3:17 p.m.)

- 14A. TAYLOR-WOODROW - CDD PROHIBITION ON SELLING WETLANDS

Dan Bosanko, County Attorney, distributed the Developer Agreement and explained why it was not included with the Ordinance passed at the prior meeting. He noted that the agreement is good until such time that a majority of the Board of Supervisors is elected, by the residents, and beyond that they cannot control it. (3:18 p.m.) **Motion by Jacalone, seconded by Bryant, carried 5/0, to approve the St. Johns Forest CDD Establishment - Developer Agreement relating to a restriction for sale of wetlands to the CDD.**

(03/04/03 - 13 - 3:19 p.m.)

7. CONSIDER TWO APPOINTMENTS TO THE INDUSTRIAL DEVELOPMENT AUTHORITY

Patricia Heiss, Assistant to the County Administrator, explained the two vacancies. (3:20 p.m.) Bryant noted that he attended the IDA meeting and a recommendation was made to appoint John Bacon. **Motion by Bryant, seconded by Jacalone, carried 5/0, to appoint Mr. John Bacon to the Industrial Development Authority to complete a term scheduled to expire January 15, 2006.** (3:22 p.m.) Discussion followed regarding the expertise and/or education of appointees. (3:23 p.m.) **Motion by Jacalone, seconded by Maguire, carried 5/0, to appoint Patrick Murphy from District #1, to the Industrial Development Authority for a four-year term scheduled to expire February 25, 2007.** Meiszer said he thinks it is far more important that an appointee has expertise in the subject field, rather than where they live.

(03/04/03 - 14 - 3:24 p.m.)

8. CONSIDER APPOINTMENT TO THE CHILDREN'S COMMISSION

Patricia Heiss, Assistant to the County Administrator, introduced the item. (3:25 p.m.) **Motion by Stern, seconded by Bryant, carried 5/0 to appoint Darryl Middlebrook to the Children's Commission to complete a term scheduled to expire April 24, 2005.** Jacalone nominated Denise Edwards. The motion failed for lack of a second. (3:26 p.m.) Maguire reported that Edwards had recently taken a time-consuming position with the state.

(03/04/03 - 14 - 3:26 p.m.)

9. CONSIDER (RE) APPOINTMENT TO THE COMMERCE POSITION ON THE HOUSING FINANCE AUTHORITY.

Patricia Heiss, Assistant to the County Administrator, reviewed the appointment. (3:27 p.m.) **Motion by Stern, seconded by Jacalone, carried 5/0, to appoint Moreau P. Estes, V, to the Commerce position on the Housing Finance Authority for an initial four year-term scheduled to expire March 10, 2007.**

(3:27 p.m.) Meiszer noted that an exception to living within the District may warrant consideration when it comes to the PZA. He explained that an appointee from District #1 was re-districted out of District #1 and though he was reluctant to ask the former District #1 member to resign, it may come to that. He said if a qualified person in District #1 is found, and it was agreed upon between the related parties, he would prefer to have a District #1 representative on the PZA. (3:29 p.m.) Bryant said if the gentleman agrees to that, it would be fine. (3:29 p.m.) Heiss noted that all PZA term expirations are in December.

(3:30 p.m.) Allen MacDonald entered the meeting.

(03/04/03 - 14 - 3:31 p.m.)

9A. MEMORANDUM FOR OUTSIDE ATTORNEY FEES

Dan Bosanko, County Attorney, explained that he distributed an email from Susan Erderlyi, a private attorney representing the County. He noted the attorney's fees are related to the case involving Café Erotica Exit 94. Bosanko reviewed that recently the County lost a round of litigation, as its' sign ordinance was declared invalid. As a result, Federal law dictates that the County owes the attorney's fees. Bosanko commented that Erderlyi thinks the bill is reasonable. The bill is for 119.75 hours at \$200.00 per hour, for a total of \$23,950.00. (3:34 p.m.) Jacalone clarified that the Board was being asked to approve what the attorney says is owed, so he doesn't file a Fee Motion in court. He asked why the County's insurance isn't paying these fees. (3:35 p.m.) Halstead responded that this is one of the exclusions in the County's liability coverage. (3:35 p.m.) Bosanko said it is not paid until after the appeal is over and if the County wins the appeal, it is not required to pay it. On the other hand, it was noted that there would be an additional bill for the appeal. (3:36 p.m.) Jacalone asked that the Board get an update on the Sign Ordinance. Bosanko said there would be an update at the next Board meeting. (3:37 p.m.) **Motion by Jacalone, seconded by Maguire, carried 5/0, to authorize payment of \$23,950 in settlement of the attorney's fees due to Gary Edinger.**

(3:38 p.m.) Bosanko told the Commissioners they would be getting a memo regarding changes in the County's insurance coverage. He noted that the County is self-insured, along with other counties, and explained the claims and payment process. Bosanko

reported that the insurance policy was changed about two years ago and he explained how it is having a major affect on the County Attorney's budget. With the policy, some types of claims will be covered and others will not. The insurance company now only has an obligation to defend the County on the claims covered by the policy, which isn't necessarily all the claims in a lawsuit. He gave an example that if there are 10 claims in a lawsuit, only five may be covered by the insurance company and the County would have to pick up the other half of that litigation cost. Bosanko said the County's insurance experts say this is still the best coverage available when compared to the other options. He said he was alerting the Board that this will substantially increase the amount of outside attorneys' fees payable by the County.

Motion by Bryant, seconded by Jacalone, carried 5/0, to adjourn the meeting. With there being no further business to come before the Board, the meeting adjourned at 3:44 p.m.

REPORTS:

1. St. Johns Board of County Commissioners Check Register, Check No. 331157 - 331388 totaling \$1,352,540.40. (02/25/03)
2. St. Johns Board of County Commissioners Check Register, Check No. 331389 - 331390 totaling \$1,605.12. (02/26/03)

Approved March 18, 2003

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: James E. Bryant
James E. Bryant, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: Cheryl Strickland
Deputy Clerk

