

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
JUNE 10, 2003
(9:00 A.M.)**

Proceedings of a 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
 Marc Jacalone, District 3
 Bruce Maguire, District 4
 Ben W. Adams, Jr., County Administrator
 Michael Hunt, Assistant County Attorney
 Lenora Newsome, Deputy Clerk

(06/10/03 - 1 - 9:04 a.m.)

The meeting was called to order by Chairman Bryant.

(06/10/03 - 1 - 9:05 a.m.)

The Invocation was given by Meiszer.

(06/10/03 - 1 - 9:05 a.m.)

RECOGNITION OF FLAG DAY

Maguire read information on National Flag Day. The Pledge of Allegiance was led by Maguire.

(06/10/03 - 1 - 9:06 a.m.)

ROLL CALL

Bryant stated that all five Commissioners were present.

(06/10/03 - 1 - 9:07 a.m.)

PUBLIC COMMENT

Alan Crawford, 721 Perimeter Park Circle, spoke on having a "Welcome Home Troops Day" on July 27. He reviewed the details of that day, asking the County to join them and to provide a proclamation for that day. Discussion followed on getting everyone involved, doing a proclamation, and the use of the County seal. Hunt clarified that the use of the County logo needed to be done by official action.

(9:27 a.m.) Col. Ed Taylor, 3665 Crazy Horse Trail, recommended the Board refer Mr. Crawford, American Legion, to the Veterans Council of St. Johns County. He updated the Board on the proclamation that they sent to Bedford. He announced that Cable News Network - CNN is scheduled to review the book: *The Boys of Bedford*, by Alex Kershaw, on June 28 at 11:00 p.m. and on June 29 at 8:00 p.m.

(9:31 a.m.) Crawford spoke on coordinating their own events.

(06/10/03 - 2 - 9:32 a.m.)
DELETIONS TO CONSENT AGENDA

There were no deletions to the Consent Agenda.

(06/10/03 - 2 - 9:32 a.m.)
APPROVAL OF CONSENT AGENDA

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

1. Approval of the Cash Requirement Report
2. Approval of Minutes:
05/20/03 - BCC Regular Meeting
05/27/03 - BCC Regular Meeting
3. Sheriff's Bonds:
Approve: Layton R. Berk Philip C. Grant
 Michal MacDonald David J. Pius
 Donna F. Saam Sarah Brant
 Marla Crews John McElroy

Cancel: Heather Buchanan Linda Wiseman
 Frank Gitto Katharine Harrell
 Matthew S. Barcal Karl J. Hall
 William Carlson Otis Neville
 Michael Rowe
4. Motion to counter sue for damages resulting from a traffic accident involving a County vehicle
5. Motion to allow the County Administrator, or his designee, to negotiate with and enter into a contract with the No. 1 ranked firm, Bush Construction Company, Inc., Design/Build Services for the Courtroom Renovation at the St. Johns County Judicial Center. If an agreement cannot be reached with the No. 1 ranked firm, authorization is requested to terminate negotiations and begin negotiations with the No. 2 ranked firm and continue until an agreement is reached (*See Attachment "A"*)
6. Motion to allow the County Administrator to enter into a contract with the low bidder, V.J. Usina Contracting, Inc. in the amount of \$2,883,516.00 along with Alternate #1 in the amount of \$432,898.00, and Alternate #2 \$72,000.00 for a grand total of \$3,388,414.00 for the construction of Racetrack Road Improvements from Bishop Estates Road to the eastern limit of Julington Creek Plantation (*See Attachment "B"*)
7. Proofs:
 - a. Proof, Notice to Bidders, Bid No. 03-85
 - b. Proof, Notice to Bidders, Bid No. 03-88
 - c. Proof, Notice of Meeting, RFP 03-69, Auditing Services St. Johns County Audit RFP Review Group, June 9, 2003
 - d. Proof, Notice of Special Meeting, St. Johns County Board of County Commissioners, St. Johns County, Florida, May 28, 2003

Consent # 5
6/10/03

SUMMARY SHEET
FOR RANKING OF PROFESSIONALS

ST. JOHNS COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

DATE: April 17, 2003 @ 4 p.m.
PROJECT: RFQ No. 03-75, Design/Build Services for the
Courtroom Renovation at the St. Johns County
Judicial Center

FIRM	RATER	RATER	RATER	RATER	RATER	TOTAL	RANK	COMMENTS
	BURCH	PACETTI	RUBIN					
BUSH CONSTRUCTION	50	52	40			142	1	
THE HARDY GROUP	53	43	39			135	3	
W. G. MILLS, INC.	50	44	36			130	4	
PRICE CONTRACTING	44	42	34			120	5	
TECO SOLUTIONS	53	48	36			137	2	

APPROVED: PURCHASING MANAGER *[Signature]* DATE 5-22-03
 DIRECTOR OF CONSTRUCTION SERVICES *[Signature]* DATE 5/22/03

NOTE: THE RANKING SHOWN ABOVE MUST BE FOLLOWED UNLESS SPECIAL CONDITIONS MERIT A CHANGE IN THE NEGOTIATING ORDER. IN THIS CASE, THE SPECIAL CONDITIONS MUST BE EXPLAINED IN DETAIL IN THE COMMENTS SECTION OR ATTACHED TO THIS RANKING SHEET.

POSTING TIME/DATE FROM 4:00 p.m. UNTIL 4:00 P.M. PAGES 1 OF 1 PAGES (S)

ANY RESPONDENT AFFECTED ADVERSELY BY AN INTENDED DECISION WITH RESPECT TO THE AWARD OF ANY REQUEST FOR PROPOSAL, SHALL FILE WITH THE PURCHASING DEPARTMENT FOR ST. JOHNS COUNTY, A WRITTEN NOTICE OF INTENT TO FILE A PROTEST NOT LATER THAN SEVENTY-TWO (72) HOURS (EXCLUDING SATURDAY, SUNDAY AND LEGAL HOLIDAYS) AFTER THE POSTING OF THE SUMMARY SHEET. PROTEST PROCEDURES MAY BE OBTAINED IN THE PURCHASING DEPARTMENT.

Attachment "A"

Consent #6
6/10/03

ST. JOHNS COUNTY
BID TABULATION



BID TITLE: CONSTRUCTION OF RACETRACK ROAD FROM BISHOP ESTATES RD TO EASTERN LIMIT OF THE JULINGTON CREEK PLANTATION

BID NUMBER: BID NO. 03-18

OPENING DATE/TIME: May 28, 2003 3:00 P.M.

POSTING TIME/DATE: FROM 05/28/2003 4:00 PM UNTIL 06/02/2003 4:00 PM

OPENED BY: CHERYL ALBERTSON

TABULATED BY: LEIGH DANIELS

VERIFIED BY: [Signature]

ANY BIDDER AFFECTED ADVERSELY BY AN INTENDED DECISION WITH RESPECT TO THE AWARD OF ANY BID, SHALL FILE WITH THE PURCHASING DEPARTMENT FOR ST. JOHNS COUNTY, A WRITTEN NOTICE OF INTENT TO FILE A PROTEST NOT LATER THAN SEVENTY TWO (72) HOURS (EXCLUDING SATURDAY, SUNDAY AND LEGAL HOLIDAYS) AFTER THE POSTING OF THE BID TABULATION. PROTEST PROCEDURES MAY BE OBTAINED IN THE PURCHASING DEPARTMENT.

BIDDERS	BASE BID PRICE	ALTERNATE # 1	ALTERNATE # 2	TOTAL BID PRICE	BID BOND	ADDENDUM #1
JOHN CARLO, INC.	\$3,519,261.40	\$431,209.30	\$25,000.00	\$3,975,470.70	X	X
JENSEN CIVIL CONSTRUCTION, INC.	\$3,715,270.00	\$421,150.00	\$66,840.00	\$4,203,260.00	X	X
PRINCE CONTRACTING CO., INC.	\$3,354,000.00	\$302,000.00	\$175,000.00	\$3,831,000.00	X	X
W.R. TOWNSEND CONTRACTING, INC.	\$4,106,896.00	\$511,154.00	\$79,692.00	\$4,697,742.00	X	X
J. B. COXWELL CONTRACTING, INC.	\$3,457,760.00	\$397,267.00	\$76,282.00	\$3,931,309.00	X	X
HUBBARD CONSTRUCTION CO.	\$4,470,000.00	\$450,000.00	\$30,000.00	\$4,950,000.00	X	X
V.J. USINA CONTRACTING, INC.	\$2,883,516.00	\$432,898.00	\$72,000.00	\$3,388,414.00	X	X

Attachment "B"

- e. Proof, Notice of Meeting Cancellation, St. Johns County Water & Sewer Authority, June 4, 2003
- f. Proof, Notice of a Public Hearing, St. Johns County Board of County Commissioners, St. Johns County, Florida, May 27, 2003 at 1:30p.m.
- g. Proof, Notice of a Public Hearing, St. Johns County Board of County Commissioners, St. Johns County, Florida, May 27, 2003 at 1:30p.m.
- h. Proof, Certificate of Liability Insurance, Waste Pro of Florida

(06/10/03 - 3 - 9:32 a.m.)

ADDITIONS/DELETIONS TO REGULAR AGENDA

Hunt requested to add, as 9A, the discussion to clarify the intent of Chapter 117.

(06/10/03 - 3 - 9:33 a.m.)

APPROVAL OF REGULAR AGENDA

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

(06/10/03 - 3 - 9:33 a.m.)

1. PRESENTATION OF THE SUPERVISOR OF ELECTIONS BUDGET

Penny Halyburton, Supervisor of Election, explained the two amendments that she added to her budget today, Exhibit A and Exhibit B. She stated that after June 16, she would know if there would be two or three elections in the 2003/2004 Budget. She spoke on money being budgeted for touch screens. Meiszer questioned Halyburton on supporting a second primary. Halyburton responded that their main concern is a lack of time between primaries and stated that they have taken a stand to abolish the second primary. She spoke on giving back the money for the touch screens, stating that she couldn't buy them yet and explained why. The other major change is getting laptops. Halyburton told the Board to ignore her original budget, that her request would be one of the two amendments. Jacalone questioned her on the lease of equipment budget line. Halyburton explained the lease of equipment budget line.

(06/10/03 - 3 - 9:47 a.m.)

2. CONSIDER USE OF THE ST. JOHNS COUNTY SERVICE CENTER MULTIPURPOSE ROOM BY THE GARDEN CLUB OF SWITZERLAND 10:00 A.M. TO 12:00 P.M. THE SECOND THURSDAY OF EACH MONTH, SEPTEMBER 2003 THROUGH MAY 2004

Adams reviewed this item, stating that the request was for nine months, one meeting a month.

(9:48 a.m.) Barbara Beal, 5238 River Park Villas Drive, stated that she was present, if there were any questions and that they would not ask for the room every month. (9:49 a.m.) **Motion by Bryant, seconded by Meiszer, carried 5/0, to grant use of the St. Johns County Service Center Multipurpose Room by the Garden Club of Switzerland, 10:00 a.m. to 12:00 p.m. the second Thursday of each month, September 2003 through May 2004.**

(06/10/03 - 3 - 9:49 a.m.)

3. CONSIDER MOTION TO GRANT FREE USE OF SPACE AT THE COUNTY CONVENTION CENTER TO HOLD A SEMINAR "PLAY PIANO IN A FLASH" WITH SCOTT HOUSTON ON SATURDAY, SEPTEMBER 6, 2003 FROM 8:00 A.M. UNTIL 6:00 P.M.

Dena Masters, Office Manager, TDC, reviewed this item, stating that the funds collected will go to benefit Kids Bridge.

(9:50 a.m.) Lauren Abell, 346 Graciela Circle, President of the Junior Service League, spoke on this item. (9:53 a.m.) **Motion by Stern, seconded by Jacalone, carried 5/0, to grant free use of space at the County Convention Center to hold a seminar "Play Piano in a Flash" with Scott Houston on Saturday, September 6, 2003 from 8:00 a.m. until 6:00 pm.**

(06/10/03 - 4 - 9:53 a.m.)

4. CONSIDER MOTION TO ADOPT A RESOLUTION SUPPORTING MEDICAL DEVELOPMENT INTERNATIONAL AS A QUALIFIED APPLICANT FOR THE QUALIFIED TARGET INDUSTRY TAX REFUND PROGRAM

Ted Zebrowsky, Director of Intergovernmental Relations, reviewed this item, stating that they have a resolution supporting Medical Development International (MDI) as a qualified applicant for the QTI State Tax Refund Program. Zebrowsky mentioned that this was a joint effort between St. Johns County Chamber and Cornerstone. (9:57 a.m.) **Motion by Maguire, seconded by Stern, carried 5/0, to adopt Resolution No. 2003-110, to support Medical Development International's application for the Qualified Target Industry Tax Refund Program and to commit the County to pay up to \$25,000 as local financial support.**

RESOLUTION NO. 2003-110

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, FINDING THAT MEDICAL DEVELOPMENT INTERNATIONAL BE APPROVED AS A QUALIFIED APPLICANT PURSUANT TO §288.106, FLORIDA STATUTES; AND PROVIDING AN APPROPRIATION OF \$25,000 AS LOCAL PARTICIPATION IN THE QUALIFIED TARGET INDUSTRY TAX REFUND PROGRAM, AND PROVIDING FOR AN EFFECTIVE DATE

(06/10/03 - 4 - 9:58 a.m.)

5. CONSIDER MOTION TO ADOPT A RESOLUTION SUPPORTING THE NORTHEAST ECONOMIC DEVELOPMENT DISTRICT

Zebrowsky reviewed this item, asking the Board to support the Resolution that supports the Northeast Florida Regional Planning Council. (10:01 a.m.) **Motion by Stern, seconded by Maguire, to adopt Resolution No. 2003-111, to support the Northeast Florida Economic Development District.** Meiszer spoke on there being a lot of fragmentation when it comes to economic development. (10:06 a.m.) Mike Brown, Northeast Florida Regional Planning Council, spoke on strategy and matching funds. **The motion carried 5/0.** Hunt left the meeting and Dan Bosanko, County Attorney, entered the meeting.

RESOLUTION NO. 2003-111

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, FOR SUPPORT OF A NORTHEAST FLORIDA ECONOMIC DEVELOPMENT DISTRICT

(06/10/03 - 5 - 10:09 a.m.)

6. CONSIDER MOTION TO ADOPT A RESOLUTION AUTHORIZING THE EXCAVATION AND TRANSPORT OF FILL MATERIAL FROM 6770 SR 207 FOR FDOT SR 207 PROJECT, APPROVING EXEMPTION FROM LAND DEVELOPMENT CODE SECTIONS 2.03.10 AND 6.04.09

Rosemary Yeoman, Zoning Manager, Development Services, reviewed this item, stating that this is a request by Westwind Contracting, who has been awarded the contract for Florida Department of Transportation improvements on SR 207, from CR 206 to I-95. Maguire questioned exactly what was being exempted. Yeoman replied that they are only exempting the public hearing process and the requirements for certain studies under Section 6.04.09 and explained why. Yeoman mentioned that the Transportation Bill on the Governor's desk is waiting for signature, which would exempt any facility for the purpose of transportation, from all local jurisdiction, if signed. Meiszer questioned if the land regulations as written, prevent the transfer of fill material from one site to another. Yeoman replied that it doesn't prevent it, but it requires a public hearing and meeting the requirements of Section 6 for application. Bosanko mentioned that the Staff was concerned about a borrow pit going in and it was discussed with the legal office.

(10:21 a.m.) David Witte, 3501 W. Hallandale Beach Blvd., Pembroke Park, FL, Westwind Contracting, spoke on the truck traffic. Discussion followed on the contracts issued to Westwind Contracting, timing being an issue, how long it would take to get construction approval, when they would be expecting to move dirt, and the reason why they cannot comply with the code.

(10:28 a.m.) Edgar Cooksey, 1600 Woodlawn Road, spoke on the proposed hearing that they want to do away with. (10:35 a.m.) **Motion by Jacalone, seconded by Stern, carried 5/0, to approve Resolution No. 2003-112.**

RESOLUTION NO. 2003-112

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE EXCAVATION AND TRANSPORT OF FILL MATERIAL FROM 6770 SR 207, FROM SR 206 TO INTERSTATE 95 CONSTRUCTION SITE FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION SR 207 IMPROVEMENT PROJECTS

The meeting recessed at 10:36 a.m. and reconvened at 10:45 a.m.

(06/10/03 - 5 - 10:45 a.m.)

7. PRESENTATION OF THE FIRST COAST METROPOLITAN PLANNING ORGANIZATION'S TRANSPORTATION IMPROVEMENT PROGRAM FOR FISCAL YEARS 2003/2004 THROUGH 2007/2008

Jeff Sheffield, First Coast Metropolitan Planning Organization, reviewed the projects, St. Johns County and Vicinity, Exhibit A and Transportation Improvement Program Fiscal Years 2003/04 through 2007/08, Exhibit B. Discussion followed on some of the projects in St. Johns County being developer-funded projects, and on projects not on the priority list.

(06/10/03 - 6 - 10:50 a.m.)

8. CONSIDER MOTION TO RENEW THE COUNTY ADMINISTRATOR'S CONTRACT

Bryant reviewed this item, stating it is to consider a motion to renew the County Administrator's Contract. The contract presented today was identical to the one that was renewed in 2000, with a 5% increase in salary. Adams mentioned that he works at the discretion of the Board and that he is happy with the contract. Meiszer questioned, if there was a conflict between the provisions of this contract and the Florida Statutes, do the Florida Statutes prevail. Bosanko replied yes. Meiszer mentioned there was no reference to the duties of the County Administrator and there is only an oblique reference to the County Ordinance. He stated under the section of Performance, there should be reference to those two items and there is also no mention of an evaluation. Meiszer also suggested deleting out parts of the contract that are no longer relevant. Bosanko stated that he had not been directed to make any changes to the contract, but is open to whatever direction the Board gives him. Bryant mentioned to Bosanko that he had no problem with him making some of the changes mentioned by Meiszer, and asked for the consensus of the Board to place the contract, with the changes, on the Consent Agenda for next Tuesday. Bosanko stated that he would work with Adams to determine which parts of the contract are no longer relevant.

(06/10/03 - 6 - 10:58 a.m.)

9. DISCUSSION OF POSSIBLE CHANGES TO THE SOUTH ANASTASIA ISLAND OVERLAY DISTRICT REGULATIONS

Jacalone stated that he had asked for this item to be placed on the agenda, regarding side yard requirements language not being included in the South Anastasia Island Overlay District Regulations, as listed in all the other overlay district regulations. (10:59 a.m.) Scott Clem, Growth Management Director, spoke on regulations, duplexes, and setbacks.

(11:05 a.m.) Francis Lundberg, 31 Andalusia Court, spoke on the setbacks and asked the Board to let Staff take a look at it. **Motion by Jacalone, seconded by Stern, carried 5/0, to direct Staff to prepare an amendment to Part 3.07.00 South Anastasia Island Coastal Corridor Overlay District of the Land Development Code and schedule required public hearings.**

(06/10/03 - 6 - 11:07 a.m.)

9A. CLARIFY INTENT OF CHAPTER 117

Isabelle Lopez, Assistant County Attorney, reviewed this item and distributed a rough draft. She spoke on Florida Law setting certain mandatory minimum requirements regarding platting. She stated that they were asking for a technical interpretation from this professional Board, as to whether or not if a plat has already been submitted as an existing plat, if someone wants to further subdivide it, must they replat formally under the Statute. Lopez stated that the next available Board of professional surveyors and mappers' meeting is being held July 17, and for her to be able to get the finalized draft to them, she needs a decision from the Board of County Commissioners today, in the form of a motion giving her authorization. She mentioned that there is an option of asking for the Attorney General Opinion, but that involves a more drawn out process and they are in a time crunch. Lopez mentioned that there would be the cost of her and Gail Oliver's trip to attend that meeting. (11:14 a.m.) **Motion by Jacalone, seconded by Maguire, carried 5/0, to submit this petition for declaratory statement from the County Attorney's Office**

(06/10/03 - 7 - 11:15 a.m.)
COMMISSIONERS' REPORTS

Commissioner Meiszer:

No report.

(11:15 a.m.)

Commissioner Stern:

Stern announced the groundbreaking for the St. Johns County Equestrian Center tomorrow at 10:00 a.m., at 8200 Smith Road in Hastings.

(11:16 a.m.)

Commissioner Bryant:

Bryant announced that on June 18 the State is going to do the interviewing for the new Public Health Director in St. Augustine.

(11:17 a.m.)

Commissioner Jacalone:

No report.

(11:17 a.m.)

Commissioner Maguire:

No report.

(06/10/03 - 7 - 11:17 a.m.)

COUNTY ADMINISTRATOR'S REPORT

Adams requested to place on the June 24th Agenda, discussion on the fire tax.

(06/10/03 - 7 - 11:17 a.m.)

COUNTY ATTORNEY'S REPORT

No report.

(06/10/03 - 7 - 11:17 a.m.)

CLERK OF COURT'S REPORT

No report.

The meeting recessed at 11:17 a.m. and reconvened at 1:34 p.m., with Bryant, Stern, Maguire, Meiszer, Jacalone, Adams, Isabelle Lopez, Assistant County Attorney, and Robin Platt, Deputy Clerk present.

(06/10/03 - 7 - 1:34 p.m.)

10. PUBLIC HEARING - NZVAR 03-004, MCCUBREY PROPERTY/SR 206 - THE SUBJECT PROPERTY LIES SOUTH OF STATE ROAD 206 AND WEST OF THE INTRACOASTAL WATERWAY AND CONSISTS OF 72 ACRES. THE APPLICANT IS SEEKING A NON-ZONING VARIANCE TO SECTION 5.01.01.C (PLATTING) OF THE LAND DEVELOPMENT CODE TO ALLOW THE DIVISION OF 72 ACRES INTO 3 PARCELS. THE APPLICANT DEEDED A

TWENTY-NINE ACRE PARCEL OUT IN 2002, WHICH WAS ALLOWED UNDER THE LAND DEVELOPMENT CODE. THE APPLICANT NOW WISHES TO DEED OUT A SIX-ACRE PARCEL, WHICH TRIGGERS THE PLATTING REQUIREMENTS. ALL THREE PARCELS HAVE FRONTAGE ON STATE ROAD 206

Proof of publication regarding the Notice of Public Hearing for the McCubrey Property Rezoning was received, having been published in *The St. Augustine Record* on May 26, 2003.

Kathy Nielsen, Application Review Coordinator, presented the details of the request and responded to questions by the Board relating to the location and the history of the property.

(1:37 p.m.) Karen Taylor, 3070 Harbor Dr., representing the applicant, stated that this is the second request for a division of the property and reviewed the plans for the property after it is divided. (1:42 p.m.) Jacalone questioned the LDC regulation regarding platting adjacent to certain roadways. Nielsen responded that there is a requirement that does not allow platted lots direct access off of a major arterial or collector road. Discussion followed regarding property access. Taylor stated that the applicant has no intention to divide the parcel further, but if he did decide to in the future, he would have to come back before the Board for approval. She illustrated the divisions on a Site Survey/Property Division Map, Exhibit A. Discussion continued on the subject of a borrow pit that is located on the property. (1:48 p.m.) Meiszer questioned the reason for this variance. Taylor responded that it relates to practical difficulty relating to roadway requirements and access for subdivisions. (1:51 p.m.) **Motion by Bryant, seconded by Jacalone, carried 5/0, to approve NZVAR 2003-004, based upon the evidence provided for all of the five Findings of Fact in Staff's Report.**

(06/10/03 - 8 - 1:51 p.m.)

11. PUBLIC HEARING - BRANDY CREEK COMMUNITY DEVELOPMENT DISTRICT PETITION - THE BRANDY CREEK CDD COVERS THE RESIDENTIAL PORTION OF THE JOHNS CREEK PUD WHICH WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS ON APRIL 13, 1999, PURSUANT TO ORDINANCE 99-28, AND THE CDD COVERS APPROXIMATELY 248.4 ACRES OF LAND LOCATED APPROXIMATELY TWO MILES WEST OF INTERSTATE 95 AND SOUTH OF C.R. 210 IN NORTHWEST ST. JOHNS COUNTY. THE PROJECT IS PLANNED FOR APPROXIMATELY 400 RESIDENTIAL UNITS; A COMMERCIAL COMPONENT WITH BETWEEN 100,000 TO 240,000 SQUARE FEET OF THIS USE; AND AN OPTIONAL INSTITUTIONAL COMPONENT WITH UP TO 250,000 SQUARE FEET. THE PUD COVERS APPROXIMATELY 363 ACRES, HOWEVER, THE COMMERCIAL AND INSTITUTIONAL COMPONENTS, AS WELL AS SOME WETLAND CONSERVATION AREAS, ALL LOCATED ON THE NORTH END OF THE PUD TOTALING APPROXIMATELY 116 ACRES, ARE NOT INCLUDED WITHIN THE BOUNDARIES OF THE CDD

Proof of publication was submitted by the applicant as Exhibit B of their presentation.

Laura Pierle, Court Reporter, was present.

Bruce Ford, Chief Planner, presented the details of the Community Development District located within the Johns Creek PUD. He stated that the improvements would include: a master stormwater system, to be maintained by the CDD, a lift station and force mains, that would be turned over to JEA, an entry road and all internal roads, that

would be turned over to the County once constructed, entrance monumentation, landscaping, signage and a recreation center, to be maintained by the CDD, and street lighting, to be turned over to FPL once constructed, at an estimated cost of \$11,822,800. He further addressed the factors, set forth by Florida Statute, Chapter 190, which outline what the Board has to consider when reviewing the petition. (1:55 p.m.) Bryant questioned if there is interconnectivity between the neighborhoods, Ford responded that there is one entrance from CR210. Bryant also asked why would the County want to take over maintenance of the internal roads. (1:55 p.m.) Meiszer questioned who the water/wastewater and electric service providers are in the area. Isabelle Lopez, Assistant County Attorney, explained that FPL services the electric, and JEA the water/wastewater. (1:57 p.m.) Maguire stated that he also is opposed to accepting the roads, as there is only one entrance in and out of the development, and discussion followed on if the one entry point would be for residential or commercial entry, or for both. (1:59 p.m.) Jacalone questioned if there was anything in this CDD Ordinance that conveyed ownership of the rights-of-way, or any maintenance obligations, to the County. (2:00 p.m.) Dan Bosanko, County Attorney, entered the meeting, and stated that the Ordinance does not dedicate land, that would be done by the plat. Jacalone also questioned if the PUD Ordinance conveyed the rights-of-way to the County. (2:01 p.m.) Teresa Bishop, Planning Director, responded that she would have to review the PUD before she could give an accurate answer. (2:02 p.m.) Jacalone explained that he thought that it would require a separate action by the Board to accept the rights-of-way, and that he did not think that the County should take the roads and they should remain private. Meiszer stated that the purpose of a CDD is to finance infrastructure and questioned what the purpose would be of the County taking over the roads.

(2:05 p.m.) Cheryl Stewart, Hopping, Green and Sams, representing the applicant, illustrated the Proposed CDD on a map, Exhibit A, and stated that the District is intending to build the roads, and an additional entrance. She also stated that the roadways would be dedicated to the County, unless the community became gated, in which case the roads would remain private. She further addressed other infrastructure that would be built by the CDD and maintained by other parties, i.e. utilities. She reviewed the contents of the packet of documents that was submitted to the Clerk prior to the hearing, Exhibit B, including the original petition, correspondence, proof of publications, and sworn affidavits, and she introduced the makers and general content of the sworn testimony.

(2:11 p.m.) Bosanko stated that the Board has the option of accepting the roads, or not, but if the Board did not want to they would have to amend the PUD.

(2:13 p.m.) Jacalone stated that his position is that even if they construct the roads within the development to County standards, there would have to be another action by the Board before the transfer of ownership could happen.

(2:16 p.m.) Maguire stated that there is a waiting list of other established subdivisions that have requested the County take over the maintenance of their roads, and he also did not feel that the County should accept the roads for this development. He also addressed a comment in their report that stated that the annual costs, to St. Johns County, for the road maintenance would be small. He disagreed with that statement and Stewart responded that that statement addressed the establishment of the District itself. Robin Platt, Deputy Clerk, left the meeting and Cecelia Aldrich, Deputy Clerk, entered the meeting.

(2:18 p.m.) Doug Miller, England, Timms and Miller, addressed the surrounding properties and interconnectivity between the developments.

(2:21 p.m.) Meiszer stated that the County should not accept title until the debt was retired. (2:23 p.m.) Bosanko noted that he had read the Ordinance and it does not include any provision to accept the roads. (2:24 p.m.) Jacalone noted this is a separate issue and does not have anything to do with the establishment of the CDD. Regarding the approval of the subdivisions mentioned, that process happens either with final development plan approval or plat approval, and that there needs to be more control over that part of the process. (Lopez joined Bosanko). (2:25 p.m.) **Motion by Jacalone, seconded by Stern, carried 5/0, to approve Ordinance No. 2003-53, adopting Findings of Fact, in the package, to support the motion.**

ORDINANCE NO. 2003-53

AN ORDINANCE ESTABLISHING THE BRANDY CREEK COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES (2002); NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

(2:26 p.m.) Bryant called a five-minute recess and the meeting reconvened at 2:37 p.m.

(06/10/03 - 10 - 2:37 p.m.)

12. PUBLIC HEARING - REZ 2002-15, HUGHES REZONING - THIS REQUEST SEEKS TO REZONE APPROXIMATELY 3.1 ACRES, LOCATED AT 3865 MICKLER ROAD FROM OPEN RURAL (OR) TO COMMERCIAL GENERAL (CG). THE REQUESTED ZONING CHANGE WOULD ALLOW FOR THE SITE TO COME INTO COMPLIANCE WITH THE EXISTING COMPREHENSIVE PLAN DESIGNATION OF COMMERCIAL. CONMAJ 2002-30 WAS HEARD BEFORE THE CONCURRENCY REVIEW COMMITTEE, HOWEVER, DUE TO NOTICING DISCREPANCIES THE APPLICANT REQUESTED THAT THE CRC REHEAR THIS APPLICATION. IT WAS RE-SCHEDULED FOR CRC ON APRIL 9, 2003, WHERE IT RECEIVED APPROVAL FOR 55,000 SQUARE FEET OF SHOPPING CENTER SPACE. THE PLANNING DIVISION HAS ROUTED THIS REQUEST TO ALL APPROPRIATE REVIEWING DEPARTMENTS. THERE ARE NO OUTSTANDING COMMENTS RELATED TO THE REZONING. IN THE CASE THAT THE REZONING IS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, ALL SITE ENGINEERING, DRAINAGE AND REQUIRED INFRASTRUCTURE IMPROVEMENTS WILL BE REVIEWED PURSUANT TO THE ESTABLISHED DEVELOPMENT REVIEW PROCESS TO ENSURE THAT THE DEVELOPMENT HAS MET ALL APPLICABLE FEDERAL, STATE AND LOCAL REGULATIONS AND PERMITTING REQUIREMENTS. NO PERMITS AUTHORIZING DEVELOPMENT SHALL BE ISSUED PRIOR TO COMPLIANCE WITH ALL APPLICABLE REGULATIONS. THE PLANNING AND ZONING AGENCY RECOMMENDED APPROVAL OF THIS ITEM AT THEIR APRIL 17, 2003 MEETING WITH A VOTE OF 4-0

Proof of Publication regarding the Hughes Rezoning Public Hearing was received, having been published in *The St. Augustine Record* on June 4, 2003.

Katharine Henderson, Court Reporter, Henderson Reporting, was present.

Danielle Mayoros, Planner II, reviewed the activities and meetings that have transpired in relation to this request and she stated that Staff has no objection to the request. A revised Ordinance was passed out, with the hearing date change only, and an approved set of Planning and Zoning minutes.

(2:40 p.m.) George McClure, 170 Malaga St., stated that he represented the Sembler Company and introduced some of the participants in the project. McClure provided some history on the Sembler Company and reviewed some of its' previous projects. He identified the site location, as well as the surrounding development and reported on some of the permissible uses at this site. McClure's presentation included visuals of various site plans, Exhibit A. He noted that the subject site is designated commercial under the Comprehensive Plan and that there are no immediate residential neighbors. He identified the existing buffers and roadways to the subject development location and noted that there was no support retail in the immediate area. He reviewed the existing zoning and the size of the development. He noted that the site was originally designated commercial in the 1990 Comprehensive Plan. McClure commented that a grocery store would be low impact in comparison to other allowed uses. He commented on the amount of public input and participation regarding this project and concluded that the application was consistent with the Comprehensive Plan. Aerial photographs were used during the presentation, Exhibit B.

(3:00 p.m.) Jeff Sneed interrupted McClure to state that he was representing the opponents and the Board's policies allow him the opportunity to make an opening statement before the applicant begins presenting witnesses. Jacalone asked Sneed to wait, as he had questions for the applicants' representatives and asked McClure to expand on the road improvements and/or the suggested roundabout. (3:01 p.m.) McClure gave some background on the intersection of Mickler and Palm Valley Roads and noted it was found that improvements were needed several years ago. He noted that the Board was urged to consider a roundabout. McClure noted that they have been working with Staff and explained what they have tried to do with regard to price and he stated that there is no commitment to a road configuration. (3:05 p.m.) Jacalone clarified that if the developer gives, or sells, right-of-way to the County, both the development and the road improvements could be accomplished. (3:08 p.m.) Stern commented on the good reputation of the Sembler Company and talked about the intersection safety issue. She talked about a potential problem with the School Board retaining the Guana School Site on its' school site selection list in relation to CR 210 access. Stern stressed the importance of the design of this intersection and commented on some of the issues that have been brought up to her by residents of the area.

(3:15 p.m.) McClure commented that this type of development is less intrusive on adjacent wildlife areas than residential. Aldrich left the meeting and Platt returned.

(3:19 p.m.) Meiszer stated that the issue was whether or not this is a preferable location for a commercial development, in relation to the surrounding residential and wildlife areas, and questioned why this was ever designated as a commercial area and if this is an example of good urban planning. Bryant responded that the Florida Legislature mandated that every County create a Comp Plan and that the Comp Plan takes precedence over zoning.

(3:22 p.m.) Jeff Sneed, 599 Atlantic Blvd., Atlantic Beach, representing Mr. and Mrs. Scrogin, as well as others, stated that the community is very concerned with safety issues with putting a commercial development in the middle of a residential community. He stated that there is other commercial property in the area that is largely

vacant and that there is no need for a grocery store at this location. He outlined the applicable portions of the Florida Statutes regarding Comp Plans and cited case law, and stated that the Board's decision must be based on competent evidence and reviewed reasons that the request could be denied. Discussion followed regarding the safety and welfare of the community and property values.

(3:36 p.m.) Bryant questioned Sneed about a reference he had to the Sanchez Grant rezoning and Sneed reviewed the difficulties with that rezoning, including due process and the pay-and-go agreement.

(3:38 p.m.) McClure commented on the pay-and-go provisions and he questioned Mayoros as to her qualifications as a Planner, her familiarity with the Land Development Code, the Comp Plan, the current zoning, and the allowable uses, of the parcels surrounding the site. He asked her if she had received any objections from the State on the proposed rezoning, she replied that she had not.

(3:42 p.m.) Sneed also questioned Mayoros about the history of the property and noticing and whom at the DEP (State) was notification sent to. Mayoros responded by giving the address to which the State's notification was sent. Sneed questioned her further about the notification to the DEP and the current zoning classification of the Guana land, the Hughes property and other surrounding developments. He further questioned her regarding other commercially zoned property in the area and concurrency and safety issues at the Mickler Rd. intersection.

(3:51 p.m.) Bryant asked Mayoros if it is the responsibility of the Planning Department to check the occupancy of retail/commercial space. She stated no, not to her knowledge.

(3:51 p.m.) McClure asked Mayoros if her position required her to interpret DEP regulations, as well as the County's regulations, she replied that it did not. McClure also asked if showing need was a requirement for rezoning, she replied no. She then gave an overview of the routing and review process of a rezoning application.

(3:58 p.m.) Bruce Scrogin, 3870 Palm Valley Rd., Ponte Vedra, responded to questions from Sneed regarding the value of his property. He stated that when he decided to put his property on the market in January it was priced at \$450,000, then after learning of this project his broker recommended reducing the price to \$399,000, therefore his house is currently not on the market. The factors that led to the reduced price were: increased traffic, more noise at night, lights, and the changes in the nature of the area. Scrogin reviewed the surrounding properties, and their uses, and stated that he fears that the commercial development will spread down Palm Valley Rd. Discussion followed regarding the lack of sidewalks in the area, there not being a need for this development, as there are supermarkets just five minutes away, the safety issues at the Mickler Rd. and Palm Valley Rd. intersection, and the impacts of a possible roundabout, as illustrated on Exhibit C. Platt left the meeting and Aldrich returned.

(4:20 p.m.) Bryant announced a recess and the meeting reconvened at 4:23 p.m.

Bryant asked what the distance is, in feet, between the Scrogin's property and the proposed rezoning site. (4:24 p.m.) Scrogin responded that it was probably a thousand feet, or more. Bryant stated that his property is within 600 feet of a grocery store. He said he was told that the trucks coming in, etc., would devalue his property, and in contrast, in three years and three months, his property is within \$10,000 of doubling in value. He said he couldn't understand why his would appreciate and Scrogin's would depreciate. (4:25 p.m.) Jacalone talked about the fact that property values all around the county are rising. Discussion followed relating to property values and a swamp/marsh designation. (4:30 p.m.) Maguire responded to a remark made which insinuated that

developers could do what they want to do with the property once it is zoned. He stated that Staff ensures that regulations are followed.

(4:32 p.m.) McClure questioned Scrogin as to his expertise in property appraisal and/or development. Scrogin indicated that he was a consultant in the audio business and did not have training in real property appraisal or development. McClure asked questions of Scrogin related to his purchase of the property and what knowledge he had of the zoning. Scrogin reviewed what they thought at the time. McClure established that the Scrogins paid \$289,000 for the property in 1999 and it has appreciated \$110,000 during that period. McClure noted that the current parcel, of 4.6 acres would allow for about 60,000 square feet of roof area. He asked Scrogin if he thought that was better or worse, for the value of his property, than 55,000 square feet on a larger tract of 7.6 acres. Scrogins said it would be worse and very hard to get by the overlay district. McClure submitted a copy of Ordinance 98-40, Exhibit D, for the record.

(4:37 p.m.) Sneed asked Scrogin if the fact that a Publix was being built affected the value of his property and Scrogin responded that it did. Sneed then called Mr. Bob Howard.

Robert L. Howard, gave a Jacksonville business address and stated that he is a State Certified residential appraiser, License Number 001646 2303. Howard gave a synopsis of his personal and professional background. (4:38 p.m.) Sneed asked Howard for his opinion on a number of questions related to the impact the development could have relating to property values. Howard cited items such as the size of a project, traffic count, pollution/light pollution, and noise as being factors that adversely affect property values. They talked about property values in the Plantation. (4:41 p.m.) Howard said he understood there were a couple of potential sales that fell through because the buyers considered the impact of the shopping center. There was discussion regarding the values of the surrounding properties. Howard quantified that property values may decrease anywhere from 10% to 30% from a large supermarket. Howard gave an example, from personal experience, of purchasing a home close to a grocery store. There was discussion about values of homes within close proximity to grocery stores. Howard commented that you hardly ever see a supermarket in a residential area, and there would more likely be a convenience store. (4:46 p.m.) Jacalone commented on the statement of lost sales due to nearby supermarkets is only hearsay without evidence. Howard said he read a letter from a realtor. (4:51 p.m.) Sneed handed the letter to Bryant, to be read later, Exhibit E.

(4:51 p.m.) At the request of Maguire, Lopez swore Howard in for testimony given and for what he was about to say. (4:52 p.m.) Maguire asked Howard if the 10% to 30% decrease in property value that he had stated was an average. Howard clarified that it depends on what type of zoning, land use and what the proximity is to the property. He indicated that in this situation, he would discount at least 10%. Howard said the size of the project would be a factor. (4:54 p.m.) Maguire asked if there have been any studies to say that there should automatically be a reduction. Howard said he has read studies that didn't apply to this type of situation, but he was sure they exist. Howard said finding comparable sales like this is difficult. (4:57 p.m.) Maguire asked Howard if he thought property values at World Golf Village are affected by the Publix. Howard said there is a buffer there. Maguire asked about other upscale areas and Howard said he didn't think the community would let it affect values and noted that the area referred to is a gated community. Maguire questioned whether fear might be a factor. (5:00 p.m.) Bryant reiterated the situation in his own community, given a close proximity to a supermarket and the continued rise in property values. Howard said, as a general rule, properties that back up to supermarkets, have less appreciation than one two blocks away. (5:02 p.m.) Stern asked about doubling the buffer and lessening the

negative impact. (5:03 p.m.) Meiszer referred to the law of supply and demand and said that is what makes prices go up and down, not whether there is a supermarket next door. He commented on the value of property in an area that has beaches and enhanced facilities and services. Meiszer said he would not base his decision on property values, it would be based on a whole different scale of measurement. (5:08 p.m.) Bryant stated that the Board would base its decisions on facts and if it is proved that the property values are de-valued, that would be reason to turn down the rezoning.

(5:08 p.m.) McClure cross-examined Howard as to whether or not he had conducted an appraisal of Scrogin's home. Howard said he did not. McClure asked a series of questions regarding whether or not Howard had conducted appraisals of surrounding properties and as to how familiar he was with the immediate area. Howard responded that he had not conducted any appraisals of nearby properties and he did not answer to details of commercial development in the area. McClure questioned Howard on his familiarity of sales velocity at other developments i.e., World Golf Village, Seranata Beach, Vilano Beach and others. Howard was not familiar with the details of the developments, which were being asked of him. McClure asked Howard which would be more adverse to the surrounding property, a larger site that is less dense, or a smaller site that is more dense. Howard said it depends on various incidentals such as, size of the development, traffic, lights, pollution, etc.

(5:17 p.m.) Sneed asked for Howard's hypothetical opinion, if there was a Publix shopping center at the subject intersection today, would it affect the property values along Deerfield Drive. Howard responded in the affirmative, but he did not know how much. Howard said he thought there would be appreciation in this area, but it would be the attitudes of those buying the houses that would set the price.

(5:19 p.m.) Jacalone read parts of the e-mail from the realtor who supposedly lost sales, and concluded that it was inconclusive, as well as different from the statement that was made about lost sales in Plantation. (5:20 p.m.) Meiszer questioned the relativity of the comparisons being made.

(5:23 p.m.) McClure asked for a short break to make a telephone call. Bryant called for a two-minute recess and the meeting reconvened at 5:29 p.m.

(5:29 p.m.) Sneed called the following witnesses:

Tom Harding, 416 South Lakewood Run Drive, Ponte Vedra Beach, was called as representative of Sawmill Lakes. Harding stated that he is Chairman of the Safety and Security Committee for the Sawmill Lakes Homeowners Association. He said the Board has asked him to read a statement that included that they are opposed to any commercial development without the County first addressing the intersection of CR 210 and Mickler Road. He noted the high traffic accident rate and stressed the unsafe conditions that exist.

(5:31 p.m.) Clara Cowan, 244 Patrick Mill Circle, Ponte Vedra Beach, representing Seaside, stated that all 264 residents are opposed to commercial development where it is being proposed. She expressed concern that no one was listening to the community's concerns. She talked about negative impacts to property values and the two worst intersections in the area. Cowan described an accident that she was involved in at the stop sign on Mickler Road. (5:35 p.m.) Maguire explained that the Board is not approving something new, the capability already exists. He said that Staff has been aggressively working on a remedy to the traffic safety issue and the Board is committed to resolving the traffic problems.

(5:39 p.m.) Lester McDevitt, 209 Settlers Row N., Ponte Vedra Beach, stated that he is the President of the Ponte Vedra Beach Coalition, which represents 13 homeowners' associations. He read a Resolution, Exhibit F, generated by the Coalition which expressed its' opposition to the rezoning from Open Rural to Commercial General, which would allow the construction of a Publix supermarket. He stated that 10 of the 13 associations supported the Resolution. (5:44 p.m.) Bryant asked how many members were in attendance and McDevitt responded that there were enough to vote. Bryant commented that there were no Findings of Fact. (5:47 p.m.) Maguire asked which situation the Coalition would choose, putting the 54,000 square-foot-facility on four and one half acres, or rezoning and having the same facility on seven and one half acres. (5:48 p.m.) McDevitt expressed frustration that with all the information presented, he has yet to see a picture of what the property would look like with the Publix on it.

(5:50 p.m.) Sneed questioned Scott Clem, Director of Growth Management Services. Sneed asked about the history of traffic safety issues and plans on securing funding. Clem agreed there are safety issues and indicated there are plans to accelerate some of the improvements. Sneed asked if the County has requested any of the Guana land. Clem responded that he had no knowledge of any currently, but thought it would be relatively soon as the County gets into the design phase of the four-laning.

(5:52 p.m.) Madeline Scrogin, 3870 Palm Valley Rd., Ponte Vedra Beach, stated she wanted to clear up something about Sondra Smith, the real estate agent who could not be here today. Scrogin said Smith has the two contracts that fell through at her office, which she could fax for this meeting. Scrogin gave an historical background of her move to Ponte Vedra. She talked about her real estate buying and selling experiences. She commented that the Sembler Group had gotten a "jump start" before it was known to the community. Scrogin asked whose interests the Commissioners were looking after. (6:08 p.m.) Maguire stated that the issue was what the Board could do to accommodate the County's requirements, not to accommodate the developer.

(6:11 p.m.) Justin Clark, 160 Bear Pen Rd., Ponte Vedra, stated that he had grown up in Ponte Vedra Beach and takes two children to school each morning. Clark said he is looking forward to improvements in the road and is in support of the development. He noted that he is a graduate of the University of Florida's Masters Program in Real Estate and Urban Planning. He commented that a community is defined and improved by its proximity to amenities, services and agreements. He commented that there is a lot less than 100% participation in the Ponte Vedra Coalition and his association is wondering if it still wants to be a member.

(6:16 p.m.) Kathy Hughes, 4925 Palm Valley Rd., Ponte Vedra Beach, stated that she and her husband are the owners of the 3.1-acre parcel under consideration. She noted that her husband was born and raised at their current home in Palm Valley. Hughes said they have owned this parcel for over 25 years, which proves they are not land speculators. She said they initially purchased the property for a home site. She submitted letters of support for the rezoning, Exhibit G, and requested that the Board grant the rezoning.

(6:17 p.m.) Stan St. John, 108 Settlers Run N., Ponte Vedra Beach, stated that he is a member of the Plantation Board, which has opposed this rezoning. He talked about changing the character of the neighborhood and expressed concern about the increase in traffic, light that would be generated from the parking lot, and additional noise. (6:21 p.m.) Maguire reiterated the scenario of a more dense development if the rezoning is not approved.

(6:27 p.m.) Marcy Silkebaken, 1145 Neck Rd., Ponte Vedra Beach, said she is a member of the Board of the Palm Valley Community Association. She stated that her Association did vote to support the Coalition and oppose the development.

(6:28 p.m.) Glenn Hettinger, 38 Valencia St., Ponte Vedra Beach, stated that he has lived at his address for 15 years. He said his whole family has been extremely active in the community and they know at least 2,000 people in the area and do not know anyone who participates in, or cares about the Ponte Vedra Coalition. He read a statement, Exhibit H, which supported the rezoning.

(6:32 p.m.) Karen Harding, 416 S. Lakewood Run Dr., Ponte Vedra Beach, commented that everyone who opposes this [rezoning] knows that it is only a part of that parcel that is being rezoned and that commercial development could take place on the remaining lot. She said the issue is not whether this is right for a Publix, but rather, whether this is right for commercial zoning. She said the desire is to have Palm Valley remain the way it is. Harding referred to language in the Comprehensive Plan in relation to preservation of the area. Harding submitted pictures of litter and pollution behind the Publix at the World Golf Village, a letter from Realtor Suzanne Joyner, and a petition opposing commercial development, Exhibit I.

(6:37 p.m.) Frank Winberry, 3805 Mickler Rd., Ponte Vedra, stated that his family rezoned an acre and a half parcel, at the corner, to commercial back in the late 1970's and rezoned the remainder in 1998. He said they never hid the fact that they intended to develop. In defense to those who claim their property values will decrease because of commercial development, he submitted about 20 flyers and/or advertisements, Exhibit J, which use "close to shopping" as a selling feature of property. Winberry said he was told that there are three or four basic things that devalue property: a cemetery, a toxic waste area, a landfill, or a prison.

(6:40 p.m.) Sondra Smith, Ponte Vedra, stated that she is a Real Estate Agent, she supported that real estate values will depreciate due to the development of a shopping center. She mentioned several properties that have been affected by the proposed development. Smith said she had two contracts that the potential buyers walked away from due to the proposed shopping center.

(6:43 p.m.) McClure questioned Smith about distances from dwellings to buffers and developments. He asked about prices and questioned lighting. (6:47 p.m.) Sneed asked Smith about house prices in Sawgrass and Smith gave some sale prices and noted that the ones closest to the Publix supermarket are less expensive.

(6:49 p.m.) McClure asked Ms. Kim Allerton, 1597 The Greens Way, Jacksonville Beach, Vice President of Environmental Resource Solutions, to give her educational credentials and professional background. McClure asked Allerton to comment on the impact of commercial development on the Hughes Tract and the Guana Wildlife Management Area. Allerton said it is her opinion that commercial development is generally low in terms of secondary impact to natural communities. She said with residential development, kids run around through natural areas, tree houses are built, trampolines, banana trees, etc. Allerton said they have permitted numerous commercial and residential developments and they have seen far less impact from commercial development.

(6:51 p.m.) Meiszer asked about primary impact, as opposed to secondary impact. Allerton said it was really a matter of semantics, that primary refers to on-site versus secondary being off-site.

(6:54 p.m.) Sneed asked what the secondary impacts are from a Publix grocery store on preservation land. Allerton said, from a permitting standpoint, the secondary impacts include: light, noise, edge effect, wildlife mortality, impacts to wetland dependent wildlife species, etc. Sneed asked questions relating to the border of the conservation land. Allerton said she hadn't measured it, but affirmed that it would appear that the border of the conservation land and the Hughes Tract is larger than the border of the already zoned property. Sneed talked about store deliveries, dumpsters, smells, etc., and said he was not familiar with any residential areas having these factors. Allerton reiterated that, in her experience, she has seen far greater problems with residential developments buffering conservation land.

(6:59 p.m.) Bryant called a short break to change tapes and the meeting reconvened at 7:06 p.m.

(7:06 p.m.) McClure introduced Charles Clark, 1248 Ponte Vedra Blvd., Ponte Vedra Beach. Clark stated he is a consultant to real estate developers, builders, and lenders. He stated he is familiar with what has happened over the years and indicated his opinion that the size of this shopping center isn't going to matter, that the real estate value in the Ponte Vedra area is going to continue to appreciate.

(7:07 p.m.) McClure showed photographs of the Scrogin's house with several different views looking away from the property, Exhibit K. McClure talked about distances from the subject property to various boundaries, including the intersection/roundabout. He also referred to for sale advertisements that used nearby shopping as a promotional device.

(7:11 p.m.) Sneed referred to the Comprehensive Plan, Objective A.1.13, Community and Neighborhood Creation and Preservation, and commented that the only evidence about the existing character of this neighborhood is that it is residential. He said all the areas around are housing areas and conservation lands. Sneed then read part of Section 4.01.12, Natural Preserves, in the Land Development Code. He noted that there was not a Natural Preserve category in the Comprehensive Plan and that the Guana State Preserve is a natural preserve. Sneed said the County did not seek comment from the owner, the State of Florida DEP. Sneed said this mandates that the rezoning request be denied. He then talked about the Compatibility Index and said the land surrounding this proposed rezoning is zoned OR (Open Rural), which is more than three categories away on the Compatibility Index. Sneed said there is no buffer being proposed with this rezoning and read more regarding the compatibility. He stated that Staff did not rebuff that the subject intersection is a failing intersection. Sneed said that the provisions mentioned mandate that the Board deny the rezoning request. He said all they [the opponents] have to do is show a competent evidence of a reason to not rezone and they have shown that surrounding property values have been adversely affected, will continue to be adversely affected, and will not appreciate at the same rates as the surrounding neighbors. He said the larger the project, the worse the impact on the neighbors and the neighbors do not want a grocery store there. (Referenced regulations, Exhibit L).

(7:20 p.m.) McClure talked about the details of the County purchasing the Windberry property in 1998, including promises that were made to Windberry. In regard to the compatibility issue, he noted that the Compatibility Index had been modified recently because of problems with it. McClure talked about traffic safety improvements, public safety and the number of trips during the busiest hours of the day. He warned about establishing a standard of prohibiting rezoning with the absence of a specifically stated public policy reason. McClure stated that nothing had been presented to prove the assumption that Scrogin's property value has decreased, nor that the rezoning of the

Hughes property would result in a devaluation. In conclusion, McClure read an e-mail from the Chairman of the Sawmill Lakes Civic Affairs Committee, and indicated that the Sembler Company desires to work with the public on this project.

(7:32 p.m.) Meiszer queried McClure's remarks on the intersection safety not being impacted by increased traffic. He remarked that it is just mathematics and the statistical likelihood of a mishap would be increased. McClure and Meiszer did not agree on this point. (7:34 p.m.) Meiszer said he had been given information that Publix was not going to put a store at that location and McClure introduced evidence to prove otherwise. Meiszer said there was a major inconsistency that needed to be addressed and stated that the County originally zoned the parcel commercial, which increased the value of that property, and no one cared. He said now, if the Commission changes the zoning to a classification that has a lower sales value, it is accused of an unjust taking.

(7:40 p.m.) Bryant asked Mayoros if there was a violation of the Comprehensive Plan in regard to denying the rezoning based on upholding the character, safety, and welfare of the community. Mayoros said since it has been part of the County's Plan since 1990 and commercial is supportive of residential, it could contribute to the welfare and health of the surrounding neighborhoods. Bryant then asked if abutting landowners had been contacted and Mayoros stated that notices were sent. (7:42 p.m.) Teresa Bishop, Director of Planning, said she thinks Sneed was referring to the natural preserve or conservation areas that are not adjacent to this property. Bishop noted that the amendment to the Compatibility Index was not yet in effect and she said it is Planning's opinion that the Compatibility Index has been met. (7:43 p.m.) Bryant referred to the allegations that the real estate values would not appreciate as fast if there was a shopping center built and about the proposed cancelled real estate contracts. He commented that evidence was not presented to support the allegations. (7:45 p.m.) Jacalone talked about surrounding properties and reiterated that the Compatibility Index has been met. In relation to concerns raised regarding noise and lighting from the development, Jacalone noted that the County has a noise Ordinance and the Land Development Code in the Overlay District would address and require the development to comply with items relating to lighting. Discussion followed on site improvements being made during the development process. (7:48 p.m.) Stern expressed concern about the traffic flow and asked about the plan for getting in and out. (7:49 p.m.) Bishop said she had not seen a plan yet. (7:49 p.m.) In response to Sneed's statement that a buffer had not been submitted, Jacalone noted that would be addressed at the appropriate time.

(7:50 p.m.) Stern said her main concern is the safety of the intersection. She expressed appreciation that the Sembler Company would continue to take into account the public's input.

(7:52 p.m.) Lopez read part of a Supreme Court decision, that had been referred to earlier, which pertains to this issue. *"Upon consideration we hold that a landowner seeking to rezone property has the burden of proving that the proposal is consistent with the Comprehensive Plan and complies with all procedure requirements of the zoning Ordinance. At this point the burden shifts to the governmental board to demonstrate that maintaining the existing zoning classification, with respect to the property, accomplishes a legitimate public purpose."* (7:53 p.m.) **Motion by Jacalone, seconded by Maguire, carried 4/1, with Meiszer opposed, to enact Ordinance No. 2003-54, known as REZ 2002-15 Hughes Rezoning, adopting Findings 1 through 4, contained in the packet, to support the motion.**

ORDINANCE NO. 2003-54

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

(7:53 p.m.) Motion by Stern, seconded by Bryant, carried 5/0, to adjourn the meeting.

With there being no further business to come before the Board, the meeting adjourned at 7:53 p.m.

REPORTS:

1. St. Johns County Board of County Commissioners Check Register, #335519 through 335765 totaling \$1,656,028.67 (06/03/03)
2. St. Johns County Board of County Commissioners Check Register, #335766 through 335757 totaling \$104,140.19 (06/04/03)

Approved _____ August 1, _____, 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

