

NOTE:

Minutes of the March 16, 2005 St. Johns County Board of County Commissioners' Meeting.

The minutes contain links that enable you to listen to the audio for each item.

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**MINUTES OF MEETING  
ST. JOHNS COUNTY BOARD OF COUNTY  
COMMISSIONERS SPECIAL MEETING  
ST. JOHNS COUNTY, FLORIDA  
MARCH 16, 2005  
5:30 P.M.**

Proceedings of a special meeting of the St. Johns County Board of County Commissioners, 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:       Bruce A. Maguire, Chairman, District 4  
                          James Bryant, Vice Chair, District 5  
                          Ben Rich, District 3  
                          Karen R. Stern, District 2  
                          Cyndi Stevenson, District 1  
                          Ben W. Adams Jr., County Administrator  
                          Isabelle Lopez, Assistant County Attorney  
                          Robin L. Platt, Deputy Clerk

Proof of publication for the notification of a special meeting regarding impact fees was received, having been published in *The St. Augustine Record* on March 7, 2005.

(03/16/05 - 1 - 5:30 p.m.)

Maguire called the meeting to order.

(03/16/05 - 1 - 5:30 p.m.)

ROLL CALL

Maguire stated that all five Commissioners were present.

(03/16/05 - 1 - 5:30 p.m.)

Stern gave the invocation and Stevenson led the Pledge of Allegiance.

(03/16/05 - 1 - 5:31 p.m.)

ADDITIONS/DELETIONS TO SPECIAL MEETING AGENDA

There were none.

(03/16/05 - 1 - 5:31 p.m.)

APPROVAL OF THE SPECIAL MEETING AGENDA

**Motion by Bryant, seconded by Stern, carried 5/0, to approve the special meeting agenda.**

(03/16/05 - 1 - 5:32 p.m.)

1. PUBLIC HEARING - IMPACT FEE UPDATE ADOPTION HEARING - THIS IS THE SECOND OF TWO REQUIRED PUBLIC HEARINGS TO CONSIDER ADOPTION OF THE PROPOSED UPDATED IMPACT FEES, AS CALCULATED BY THE IMPACT FEE UPDATES PERFORMED BY DR. JAMES C. NICHOLAS, AND TO AMEND AND SUPPLEMENT THE LAND DEVELOPMENT CODE BY READOPTING AND CONSOLIDATING THE EXISTING IMPACT FEE ORDINANCES AND MODIFYING THE CONSOLIDATED ORDINANCES, AS LISTED BELOW: ADOPTING THE REVISED IMPACT FEE SCHEDULE; MODIFYING THE DEFINITION OF

FEEPAAYER; MODIFYING THE BOUNDARIES OF THE IMPACT FEE DISTRICTS 2 AND 3; REVISING THE RESIDENTIAL FEES TO BE CHARGED ON A HEATED AND AIR-CONDITIONED SQUARE FOOTAGE BASIS; COMBINING THE FIRE AND EMS IMPACT FEES AND THE FUNDS; PROVIDING FOR AUTOMATIC UPDATING OF IMPACT FEES BASED ON INDEXING; PROVIDING FOR REVIEW AND UPDATING OF IMPACT FEES EVERY FIVE (5) YEARS; AND AMENDING AND RE-ADOPTING THE IMPACT FEES GENERAL ADMINISTRATIVE GUIDELINES AND PROCEDURES MANUAL. SINCE THE FIRST PUBLIC HEARING, THE FOLLOWING CHANGES HAVE BEEN MADE TO THE IMPACT FEES GENERAL ADMINISTRATIVE GUIDELINES AND PROCEDURES MANUAL: THE REQUIRED TIME OF PAYMENT FOR THE IMPACT FEES HAS BEEN STANDARDIZED TO BE PRIOR TO ELECTRICAL ENERGIZING. THE LANGUAGE REGARDING THE REPLACEMENT OF A PRE-EXISTING RESIDENTIAL UNIT HAS BEEN REVISED BASED ON THE METHOD OF COLLECTING RESIDENTIAL FEES ON A SQUARE FOOTAGE BASIS, AS OPPOSED TO A PER UNIT BASIS. ALSO INCLUDED IN THE PACKAGE ARE TWO VERSIONS OF EXHIBIT A-THE IMPACT FEE SCHEDULE. ONE IS THE VERSION PRESENTED AT THE FIRST HEARING, WHICH CONTAINS A SQUARE FOOTAGE BREAKDOWN FOR RESIDENTIAL COMPRISED OF SEVERAL TIERS. THE SECOND VERSION CONTAINS ONLY TWO TIERS FOR RESIDENTIAL: LESS THAN 1,800 SF AND MORE THAN 1,800 SF

Proof of publication for the notice of public hearing regarding the impact fee adoption hearing was received, having been published in *The St. Augustine Record* on February 19, 2005 and March 5, 2005; and the *Ponte Vedra Recorder* on February 25, 2005.

Scott Clem, Assistant County Administrator, presented the details of this item, explaining that this was the second of two public hearings on this issue. He stated that he and his staff, at the direction of the Board, came up with an alternate fee schedule for residential square footages, using 1,800 square feet as the break point between the lower and upper ranges. He also addressed the legalities involved in increasing the fees on certain land uses, but not others; the fees recommended in Dr. Nicholas' report being the maximums; the large increases in non-residential impact fees being attributed to road impact fees; and independent fee calculations for specific uses. He stated that they would continue to look at alternative collection methods and past payment credits. (5:41 p.m.) Dan Bosanko, County Attorney, entered the meeting.

(5:41 p.m.) Clem continued by addressing affordable housing assistance and the targeted economic development incentive ordinance. He reviewed the process by which projects that were already in the building permit process could be grandfathered in for residential and non-residential applications; and stated that the changes to the guidelines manual and ordinance would go into effect April 18th. Further, Clem reviewed the findings and recommendations made by the Planning and Zoning Agency: 1) they found the changes to be consistent with the Comprehensive Plan; 2) they recommended that the fees be indexed; 3) they recommended that the indexes be tied to the Construction Cost Index, rather than CPI; 4) they recommended using the same method of collection for all types of uses; 5) they recommended that impact fees be paid at the time of the building permit, and earlier in the development process for larger developments; and 6) they recommended that the Board consider and adopt the fees as proposed in Dr. Nicholas' report.

(5:51 p.m.) Additionally, Clem submitted clean and strikethrough copies, to show the latest changes, of the ordinance and the guidelines manual. Two versions of the impact fee schedule were submitted: the first, with the two-tier breakdown, and the second, with the six-tier breakdown. He reviewed the most recent changes.

(5:55 p.m.) Rich questioned if Dr. Nicholas had approved the change from the six-tiered schedule to the two-tiered schedule; and if he could defend the two-tiered system in court if it were challenged. Clem responded that Dr. Nicholas also offered the two-tiered system as an option. Discussion followed on the changes that were made as a result of the first public hearing.

(5:59 p.m.) Bryant recalled that what Dr. Nicholas presented was a flexible guideline and said that the final decision was a policy decision to be made by the Board; his report was not intended to be implemented at the maximums: Clem concurred. Discussion ensued on how the fees were calculated for schools.

(6:03 p.m.) David Toner, representing the School Board, explained that the School Board recommended that the fees be based on square footage and that the School Board wanted to be consistent with the County in how they implemented their fees.

(6:05 p.m.) Maguire explained that the impact fees were going to be raised, the question was by how much, and that the decision would be based on the needs of the entire community.

(6:07 p.m.) Ron Schumaker, Chair of the Planning and Zoning Agency (PZA), addressed the PZA's recommendations on the fees: They recommended that the fees be collected at permitting, not at energizing, to eliminate the two-year lag in collecting the fees; and that the indexing be to the Construction Cost Index, instead of the CPI. He also commented that the two-tier system was not presented to the PZA and that they might not have supported it.

(6:13 p.m.) Tom Manuel, 505 Becker Branch Place, stated that the PZA had approved their recommendations unanimously, including Dr. Nicholas' six-tier plan.

(6:14 p.m.) Bryant commented that pipelining was being used for large DRIs and that the infrastructure had to be in place before construction could begin and discussion ensued on DRIs, PUDs, implementing fairshares and the tier system.

(6:19 p.m.) Rich asked for clarification of the PZA's recommendations. Schmaker and Manuel clarified that the PZA recommended collecting the impact fees, for PUDs less than 20 units, at the issuance of the building permit, and for PUDs greater than 20 units, they should be paid upon the execution of a development order and discussion ensued.

(6:25 p.m.) Isabelle Lopez, Assistant County Attorney, explained that the PZA's motions were based on general concepts, not the fine details, and that the PZA recommendations would be taken into account for future amendments to the ordinance, but that they did not affect what the Board was addressing tonight.

(6:28 p.m.) Stevenson addressed fairshares, impact fees and concurrency; and discussion followed.

Public Comment:

(6:33 p.m.) Don Beattie, 808 Mill Pond Court, supported raising impact fees and stated that the Board should adopt Dr. Nicholas' recommendations, as submitted.

(6:38 p.m.) Clara Cowan, 244 Patrick Mill Circle, stated that the Board should support Dr. Nicholas' original plan at 100%.

(6:39 p.m.) Richard Thomas, 4322 Palmetto St., representing the SJC Civic Association Round Table, addressed past impact fees and supported adopting the maximums in the study, as submitted by Dr. Nicholas, the PZA's recommendations on indexing, and making impact fees payable upon issuance of building permits.

(6:45 p.m.) Barry Higgins, 902 San Remo Rd., commented that there were persons who lived in other counties, but worked in this county and used our infrastructure, and that these persons needed to be taken into consideration.

(6:47 p.m.) Walter Rourke, 2315 Club View Ct., Ponte Vedra Beach, supported the position of the PZA, in that the maximum should be adopted, as well as indexing.

(6:49 p.m.) Sasha Martin, 133 Coastal Hollow Cr., supported the increase in impact fees and said that she hoped the Board would adopt the recommended multi-tiered plan at 100%; discussion followed on exempting special uses from concurrency, i.e. hospitals.

(6:54 p.m.) Bill Lazar, 529 W. King St., Director of St. Johns Housing Partnership, addressed workforce-housing, fairshares, impact fees and other tax options that could be used to raise funds for transportation.

(7:01 p.m.) Mary Khonke, 29 S. Roscoe Road, suggested giving impact fee incentives for new businesses and supported raising impact fees.

(7:05 p.m.) Roger Van Ghent, 4005 Moultrie Foreside Blvd., supported indexing impact fees and looking at other means to cover already existing shortfalls.

The meeting recessed at 7:07 p.m. and reconvened at 7:17 p.m.

(7:19 p.m.) Bill Jepson, 6336 Costanera Rd., Treasure Beach Round Table representative, stated that the residents of Treasure Beach had voted unanimously to support raising the impact fees, and encouraged the adoption of the fees as recommended.

(7:20 p.m.) Steve McCraney, 3657 Crazy Horse Trail, urged the Board to hold off on adopting the commercial and industrial impact fee schedule.

(7:22 p.m.) Doug Huntsworth, 950 Lew Blvd., addressed commercial development and economic incentives.

(7:23 p.m.) Ed Paucek, 970 Irma Way, representing various entities, commented that the proposed impact fees were too high and intolerable.

(7:28 p.m.) Patrick Doran, 248 Royal Tern Rd., Ponte Vedra, supported raising impact fees to the maximum suggested by Dr. Nicholas, and indexing the fees.

(7:31 p.m.) Robert Marshall, 318 Marsh Point Circle, Chairman of the St. Johns County Builders Assoc., addressed work-force housing, impact fees and growth.

(7:32 p.m.) Kari Keating, 1 Riberia St., Chamber of Commerce, commented that the members of the Chamber and the Economic Development Council were gravely concerned about the effects of the proposed increase in impact fees on commercial, industrial and economic development.

(7:35 p.m.) Jim Browning, 148 River Marsh Dr., Ponte Vedra, Vice Chair of the Economic Development Council, commented that a long-term solution for funding growth and infrastructure needed to be sought, and that impact fees were not the solution. He further addressed the unreliability of expert opinions and offered other funding options.

(7:47 p.m.) Fred Halback, 287 St. George St., Chairman of the Chamber of Commerce, stated that the proposed fees were unfair to small businesspersons and commercial properties as a whole. He gave an example of the effect of the increase: The current fee for a one million sq. ft. call center would be approximately \$2 million; if the new proposed fees were adopted, the impact fees would be \$7.8 million.

(7:52 p.m.) Sarah Bailey, 2202 Bishop Estates Rd., spoke in favor of raising impact fees to the fullest extent.

(7:56 p.m.) Louise Thrower, 288 Orange Ave., opposed the two-tier schedule, with visual aids (Exhibit A), and supported the position of the PZA.

(8:02 p.m.) Greg Modivina, 841 Putter's Green Way N., member of the Florida Homebuilders Association's State Impact Fee Task Force, addressed the lack of workforce housing available in the county and stated that BRAC used the availability of such as a criteria for determining which bases to close. He felt that Dr. Nicholas' report was flawed.

(8:06 p.m.) Discussion ensued as to how Dr. Nicholas calculated the level of commercial impact fees, the accuracy of the report, the fairness of the fees for new construction versus existing construction, transportation shortfalls, alternative revenue options and pipelining.

(8:22 p.m.) Bryant suggested increasing the fees at least 75% and assessing the impact fee issue on a yearly basis. Stevenson asked for a clear accounting of the where and when impact fees were spent and spoke on the inflation of building/construction materials.

(8:32 p.m.) Stern stated that she had serious concerns with the effects of the recommendations in the report on affordable and workforce housing; and how the increase on the commercial side would effect business recruitment. She supported the two-tiered schedule.

(8:37 a.m.) Rich stated that he was reluctant to alter Dr. Nicholas' recommendations in anyway. He enumerated the issues being addressed: 1) the impact fee schedule, 2) the indexing of fees, 3) the reevaluation of impact fees on a five year cycle, and 4) the payment of impact fees.

(8:40 a.m.) Adams suggested setting the effective date of the new fees as May 1, 2005; Clem addressed which projects were included in the study; Stevenson supported the multi-tier plan.

(8:44 p.m.) Maguire stated that he had serious questions about the integrity of the report and he outlined his reasons. He addressed a letter from Nabors, Giblin & Nickerson, P.A. (Exhibit B), recommending: "... that the County not implement a reduction of all commercial impact fees. Rather, to encourage economic development and job creation, the County could initiate a legislative program of impact fee reduction or abatement supported by legislative findings embodied in the implementing ordinance." Further, he suggested implementing the increase for schools at 100%; parks, fire/rescue, law

enforcement, buildings at 100%; and roads at a 75% minimum. Clem clarified some aspects of the report for calculating the fees. Bryant recommended looking at the fees again in one year.

(8:55 p.m.) *Motion by Rich, seconded by Stevenson, to enact Ordinance 2005-27, enacting an amendment to the Land Development Code, incorporating and amending the St. Johns County Impact Fee Ordinance; specifically by adopting the impact fee by land use type with past payment credit, as presented in Exhibit A of the agenda item.*

(8:57 p.m.) Stern agreed that the impact fees needed to be looked at annually. (9:00 p.m.) Lopez suggested addressing each component of the ordinance separately, with separate motions; then addressing the ordinance itself. (9:03 p.m.) *Rich withdrew his motion.* Discussion ensued as to which Exhibit A to adopt: the two-tier or the six-tier option.

(9:08 p.m.) **Motion by Maguire, seconded by Bryant, to accept Exhibit A with the two-tier system;** discussion ensued. (9:15 p.m.) **The motion carried 3/2, with Rich and Stevenson opposed.**

(9:15 p.m.) **Motion by Rich, seconded by Stevenson, to index the fees using the construction costs index: He added subsequently: for the previous year, or the four most recently reported quarters.** Discussion ensued; *Clem recommended using the annual average, from year to year, which is published in The Engineering News Record. Maguire recommended that Clem, and/or his Staff do the computations, rather than the Board.* Clem explained that the recommended language could be found in the ordinance, handed out by Nicole Cubbedge, on page 3, paragraph b, and paragraph c, on page 4. (9:23 p.m.) **The motion carried 3/2, with Stern and Maguire opposed.**

(9:23 p.m.) **Motion by Rich, seconded by Stevenson, to have the impact fees revisited by a professional, recognized in the field, as designated by the County Commission each five year cycle, to be done in the course of the fourth year so that the report will be in by the time the fifth year rolls around.** Bryant suggested adding: *“a minimum of five years, or sooner.”* **Rich amended the motion to state: five years, or as the Commission determines at an earlier date. Stevenson accepted the revision. The motion carried 5/0.**

(9:25 p.m.) Rich addressed the PZA's recommendations. Lopez explained that they could not alter the payment mechanism of the ordinance at this stage; due to the way this item was advertised. Stern addressed grandfathering the already approved affordable-housing units. Maguire asked Mr. Lazar to prepare a list of the already approved projects with which a grandfathering regulation could be done.

(9:30 p.m.) *Maguire directed Staff to get a list together for grandfathering affordable housing projects already in the works, out on the agenda, as advertising would allow, for a grandfathering ordinance.* Stern commented that other developers, in addition to Mr. Lazar, had projects already approved.

(9:32 p.m.) **Motion by Rich, seconded by Stevenson, to enact the fee schedule in Exhibit A-2, as described by Commissioner Stern, that was previously approved, and implement it as presented by Dr. Nicholas, at 100%.** (9:34 p.m.) **The motion carried 3/2, with Stern and Bryant opposed.**

(9:34 p.m.) Lopez read a suggested motion for enacting the ordinance: *“Motion to enact Ordinance 2005-27, enacting amendments to the Land Development Code incorporating and amending the St. Johns County Impact Fee Ordinances, with Exhibit A, the two-tier system, funded to 100%, as found on Exhibit A, utilizing the construction cost index, as presented in the*

*alternate ordinance, and amending the alternate ordinance at Section 7, to add: direct Staff to submit to the Board of County Commissioners a report with suggested revisions adding no later than every five years, commencing from the effective date of this ordinance."* Discussion followed.

(9:37 p.m.) Stern addressed the suggested change to the effective date of the ordinance. **Motion by Stern, seconded by Maguire, carried 5/0, to change the effective date from April 18th to May 2nd, and alter the other dates found in the manual to six months from May 2nd.**

(9:40 p.m.) **Motion by Rich, seconded by Stevenson, carried 5/0, to enact Ordinance 2005-27, enacting amendments to the Land Development Code incorporating and amending the St. Johns County Impact Fee Ordinances, including the suggested language made earlier by Ms. Lopez.**

#### ORDINANCE NO. 2005-27

AN ORDINANCE OF ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AMENDING AND SUPPLEMENTING THE ST. JOHNS COUNTY LAND DEVELOPMENT CODE AS ADOPTED BY ORDINANCE 99-51, AS PREVIOUSLY AMENDED; THIS ORDINANCE REAFFIRMS, READOPTS, CONSOLIDATES AND INCORPORATES WITHIN THE ST. JOHNS COUNTY LAND DEVELOPMENT CODE THE FOLLOWING ORDINANCES: NO. 87-57 (ROAD IMPACT FEE ORDINANCE), AS PREVIOUSLY AMENDED; NO. 87-58 (PARK IMPACT FEE ORDINANCE), AS PREVIOUSLY AMENDED; NO. 87-59 (PUBLIC CAPITAL FACILITIES IMPACT FEE ORDINANCE), AS PREVIOUSLY AMENDED; AND NO. 87-60 (EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE), AS PREVIOUSLY AMENDED; MAKES CHANGES APPLICABLE TO ALL IMPACT FEES AS CONSOLIDATED, INCLUDING AND RELATING TO: PROVIDING SUPPLEMENTAL AND ADDITIONAL FINDINGS AND DECLARATIONS OF THE BOARD OF COUNTY COMMISSIONERS; MODIFYING THE DEFINITION OF FEEPAAYER; MODIFYING THE BOUNDARIES OF THE IMPACT FEE DISTRICTS AND RELATED MAPS; MODIFYING THE AMOUNTS PAYABLE PURSUANT TO THE IMPACT FEE SCHEDULE AND CONSOLIDATING THE FIRE AND EMS FUNDS; PROVIDING FOR AUTOMATIC UPDATING OF FEES BASED ON INDEXING; PROVIDING FOR REVIEW AND UPDATING OF IMPACT FEES BY THE BOARD OF COUNTY COMMISSION EVERY (5) FIVE YEARS; MODIFYING IMPACT FEES FOR RESIDENTIAL UNITS BASED ON HEATED AND AIR-CONDITIONED SQUARE FOOTAGE OF EACH UNIT; AMENDING AND READOPTING THE IMPACT FEES GENERAL ADMINISTRATIVE GUIDELINES AND PROCEDURES MANUAL; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

(9:41 p.m.) **Motion by Bryant, seconded by Stern, carried 5/0, to direct Staff to immediately bring to the Board, as soon as possible, a revision for the target industry incentive agreements.**

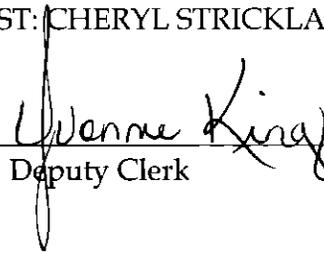
(9:45 p.m.) **Motion by Bryant, seconded by Stern, carried 5/0, to adjourn.** With there being no further business to come before the Board, the meeting adjourned at 9:45 p.m.

Approved June 14, 2005

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By:   
Bruce A. Maguire, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By:   
Deputy Clerk

