

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
MARCH 22, 2006
(9:00 A.M.)**

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

Present were: James E. Bryant, District 5, Chairman
Cyndi Stevenson, District 1, Vice Chair
Karen R. Stern, District 2
Ben Rich, District 3
Bruce A. Maguire, District 4
Scott Clem, Assistant County Administrator
Michael Hunt, Deputy County Attorney
Patrick McCormack, Assistant County Attorney
Lenora Newsome, Deputy Clerk

(03/22/06 - 1 - 9:04 a.m.)

CALL TO ORDER

Chairman Bryant called the meeting to order.

(03/22/06 - 1 - 9:04 a.m.)

ROLL CALL

Bryant announced that four commissioners were present, with Maguire coming in later in the morning.

(03/22/06 - 1 - 9:05 a.m.)

INVOCATION & PLEDGE OF ALLEGIANCE

The invocation was given by Bryant and the Pledge of Allegiance was led by Stevenson.

(03/22/06 - 1 - 9:05 a.m.)

ADDITIONS/DELETIONS TO THE SPECIAL MEETING AGENDA

Hunt requested to add a matter of litigation regarding Florida Telecommunication Cable/Railroad Corridor Class Settlement, as Item A1.

(03/22/06 - 1 - 9:06 a.m.)

APPROVAL OF SPECIAL MEETING AGENDA

Motion by Stern, seconded by Rich, carried 4/0 with Maguire absent, to amend the Special Meeting Agenda.

(03/22/06 - 1 - 9:06 a.m.)

A1. LITIGATION - FLORIDA TELECOMMUNICATION CABLE/RAILROAD CORRIDOR CLASS SETTLEMENT

Hunt reviewed this item regarding St. Johns County being a member in a class action lawsuit in which AT&T was a party. AT&T had a lawsuit against them dealing with a telecommunication cable that it had, which stretched the entire length of the state, and

parts of 14 counties were named as members of the lawsuit with St. Johns County being the only county filing an objection in the lawsuit. He said that AT&T had proposed a settlement. He asked that the Board allow the County Attorney's Office to file or withdraw the objection and file in its place the letter that was sent by the law firm representing AT&T and attach it to the settlement agreement. (9:09 a.m.) **Motion by Rich, seconded by Stern, carried 4/0 with Maguire absent, to allow the County Attorney's Office to file or withdraw the objection in accordance with all the other paperwork that would be filed.**

(03/22/06 - 2 - 9:10 a.m.)

1. PUBLIC HEARING - MAJMOD 2005-18, ST. AUGUSTINE SHORES UNIT 7 PLANNED UNIT DEVELOPMENT - THE PROJECT IS THE LAST REMAINING UNDEVELOPED UNIT IN ST. AUGUSTINE SHORES, LOCATED EAST OF US 1, AND WEST OF THE MATANZAS RIVER. UNIT 7 CURRENTLY IS APPROVED FOR 780 SINGLE-FAMILY DWELLING UNITS IN PHASES 1, 2A, 2B, 3 AND 4 AND THIS MODIFICATION REQUESTS AN INCREASE TO 901 DWELLING UNITS IN UNIT 7. PHASES 1 AND 2A ARE ALREADY APPROVED FOR A TOTAL OF 145 DWELLING UNITS AND ARE NOT PART OF THIS MODIFICATION. PHASE 4 IS APPROVED FOR A NON-RESIDENTIAL USE (CHURCH AND COMMUNITY FACILITY) AND IS ALSO NOT PART OF THIS MODIFICATION. THE REQUEST WOULD MODIFY PHASES 2B AND 3 OF UNIT 7 TO DEVELOP 756 DWELLING UNITS FOR A TOTAL OF 901 DWELLING UNITS ALLOWED IN UNIT 7 AS FOLLOWS: PHASE 2B WILL HAVE 99 SINGLE-FAMILY DWELLINGS AND PHASE 3 WILL HAVE 657 DWELLING UNITS COMPRISED OF 383 SINGLE-FAMILY AND 274 MULTI-FAMILY UNITS (CONDOMINIUMS). THE PLANNING AND ZONING AGENCY RECOMMENDED DENIAL OF THIS MODIFICATION AT THEIR JANUARY 5, 2006 MEETING BY A VOTE OF 4 TO 3. THE DENIAL VOTES WERE BASED ON CONCERNS THAT THE PROJECT IS NOT COMPATIBLE WITH THE EXISTING ESTABLISHED DEVELOPMENT PATTERNS AND THAT THE RESIDENTS WHO PREVIOUSLY BOUGHT HOMES IN THE SHORES BOUGHT WITH THE ASSURANCE THAT UNIT 7 WOULD BE DEVELOPED AS DEPICTED ON THE ORIGINAL MASTER PLAN

Proof of publication of the notice of public hearing on the major modification to the St. Augustine Shores Unit 7 PUD was received, having been published in *The St. Augustine Record* on March 7, 2006.

Janet Beason, Court Reporter, was present.

Bruce Ford, Chief Planner, reviewed this item, stating the changes that were made since the last meeting. The commissioners stated that they did not have a copy of the changes. Bryant suggested recessing the meeting until they received copies of the changes.

The meeting recessed at 9:18 a.m. and reconvened at 9:19 a.m.

Bryant asked the audience how many people did not receive the changes at last Thursday night's meeting. He assured everyone they would get a copy of the changes.

The meeting recessed at 9:20 a.m. and reconvened at 9:22 a.m.

Bryant suggested hearing the Eagle Plan, Item 2, while they were waiting for a copy of the changes.

The meeting moved to Item 2.

(10:04 a.m.) Bruce Ford briefly summarized the changes that were distributed; phase 2b and Phase 3, lot size changed; town home location; no causeway going across wetlands; change gate locations; and Shore Blvd. requesting to change size of area for the sidewalk. There was a net reduction in multi-family units and an increase in single-family units. Phase I, 2a and 4 were already approved and would not be affected by the modification. The existing two river front parks were combined to 11.8 acres and he mentioned what would be included in the park. He stated that Shores Blvd. would be four laned, and that this project was exempt from concurrency, pursuant to Section 11.08.04, for the amount of development previously approved in the PUD. Ford stated that three waivers were requested; to allow on-street parking, to provide a unified sign plan at a later time through a major modification and six foot minimum total setbacks with no less than three feet on each side for the 43 and 53 foot lots within Section 2b. The application was consistent with the Land Development Code and the Planning and Zoning Agency recommended denial with a vote of 4/3 on January 5, 2006. Stevenson asked Ford to summarize the reasons for the denial. Ford replied compatibility. Stern disclosed exparte communication with George McClure to discuss the changes, the meeting that was held with the community a couple weeks ago and some of the issues that were prevalent with Unit 7 of the Shores. Bryant disclosed exparte communication with John Grexa, who pointed out the landmarks to him. Stevenson disclosed exparte communication: she attended two community meetings and met with George McClure to discuss changes that were made to address the concerns. Rich disclosed exparte communication: he too attended community meetings, and spoke with several hundred residents of the community in reference to their feelings regarding this issue.

(10:17 a.m.) George McClure, 70 Malaga Street, spoke on the first planned unit ordinance that was developed (Exhibit A), and gave a presentation (Exhibit B). McClure spoke on development rights, and stated that this process was started over a year ago. He explained why they thought this plan made sense and address the concerns of the residents in the area. He stated that they took multi-family out, put single-family in, and reviewed the concerns about the gate locations. McClure stated that he would not ask for a vote on this application today until the settlement agreement had been executed. Discussion followed on single-family parcels, multi-family parcels and what the Shores did to acquire concurrency.

The meeting recessed at 10:49 a.m. and reconvened at 10:56 a.m.

(10:56 a.m.) Stern gave a brief history of her life in St. Augustine Shores. McClure spoke on the vesting section.

(11:05 a.m.) Kirk Drouse, 8657 Bay Pine Road, Jacksonville, spoke on the Phase II clearing being based on the requirement of Water Management. He explained why the trees were cleared out. He stated that he was directed by Toll Brothers to save as many trees as possible and spoke on moving trees. McClure spoke on Phase III, trees, density, multi-family and single-family units, modifications regarding children, the reason they were requiring the gates, and the eagle area.

(11:26 a.m.) Bud Evans, 891 Alcalá Drive, President of the St. Augustine Shores Service Corporation, spoke on meeting with Toll Brothers and the community. He stated that the gates were the biggest problem and they got the gates moved. He asked McClure and the representatives of Toll Brothers to remove all gates from St. Augustine Shores Unit 7.

(11:30 a.m.) John Grexa, 548 Domenico Circle, stated that there was no disagreement in the community of St. Augustine Shores about this proposal, just the placing of the gates. He spoke on the reaction of the community and the petitions signed by 1,440 residents of the community who rejected outright any proposal from Toll Brothers that did not comply with the modifications in 1988 to St. Augustine Shores. Grexa read the language in the petition. He spoke on the 1980 modifications to the PUD versus the changes being proposed by Toll Brothers. He spoke on a 1988 modification document by Rosemary Yeoman. He stated that their proposal came in four phases; spoke on Phase 3 and Phase 4, six entrances and exits from the Shores, and traffic and safety being a problem. He stated that they didn't need another community in the Shores.

(11:48 a.m.) Barrie Higgins, 902 San Remo Road, spoke on the plans in 1988, the vision plan becoming a part of the Master Plan and Unit 7.

(11:51 a.m.) Beatrice Racicot, 652 Christina Drive, stated that her main issue was that Toll Brothers wanted to make a separate homeowners' association for Unit 7, and that she would like them to build beautiful single-family homes on regular lots.

(11:54 a.m.) Sharon Nash, 597 Felix Court, spoke on representing the people and when making a decision, base it on what the people desire. She suggested to lessen the density and not to cut down the trees.

(12:00 p.m.) Antonio Roca, 604 W. Bianca Circle, spoke on the damage done to the trees in the Shores.

(12:04 p.m.) Bill Harkness, 719 Nieves Lane, asked the Board not to be afraid to vote with the people, and stated that the Shores was a good community.

(12:07 p.m.) Pat McCormack, Assistant County Attorney, stated that the Board could not base a decision on the desire of a large or small group or the number of votes, but it had to be based on the evidence that it heard.

(12:08 p.m.) Catherine Grexa, 548 Domenico Circle, emphasized the fact that the people of the Shores were passionate about their community, and suggested not to delay the vote. She explained why she found the gating offensive.

(12:15 p.m.) Norman Reny, 910 Alcala Drive, stated that the Shores was a good community, spoke on how many units they wanted to put in, and requested no gates. He stated his objections to the modifications.

(12:20 p.m.) Stuart Frazer, 337 Valverde Lane, spoke in opposition of Toll Brothers proposal in this particular application for modification to the PUD.

(12:23 p.m.) Joe Watson, 643 Nieves Lane, spoke in opposition to the modification.

(12:26 p.m.) Barbara Gormley, 28 Santiago Court, asked the developers to follow the recommendations on the 1988 PUD.

(12:28 p.m.) Joan Steele, 335 Graciela Circle, asked the Board not to approve the modification.

(12:29 p.m.) Paul Racicot, 652 Christina Drive, voiced concern about increased traffic, and splitting the community with the gates.

(12:31 p.m.) Muriel McKinlay, 1036 Greco Road, expressed that the worst thing that could happen to the Shores was to become a gated community and create financial problems.

(12:32 p.m.) Laura Ulmeshneider, 588 W. Bianca Circle, was opposed to the modification for the density, the multi units, gating, and the separate homeowners association.

(12:35 p.m.) John Yerves, 670 Polo Court, asked how many applications the applicants could make if this were turned down. McCormack explained the guidelines.

(12:36 p.m.) Mike Cole, 362 Travino Avenue, stated that he had a strong objection to any modification to the current PUD in the Shores.

(12:39 p.m.) Martine Weaver, 13 Aledo Court, spoke on buffers.

(12:41 p.m.) Cynthia Avance, 13 Talavera Court, spoke on being against uncontrolled growth and any modifications to the PUD.

The meeting recessed at 12:44 p.m. and reconvened at 12:52 p.m.

(12:52 p.m.) John Grexa, 548 Domenico Circle, asked the audience not to speak unless they had something new to contribute.

(12:53 p.m.) Robert Tarrant, 916 Alcala Drive, spoke on the covenant and restrictions regarding the Shores.

(12:56 p.m.) Judith Zinn, 124 Fonseca Drive, voiced concern regarding the density, and spoke on the Shores being an old established community.

(12:58 p.m.) Jerry Zinn, 124 Fonseca Drive, stated that he was opposed to this application for all the reasons mentioned and explained why they were so upset with the gates going in.

(1:00 p.m.) George McClure responded on the dust, the site and neighbors north of the park, the parking waiver, a couple of technical things, and the total number of dwelling units in 1988.

(1:05p.m.) Lynn Buffington, 13901 Sutton Park Drive, Jacksonville, Landscape Architect and Planner for Prosser Hallack, responded to McClure's questions regarding the amount of units, the types of units, traffic tris generation, and conforming to the St. Johns County Land Development Code. McClure concluded that everyone needed to come to an agreement, and spoke on the gates being the biggest problem. He stated that they would eliminate all the gates, if the Board approved this modification because he wanted to find a solution to this today. (1:21 p.m.) **Motion by Maguire, seconded by Stern, to deny rezoning application PUD 2005-18, adopting finding of fact 4, as modified, the St. Augustine Shores PUD is not consistent with Part 5.03.00 of the St. Johns County Land Development Code, which promotes standards for Planned Unit Developments and with the General Standards of Section 5.03.02 with respect to compatibility.** Rich asked that the motion be amended that the proposal, in itself, based upon substantial competent evidence provided by the homeowners was not in the public interest. McCormack stated that he would not object to that. Maguire stated that he specifically excluded the amendment made by Rich because he thought compatibility was the issue. McCormack asked if the maker of the motion would consider adding to the motion, non-compatibility with the Comprehensive Plan also.

Maguire stated yes to include McCormack's suggestion. **The motion carried 5/0.**

(03/22/06 - 6 - 9:23 a.m.)

2. PUBLIC HEARING - BALD EAGLE MANAGEMENT PLAN FOR NEST SJ-016 LOCATED AT ST. AUGUSTINE SHORES, UNIT 7 - ACCORDING TO THE BALD EAGLE NEST DATABASE MAINTAINED BY THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION (FFWCC), THIS NEST HAS BEEN ACTIVE SINCE 2001. TOLL BROTHERS, INC. (APPLICANT) HAS DEVELOPED THIS PLAN IN ACCORDANCE WITH SECTION 4.01.10(C)(5)(B) OF THE ST. JOHNS COUNTY LAND DEVELOPMENT CODE (LDC). THAT SECTION STATES IF A NEW (NOT PREVIOUSLY OR HISTORICALLY DOCUMENTED) BALD EAGLE NEST IS IDENTIFIED ON UNDEVELOPED LAND OF AN APPROVED PUD, THE DEVELOPMENT OF THE LAND SHALL PROCEED IN ACCORDANCE WITH EITHER (I) THE STANDARDS AND GUIDELINES OF SECTION 4.01.10 OF THE LDC; (II) AN ALTERNATIVE, SITE-SPECIFIC EAGLE MANAGEMENT PLAN APPROVED BY THE COUNTY COMMISSION; OR (III) A VESTING DETERMINATION. THE PLAN IS IN CONFORMANCE WITH THE SECOND PROVISION SET FORTH ABOVE. ADDITIONALLY, THE PROVISIONS OF SECTION 4.01.10 OF THE LDC WERE REVIEWED AND SPECIFIC ELEMENTS OF THAT SECTION WERE INCORPORATED INTO THIS PLAN TO MAINTAIN AN ELEMENT OF CONSISTENCY WITH THE COUNTY'S BALD EAGLE PROTECTION REQUIREMENTS. ALSO, THIS PLAN HAS ADDED ADDITIONAL PROTECTION MEASURES NOT PROVIDED FOR IN SECTION 4.01.10 TO CREATE A PLAN THAT AFFORDS EQUAL OR BETTER PROTECTION FOR THE BALD EAGLES AND THE NEST TREE

Jan Brewer, Environmental Manager, reviewed this item, stating what the applicant would like to do. She showed the zone on the overhead projector. Stevenson asked if there was a contiguous area where there would be no construction. Brewer responded. Brewer gave a brief history on the alternative plans that had been approved and did not have any problems and discussion ensued.

(9:32 a.m.) Roger Van Ghent, 4005 Moutrie Foreside Blvd., recommended the following addition to the proposed Bald Eagle Management Plan: on page 8, section 5, paragraph A, under monitoring - *The County shall hire and be responsible for the monitor, the developer of the property shall be responsible for the cost accrued by the County.* He spoke on protecting the habitat and the harm and harassment issue.

(9:38 a.m.) Bill Reed, 6865 Sea Cove Avenue East, spoke on the possibility of eagles being taken off of the endangered species list by June, and stated that the eagles must be protected. Discussion followed on eagle monitoring.

(9:56 a.m.) George McClure, 170 Malaga Street, Suite A, spoke on the language concerning the monitor and the issues on the management plan. He asked the Board to defer the vote on this issue until their Eagle expert could get to the meeting to speak.

(10:03 a.m.) Maguire entered the meeting.

The meeting returned to Item 1.

(1:23 p.m.) Subsequently, Brewer briefed Maguire on one or two of the proposals from other commissioners and the wording change. She spoke on revisiting the Bald Eagle Plan. McClure stated that the applicant suggested tabling the matter indefinitely and that it be subject to further notification and put back on the agenda. (1:25 p.m.) **Motion by Maguire, seconded by Stern, carried 5/0, to table the Eagle Management Plan.**

(03/22/06 - 7 - 1:25 p.m.)
3. OTHER BUSINESS

Dan Bosanko, County Attorney, requested to hear a discussion on the construction of the 16" water main along SR 16 north of Toms Road. It was originally scheduled for the April 4th BCC meeting and hearing it at that time would be too late. (1:29 p.m.) **Motion by Stern, seconded by Rich, carried 5/0, to authorize the County Administrator, or his designee, to enter into contract with R & B Contracting, Inc., for \$92,830 to upsize the water main along SR 16.**

(1:29 p.m.) Clem mentioned that Adams asked if the Board would consent to further discussion on the Provider Service Network on Monday, April 3rd at 9:30 p.m. The Board gave consensus.

Motion by Maguire, seconded by Stern, carried 5/0, to adjourn the meeting. With there being no further business to come before the Board, the meeting adjourned at 1:31 p.m.

Approved _____ June 27 _____, 2006

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____
James E. Bryant, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: _____
Deputy Clerk

