

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
MAY 13, 2008
(9:00 A.M.)**

Proceedings of a regular 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 U.S. 1 North, St. Augustine, Florida.

Present were: Thomas G. Manuel, District 4, Chairman
 Cyndi Stevenson, District 1, Vice Chair
 Ron Sanchez, District 2
 Ben Rich, District 3
 James Bryant, District 5
 Michael D. Wanchick, County Administrator
 Patrick McCormack, County Attorney
 Lenora Newsome, Deputy Clerk

(05/13/08 - 1 - 9:00 a.m.)
CALL TO ORDER

Manuel called the meeting to order.

(05/13/08 - 1 - 9:00 a.m.)
ROLL CALL

Manuel stated that all five commissioners were present.

(05/13/08 - 1 - 9:01 a.m.)
Bryant gave the Invocation, and Stevenson led the Pledge of Allegiance.

(05/13/08 - 1 - 9:02 a.m.)
SPECIAL RECOGNITION OF ROSEMARY YEOMAN BY BOB PETERS, PERSONNEL SERVICES DIRECTOR

Bob Peters, Director of Personnel Services, recognized Rosemary Yeoman for serving 35 years with the County and mentioned that she was retiring that morning. Howard White, Building Department Director, asked all the Permitting Department to come to the front of the auditorium. Sanchez viewed an old picture on the overhead projector of Rosemary Yeoman when she first started her business career. White wished Yeoman a Happy Birthday, and stated on behalf of all her friends in the Permitting Center, they would like to offer her a small token of their appreciation and gave her a rocking chair. White also gave her a watch from the County for all her years of service. Yeoman thanked everyone.

(05/13/08 - 1 - 9:12 a.m.)
PROCLAMATION DESIGNATING MAY 18-24, 2008 AS EMERGENCY MEDICAL SERVICES WEEK

Rich read the proclamation, with Engineer Mike Borzilleri, Rescue 12, accepting it in behalf of all the men and women with St. Johns County Fire Rescue.

(05/13/08 - 2 - 9:08 a.m.)

PRESENTATION OF A PLAQUE FROM THE AMERICAN HEART ASSOCIATION
RECOGNIZING ST. JOHNS COUNTY AS A "HEART READY COUNTY"

Anita Skinner, Senior Director for the First Coast Division of the American Heart Association stated that the American Heart Association recognized St. Johns County for going the extra mile in implementing an incredible Automated External Defibrillator Program (AED). She stated that they had two heart ready plaques that could be posted around the County. Robert Hall, Fire Chief, accepted the plaques, stating that they were able to do the program on a matching 75/25 grant from the State. He stated that Amy Ryker, Infection Control Nurse, was in charge of the program.

(9:11 a.m.) Amy Ryker, Infection Control Nurse, briefly reviewed how many defibrillators there were and where they were located. She stated that currently there were 78 AEDs located in 59 different locations in County buildings throughout the County.

(05/13/08 - 2 - 9:17 a.m.)

PROCLAMATION DESIGNATING MAY 10-18, 2008 AS FLORIDA TOURIST WEEK

Manuel read the proclamation, with Erving Cox accepting it, on behalf of all the employees in the tourism industry in St. Johns County.

(05/13/08 - 2 - 9:20 a.m.)

PROCLAMATION DESIGNATING MAY 2008 AS FOSTER CARE MONTH

Caryn Zink, Family Integrity Program Manager, introduced her staff; Sherry Russell, Network Manger; Mike McMorrow, Foster Care Licensing Supervisor; Alison McMorrow, Assistant Program Manager; Kelly Wilkerson, Social Worker Professional; Lisa Blackford, Adoption Specialist/Supervisor; and Richard Zicht, Licensing Specialist.

Stevenson read the proclamation, with Karen Zink accepting it. Zink mentioned that they were having a ceremony Thursday night to recognize the foster parents in the community at the Family Integrity Building on U.S. I South, at 7:00 p.m. She thanked everyone for their continued support and stated that this was her fourth year getting the proclamation. She stated that they had 46 foster homes in St. Johns County. Mike McMorrow stated it was difficult to say thank you enough for the foster parents' contribution to the children and that there was a great need for foster parents. Bryant stated there were 22 CBCs (Community Based Care Programs) in the State of Florida, and that St. Johns County was recognized as number one in the State by peer review and State audits.

(05/13/08 - 2 - 9:28 a.m.)

PROCLAMATION DESIGNATING MAY 2008 AS MENTAL HEALTH MONTH

Bryant read the proclamation, with Patty Hunt, National Alliance on Mental Health, accepting it and thanking everyone.

(05/13/08 - 2 - 9:33 a.m.)

ACCEPTANCE OF PROCLAMATION

Motion by Rich, seconded by Stevenson, carried 5/0, to accept the proclamations.

(05/13/08 - 3 - 9:33 a.m.)

DELETIONS TO CONSENT AGENDA

Manuel requested to move Item 11 from the Consent Agenda to the Regular Agenda as Item 8.

(05/13/08 - 3 - 9:33 a.m.)

APPROVAL OF CONSENT AGENDA

Motion by Rich, seconded by Sanchez, carried 5/0, to accept the Consent Agenda as amended.

1. Approval of the Cash Requirement Report
2. Motion to adopt **Resolution No. 2008-127**, authorizing the County Administrator to execute Amendment No. 6 to DEP Contract No. RP565 to increase the funding increment amount of the Contract for service from May 26, 2008 to September 2, 2008

RESOLUTION NO. 2008-127

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, AUTHORIZING THE EXECUTION
OF AMENDMENT NO. 6 TO DEP CONTRACT 565 TO
PROVIDE LIFEGUARDS TO ANASTASIA STATE
RECREATION AREA**

3. Motion to approve a transfer in the amount of \$3,704 from Intergovernmental Services salary and benefit line items (0010-51200) to the appropriate salary and benefit line items within the Risk Management Department
4. Motion to approve the transfer of \$16,422 from 0166-58200 (Primary Care-Aid to Private Org) to 0063-58200(Hasting Clinic-Aid to Private Org)
5. Motion to approve transfer of \$32,047 from [4426-59934] Utility Salary Adjustment Reserves to the appropriate salary and benefit line items within the respective departments
6. Motion to recognize and appropriate the Fruit Cove Utility budget for Fiscal Year 08, and; Motion to approve the transfer of \$7,375 from Utility Reserves (4426-59920) to the Fruit Cove Utility Fund to ensure a balanced Fruit Cove Utility budget for FY 2008
7. Motion to adopt **Resolution No. 2008-128**, approving the terms, conditions, and requirements of Amendment #20 to the Community Based Care contract #DJ993 between St. Johns County, Florida and the State of Florida, Department of Children and Families, and authorizing the County Administrator to execute Contract Amendment #20 on behalf of the County

RESOLUTION NO. 2008-128

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, AUTHORIZING THE COUNTY
ADMINISTRATOR TO SIGN THE TWENTIETH
AMENDMENT TO THE CONTRACT DJ993 BETWEEN
ST. JOHNS COUNTY BOARD OF COUNTY
COMMISSIONERS AND THE STATE OF FLORIDA,
DEPARTMENT OF CHILDREN AND FAMILIES**

8. Motion to adopt **Resolution No. 2008-129**, approving the Final Plat for Osprey Landing

RESOLUTION NO. 2008-129,

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, APPROVING A SUBDIVISION
PLAT FOR OSPREY LANDING**

9. Motion to adopt **Resolution No. 2008-130**, accepting a Deed of Dedication Right-of-Way from World Commerce Center, LLP to St. Johns County conveying a portion of South Francis Road

RESOLUTION NO. 2008-130

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, ACCEPTING A DEED OF
DEDICATION RIGHT-OF-WAY FROM WORLD
COMMERCE CENTER, LLP TO ST. JOHNS COUNTY,
CONVEYING A PORTION OF SOUTH FRANCIS ROAD**

10. Motion to adopt **Resolution No. 2008-131**, accepting a Grant of Easement for drainage purposes along South Roscoe Boulevard in Ponte Vedra

RESOLUTION NO. 2008-131

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, ACCEPTING A GRANT OF
EASEMENT FOR DRAINAGE PURPOSES ALONG
SOUTH ROSCOE BOULEVARD IN PONTE VEDRA**

11. Motion to adopt a Resolution approving the terms of a Hold Harmless Agreement between St. Johns County and Southern Grove Homeowners Association, Inc. and authorizing the County Administrator to execute the Agreement on behalf of the County

This item was pulled from the Consent Agenda and placed on the Regular Agenda as Item 8.

12. Motion to adopt **Resolution No. 2008-132**, accepting a Deed of Dedication for the Right-of-Way of Murabella Parkway off of State Road 16

RESOLUTION NO. 2008-132

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, ACCEPTING A DEED OF
DEDICATION FOR THE RIGHT-OF-WAY OF
MURABELLA PARKWAY OFF OF STATE ROAD 16**

13. Motion to adopt **Resolution No. 2008-133**, accepting a Corrective Grant of Easement and Release of Easement for drainage purposes along Fruit Cove Drive and authorizing the Chairman of the Board to execute the Easement

RESOLUTION NO. 2008-133

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, ACCEPTING A CORRECTIVE**

**GRANT OF EASEMENT AND RELEASE OF EASEMENT
FOR DRAINAGE PURPOSES ALONG FRUIT COVE
DRIVE NORTH AND AUTHORIZING THE CHAIRMAN
OF THE BOARD TO EXECUTE THE EASEMENT**

14. Motion to authorize the County Administrator, or his designee, to negotiate with and, if successful with negotiations, to enter into contract with St. Johns Housing Partnership
15. Motion to authorize the County Administrator, or his designee, to negotiate with and, if successful with negotiations, to enter into contract with St. Johns Housing Partnership for the period beginning October 1, 2008
16. Motion to authorize the County Administrator, or his designee, to negotiate with, and if successful with negotiations, to enter into contract with Professional Concessions, Inc., for the provision of food and beverage service at the Amphitheatre
17. Motion to adopt **Resolution No. 2008-134**, repealing Resolution 2008-~~63~~⁶⁴, which declared the name of the County Agricultural Center as the "Charles R. Usina & Gabye Lee Usina Family Agricultural Center," and renaming the agricultural Center as the "Saint Johns County Agricultural Center" in conformance with Resolution 99-152 regarding policy for the naming of public facilities; and providing an effective date

RESOLUTION NO. 2008-134

A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, REPEALING RESOLUTION NO.
2008-~~63~~⁶⁴, WHICH DECLARED THE NAME OF THE
COUNTY AGRICULTURAL CENTER AS THE
"CHARLES R. USINA & GABYE LEE USINA FAMILY
AGRICULTURAL CENTER", AND RENAMING THE
AGRICULTURAL CENTER AS THE "SAINT JOHNS
COUNTY AGRICULTURAL CENTER" IN
CONFORMANCE WITH RESOLUTION NO. 99-152,
REGARDING POLICY FOR THE NAMING OF PUBLIC
FACILITIES; AND PROVIDING AN EFFECTIVE DATE

18. Proofs:
 - a. Proof, Notice to Bidders, RFP No. 08-110
 - b. Proof, Notice of Meeting, Board of County Commissioners, Special & Private Meeting, Tuesday, March 11, 2008 at 11:30 a.m. (St. Johns Recorder)
 - c. Proof, Notice of Meeting, Board of County Commissioners, Special & Private Meeting, Tuesday, March 11, 2008 at 11:30 a.m. (Ponte Vedra Recorder)
 - d. Proof, Notice of Hearings, Board of County Commissioners, Establishment of Ordinance/Regulations Affecting the Use of Land, Tuesday, April 15, 2008 at 5:30 p.m. and Tuesday, May 27, 2008 at 9:00 a.m. (Ponte Vedra Recorder)
 - e. Proof, Notice of Hearing, St. Johns County Administrative Budget Hearings, Wednesday, April 30, 2008, Thursday, May 1, 2008, Friday, May 2, 2008, and Monday, May 5, 2008 from 9:00 a.m. to 4:00 p.m.
 - f. Proof, Notice to Bidders, Bid No. 08-127
 - g. Proof, Notice to Bidders, Bid No. 08-124
 - h. Proof, Notice to Bidders, Bid No. 08-126
 - i. Proof, Certificate of Liability Insurance, CAS Holdings, Inc.
 - j. Proof, Certificate of Liability Insurance, BADCO Plumbing & Piping LLC.

(05/13/08 - 6 - 9:34 a.m.)
PUBLIC COMMENT

There were no public comments.

(05/13/08 - 6 - 9:34 a.m.)
ADDITIONS/DELETIONS TO REGULAR AGENDA

There were no additions or deletions to the Regular Agenda.

(05/13/08 - 6 - 9:34 a.m.)
APPROVAL OF REGULAR AGENDA

Motion by Rich, seconded by Sanchez, carried 5/0, to approve the Regular Agenda as submitted.

(05/13/08 - 6 - 9:35 a.m.) (District 3)

1. PUBLIC HEARING - PUD 2005-30 LIGHTSEY ROAD APARTMENTS - THIS IS A REQUEST TO REZONE FROM OPEN RURAL (OR) TO PUD FOR THE CONSTRUCTION OF 264 APARTMENT UNITS AND 25,000 SQUARE FEET OF COMMERCIAL SPACE. SUBJECT PROPERTY IS 25.21 ACRES AND IS LOCATED ALONG THE INTERSECTION OF LIGHTSEY RD AND SR 207. THE BOARD OF COUNTY COMMISSIONERS PREVIOUSLY DENIED THIS REQUEST ON FEBRUARY 20, 2007 BY A VOTE OF 3/2. ON DECEMBER 12, 2007 THE COURT QUASHED THE ORDER BY THE BCC AND REMANDED THE ITEM FOR REHEARING BY THE BCC. ON APRIL 15 THE BCC REQUESTED ADDITIONAL INFORMATION REGARDING DENSITY IN THE SURROUNDING AREA

Proof of publication of the notice of public hearing on the Lightsey Road Apartments, PUD 2005-30, was received having been published in *The St. Augustine Record* on May 1, 2008.

Patrick McCormack, County Attorney, stated that there was a community meeting held on this item, last week at the St. Augustine Record. E-mails were handed in for the record, Exhibit A. James Whitehouse, Senior Assistant County Attorney, entered the meeting.

(9:36 a.m.) Carlos Mendoza, 2408 Kacie Lane, spoke in opposition of the PUD.

(9:43 a.m.) Shirely Ann Davis/Steed, 1565 Lightsey Road, spoke in opposition of the PUD, Exhibit B.

(9:47 a.m.) Sheila Clark, 2132 Wood Stork Avenue, spoke in opposition of the PUD.

(9:49 a.m.) George McClure, 81 King Street, representing the Waldron Family, spoke on the status of this item. He stated that this was a waiver free application, so the only issue that could apply, was one of compatibility. He said in this particular case, there were areas of dispute between the applicant and the County Attorney's office, as to what the constraints were on what was being done in the hearings. He said there was meaning to Judge Traynor's decision. He said the Board had heard nothing new since the 2007 hearing. He said they had to apply the law to the facts. He reviewed the meaning of compatibility and reviewed the Oaks Vicinity Map, Lightsey Vicinity map, Kacie Lane map, and property information, Exhibit C. He pointed out the technical points, and stated that there was no reason to have traffic beyond their entrance.

Discussion followed on the location of the property of the Oaks of St. Johns in relation to Quail Ridge. McCormack commented on the rule of law, that the Circuit Court could not direct the Board to make any particular decision. He agreed with McClure on the Board turning it over to the courts over and over again.

(10:06 a.m.) Doug Burnett, 170 Malaga Street, distributed a revised MDP text, Exhibit D. He stated that they were addressing issues regarding a stand alone liquor store, at the commercial parcel, and access on Lightsey Road. McCormack responded. Burnett stated that he would like the Board to consider the changes and approve the PUD. Rich mentioned that on page 6, the word *be* should be added to the language, *no vehicle access will provided between*. Burnett agreed with Rich. Burnett stated that the commercial parcel still needed access onto Lightsey Road, and that there would be no interconnectivity, except for pedestrian between the commercial and residential within the site. He mentioned on page 7, providing for a turn-out school/mass-transit stop along CR 207 and the construction access would be restricted to CR 207, on page 12, a change related to phasing of the projects, and on page 13, the phasing table needed updating because the project was almost 3 years old. He stated that was all of the changes and they were fine with all of them. He spoke on the height in the area being permitted to go up to 45 feet. He asked the Board to support the project. Sanchez asked about the dumpster. Burnett replied.

(10:17 a.m.) John Zeledon, 1625 Wilbar Circle, Winter Park, spoke on the compacting situation, stating that it allowed for a better collection point. He stated that they would send people around to pickup the garbage and drop it off into the compactor. Sanchez asked if the improvements to Lightsey Road would still be as they were planned. Zeledon replied yes. Stevenson disclosed ex-parte communication with Mr. Mendoza, Ms. Davis, receiving e-mails that were forwarded for public record, Mr. Zeledon, Mr. Waldron, Mr. McClure and Mr. Burnett about their project and the follow up from the meeting and that she had spoken with the County Attorney about that meeting.

(10:20 a.m.) Stevenson asked Michael Blackford, Planner II, his professional opinion of the project. She asked Blackford, if at any time, this project was considered for its density by the County's professional staff. Blackford replied that it appeared to be more intense than the surrounding properties and that in his scope of review, that it was the only project that actually met the highest density of the mixed use, actually being at 13 units. Stevenson asked his evaluation of the existing development in the adjacent areas. Blackford replied, in his professional opinion, that it was certainly denser than the surrounding properties, but the surrounding properties, developed 20 years ago. Discussion followed on compatibility, buffers, setbacks, and mixed use. Stevenson asked the planning staff to make recommendations. She stated that she did not believe it was compatible.

(10:30 a.m.) Manuel asked Wanchick his professional qualifications as it pertained to planning, and Wanchick replied. Manuel spoke on mixed use. Wanchick stated that there was nothing wrong with the mixed use project in that particular area, it was out of character with the surrounding area, and that there was an opportunity for a compromise. Manuel stated that A.1.9.2 said that it was intended that the highest land use intensities occur at the center of the mixed use districts with decreasing intensity of uses proceeding outward toward the adjacent land use designations. He asked Wanchick what his opinion was as to the location of this intensity within the mixed use district. Wanchick stated that he was disappointed in the way their professional staff applied some of their own development regulations there. He said there was no effort to taper down the development as it proceeded north towards the adjacent residential areas. Manuel stated that A.1.9.3 encouraged a mixture of land uses, and asked how this application helped or hindered those percentage ratios. Wanchick stated that he

didn't have an opinion on that. Manuel stated that A.1.9.8 dealt with the buffering issue. He stated that there was a minimum buffer with a maximum intensity and density, and that he had great problems with it.

The meeting recessed at 10:35 a.m. and reconvened at 10:41 a.m.

(10:41 a.m.) McClure asked Wanchick about the matters that he just spoke about with Manuel. Wanchick responded. McClure questioned the agenda process. Wanchick responded. McClure asked Wanchick the types of uses encouraged in the mixed use districts. McCormack read from the code regarding mixed uses. He asked Wanchick if commercial uses were generally more intense than residential uses. Wanchick responded. McClure read from the Future Land Use component of the Comprehensive Plan. McClure continued to question Wanchick, who responded. Wanchick stated that planning was an art not a science, it was hard to disagree in general and it had to be looked at on an individual basis. There was questioning by McClure regarding intensity of use. Wanchick responded. McClure asked Wanchick if he did not agree that residential adjacent to residential was the least incompatible, of the residential commercial and industrial uses that were fostered by the Comp Plan in mixed use. Wanchick said as a general statement he would not agree with that and that it was on a case by case basis. He said he looked at this project as two projects, residential and commercial. McClure continued questioning him regarding density. Wanchick responded that he was disappointed that there wasn't a better effort to apply the density on the site and a better job done to buffer, because as the project was currently planned, it was incompatible with the adjacent area. McClure questioned the residential incompatibility and regulation of land use. Wanchick responded. McClure questioned whether the minimum would be met in every case. Wanchick responded.

(10:51) Stevenson asked Blackford to come forth with e-mail information. She asked if density had ever come up. He said yes, at the Development Review Committee meeting, but there were no minutes, so he listened to the tape. She read the e-mail from Blackford, Exhibit E. She said it revealed compatibility issues that were discussed by Blackford and that she was submitting the e-mail as evidence. She questioned Blackford regarding compatibility issues. He responded. Stevenson commented on it being more than six units per acre and that it still required more buffering.

(10:56 a.m.) Sanchez commented on the arrival of the Administrator and said the hearing had taken place prior to his arrival. There was discussion regarding changes being made. Sanchez said there was no way that Wanchick could have changed anything.

(10:57 a.m.) Whitehouse said that there was in fact, new facts and evidence submitted. He suggested that they call the Chief Planner forward for her testimony regarding density.

(10:58 a.m.) Lindsay Haga, Chief Planner, was called forward and stated her qualifications. Whitehouse asked her questions about zoning. Haga responded. Whitehouse spoke on RS-3 zoning and the allowed units per acre. Haga responded. Whitehouse asked what density affected. Haga spoke on density, height and traffic generated on neighborhood roads. Burnett objected, stating that it appeared to them that the attorneys for the Board were now becoming staff attorneys, which they had a problem with, because the unbiased decider of the facts, legal counsel, was also becoming an advocate. Whitehouse clarified for the record, that he was asking questions of the staff about these issues for clarification for his client, the Board. McCormack stated that he went to the community meeting as the County Attorney not the staff attorney, and if Burnett had a due process concern, he needed to say so and

clarify it. Burnett stated that McCormack and Whitehouse needed to clarify for the record what their rolls were. McCormack stated that he and Whitehouse were the Board's attorneys. Discussion followed.

(11:18 a.m.) Burnett asked Haga to tell him, for the record, who Teresa Bishop was. Haga responded that she was her immediate supervisor and Director of Growth Management Services. Burnett mentioned on page 10 of the transcript from April 29, 2008, that Bishop testified that she believed compatibility could be mitigated through appropriate buffering and design. Haga responded yes, that those were tools to mitigate any potential nuisance. Burnett spoke on compatibility. (11:22 a.m.) Stevenson left the meeting.

(11:23 a.m.) Burnett asked Blackford for his credentials and he responded. Burnett asked about compatibility, and the factors that could negate incompatibility. Blackford responded. (11:24 a.m.) Stevenson returned to the meeting. Burnett asked about the staff report recommending approval of that project. Blackford replied yes. Burnett asked Blackford about having knowledge of the Seaview Landing PUD, and the gazebo area being located close to the Davis property. Blackford responded. Manuel stated that the item was dealing with compatibility, density and intensity. McCormack stated that the applicant could make a closing statement. The applicant responded that he did not want to make a closing statement. (11:31 a.m.) Rich applauded the efforts of the applicant in meeting with the people of the area. He stated that there should be a better system, so as not to cause the citizens the aggravation of coming back continually. He spoke on the meaning to Judge Traynor's decision. Stevenson mentioned that there were a lot of political-type comments being made and explained.

(11:37 a.m.) **Motion by Rich, to deny rezoning application PUD 2007-30, adopting the following findings of fact to support the motion: that the proposal fails to meet the standard of Florida State Statute Title 11, Section 163.3161(3), and also Section A.1 of the Comprehensive Plan in the following manner; 1) neither the spirit of mixed use development nor the goals are outlined in Comprehensive Plan Objective A.1.9 has been satisfied by the applicant or staff in reference to locations of intensity within the district, the goals regarding mixtures of land use within the district or the well balanced mixture of uses proposed by the applicant, 2) that this will not facilitate the efficient provision of transportation created, creating an increased danger to pedestrians, bicyclists, and possibly vehicular traffic, it will not prevent the overcrowding of land and avoid undue concentrations of population, testimony indicates that it will, in fact, create a situation that it should at worst, have a neutral affect upon, and that it is anticipated that the project will not preserve, promote, protect, or improve the public safety good order, appearance or general welfare. Testimony indicates the opposite, especially in reference to public safety in good order. It does not provide solutions for, nor address future issues that will surely arise from the requested use, creating situations where local government will not be able to deal affectively with future problems that may result from the use, and further it does not demonstrate the most appropriate use of the land to preserve and enhance our present advantages over surrounding counties.** Rich asked for a second and any additional points of order that anyone would like to include in the motion, including those outlined by Stevenson in reference to buffering. Stevenson asked Rich to add *Item 4, D, the PUD does not meet the standards and criteria of Part 5.03.02 of the Land Development Code with respect to (B) location, (C) minimum size, (D) compatibility, and (E) adequacy of facilities* to his motion, stating that would satisfy her concerns about buffers and the intensity of the use. **Rich stated in reference to the proposed findings of fact, the motion is so amended to include Item 4, under the motion to deny.** (11:40 a.m.) **The motion was seconded by Stevenson.** McCormack asked the Board to confirm that each one of them would make their decision pertaining to this application based on what they have heard in this auditorium. He asked each Board member to confirm it

and all five Commissioners replied yes. McCormack stated that he prepared some elements pertaining to a motion. He asked them to consider the additional elements of the motion: in that the PUD is not consistent with the Comprehensive Plan Policy A.1.9.2 because the PUD fails to locate the higher land use intensity at the center with decreasing intensity of uses proceeding outward towards the adjacent land use designations. Specifically the PUD's commercial area, which is higher intensity than residential, is not located toward the center of the Mixed Use District but is instead located at the extreme edge of the Mixed Use District, bordering Residential C land use area; furthermore, the PUDs' three-story buildings are not graduated down to two-story and one-story buildings as they approached the edge of the Mixed Use District, nearby properties that have the characteristics of one-story, single-family, residential buildings. The PUD is not consistent with Comprehensive Plan Policy A.1.9.3 because the PUD is primarily residential which detracts from the Comprehensive Plan Goal of having 70 percent commercial/industrial in the Mixed Use District. No application under 25 acres is required to have a certain ratio, but the point there is, that it does not promote the Comprehensive Plan Goals. The PUD is not consistent with the Comprehensive Plan Policy A.1.9.6 because the Master Development Plan fails to provide for compatibility of uses with adjacent land parcels and fails to provide a land use program with the highest intensity uses in the center of the Mixed Use District with decreasing intensity of uses proceeding outward toward the adjacent land use designations. The PUD fails to comply with Comprehensive Plan Policy A.1.9.8 because the project is designed for maximum density with minimum buffering, which does not sufficiently buffer the intensive three-story buildings and commercial uses from surrounding area single-family, large lot, one story, character of the area. The PUD does not comply with Comprehensive Plan Objective A.1.13, community and neighborhood creation and preservation. While considering the low density and intensity character of the existing neighborhood and surrounding area, the Board finds that the existing low density one-story single-family neighborhoods in the surrounding area, would not be protected or enhanced through the proposed PUD, but conversely would be unduly negatively affected. He asked the maker of the motion if he would consider adding those to the motion. Rich stated that previously to this hearing, these items were addressed in a twelve page statement which he presented to this Board and was not going to present today. He stated that they generally are included in one of the motions that they already have, which was the first motion that was made regarding the mixed use, however he stated that he had no objection to amending the motion to include that specific verbiage which McCormack just included which is also included in the motions he made. **Rich stated that he had no objections to amending the motion to include the specific verbiage mentioned by McCormack and was also accepted by the second.**

Roll Call Vote:

Bryant	Nay
Stevenson	Aye
Sanchez	Aye
Rich	Aye
Manuel	Aye

The motion carried by roll call vote 4/1, with Bryant opposed.

Stevenson stated that there were two items on the agenda, where the applicants had to leave. She asked if these two Items, 2 and 5, could be heard first.

(05/13/08 - 10 - 11:48 a.m.)

(District 2)

2. PUBLIC HEARING - REZ 2007-37, MITTNIIGHT - THIS IS A REQUEST TO REZONE 0.65 ACRES FROM INDUSTRIAL WAREHOUSE (IW) TO RESIDENTIAL SINGLE FAMILY (RS-3). THE PLANNING DIVISION RECOMMENDS APPROVAL OF THIS REQUEST, FINDING THE REQUEST TO REZONE TO RESIDENTIAL SINGLE FAMILY (RS-3) MEETS POLICY A.1.3.12 OF THE COMPREHENSIVE PLAN AND OTHER APPLICABLE SECTIONS OF

THE LAND DEVELOPMENT CODE. THE PLANNING & ZONING AGENCY RECOMMENDS APPROVAL OF THIS REQUEST BY A VOTE OF 6/0 (MOTION BY WILES/SECOND BY LAIDLAW) INCLUDING A RECOMMENDATION TO CONSIDER REFUND OF THE REZONING APPLICATION FEE

Proof of publication of the notice of public hearing on the Mittnight rezoning, REZ 2007-37, was published in *The St. Augustine Record* on May 3, 2008.

Tom Mittnight, 3731 Old Lewis Speedway, reviewed this item, asking the Board to please approve the refund for the rezoning application fee. (11:50 a.m.) **Motion by Sanchez, seconded by Stevenson, carried 5/0, to enact Ordinance No. 2008-25, known as REZ 2007-37, Mittnight, adopting findings of fact 1 through 4 to support the motion, including a refund of the rezoning application fee.** Whitehouse left the meeting and Michael Hunt, Deputy Attorney, entered the meeting.

ORDINANCE NO. 2008-25

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

(05/13/08 - 11 - 1:31 p.m.)

(District 1)

3. PUBLIC HEARING - REZ 2007-38, FRANTZ - THIS IS A REQUEST TO REZONE 4.36 ACRES FROM OPEN RURAL (OR) TO COMMERCIAL NEIGHBORHOOD (CN). THE PLANNING DIVISION RECOMMENDS APPROVAL OF THIS REQUEST, FINDING THE REQUEST TO REZONE TO COMMERCIAL NEIGHBORHOOD MEETS POLICY A.1.3.12 OF THE COMPREHENSIVE PLAN AND OTHER APPLICABLE SECTIONS OF THE LAND DEVELOPMENT CODE. THE RECOMMENDATION IS BASED UPON DEVELOPMENT TRENDS IN THE AREA, SIMILAR COMMERCIAL USES WITHIN THE ADJACENT PLANNED UNIT DEVELOPMENT, SIZE AND SCALE OF THE PROJECT, AND ADJACENCY TO EXISTING COMMERCIAL INTENSIVE ZONING DISTRICTS. THE PLANNING & ZONING AGENCY RECOMMENDS APPROVAL OF THIS REQUEST BY A VOTE OF 6/0 (MOTION BY LAIDLAW/SECOND BY HANSON)

Proof of publication of the notice of public hearing on the Frantz rezoning, REZ 2007-38, was received, having been published in *The St. Augustine Record* on April 28, 2008.

Karen Taylor, 77 Saragossa St., gave the presentation and an overview of the project, which was a request to rezone from OR to Commercial Neighborhood (CN).

(1:32 p.m.) Rich asked the planned use of the land. Taylor said it would be a small retail type activity. Rich asked Haga what was the most intense use allowed. Haga responded that it would be office professional type uses.

(1:33 p.m.) **Motion by Stevenson, seconded by Rich, carried 4/0 with Bryant absent, to enact Ordinance 2008-26, known as REZ 2007-38 Frantz, adopting findings of fact one through four to support the motion.**

ORDINANCE NO. 2008-26

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

(05/13/08 - 12 - 11:53 a.m.)

4. FIRE MUNICIPAL SERVICES BENEFIT UNIT PRESENTATION

Jesse Dunn, Assistant Budget Director, Office of Management and Budget, reviewed this item, stating that, neither the previous resolution nor any of the further action that day, obligated the Board to pursue the Fire MSBU.

Heather Encinosa, Nabors, Giblin & Nickerson, P.A., gave a Power Point presentation, and stated that she would be going through some of the legal requirements for putting in a valid Fire Rescue Special Assessment Program. She started by giving the definition of a special assessment, tax vs. assessment, case law requirements, examples of special benefit, no special benefit, and fair and reasonable apportionment.

(12:01 p.m.) Camille Tharpe, Nabors, Giblin & Nickerson, P.A., continued the presentation reviewing the types of the recommended apportionments. She started with the data components of the methodology, assessable budget, cost apportionment, cost apportionment based on man hours, county's response standards, hazard class, hazard class examples, and building square footage. She also reviewed the capacity unit calculations single-family residential (Class 7), capacity unit calculations-multi-family residential (Class 7), sample capacity unit calculations non-residential, calculation of rates, assessment rates per capacity unit, assessment examples, and credits. Rich asked about the reduction. Tharpe responded. Stevenson asked about the impact on agricultural and timber areas. Tharpe spoke on agricultural and vacant land. Stevenson asked about the financing with Tharpe responding.

(12:20 p.m.) Encinosa continued with why a fire assessment, tax inequities, dedicated funding source, and preserving existing levels of service. Rich asked, under the present structure that was being proposed, if a unit for a person who has a fire hydrant across the street from them and a person who lives in the county who had a 20 minute response from any fire station, would pay the same unit. Encinosa responded that they would if they were in the same hazard class and the same size.

(12:27 p.m.) Tharpe continued with the remaining issues; exemptions and revenue alternatives, with McCormack commenting. Tharpe stated that most all of their programs had not isolated the costs and had not tried to fund them in any other way. Tharpe reviewed the implementation schedule. Manuel thanked her for an excellent presentation. Sanchez stated that he approved of that service. Rich stated that he was not prepared for a motion until he had more time to review it.

(12:38 p.m.) Ellen Whitmer, 1178 Natures Hammock Road South, stated that she personally preferred it being a taxing unit.

(12:43 p.m.) Motion by Stevenson, seconded by Bryant, carried 4/1 with Rich opposed, to instruct GSG to proceed with professional services and specialized assistance as described in Phase Two of the Scope of Services contained in the contract between the County and GSG dated March 18, 2008.

(05/13/08 - 13 - 11:52 a.m.)

5. CONSIDER MOTION TO ADOPT A RESOLUTION APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR ACQUISITION OF PROPERTY NEEDED FOR THE CONSTRUCTION OF STATE ROAD 9-B EXTENSION

Motion by Stevenson, seconded by Rich, carried 5/0, to adopt Resolution 2008-135, approving the terms and authorizing the County Administrator to execute a Purchase and Sale Agreement for acquisition of property needed for the construction of State Road 9-B Extension.

RESOLUTION NO. 2008-135

A RESOLUTION OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR ACQUISITION OF PROPERTY NEEDED FOR THE CONSTRUCTION OF STATE ROAD 9-B EXTENSION

The meeting recessed for lunch at 12:44 p.m. and reconvened at 1:30 p.m. with Manuel, Stevenson, Rich, Sanchez, Wanchick, McCormack, Locklear and Terry Bulla, Deputy Clerk present. Bryant was absent.

(05/13/08 - 13 - 1:34 p.m.)

6. CONSIDER MOTION TO ENACT AN ORDINANCE ESTABLISHING THE SHIP LOCAL AFFORDABLE HOUSING ADVISORY COMMITTEE

Wanchick noted there was a problem with the legal notice for the item so it could not be adopted that day, but that Mr. Crawford would like to get direction from the Board.

(1:34 p.m.) Tom Crawford, Director of Housing and Community Services, gave the presentation. He explained House Bill 1375, passed in 2007, by the State Legislature required an eleven member Affordable Housing Advisory Committee, which would be tied to the SHIP program. He noted the committee had to be in place by the end of June. He said the resolution would be approved at the next meeting and on June 10 they would appoint as many of the committee members as possible. He stated the County policy regarding service on boards and committees which established in paragraph 2.6 "No one may serve on more than one board at the same time unless at the specific direction of the Board of County Commissioners." He said the statute required that a member of the PZA be on the committee. He said they would also like to see a member of the Housing Finance Authority on that committee because they dealt with affordable housing issues, and could be the representative for the "one citizen who is actively engaged as an advocate for low income persons in connection with affordable housing." He said it would be up to the Board to select those representatives and then they could move forward to select individuals for the other positions. Manuel said he saw no issues with that.

(1:37 p.m.) Rich said the composition of the committee was difficult at best and he suggested they prepare a presentation to educate the public on the Government Channel. Crawford said he would work with Mrs. Laidlaw on that suggestion.

(05/13/08 - 14 - 1:42 p.m.)

7. INFORMATIONAL PRESENTATION TO UPDATE THE BOARD ABOUT DUNE CONSERVATION AND RECENT CONCERNS REGARDING BEACH EROSION ALONG STATE ROAD A1A

Wanchick explained that this item was being included because two weeks ago an individual had expressed concern about allowing development on the primary dunes. He said it was important for the County to clarify its position and to explain who should take the lead at the State level. He said Tompkins would explain their efforts to work with the State and Federal governments on beach renourishment and erosion prevention.

(1:43 p.m.) Press Tompkins, County Engineer, gave an overhead presentation (Exhibit A) and gave an update on the various beach studies currently underway, including the St. Augustine Beach Renourishment program which was on-going, the St. Johns County Feasibility study, and the South Ponte Vedra Beach study.

He gave an update on the Coastal Construction Control Line (CCCL), established in 1988, and he said there were no plans by DEP to update that line. He said it was solely maintained by the DEP and was a dune protection system. He reviewed where the CCCL was in various vicinities in relationship to A1A. He said according to Florida Statute the only structures that could be built east of the line were single family residences and needed DEP approval. He said once that approval was received, our Building Department had to issue a building permit. There was discussion regarding issuing variances and waivers. Tompkins said in the last 6 to 7 years over 50 waivers had been issued. He said the closer they were to the CCCL, the better off they would be, as it moved them further away from the dunes. Manuel said they only had control by variances and waivers and the rest was mandated by the State.

Tompkins explained the CCCL was the 100 year storm event for erosion. He said FEMA also had a Velocity Erosion Zone map which was designed to protect the structure from the 100 year storm with wave action along with everything else. He said the FEMA map required higher construction standards. There was discussion of using off-shore remedies for erosion protection. Tompkins noted they also had to be aware of the turtle habitat and it was difficult to get systems approved. He said they had worked closely with DEP and the Corps on various methods to stabilize the beaches.

(1:54 p.m.) Rich asked about the distance for off-shore sand dredging. Tompkins said 5 to 10 miles was the maximum distance from shore that was feasible for transporting sand. Rich said at that distance it was regulated by the Federal Government, including the life on the bottom and anything in the water itself. He said it would be difficult to get permitting from them. Tompkins said it was actually going on now in other areas. He said the DEP had identified off-shore sand sources which included some off the St. Johns County coast. He said it was highly regulated and there was a lot of red tape to get through.

(1:56 p.m.) Wanchick commented on the case that had caused the question to be raised. He said scrutiny needed to be applied to variances for appropriateness. He said he thought the process was working pretty well overall.

(1:58 p.m.) Manuel said A1A was very vulnerable and if it was damaged there would be serious problems. Tompkins responded that the DOT was looking at ways to protect A1A and they were well aware of the problem.

(1:59 p.m.) Stevenson asked if the County had any setback from the CCCL as a requirement. She said it might give them another way to determine the size of what could be on the site. Secondly, she commented on Summer Haven and noted the State had said they could not protect it. She said they should advocate as a Board, for Florida Communities Trust to target some money towards vulnerable areas like this, because there are some areas that they could not defend. She said they needed to lobby them now to be sure the verbiage got in the next time they did the P2000 or the successor program. She said they had a vested interest because of Summer Haven.

(2:00 p.m.) Manuel said some of the sites were elevated and they needed to use common sense on some of the sites. Tompkins said many of the houses were on septic systems and they were vulnerable as well. He said they could look into the CCCL setback. Wanchick said it could make the problem more difficult. Stevenson said she would withdraw that idea.

(05/13/08 - 15 - 1:38 p.m.)

8. MOTION TO ADOPT A RESOLUTION APPROVING THE TERMS OF A HOLD HARMLESS AGREEMENT BETWEEN ST. JOHNS COUNTY AND SOUTHERN GROVE HOMEOWNERS ASSOCIATION, INC.; AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY (*Formerly Consent Item 11*)

Stevenson explained that this item was pulled inadvertently. She applauded the citizens of the Southern Grove subdivision who underwent a great deal of initiative to beautify the community along CR 210. She also thanked Joe Stephenson and the citizens group who met with her to come up with reasonable solutions. She said Stephenson was able to coordinate with JEA to help the project move along.

(1:40 p.m.) Motion by Stevenson, seconded by Manuel, carried 4/0, with Bryant absent, to adopt Resolution No. 2008-136, approving the terms of a Hold Harmless Agreement between St. Johns County and Southern Grove Homeowners Association, Inc.; and authorizing the County Administrator to execute the Agreement on behalf of the County.

RESOLUTION NO. 2008-136

**A RESOLUTION OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, APPROVING THE TERMS OF A
HOLD HARMLESS AGREEMENT BETWEEN ST. JOHNS
COUNTY AND SOUTHERN GROVE HOMEOWNERS
ASSOCIATION, INC.; AND AUTHORIZING THE
COUNTY ADMINISTRATOR TO EXECUTE THE
AGREEMENT ON BEHALF OF THE COUNTY**

Manuel explained that he had intended to pull Item No. 17 from the Consent. Sanchez said that was the item that the Chairman meant to pull and explained that the Usina family had asked them not to change the name of the Ag Center. He said they had put it on the Consent Agenda to dissolve the name change per their request.

(05/13/08 - 15 - 2:04 p.m.)

COMMISSIONERS' REPORTS

Commissioner Sanchez:

No report.

(2:04 p.m.)

Commissioner Stevenson:

She said she had forwarded a message to the County Administrator regarding some concerns given to her by a small business owner located on Palm Valley Road. She noted he had experienced frontage property loss because of the realignment of the Nocatee roads, and would like to find some kind of relief, as they had become very hard to find. She said they needed signage to help them out.

(2:06 p.m.)

Commissioner Rich:

He said he had been contacted by a lot owner in Summer Haven who had not joined the original lawsuit. He said they had contacted him originally because they were trying to see if they could get a waiver to build a house. He said they were then sued by the County because they were not in the original lawsuit at the beginning. He said they had paid \$5,500 to an attorney to defend themselves from the County. He said he was confused, and if that was accurate, he wanted to know what was going on.

(2:08 p.m.) McCormack responded that there were 63 blocks in Summer Haven with some people owning more than one block and with some blocks having more than one owner. He said the court and the County wanted the decision which came out of the lawsuit to apply to everyone. If not, he said, they would be going through this expensive litigation now, and in the future additional lawsuits on the same matter could be made. He said they wanted to get everyone involved in the lawsuit through some means. He said their attorney, Steve Gallagher, had sent a cover letter to every property owner explaining what was going on and that everyone would be participating in a comprehensive ruling on it. He said Mr. Gallagher had been very flexible, and if they agreed to be bound to the decision of the case, they would not have to defend themselves or bring a case forward. He said the court did not want the situation and the County did not want to go through the expensive litigation only to have cases brought later.

(2:11 p.m.) Rich said the party said they were served with official papers in reference to being sued. McCormack said that could have happened. He said they looked at it like they were being sued and contacted their attorney. Rich said had they talked with him first, they would have avoided legal expenses which they had incurred. McCormack said he appreciated that and apologized if he had not contacted him directly on that. Rich asked that McCormack give our attorney his phone number so that he would be informed of future issues as he did not want to be blindsided.

(2:13 p.m.)

Commissioner Manuel:

He said the PZA agendas were getting shorter and suggested that they reduced their meetings to once a month until the volume picked back up.

He gave a MPO report and said he was meeting with Secretary Baldwin next Wednesday to ascertain the exact impact on transportation funding in District 2. He said the pro rata share would be between \$40 and \$42 million for the entire district. He said he would try to convince them that northeast Florida's money should stay intact and they should take funding from someplace else.

(05/13/08 - 16 - 2:14 p.m.)

COUNTY ADMINISTRATOR'S REPORT

Wanchick said a meeting was set up on May 20th to discuss the water conservation ordinance and it was the only topic scheduled for that date. Manuel said he would prefer to have more than one item on the agenda. He asked when the Conservation Referendum potential polling report would be ready. Wanchick said it would be a logical grouping and he would look at the schedule. Manuel offered other items which might be taken up, including transportational funding and general obligation bonds for public safety items. He also asked the County Attorney to take a look at Section 6 of Bill 682, the amended language for Backlog Transportational Areas (BTA) which might permit TIF financing for transportational projects from BTA areas.

Wanchick said there was a special meeting on the Charter on May 29 at 1:30 p.m. Manuel said it was important for them to meet the ballot requirements.

(2:16 p.m.) Stevenson said that TIF financing was being considered for an on or exit ramp for the World Golf Village area because it was holding up the Esplanade project. She said she wanted to be sure that the CR 210 area and the 9B extension were not skipped over and remained in the forefront. Manuel said he agreed with her and that three BTAs should be created in the County so they could start to generate a tax base for transportational projects.

(05/13/08 - 17 - 2:17 p.m.)

COUNTY ATTORNEY'S REPORT

McCormack said the Wells Farm Comp Plan Amendment intervener had withdrawn from the case. He said the next step the County should consider was undoing the CPA and he asked for authority to bring it back to the Board for consideration. Manuel said it was the appropriate thing to do.

(2:19 p.m.) Stevenson said it would be nice if they would move it up to the north because in the Northwest development area, there was a nice rural hub and it could fit very nicely with the Rivertown project's farms district and perhaps the concept would resurface.

(2:19 p.m.) Motion by Rich, seconded by Stevenson, carried 4/0 with Bryant absent, to adjourn the meeting.

With there being no further business to come before the Board, the meeting adjourned at 2:19 p.m.

REPORTS:

1. St. Johns County Board of County Commissioners Check Register, Check No. 418973 through 419339, totaling \$3,886,865.86 (04/22/08)
2. St. Johns County Board of County Commissioners Check Register, Check No. 419340 through 419371, totaling \$70,500.51 (04/24/08)
3. St. Johns County Board of County Commissioners Check Register, Check No. 419372 through 419373, totaling \$377.86 (04/24/08)
4. St. Johns County Board of County Commissioners Check Register, Check No. 419374 through 419386 (voided checks)
5. St. Johns County Board of County Commissioners Check Register, Check No. 419387, totaling \$248,091.92 (04/18/08)
6. St. Johns County Board of County Commissioners Check Register, Check No. 419388 through 419807, totaling \$2,826,213.42 (04/29/08)
7. St. Johns County Board of County Commissioners Check Register, Check No. 419808, totaling \$295.00 (04/29/08)

8. St. Johns County Board of County Commissioners Check Register, Check No. 419809 through 419814, totaling \$190,007.85 (05/02/08)

CORRESPONDENCE:

1. Letter dated April 23, 2008 to Liz Cloud, Program Administrator, Department of State, filing St. Johns County Ordinance Numbers 2008-19 and 2008-20
2. Letter dated May 2, 2008 to Liz Cloud, Program Administrator, Department of State, filing St. Johns County Ordinance Numbers 2008-21 through 2008-24

Approved _____ June 10 _____, 2008

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____

Thomas G. Manuel, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: _____

Deputy Clerk

