

ORDER OF ST. JOHNS COUNTY BOARD OF
COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

RE: James Hicks
1155 Bayforrest Road
St. Augustine, FL 32086

FILE NUMBER: E-94-022

ORDER AFFIRMING ACTION OF THE
PLANNING AND ZONING AGENCY

The above-referenced applicant appeared before the Planning and Zoning Agency (Agency) on May 5, 1994, requesting an Exception to allow for an air curtain incinerator on APO Section 48, Township 7 South, Range 29 East, St. Johns County, Florida, currently zoned OR. The Agency granted the Exception subject to it being non transferable, hours of operation being Monday through Friday, daylight hours only, and with the provision that the Exception must be commenced within one year from the time it was granted. The appellants, John Shic and Charles Yang, owners of land encompassed within the Regis Lakes PUD (R-PUD-85-22) and containing a 100' easement servicing the subject Exception site, timely filed an appeal of this matter on June 7, 1994. On July 12, 1994, this case came before the St. Johns County Board of County Commissioners on appeal from the Agency's order granting the Exception for the previously described air curtain incinerator.

FINDINGS OF FACT AND ORDER

Having considered the application for appeal and supporting documents; the May 5, 1994 Agency minutes, the Agency order dated May 9, 1994, the staff report dated April 22, 1994, and its supporting documents; and statements from County staff,

the appellants and applicants' counsel; the Board of County Commissioners makes the following findings:

1. An appeal was filed in a timely manner as prescribed by law and the County Zoning Code;
2. The request has been fully considered after public hearing pursuant to legal notice as required by law and the County Zoning Code;
3. The requested Exception for the placement of an air curtain incinerator subject to the hours of operation Monday through Friday, burning during daylight hours, non-transferable is consistent with the Comprehensive Plan;
4. The requested Exception for the placement of an air curtain incinerator subject to the hours of operation Monday through Friday, burning during daylight hours, non-transferable, meets the requirements of Section 6-1-26, Zoning Code, and would not appear to be detrimental to the area with respect to health, safety and welfare of the public; subject to the condition that the Exception be limited to a minimum term of two years and a maximum term of five years from the time it is exercised. Providing further that if a Final Development Plan for the Regis Lake PUD (R-PUD-85-22) or any successor PUD on all or a portion of the same property subject to the Regis Lake PUD is approved by the Board of County Commissioners, during the time period from two to five years of commencement of the Exception, the Exception shall expire concurrent with Final Development Plan Approval.
5. The applicant appeared at the hearing and through counsel agreed to the conditions stated in item 4.

ACCORDINGLY, the Board of County Commissioners affirms the Agency's action in granting the exception to place an air curtain incinerator at APO Section 48, Township 7, South Range 29 East, St. Johns County, Florida, subject to it being non-transferable, operation limited to Monday through Friday, burning during daylight hours, and the provision that the Exception must be exercised within one year of May 9, 1994, the date the

Exception was originally granted. Furthermore, the Board of County Commissioners further limits the duration of this Exception to a minimum term of two years and a maximum term of five years from its exercise by the applicant. Providing further that if a Final Development Plan for the Regis Lake PUD (R-PUD-85-22) or any successor PUD on all or a portion of the same property subject to the Regis Lake PUD is approved by the Board of County Commissioners, during the time period from two to five years of commencement of the Exception, the Exception shall expire concurrent with Final Development Plan approval.

Any appeal of this decision may be made by filing a petition for writ of certiorari with the Clerk of the Circuit Court of St. Johns County within 30 days.

Date of Commission Action: July 12, 1994.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Debra Roberts

ATTEST: CARL "BUD" MARKEL, CLERK

By: Ima Beatti
Deputy Clerk

cc: Planning and Zoning Agency
John Shic
Charles Yang

downtown courthouse building. Discussion ensued.

COUNTY ATTORNEY'S REPORT:

Sisco did not present a report.

(07/12/94 - 7 - 2.0868)

COUNTY ADMINISTRATOR'S REPORT:

Meiszer reviewed the RFP for redevelopment of the downtown courthouse building. Considerable discussion followed. Markel voiced his concern regarding the 3 million dollars appropriated for the remodeling being used to help a developer. Meiszer interjected that the Commission has never indicated that they would provide any financial resources, and certainly not bond funds for any project that some private developer wants to do. Discussion continued.

(2.1499)

Meiszer mentioned that the County now has the services of a volunteer to work at the information desk in the lobby of the Permitting Center.

(2.1514)

Meiszer, for information to the Commissioners, passed out the drawing for the Fire Station No. 14 sign; said Commissioner Floyd had approved the design. County staff will be building the sign to be located at the corner of Fire Station No. 14.

(2.1532)

Meiszer requested the Board have the County Attorney's Office review the Citation Ordinance; recommended a public hearing date of August 9, 1994.

Meiszer requested the Board set public hearing dates for the budget; consensus of the Board was to set the public hearing dates for September 6 and September 20, 1994, at 5:30 p.m.

Meiszer again asked for the Board to give direction to Sisco to review the Citation Ordinance. Roberts instructed Sisco to review the Citation Ordinance as soon as possible.

(07/12/94 - 7 - 2.1677)

COMMENTS FROM THE CLERK OF COURT

Markel voiced his concern regarding advertising the RFP on the downtown courthouse; said extensive advertising could wipe out the Board's advertising budget for this fiscal year. Roberts alleged that this item was important and needed proper advertising. Markel was instructed to go ahead with the advertising.

Markel brought up to Board's attention the parking situation for the Judicial Building; said the public is still complaining, and a plan needs to be implemented for the public to get a better parking location. Discussion resulted regarding a plan presented by Markel involving parking.

The meeting thereupon recessed at 11:40 a.m. and reconvened at 1:30 p.m. with Roberts, Ward, Floyd, Balsavage, Maguire, Brinkhoff, Meiszer and Deputy Clerk Patricia DeGrande present. Also present were: Assistant County Administrator Andy Campbell, Assistant County Attorney Daniel Bosanko; Clerk of Courts Carl "Bud" Markel; County Finance Director Michael Givens and Director of Planning and Zoning Jerry Napier

Commissioner Donald Jordan was absent from the meeting.

(07/12/94 - 7 - 3.0023)

PUBLIC HEARING - ORDER - E-94-022 - JAMES HICKS - APPEAL BY

ADJACENT PROPERTY OWNERS TO AN APPROVED EXCEPTION FOR THE PLACEMENT OF AN AIR CURTAIN INCINERATOR; JOHN SHIC AND CHARLES YANG, REPRESENTED BY JOHN BAILEY, JR. THIS APPEAL IS BEING PRESENTED BY THE APPLICANTS JOHN SHIC AND CHARLES YANG TO REQUEST THAT THE BOARD OF COUNTY COMMISSIONERS RECONSIDER THE GRANTING OF AN EXCEPTION ON MAY 5, 1994 BY THE PLANNING AND ZONING AGENCY TO JAMES HICKS FOR THE PLACEMENT OF AN AIR CURTAIN INCINERATOR OFF SR 207. THE APPELLANTS OBJECT TO THAT PART OF THE EXCEPTION WHICH GRANTS MR. HICKS THE RIGHT TO ALLOW OTHER PERSONS AND/OR BUSINESSES TO USE HIS AIR CURTAIN INCINERATOR.

Proof of publication of notice of public hearing to consider an appeal by adjacent property owners on E-94-022 James Hicks was received, having been published in The St. Augustine Record on June 17, 1994.

Court Reporters Kathy Upchurch and Karen Ponder were present. Napier provided a brief summary of the appeal. (3.0069) Attorney John Bailey, was present representing the applicants of the appeal. Bailey explained that Mr. Shic and Mr. Yang were concerned that when their property is developed, the traffic generated by the incinerator will cause some public safety problems within their project. Bailey proposed that the Board modify the Planning and Zoning Agency order and limit the exception to two (2) years. (3.0264) Attorney Larry Griggs was present representing James Hicks. Griggs expressed that Mr. Hicks was agreeable with the proposal presented by Bailey, but requested if a provision could be made that would not require Mr. Hicks to go through the entire exception process again at the end of two years. Discussion ensued. Based on the prior discussion, Bosanko recommended the Board to use the first set of findings of fact provided in the agenda packet with the following additions: to number 4 add, subject to the condition that the exception be limited to a term running from two (2) to five (5) years, or the approval of a final development plan for Regis Lakes PUD, those times shall run from the time the exemption is exercised; include a number 5, that the applicant appeared with his attorney at the hearing and agreed to said conditions. (3.0792) Griggs expressed that Mr. Hicks agreed, and Bailey expressed that the applicants also agreed with the recommendations stated by Bosanko. (3.0816) Markel expressed his objection to allowing the air curtain incinerator; aired that the County has a C & D franchise that pays funds to the County and the C & D Landfill should be used. Discussion continued concerning the C & D Landfill contract with the County. (3.1055) Motion by Balsavage, seconded by Floyd, carried 5/1 with Maguire dissenting and Jordan absent, to issue an order upholding PZA's decision with Findings of Fact 1 through 5 to support the motion. Meiszer suggested that if the number of the incinerators increases, the Board may want to consider something similar to a license fee to recover some of the cost in lieu of the host fee the County receives from the C & D Landfill. Balsavage questioned what start up method would be used for the air curtain incinerator. Discussion followed. Roberts referred the issues concerning air curtain incinerators to the Utilities Committee. Discussion continued.

(07/12/94 - 8 - 3.1350)

PUBLIC HEARING FOR RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT ACQUIRING THE MOULTRIE SERVICE DISTRICT, INC. SEWER SYSTEM AND ADDITIONAL PROPERTY FOR THE EXPANSION OF TREATY PARK. TABLED FROM JUNE 28, 1994

Proof of publication of notice of public hearing to consider the acquisition/purchase of the Moultrie Service District, Inc. sewer system was received, having been published in The St. Augustine Record on July 5, 1994.

Campbell explained the agreement which provides that Mr. Toney will give to the County the lines and the customers of the Moultrie Service District wastewater treatment franchise; he will retain