

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
MARCH 27, 2001
(9:00 A.M.)**

Proceedings of a regular meeting of the Board of County Commissioners of St. Johns County, Florida, began and held in the Auditorium at the County Administration Building, #4020 Lewis Speedway (County Road 16-A) and U.S. 1 North, St. Augustine, Florida.

Present were: Mary Kohnke, District 4, Chair
Marc Jacalone, District 3, Vice Chair
Nicholas Meiszer, District 1
James E. Bryant, District 5
David Halstead, Assistant County Administrator
Isabelle Lopez, Assistant County Attorney
Lenora Newsome, Deputy Clerk

Also present: Cheryl Strickland, Clerk of Courts; Allen MacDonald, Finance Director

Commissioner John Reardon, District 2, was not yet present at the meeting.

(03/27/01 - 1 - 9:01 a.m.)
CALL TO ORDER

The meeting was called to order by Kohnke.

(03/27/01 - 1 - 9:02 a.m.)
The Invocation was given by Dr. Daniel Williams, Christ The Redeemer Church, Ponte Vedra.
The Pledge of Allegiance was led by Bryant.

(03/27/01 - 1 - 9:03 a.m.)
ROLL CALL

The roll was called by the Deputy Clerk.

(03/27/01 - 1 - 9:04 a.m.)
PROCLAMATION DECLARING THE MONTH OF APRIL 2001 BE PROCLAIMED AS
PARLIAMENTARY EMPHASIS MONTH

Kohnke read the proclamation and Rollin Bauchspies accepted it, representing the First Coast Parliamentarian.

(03/27/01 - 1 - 9:07 a.m.)
PUBLIC COMMENT

There were no public comments.

(9:08 a.m.) Reardon entered the meeting.

(03/27/01 - 1 - 9:08 a.m.)
DELETIONS TO CONSENT AGENDA

Lopez requested to pull Consent items 3 and 4, to be added to the Regular Agenda as items 5b and 5c.

The meeting moved to Additions/Deletions to Regular Agenda.

(03/27/01 - 2 - 9:11 a.m.)

APPROVAL OF CONSENT AGENDA

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

1. Approval of minutes:
02/22/00 – BCC Special Meeting
03/06/01 – 9:00 a.m. Special BCC Meeting
03/06/01 – 5:30 p.m. Special BCC Meeting
2. Motion to adopt a Resolution accepting a donation of approximately 33 acres of wetlands located off Lewis Speedway from Richard O. Watson and Margaret Pope Watson to St. Johns County.

RESOLUTION NO. 2001-54

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING A DONATION OF APPROXIMATELY 33 ACRES OF WETLANDS LOCATED OFF LEWIS SPEEDWAY FROM RICHARD O. WATSON AND MARGARET POPE WATSON TO ST. JOHNS COUNTY

3. Motion to adopt a Resolution authorizing a map of Church Road be filed with the Clerk of Courts in accordance with Florida Statute 95.361, Roads presumed to be dedicated when constructed and/or maintained by the County for four (4) years.

This item was pulled and placed on the Regular Agenda as item 5b. (See Page 7.)

4. Motion to adopt a Resolution authorizing the Clerk of Courts to file the survey map of Smith Road claiming a vested interest by St. Johns County in the Right-of-way described in this survey.

This item was pulled and placed on the Regular Agenda as item 5c. (See Page 8.)

5. Motion to adopt a Resolution granting a fifty year license to Florida Power & Light Company to provide electrical service to the St. Johns County Utility Department's US-1/Ray Road Ground Water Storage Tank and Booster Station.

RESOLUTION NO. 2001-55

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, GRANTING A FIFTY YEAR LICENSE TO FLORIDA POWER & LIGHT COMPANY TO PROVIDE ELECTRICAL SERVICE TO THE ST. JOHNS COUNTY UTILITY DEPARTMENT'S US-1/RAY ROAD GROUND WATER STORAGE TANK AND BOOSTER STATION

6. Motion to adopt a Resolution approving a Final Plat for Royal St. Augustine Parkway.

RESOLUTION NO. 2001-56

**RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,
APPROVING A PLAT FOR ROYAL ST. AUGUSTINE
PARKWAY**

7. Motion to adopt a Resolution recognizing unanticipated revenue in the amount of \$6,383 and appropriating it to the St. Johns County Library (078-55206 State Aid Expenditures).

RESOLUTION NO. 2001-57

**A RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,
AMENDING THE FISCAL YEAR 2001 GENERAL FUND
BUDGET TO RECEIVE UNANTICIPATED REVENUE AND
AUTHORIZE ITS EXPENDITURE BY THE ST. JOHNS
COUNTY LIBRARY**

8. Motion to allow the County Administrator, or his designee, to enter into a contract with R.B. Baker Construction, Inc., the low bidder, for Bid No. 01-33 (Roadway Maintenance Program). (See Attachment "A".)
9. Proofs:
- a. Proof, Notice of Public Hearing, Ordinance #89-5 SJC Housing Finance Authority, March 13, 2001.
 - b. Proof, Notice of Public Hearing, Ordinance #2001-12 Frank & Carol Welborn, 600 A Big Oak Road, March 13, 2001.
 - c. Proof, Certificate of Insurance, Qore, Inc.
 - d. Proof, Certificate of Insurance, Qore, Inc.
 - e. Proof, Notice of Cancellation of Insurance, "Stogies" Cigar Emporium and Coffee House.
 - f. Proof, Certificate of Liability Insurance, Metropolitan Systems, Inc.

(03/27/01 - 3 - 9:08 a.m.)

ADDITIONS/DELETIONS TO REGULAR AGENDA

Jacalone requested to add to the Regular Agenda, discussion on the Land Development Code as item 5a.

(03/27/01 - 3 - 9:09 a.m.)

APPROVAL OF REGULAR AGENDA

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

The meeting returned to Deletions to Consent Agenda.

(03/27/01 - 3 - 9:11 a.m.)

1. a. PUBLIC MEETING - REQUEST BY ASSISTANT COUNTY ATTORNEY FOR BOARD ADVICE REGARDING LITIGATION.

Lopez publically announced that she is requesting a closed door meeting with the Board regarding settlement negotiations.

- b. PRIVATE ATTORNEY/CLIENT MEETING CLOSED DOOR SESSION - THIS IS A PRIVATE ATTORNEY/CLIENT MEETING AUTHORIZED BY FLORIDA STATUTE 286.011(8). THE MEETING WILL BE CONFINED TO SETTLEMENT

NEGOTIATIONS AND LITIGATION EXPENSE STRATEGY PERTAINING TO THE LAWSUIT BETWEEN FLORIDA PROFESSIONAL APPLICATORS ALLIANCE, AN ALLIANCE OF PROFESSIONAL/TRADE ASSOCIATIONS COMPRISED OF THE CERTIFIED PEST CONTROL OPERATORS OF FLORIDA, INC., THE FLORIDA PEST CONTROL ASSOCIATION, INC., THE FLORIDA TURFGRASS ASSOCIATION, CERTIFIED OPERATORS OF SOUTHWEST FLORIDA, INC., AND THE PROFESSIONAL LAWN CARE ASSOCIATION OF AMERICA, INC., ON BEHALF OF THEIR MEMBERS LOCATED IN AND DOING BUSINESS IN ST. JOHNS COUNTY, FLORIDA. CASE NO.: CA 00-2020 IN THE CIRCUIT COURT IN AND FOR ST. JOHNS COUNTY.

Kohnke announced that the commencement of the attorney/client closed door session will be held in Conference Room "A." The estimated length of the session was fifteen minutes, more or less. The individuals present were Commissioner Nick Meiszer, Commissioner Jim Bryant, Commissioner John Reardon, Commissioner Marc Jacalone, Commissioner Mary Kohnke, Assistant Attorney Lopez, County Administrator Ben Adams will not attend, and Court Reporter Janet Beeson. Strickland left the meeting.

The meeting recessed to Conference Room "A" at 9:13 a.m. and reconvened in the County Auditorium at 9:42 a.m.

- c. PUBLIC MEETING - BOARD OF COUNTY COMMISSIONERS TO VOTE REGARDING THE SETTLEMENT (IF NECESSARY)

(9:42 a.m.) Kohnke announced the termination of the Attorney/Client Closed Door Session. **Motion by Bryant, seconded by Jacalone, carried 5/0 by roll call vote, to instruct the attorneys to proceed with the litigation and not to accept the settlement offered by the opposing party.**

Roll Call Vote

Bryant	yes
Meiszer	yes
Reardon	yes
Jacalone	yes
Kohnke	yes

The motion passed 5/0.

(03/27/01 - 4 - 9:43 a.m.)

- 2. PUBLIC HEARING - COUNTY INVESTMENT ORDINANCE AND CONSIDER A RESOLUTION THAT ADOPTS A WRITTEN INVESTMENT POLICY.

Proof of publication of notice of public hearing on Enacting A List of Permitted Investments, was received having been published in The St. Augustine Record on March 16, 2001.

MacDonald reviewed this item, recommending enactment of the ordinance and the resolution. **Motion by Jacalone, seconded by Reardon, carried 5/0, to enact Resolution No. 2001-58.**

RESOLUTION NO. 2001-58

A RESOLUTION OF ST. JOHNS COUNTY, FLORIDA, ADOPTING A WRITTEN INVESTMENT POLICY PURSUANT TO THE REQUIREMENTS OF SECTION 218.415, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR

**SEVERABILITY; PROVIDING FOR REPEAL; AND
PROVIDING AN EFFECTIVE DATE**

Motion by Jacalone, seconded by Reardon, carried 5/0, to enact Ordinance No. 2001- 26. Jim Sisco, County Attorney, entered the meeting and Lopez left the meeting.

ORDINANCE NO. 2001-26

**AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA,
ENACTING A LIST OF PERMITTED INVESTMENTS
PURSUANT TO THE REQUIREMENTS OF SECTION 218.415,
FLORIDA STATUTES, AS AMENDED; PROVIDING FOR
SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING
FOR INCLUSION IN CODE; AND PROVIDING AN
EFFECTIVE DATE**

(03/27/01 - 5 - 9:45 a.m.)

3. CONSIDER A RESOLUTION DELETING THE REQUIREMENT THAT THE COUNTY ATTORNEY REPRESENT THE ST. JOHNS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY.

Sisco reviewed this item. Meiszer stated that the Authority has accumulated enough money to retain a private attorney. He thinks the County Attorney should be responsible, and all fees associated with the issuance of debt, should come from the proceeds. Sisco stated that every bond issue requires an opinion of an Issuer's Counsel. Meiszer stated that he would be in favor of the County Attorney's Office exercising some oversight and that special counsel be compensated out of the bond proceeds. Kohnke agreed with Meiszer, but added that she would like for Sisco to have oversight on who they hire. Sisco mentioned changing the language in the resolution to say that the attorney who represents the Authority shall first be approved by the Board of County Commissioners. Kohnke suggested for Sisco to change the language in the resolution and bring it back for the Board to review. Meiszer stated that the County Commission should approve who is hired. **Motion by Reardon, seconded by Bryant, carried 5/0, to continue this item to 5d on the Regular Agenda.** (See page 8.)

Sisco left the meeting and Doug Burnett, Assistant County Attorney, entered the meeting.

(03/27/01 - 5 - 9:54 a.m.)

4. CONSIDER THE APPEAL OF THE ADMINISTRATIVE DECISION DENYING AN OFF PREMISE SIGN FOR CAFÉ EROTICA.

Kim Robinson, Court Reporter, Jacksonville, was present. Mike Griffin, Director of Development Services, reviewed this item, using visual display, stating that Staff submits to the Board to uphold the decision that the proposed sign application is, that the purpose of that sign is to advertise the business which is located 3.2 miles north of the sign site. Meiszer questioned where the body of water was for fishing and the definition of fish camp. Gary Edinger, Esquire, 305 Northeast 1st Street, Gainesville, representing Café Erotica/We Dare to Bare/Adult Toys/Great Food/Exit 94, Inc., explained the nature of this business, what it is doing in the community, and the properties which this company owns. He reviewed the materials that he distributed; an application to State Officials in order to attain clearance for offering this premise as a fish camp, a number of business records, and material on litigation. Burnett questioned, if the litigation that Edinger referred to, that he was previously successful with, was here in St. Johns County or elsewhere. Edinger responded that the litigation was in Federal Court involving a prior version of the St. Johns County Sign Ordinance. Edinger stated that their presentation to the Board was simply this, they are dealing with a business that operates a hunt and fish camp and has nothing to do with the Café Erotica as a business, it is advertising, or is an on site sign simply because it is on the premise where the business office is located. Edinger explained why the County would have to bring the further appeal

to Circuit Court, if this is denied today. Jacalone stated for this to be a legitimate fish camp, they would have to produce receipts to prove it. Bryant mentioned not seeing any revenue type paperwork. Edinger brought to the Board's attention three documents; tax returns for 1999, balance statement for 2000, and invoices and payments. Discussion followed on an explanation of the invoice and payments, the description on the check relating to promotion and advertisement, the fish camp being a functional business, the description and location of the sign, the owners and shareholders of the corporation, and the definition of a fish camp.

(10:24 a.m.) Leo Giannini, 35 Sandpiper Drive, owner of the property that the sign and business are located on, spoke on the sign being deceiving to the public and everyone else and that he had never given anyone permission to put the sign up on his property. Discussion followed on the lease between the corporation and Giannini.

(10:30 a.m.) Reardon commented on the definition of a fish camp. Griffin stated that there were several other sign violations involving this corporation. **Motion by Reardon, seconded by Jacalone, carried 5/0, to deny application for off-premises sign, upholding Staff decision.**

The meeting recessed at 10:32 a.m. and reconvened at 10:39 a.m.

(03/27/01 - 6 - 10:39 a.m.)

5. CONSIDER THE FLAGLER HOSPITAL CRISIS RESPONSE SERVICES CONTRACT AND REPORT ON THE CURRENT STATUS OF THE MENTAL HEALTH DEPARTMENT.

Maria Colavito, Mental Health Department Interim Director, reported on the status of the Mental Health Department and on considering the Flagler Crisis Response Services Contract. Discussion followed on having a subcontract in the budget for personnel funds, and having a separate contract with the hospital on inpatient and outpatient psychiatric services. Deborah Dungan, St. Johns County Mental Health Department, explained what they are doing to help the kids on a prevention basis with substance abuse and mental health. **Motion by Reardon, seconded by Bryant, carried 5/0, to authorize the County Administrator to execute the Crisis Response Services contract with Flagler Hospital for the period April 1, 2001 through June 30, 2001.**

Motion by Bryant, seconded by Kohnke, carried 5/0, for the meeting to move to items 5b, 5c, and 5d.

The meeting moved to item 5b.

(03/27/01 - 6 - 11:01 a.m.)

5a. DISCUSSION OF LAND DEVELOPMENT CODE BY JACALONE

Sisco and Burnett left the meeting and Isabelle Lopez, Assistant County Attorney, entered the meeting. Jacalone stated that he was contacted by a business owner regarding being in violation of Section 7, of the Land Development Code pertaining to signs. The individual is of the opinion that the County is overstepping its bounds regulating placement of American Flags on business property. Jacalone spoke on not limiting American Flags, and reimplementing the old regulations that control the duration that political campaign signs could be displayed. Kohnke stated that the Board took out political signs because legally the Board could not regulate political signs. Lopez relayed that the problem is regulating the content and Governments could not limit expression on political speech certain periods of time. Jacalone, using visual display, displayed pictures he had taken of businesses along U.S. I South. Jacalone stated that the Toyota Dealership contacted him because he was cited for having too many American Flags on his light fixtures. (11:09 a.m.) James Acosta, Supervisor of Code Enforcement, stated that a few of the dealerships were cited and explained why the dealerships are in violation. Jacalone suggest looking at the section pertaining to political

signs and the United States of America flags that can be displayed and place it on a workshop soon.

(11:12 a.m.) Wilton Rooks, 151 Santa Monica Avenue, spoke on avoiding visual clutter and on there being no evidence that the dealerships would loose business by not having so many flags.

The meeting moved to Commissioners' Reports.

(03/27/01 - 7 - 10:51 a.m.)

5b. MOTION TO ADOPT A RESOLUTION AUTHORIZING A MAP OF CHURCH ROAD BE FILED WITH THE CLERK OF COURTS IN ACCORDANCE WITH FLORIDA STATUTE 95.361, ROADS PRESUMED TO BE DEDICATED WHEN CONSTRUCTED AND/OR MAINTAINED BY THE COUNTY FOR FOUR (4) YEARS. (*Consent item 3.*)

Mary Ann Blount, Real Estate Manager, reviewed the two changes; the legal description behind the resolution labeled Exhibit A, should have been behind the map, Exhibit A to the resolution was the Statute 95.361, as labeled at the top, Exhibit A to the Resolution and the second change was on line 3 of Section 2 on the Resolution: it stated Holmes Road instead of Church Road and this needed to be changed. **Motion by Reardon, seconded by Bryant, carried 5/0, to approve Resolution 2001-59, authorizing a map of Church Road to be filed with the Clerk of Courts in accordance with Florida Statute 95.361, Roads Presumed To Be Dedicated.**

RESOLUTION NO. 2001-59

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE FILING OF A MAP OF CHURCH ROAD WITH THE CLERK OF COURTS IN ACCORDANCE WITH FLORIDA STATUTE NO. 95.361 ROADS PRESUMED TO BE DEDICATED WHEN CONSTRUCTED BY THE COUNTY AND MAINTAINED BY THE COUNTY FOR 4 YEARS THE ROAD SHALL BE VESTED IN ST. JOHNS COUNTY

(03/27/01 - 7 - 10:53 a.m.)

5c. MOTION TO ADOPT A RESOLUTION AUTHORIZING THE CLERK OF COURTS TO FILE THE SURVEY MAP OF SMITH ROAD CLAIMING A VESTED INTEREST BY ST. JOHNS COUNTY IN THE RIGHT-OF-WAY DESCRIBED IN THIS SURVEY. (*Consent item 4.*)

Blount requested to change the language in Exhibit C to the resolution, to match the third whereas in the Exhibit. **Motion by Reardon seconded by Bryant, carried 5/0, to approve Resolution 2001-60, authorizing the Clerk of Courts to file the survey map of Smith Road claiming a vested interest by St. Johns County in the Right-of-way described in a survey by prescriptive rights of the public per Berger vs City of Coral Gables, 101 So.2d 396 (Fla. Dist. Ct. App.-3d Dist. 1958.)**

RESOLUTION NO. 2001-60

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF COURTS TO FILE THE SURVEY MAP OF SMITH ROAD CLAIMING A VESTED INTEREST IN ST. JOHNS COUNTY IN THE RIGHT-OF-WAY DESCRIBED IN THIS SURVEY BY PRESCRIPTIVE RIGHTS OF THE PUBLIC PER CASE LAW BERGER VS. CITY OF

CORAL GABLES 101 SO. 2d 396 (FLA. DIST. CT. APP.-3d
DIST. 1958

(10:55 a.m.) Jim Sisco, County Attorney, entered the meeting.

(03/27/01 - 8 - 10:55 a.m.)

5d. CONSIDER A RESOLUTION DELETING THE REQUIREMENT THAT THE COUNTY ATTORNEY REPRESENT THE ST. JOHNS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY. (*Regular Agenda item 3*)

Jacalone read what was added to resolution by Sisco; St. Johns County Resolution No. 80-9 as further amended by adding the following paragraph, thereto, each attorney that represents the St. Johns County Industrial Development Authority as Issuer's Counsel when the Authority issues bonds or other indebtedness regulated by Section 215.84, Florida Statutes, must first be approved by the Board of County Commissioners of St. Johns County, Florida, as an attorney that is authorized to represent the Authority as the Authority's Counsel in matters pertaining to the Authority's issuance of bonds and indebtedness. Discussion followed on picking an attorney. Kohnke requested to appoint a staff person to this board. **Motion by Jacalone, seconded by Reardon, carried 5/0, to adopt Resolution 2001-61, as amended.**

RESOLUTION NO. 2001-61

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AMENDING ST. JOHNS COUNTY RESOLUTION NO. 80-9 TO DELETE THE REQUIREMENT THAT THE COUNTY ATTORNEY BE THE ATTORNEY FOR THE ST. JOHNS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

The meeting returned to item 5a.

(03/27/01 - 8 - 11:14 a.m.)

COMMISSIONERS' REPORTS

Commissioner Meiszer:

Meiszer requested the Board's participation involving the regulation of parking on Linwood Loop, a small dead end cul-de-sac street, in the Julington Creek Plantation neighborhood. Residents park on this private street to drop children off at school and park in this same area, in the afternoon, and wait for them to get out of school. He stated that the residents requested for the County to put up no parking signs on this street. He suggested for the Board to authorize the Road and Bridge Department to put up proper signs for this street in accordance with an ordinance the County already has. Joe Stephenson, Public Works Director, spoke on this issue and stated that they have met with the School Representatives, Sheriff Representatives, and neighborhood representatives in an effort to work this out and stated that they have already put up some signs. Meiszer pointed out that the Sheriff's Deputies that are responsible for traffic there, have indicated they will cooperate and they will write warning tickets, but need more signs and a reference to the ordinance, so if there is a violation, they can deal with it. Kohnke directed Stephenson to do what was necessary.

(11:20 a.m.)

Commissioner Jacalone:

Jacalone spoke on the County's lobbying efforts in Tallahassee last week. He commended everyone on doing a good job.

(11:22 a.m.)

Commissioner Kohnke:

Kohnke seconded that. She spoke on the Legislative Staff commenting St. Johns County on being very organized.

Kohnke reported that the TPC came off without incident. The Safety Committee will be meeting with everyone and working out a smooth operation for traffic next year.

(11:24 a.m.)

Commissioner Reardon:

Reardon remarked "Ditto" to Jacalone's and Kohnke's remarks.

(11:24 a.m.)

Commissioner Bryant:

Bryant mentioned speaking with Cathy Brown, COA, on getting a \$247,000 two year grant from the DOT to expand the bus system and received another \$450,000 grant from DOT to expand the system further. He mentioned the serious problem hindering the ridership on the bus system is the lack of signage locating bus stops. He stated that there is a company from Cocoa Beach that has very nice Plexiglas bus stop shelters, that has small advertisement on each end, are very professionally done, and will allow the citizens to get out of the weather. Kohnke stated that she would set up a meeting for Ms. Brown to get together with Mr. Rooks to come up with some kind of compromise on the signs. Discussion followed on bus signs and shelters.

(03/27/01 - 9 - 11:31 a.m.)

COUNTY ADMINISTRATOR'S REPORT

Halstead stated that on March 23 the County received a verified complaint from the Sierra Club pursuant to Section 163.3215, Florida Statutes, requesting the Board of County Commissioners to determine that Resolution No. 2001-30, constituting the Development Order for Nocatee DRI, is inconsistent with the St. Johns County Comprehensive Plan and would like to present the complaint at a special meeting. Kohnke directed Halstead to set it up as soon as possible. Discussion followed on setting it up on a regular meeting day as the last thing in the afternoon.

(03/27/01 - 9 - 11:33 a.m.)

COUNTY ATTORNEY'S REPORT

Lopez stated that she needed the Board's authorization and direction as to filing certiorari, on a possible enclave that may have been created in St. Augustine Beach on annexed property. She stated that they have thirty days if they are going to contest this annexation, so she needs to know today if the Board wishes for the County Attorney's Office to file certiorari contesting this application. Kohnke replied yes because it is not contiguous and is attached by two roads. Scott Clem, Director of Growth Management, stated that it was not contiguous and explained why. He stated that their basis for objection is that it would create an enclave. Discussion followed on annexing the whole thing, and taking action within 30 days. *It was a consensus of the Board for the County Attorney's Office to file certiorari.*

(03/27/01 - 9 - 11:40 a.m.)

CLERK OF COURT'S REPORT

No report.

The meeting recessed at 11:40 a.m. and reconvened at 1:30 p.m. with Kohnke, Jacalone, Reardon, Bryant, Meiszer, David Halstead, Assistant County Administrator; Isabelle Lopez, Assistant County Attorney; and Deputy Clerk Yvonne King present.

(03/27/01 - 10 - 1:31 p.m.)

6. PUBLIC HEARING - VAC PLA-001-001 - REQUEST TO VACATE THE BRIDLE RIDGE SUBDIVISION. THE SUBJECT PROPERTY IS LOCATED AT THE INTERSECTION OF STATE ROAD 16 AND 16A. THIS REQUEST IS TO VACATE THE PLAT OF BRIDLE RIDGE SUBDIVISION IN ORDER TO RETURN IT TO AGRICULTURAL USE FOR PASTURELAND. THE STAFF DOES NOT OBJECT AND RECOMMENDS APPROVAL. THE REZONING OF THIS SUBDIVISION TO OR WAS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS ON FEBRUARY 13, 2001. THE PLANNING AND ZONING AGENCY RECOMMENDED APPROVAL OF THIS PLAT VACATION DURING THE MARCH 15, 2001 PZA MEETING

Proof of publication of the notice of public hearing on the intent to vacate the plat of Bridle Ridge Subdivision was received having been published in The St. Augustine Record on March 8 and 15, 2001.

Darrell Locklear, Development Review Engineering Manager, gave a general overview of the request to vacate the Bridle Ridge Subdivision. (1:32 p.m.) **Motion by Jacalone, seconded by Meiszer, carried 5/0, to approve Resolution No. 2001-62, vacating Bridle Ridge Subdivision.**

RESOLUTION NO. 2001-62

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, VACATING THE PLAT OF BRIDLE RIDGE SUBDIVISION

(03/27/01 - 10 - 1:32 p.m.)

7. PUBLIC HEARING - CPA 00-005 - COMPREHENSIVE PLAN AMENDMENT JOHN'S TOWING. THIS REQUEST SEEKS TO CHANGE 5.43 ACRES FROM RURAL SILVICULTURE (R/S) TO MIXED USE DISTRICT (MD) DESIGNATION. THE SUBJECT PROPERTY IS LOCATED AT 10205 U.S. HIGHWAY 1 SOUTH, BETWEEN I-95 AND THE FLAGLER COUNTY LINE. THE OWNERS AND OPERATORS OF JOHN'S TOWING AND TRUCK SERVICE DESIRE TO PURCHASE THE PROPERTY OCCUPIED BY THE EXISTING BUSINESS. THE BUSINESS CURRENTLY FUNCTIONS AS AN "ACCESSORY USE" TO CHARLIE T'S TRUCK STOP, WHICH OCCUPIES ANOTHER PORTION OF THE SAME PROPERTY AT THE INTERSECTION OF U.S. HIGHWAY 1 AND COUNTY ROAD 204. THE APPLICATION INDICATES THAT THE EXISTING BUSINESS HAS INCLUDED TOWING, MOTOR VEHICLE REPAIR, AND STORAGE OF MOTOR VEHICLES SINCE 1995. THE SUBDIVISION AND SALE OF THE PROPERTY IS CONDITIONED UPON THE BCC'S APPROVAL OF CHANGES TO THE FUTURE LAND USE MAP AND TO THE COMMERCIAL INTENSIVE ZONING DISTRICT, WHICH WOULD ALLOW THIS BUSINESS TO FUNCTION AS A SEPARATE "PRINCIPAL USE." IF APPROVED, THIS AMENDMENT WOULD EXPAND THE BOUNDARIES OF THE ADJACENT MIXED USE DISTRICT TO INCLUDE THE 5.43-ACRE SUBJECT PROPERTY. THE APPLICANT STATES THAT THERE ARE NO PLANS FOR ADDITIONAL DEVELOPMENT OF THIS PARCEL. HOWEVER, ANY FUTURE DEVELOPMENT WOULD BE SUBJECT TO THE APPROVAL OF CONSTRUCTION PLANS AND WOULD REQUIRE THE COMPLEX TO COMPLY WITH THE COUNTY'S LANDSCAPING AND OTHER DESIGN STANDARDS. AT THE MARCH 1 PLANNING AND ZONING AGENCY MEETING, THE PZA UNANIMOUSLY RECOMMENDED TO THE BCC TO ADOPT AND TRANSMIT THE PROPOSED FUTURE LAND USE MAP AMENDMENT

Proof of publication of the notice of public hearing on the Comprehensive Plan Amendment for John's Towing, CPA-00-005, was received having been published in The St. Augustine Record on March 12, 2001.

Jacalone disclosed ex-parte communication; he had a discussion with Maria Tice concerning the request; the discussion was mainly about the existing uses and the non-impact this would have on the surrounding area. Theresa Bishop, Planning Director, explained the request to change 5.43 acres from Rural Silviculture to Mixed Use District Designation. Discussion followed on the request. (1:40 p.m.) Patrick McCormack, 19 Old Mission Avenue, representing the Applicant, addressed the environmental aspects of the project. (1:42 p.m.) **Motion by Reardon, seconded by Jacalone, carried 5/0, to enact Ordinance No. 2001-27, adopting and transmitting the proposed Future Land Use Map Amendment.**

ORDINANCE NO. 2001-27

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, STATE OF FLORIDA, AMENDING THE FUTURE LAND USE MAP, FROM RURAL SILVICULTURE TO MIXED USE AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

(03/27/01 - 11 - 1:42 p.m.)

8. PUBLIC HEARING - REZ-2000-03, JOHNS TOWING REZONING. THIS REQUEST SEEKS TO REZONE 5.43 ACRES OF LAND FROM OPEN RURAL (OR) TO COMMERCIAL INTENSIVE (CI). THE PROPERTY IS LOCATED AT 10205 SOUTH US 1 JUST SOUTH OF THE INTERSTATE 95 INTERCHANGE. THE SITE IS WITHIN THE RURAL/SILVICULTURE FUTURE LAND USE DESIGNATION, AND ADJOINS A MIXED USE DISTRICT. THE REZONING REQUEST IS BEING CONSIDERED IN CONJUNCTION WITH A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT. THE SURROUNDING ZONING IS CHT, PUD AND OR, AND THE DEVELOPMENT PATTERN FOR THE AREA CONSISTS OF PRIMARILY HIGHWAY COMMERCIAL AND RELATED USES. IT IS THE OBJECTIVE OF THIS PROPOSED REZONING AND COMPREHENSIVE PLAN AMENDMENT TO BRING THE EXISTING TOWING AND AUTOMOTIVE REPAIR USE INTO COMPLIANCE WITH COUNTY LAND DEVELOPMENT REGULATIONS. THERE IS NO ADDITIONAL DEVELOPMENT PROPOSED; HOWEVER, THE APPLICANT IS ADVISED THAT SHOULD ANY FUTURE DEVELOPMENT BE PROPOSED, COMPLIANCE WITH ALL APPLICABLE LAND DEVELOPMENT REGULATIONS, INCLUDING CONCURRENCY REVIEW, TREE PROTECTION, LAND CLEARING AND UPLAND BUFFERS AND SETBACKS WOULD BE REQUIRED. SUBJECT TO APPROVAL OF THE SMALL SCALE COMPREHENSIVE PLAN AMENDMENT, THE PROPOSED REZONING IS CONSISTENT WITH THE COMPREHENSIVE PLAN, AND COMPATIBLE WITH THE USES OF THE SURROUNDING AREA. THE PLANNING AND ZONING AGENCY UNANIMOUSLY RECOMMENDED APPROVAL OF THIS REQUEST AT THE MARCH 1, 2001 MEETING

Proof of publication of the notice of public hearing on the John's Towing Rezoning, REZ-2000-03, was received having been published in The St. Augustine Record on March 12, 2001.

Sonya Doerr, Chief Planner, gave a general overview of the rezoning request. (1:44 p.m.) **Motion by Reardon, seconded by Jacalone, carried 5/0, to enact Ordinance No. 2001-28, adopting Findings of Fact 1 - 4 to support the motion.**

ORDINANCE NO. 2001-28

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

(03/27/01 - 12 - 1:45 p.m.)

9. PUBLIC HEARING - NZV00-008, POPE NON-ZONING VARIANCE. THIS REQUEST SEEKS A NON-ZONING VARIANCE FROM THE 25' UPLAND BUFFER REQUIRED IN ARTICLE IV, SECTION 4.01.02.E, OF THE LAND DEVELOPMENT CODE. THE PROPERTY IS LOCATED AT MATANZAS INLET BEACH ON THE WEST SIDE OF A1A ADJACENT TO THE MATANZAS RIVER

Proof of publication of the notice of public hearing on the Non-Zoning Variance, NZV-00-008, Eric Pope, was received having been published in The St. Augustine Record on March 5, 2001.

Jan Brewer, Environmental Manager, explained the request for a non-zoning variance from the 25' upland buffer required in Article IV of the Land Development Code to 10'. Discussion followed regarding the variance request. (1:53 p.m.) George McClure, 170 Malaga Street, representing the Applicant, agreed to the imposition of a condition for the pervious surfaces for the drive. (1:59 p.m.) **Motion by Jacalone, seconded by Bryant, carried 3/2 with Reardon and Meiszer dissenting, to approve the non-zoning variance NZV-00-008, based on the Findings of Facts 1 - 6.**

(03/27/01 - 12 - 2:00 p.m.)

10. PUBLIC HEARING - NZV-00-007, BLAKE NON-ZONING VARIANCE. THIS REQUEST SEEKS A NON-ZONING VARIANCE FROM THE 25' UPLAND BUFFER REQUIRED IN ARTICLE IV, SECTION 4.01.02.E, OF THE LAND DEVELOPMENT CODE. THE PROPERTY IS LOCATED AT 7741 A1A SOUTH ON THE MATANZAS RIVER

Proof of publication of the public hearing on the Non-Zoning Variance, NZV-00-007, John and Robert Blake, was received having been published in The St. Augustine Record on February 5, 2001.

Kohnke disclosed that she received information from Mr. Hadeed of people who were opposed to the variance; pictures showing cars and boats parked in the right-of-way from the Lowmans; letters of residents in the area who were opposed; and one call from Mr. Hamilton. Meiszer disclosed that he received one communication with photos showing cars and boats parked in the right-of-way. Jacalone disclosed that he had the same written correspondence and photos. Jacalone said he also had a conversation with Warren Michael about him wanting to meet with him and show him the property, which they were never able to do. Reardon disclosed the same written correspondence. Bryant disclosed the same ex-parte communication as Kohnke. (2:03 p.m.) Jan Brewer, Environmental Manager, explained the requested non-zoning variance from the 25' upland buffer required in Article IV of the Land Development Code. Brewer then offered the recommendations of the applicant: pervious concrete; will not request any coastal armoring so that the back portion of his lot will stay in a natural condition; and he will utilize extra turbidity control measures, such as a double row of silk screening in the back during the construction of the home and parking pad. Discussion followed on the jurisdictional wetland line and the setback from the front of the house to the right-of-way.

(2:12 p.m.) Brenna Durden, with Lewis, Lowman, and Walker, representing John and Robert Blake, made a presentation requesting approval of the non-zoning variance; displayed some recent aerial photographs; and reviewed the criteria for considering a non-zoning variance. Discussion followed regarding the variance request. (2:44 p.m.) Gordon Lohman, 7648 A1A South, representing himself and the South Anastasia Community Association, commented in opposition to the non-zoning variance. (2:47 p.m.) Leigh Ann DePriest, 7891 A1A South, spoke on behalf of her husband, Barry DePriest, and his brothers, Mike and Steve DePriest, in opposition to the non-zoning variance. (2:53 p.m.) Al Hadeed, P.O. Box 190, Flagler Beach, representing the DePriest Family and the South Anastasia Communities Association, asked several questions of Brewer regarding the application, to which she responded. (2:59 p.m.) Al Hadeed asked several questions of Edward Strozier, 201 Owens Avenue, to which he responded. (3:06 p.m.) Randall Clyatt, 7750 A1A South, Tradewinds Condominiums, commented in opposition to the non-zoning variance. (3:09 a.m.) Durden submitted the 2001 tax statement that separates the two parcels; then, gave a rebuttal. (3:16 p.m.) **Motion by Jacalone, seconded by Reardon, carried 5/0, to deny NZV-00-007 based on the Findings of Fact: there are not practical difficulties in carrying out the strict letter of regulation because the remaining portion of the parcel is developable; the site could be developed as a dock and/or boat slips if they are constructed in an environmentally sensitive manner; the affect of the proposed variance is not in harmony with the general intent of this Code because it totally eradicates a required buffer that is in the St. Johns County Comprehensive Plan and in the St. Johns County Land Development Code; and this would establish a new precedent since the County Commission updated the Land Use Plan granting this variance that would allow construction on lots that are predominantly wetlands adjacent to an estuary that has been identified as part of the National Estuarine Research Reserve and adjacent to Class II Florida Waters would be in conflict with the intent of the St. Johns County Comprehensive Plan.**

(03/27/01 - 13 - 3:19 p.m.)

11. PUBLIC HEARING - ZVAR-2000-15, APPEAL ZONING VARIANCE JOHN AND ROBERT BLAKE. THE REQUEST IS AN APPEAL TO THE ORDER OF THE PLANNING AND ZONING AGENCY DATED JANUARY 5, 2001. SAID ORDER DENIED A REQUEST TO ALLOW THE REDUCTION IN THE REQUIRED FRONT YARD SETBACK FROM 25 FEET TO 16 FEET TO THE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE ON LOT 46, BOYS WORK SUBDIVISION, 7741 A1A SOUTH. ON FEBRUARY 3, 2001 THE APPLICANT'S REPRESENTATIVE FILED AN APPEAL, IN A TIMELY MANNER AS PRESCRIBED BY THE LAND DEVELOPMENT CODE AND THE LAW. THE PROPERTY IS ZONED RS-2, WITH A PREDOMINANCE OF JURISDICTIONAL WETLANDS. IN CONJUNCTION WITH THE ZONING VARIANCE REQUEST, THE APPLICANT HAS ALSO FILED A NON-ZONING VARIANCE TO REDUCE THE REQUIRED 25-FOOT BUFFER REQUIREMENT AT THE REAR OF THE PROPERTY. AFTER MEETING WITH STAFF, THE APPLICANT FILED AMENDED APPEAL DOCUMENTS AND HAS OFFERED CERTAIN CONDITIONS REGARDING THE APPROVAL OF A VARIANCE. THE LAND DEVELOPMENT CODE DEFINES A ZONING VARIANCE AS A RELAXATION OF THE TERMS OF THE CODE AND PROVIDES CERTAIN CRITERIA FOR THE GRANTING OF SUCH A VARIANCE. VARIANCE SHALL BE FOUND NOT CONTRARY TO THE PUBLIC INTEREST AND WHERE, BY REASON OF THE EXCEPTIONAL NARROWNESS, SHALLOWNESS, OR UNUSUAL SHAPE OR A SPECIFIC PIECE OF PROPERTY, OR BY REASON OF EXCEPTIONAL TOPOGRAPHIC CONDITIONS OR OTHER EXTRAORDINARY CONDITION OR THE PROPERTY OR BY REASON OF THE USE OR DEVELOPMENT OF PROPERTY IMMEDIATELY ADJOINING THE PROPERTY, THE CODE WILL CAUSE UNDUE HARDSHIP TO CARRY OUT THE SPIRIT AND PURPOSE OF THE CODE, OR WOULD BE CONTRARY TO THE SPIRIT OR PURPOSE OF THE CODE

Proof of publication of the notice of public hearing on the appeal of the zoning variance, ZVAR-2000-15, John & Robert Blake, was received having been published in The St. Augustine Record on March 12, 2001.

Jacalone disclosed ex-parte communication that he had a conversation with Bishop on this request. Rosemary Yeoman, Zoning Manager, explained the appeal to the order of the PZA of January 5, 2001. (3:20 p.m.) Brenna Durden, of Lewis, Longman & Walker, representing John and Robert W. Blake, made a presentation requesting the Board approve the zoning variance to reduce the front yard setback. (3:33 p.m.) Leigh Ann DePriest, 7891 A1A South, commented in opposition to the variance. (3:34 p.m.) Al Hadeed, P.O. Box 190, Flagler Beach, representing the South Anastasia Communities Association and the DePriest Family, commented in opposition the variance. (3:36 p.m.) Gordon Lohman, 7648 A1A South, representing himself and the South Anastasia Community Association, displayed a computerized drawing of a small car backing out of a 10' wide garage door. Lohman then submitted pictures substantiating his opposition. (3:40 p.m.) Durden gave a rebuttal. (3:43 p.m.) Motion by Jacalone, seconded by Reardon, to deny the appeal, upholding the decision of the PZA, denying zoning variance to reduce the front yard setback from 25 feet to 16 feet, adopting Findings of Fact 1 through 3 to support the motion. Discussion followed on Finding of Fact #2. Jacalone withdrew his motion. (3:44 p.m.) **Motion by Reardon, seconded by Jacalone, carried 5/0, to deny the appeal, upholding the decision of the PZA, denying zoning variance to reduce the front yard setback from 25 feet to 16 feet, adopting Findings of Fact #1, #3, to support the motion; and that by reducing the setback from 25 feet to 16 feet on Highway A1A is also a safety concern of this commission.**

Motion by Bryant, seconded by Reardon, carried 5/0, to adjourn the meeting. The meeting thereupon adjourned at 3:46 p.m.

CORRESPONDENCE:

1. Letter from William H. Adams, III, regarding a public records request of Section 2.03.01-A of the County's Land Development Code (03/14/01)

Approved _____ April 17 _____, 2001

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____
Mary F. Kohnke, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: _____
Deputy Clerk