

**MINUTES OF MEETING  
BOARD OF COUNTY COMMISSIONERS  
ST. JOHNS COUNTY, FLORIDA  
OCTOBER 9, 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:        Marc Jacalone, District 3, Chair  
                         James E. Bryant, District 5, Vice Chair  
                         Nicholas Meiszer, District 1  
                         John Reardon, District 2  
                         Mary Kohnke, District 4  
                         Ben W. Adams, Jr., County Administrator  
                         James Sisco, County Attorney  
                         Yvonne King, Deputy Clerk

Also present were: Cheryl Strickland, Clerk of Courts; Allen MacDonald, County Finance Director; and Isabelle Lopez, Assistant County Attorney

(10/09/01 - 1 - 9:00 a.m.)

The meeting was called to order by Chair Jacalone.

(10/09/01 - 1 - 9:01 p.m.)

The Invocation was given by Jacalone. The Pledge of Allegiance was led by Meiszer.

(10/09/01 - 1 - 9:02 a.m.)

ROLL CALL

The roll was called by the Deputy Clerk.

(10/09/01 - 1 - 9:02 a.m.)

PROCLAMATION PROCLAIMING SPECIAL RECOGNITION FOR AUDREY FIELDS

Bryant, on behalf of the Board of County Commissioners, read and presented a proclamation to Audrey Fields recognizing her as a special community leader.

(10/09/01 - 1 - 9:08 a.m.)

Jacalone, on behalf of the Board of County Commissioners, recognized Heather Morris for her 10 years of service to St. Johns County.

(10/09/01 - 1 - 9:12 a.m.)

PUBLIC COMMENTS

David Savage, 975 S. Ponce de Leon Blvd., requested the Board not limit the number of flags that can be flown. (9:13 a.m.) Rick Tallman, Veteran Services Officer, reported on the St. Augustine/St. Johns County Homeless Standown that was held on Saturday at the Galimore Center. The money used for this project was all from donations. Tallman then shared his plans for the Veterans Services Department. (9:18 a.m.) Chaplain Harold Grossman, 650 W. Pope Road, Apt. #245, distributed t-shirts to the Commissioners, which displayed the American Flag. (9:20 a.m.) Mark Adams, 495 Romano Street, commented on the Standown. (9:22 a.m.) Jerry Cameron, 518 Gentian Road, commented on the American Flag; then, requested the Board to: appeal limiting the number of flags that can be flown;

adopt a resolution for a moratorium on the enforcement of this provision until the repeal can be enacted; and adopt a resolution encouraging the citizens to fly as many American flags as their budgets will permit. (9:27 a.m.) Doug Laidlaw, 120 Stokes Landing Road, commented on not limiting the number of flags that can be flown. (9:31 a.m.) Motion by Meiszer, to adopt the three requests of Jerry Cameron. Motion died for lack of a second. (9:33 a.m.) Louise Thrower, 288 Orange Avenue, commented on an article in the First Coast Manufacturers Association Magazine, which honored several teachers; addressed the Northeast Florida Regional Planning Council's White Paper regarding annexation in NE Florida; then, addressed massive developments and rezoning requests. (9:38 a.m.) Roger Van Ghent, 4005 Moultrie Foreside Blvd., representing St. Johns County Audubon Society, commented on an eagle's nest at Fish Island. (9:43 a.m.) Dante Salamone, 5225 Datil Pepper Road, commended the services provided by the Veterans Service Office; commented on beach access; and addressed dirt roads being accessed by school buses that are not being maintained by the County.

(10/09/01 - 2 - 10:03 a.m.)

#### DELETIONS TO CONSENT AGENDA

Meiszer requested Item #2 be removed from the Consent Agenda and added to the Regular Agenda; it was added as Item A.

(10/09/01 - 2 - 10:03 a.m.)

#### APPROVAL OF CONSENT AGENDA

**Motion by Reardon, seconded by Kohnke, carried 5/0, to approve the Consent Agenda, as amended, as follows:**

1. Approval of the Cash Requirement Report
2. Motion to extend the contract (RFP No. 97-49) for Pharmaceutical Services with St. Johns/Hays Pharmacy for 12 months beginning November 1, 2001 (*This item was removed from the Consent Agenda and was added to the Regular Agenda as Item #A1; see page 3.*)
3. Motion to direct the County Administrator to execute a contract providing \$5,000 funding assistance to the St. Joseph Academy Sports Club for the Catholic State High School Basketball Tournament to be held December 20-22, 2001

#### RESOLUTION NO. 2001-196

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A CONTRACT BY AND BETWEEN ST. JOHNS COUNTY AND THE ST. JOSEPH ACADEMY SPORTS CLUB FOR TOURIST DEVELOPMENT FY02 FUNDING, CATEGORY III, FOR THE THIRD ANNUAL CATHOLIC STATE HIGH SCHOOL BASKETBALL TOURNAMENT ON DECEMBER 20-22, 2001**

4. Motion to establish October 23, 2001 at 5:30 p.m. and November 13, 2001 at 1:30 p.m. as public hearing dates to consider amendments to the Land Development Code
5. Motion to declare the Water Treatment Plant at 208 Shore Drive as surplus and authorize the County Administrator, or his designee, to dispose of the equipment in accordance with the County Surplus Property Policy

6. Motion to direct the Chair to sign a letter approving the disposal of 126 cubic feet of finance records up to and including fiscal year 1996 under Florida Administrative Code, ch. 1B-24 and in accordance with the statutory provisions of FS, ch. 257.36(7) and by statutory authority of FS, ch.119.041
7. Proofs:
  - a. Proof, Notice to Bidders, Bid No. 01-92
  - b. Proof, Notice to Bidders, Bid No. 01-89
  - c. Proof, Notice to Bidders, Bid No. 02-09
  - d. Proof, Notice to Bidders, Bid No. 02-10
  - e. Proof, Notice of Canceled Meeting, Water & Sewer Authority, October 3, 2001
  - f. Proof, Certificate of Liability Insurance, Atlantic Coast Asphalt Company

(10/09/01 - 3 - 10:03 a.m.)

ADDITIONS/DELETIONS TO REGULAR AGENDA

Bryant requested to add two items to the Regular Agenda; Item A1, an Interlocal Agreement with the Airport Authority, and Item 1A, clarification of established lot grade. Reardon requested to add an item to the Regular Agenda; Item A2, discussion of special use signs regarding flags. Jacalone requested to add two items to the Regular Agenda; Item 5a, a resolution rescinding a previously passed resolution that named certain utility service area as exclusive service area; Item 5b, discussion of having a county attorney present at the TDC meetings, and also a discussion of a probable substantial shortfall in revenue regarding the TDC. Adams requested to add an item to the Regular Agenda; Item 2a, additional SHIP funds available due to tropical storm Gabrielle.

(10/09/01 - 3 - 10:08 a.m.)

APPROVAL OF REGULAR AGENDA

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

(10/09/01 - 3 - 10:08 a.m.)

- A. MOTION TO EXTEND THE CONTRACT (RFP NO. 97-49) FOR PHARMACEUTICAL SERVICES WITH ST. JOHNS/HAYS PHARMACY FOR 12 MONTHS BEGINNING NOVEMBER 1, 2001 (*This item was removed from the Consent Agenda as Item #2.*)

Bryant filed Form 8B, a Memorandum of Voting Conflict, and abstained from voting on this issue because of the appearance of a conflict of interest. (10:10 a.m.) **Motion by Meiszer, seconded by Reardon, carried 4/0 with Bryant abstaining, to extend the contract for Pharmaceutical Services with St. Johns/Hays Pharmacy for 12 months beginning November 1, 2001 with re-advertising in 2002.**

(10/09/01 - 3 - 10:10 a.m.)

- A1. INTERLOCAL AGREEMENT WITH THE AIRPORT AUTHORITY

George McClure, representing the St. Augustine/St. Johns County Airport Authority, explained the revenue diversion. Discussion followed. (10:20 a.m.) **Motion by Reardon, seconded by Kohnke, carried 5/0, to approve Resolution No. 2001-197.**

RESOLUTION NO. 2001-197

A RESOLUTION OF THE BOARD OF COUNTY

COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,  
AUTHORIZING THE COUNTY ADMINISTRATOR TO  
TEMPORARILY DELAY THE COLLECTION OF IMPACT  
FEES FROM THE ST. JOHNS COUNTY - ST. AUGUSTINE  
AIRPORT AUTHORITY, AND TO ISSUE SUCH BUILDING  
RELATED PERMITS TO THE ST. JOHNS COUNTY - ST.  
AUGUSTINE AIRPORT AUTHORITY AS ARE  
OTHERWISE APPROPRIATE WITHOUT THE PAYMENT  
OF SUCH IMPACT FEES, AND FURTHER AUTHORIZING  
THE COUNTY ATTORNEY TO PARTICIPATE WITH THE  
ST. JOHNS COUNTY - ST. AUGUSTINE AIRPORT  
AUTHORITY'S ATTORNEYS IN THE PREPARATION OF  
AN INTERLOCAL AGREEMENT WITH THE ST. JOHNS  
COUNTY - ST. AUGUSTINE AIRPORT AUTHORITY

(10/09/01 - 4 - 10:26 a.m.)

A2. DISCUSSION OF SPECIAL USE SIGNS (FLAGS)

Reardon requested the Board allow businesses to not be held in non-compliance because of the number of American Flags being flown. Discussion followed on displaying the American Flag. (10:33 a.m.) **Motion by Jacalone, seconded by Bryant, carried 5/0, to direct the County Administrator to relax enforcement on the numbers of U.S. flags that can be displayed in St. Johns County.**

The meeting thereupon recessed at 10:33 a.m. and reconvened at 10:43 a.m.

(10/09/01 - 4 - 10:43 a.m.)

Dr. Walker addressed the Anthrax problem; said they are having daily conference calls statewide to stay informed of this issue.

(10/09/01 - 4 - 10:46 a.m.)

1. UPDATE ON VILANO BEACH WATERFRONTS FLORIDA COMMUNITY PAVILION(S) DESIGN

Georgia Katz, Florida Waterfronts Community Project Manager, gave an update on the pavilion design. Cleve Dryden further explained the design. (10:52 a.m.) Vivian Browning, 40 Beachcomer Way, urged the Board to accept the pavilion design. (10:55 a.m.) Victoria Smith, 211 Porpoise Point Drive, commented in favor of the pavilion design. (10:56 a.m.) Sam Skultety, 428 Porpoise Point Drive, commented in favor of the pavilion design. (11:04 a.m.) Diane Johns-Carter, 2842 Coastal Highway, commented in favor of the pavilion design. (11:05 a.m.) Karen Taylor, 3070 Harbor Drive, commented in favor of the pavilion design. (11:08 a.m.) **Motion by Kohnke, seconded by Bryant, carried 5/0, to accept the Vilano Beach Pavilion design.**

(10/09/01 - 4 - 11:09 a.m.)

1A. CLARIFICATION OF ESTABLISHED GRADE

Bryant explained to the Board of some new construction in his district which violates the intent of the ordinance on established grade. Bryant then displayed photographs of the construction. (11:12 a.m.) Harry Brown, 5391 Atlantic View, commented on the construction. Discussion followed on established grade. (11:26 a.m.) Jacalone said he has set up a meeting for Friday, October 12, 2001 regarding lot grade with the Planning Department Staff and representatives from the St. Johns County Builders Council. (11:31 a.m.) Ron Brown, 66 Cuna Street, commented on the construction. (11:33 a.m.) Dante Salamone, 5225 Datil Pepper Road, commented on the construction.

(10/09/01 - 5 - 11:42 a.m.)

2. CONSIDER AUTHORIZATION FOR A SHIP AGREEMENT WITH ST. AUGUSTINE/ST. JOHNS COUNTY HABITAT FOR HUMANITY IN THE AMOUNT OF \$75,000

Judith Foxworth, SHIP Administrator, requested the Board authorize the County Administrator to sign an agreement or Memorandum of Understanding with the local Habitat for Humanity Chapter to be a pass through agency to assist up to four houses. (11:44 a.m.) Buddy Haynes, 661 CR 13, thanked the Board for its support of Habitat for Humanity in St. Johns County. (11:45 a.m.) **Motion by Reardon, seconded by Kohnke, carried 5/0, to approve execution by the County Administrator of the agreement between St. Johns County and HabiSaint to provide second mortgages funded through SHIP for up to four houses, in an amount not to exceed \$75,000.**

(10/09/01 - 5 - 11:45 a.m.)

- 2A. AVAILABILITY OF ADDITIONAL SHIP FUNDS DUE TO TROPICAL STORM GABRIELLE

Judith Foxworth, SHIP Administrator, said she was notified by the SHIP Administrator in Tallahassee that there would be additional funds available to those counties impacted by tropical storm Gabrielle. It is only for those counties that have a disaster mitigation strategy in place. (11:46 a.m.) **Motion by Reardon, seconded by Kohnke, carried 5/0, to direct the County Administrator or his designee to apply for additional SHIP funds for Tropical Storm Gabrielle disaster mitigation.**

(10/09/01 - 5 - 11:47 a.m.)

3. CONSIDER THE COUNTY'S WORKER COMPENSATION POLICY RENEWAL

David Halstead, Assistant County Administrator, explained the increase in premiums with the existing company. Therefore, he requested the company, Bituminous, be selected to provide Workers Compensation coverage. (11:50 a.m.) **Motion by Meiszer, seconded by Kohnke, carried 5/0, to waive the sealed bid requirement as stated in Section 302.3.4.1 of the St. Johns County Purchasing Policies & Procedures and to approve contracting for Workers Compensation Coverage with Bituminous Casualty Corporation for FY 2002 and authorize increasing the workers compensation rates for all the Board departments and Constitutional Officers to accommodate the increase in total premium for FY2002.**

(10/09/01 - 5 - 11:52 a.m.)

4. CONSIDER AN APPOINTMENT TO THE ADJUSTMENTS & APPEALS BOARD

Patsy Heiss, Assistant to the Administrator, informed the Board of the three members whose terms are scheduled to expire this month. Two of them are eligible and seek reappointment. One of them has served two full four year terms and is ineligible. (11:54 a.m.) **Motion by Bryant, seconded by Reardon, carried 5/0, to reappoint Vernon Davis to the General Contractor position on the Adjustments & Appeals Board for a four-year term, scheduled to expire October 28, 2005 and reappoint Terrence Drozd to the Residential Contractor position on the Adjustments & Appeals Board for a four-year term, scheduled to expire October 28, 2005.** (11:54 a.m.) **Motion by Reardon, seconded by Kohnke, carried 5/0, to promote Alternative Member James Schock, with experience and expertise in Engineering, to the regular member position on the Adjustments & Appeals Board for a four-year term, scheduled to begin November 9, 2001 and expire November 9, 2005.**

(10/09/01 - 5 - 11:55 a.m.)

5. CONSIDER THE ST. JOHNS COUNTY LEGISLATIVE ACTION PLAN FOR THE 2002 SESSION

Ted Zebrowsky, Director of Intergovernmental Relations, explained the Legislative Action Plan for the 2002 Session. (12:05 p.m.) **Motion by Kohnke, seconded by Bryant, carried 5/0, to add the Council On Aging's request for \$150,000 to the list of County priorities that will be presented to the St. Johns County Legislative Delegation, 2002 Session and adopt the rest of the list.**

(12:06 p.m.) **Motion by Kohnke, seconded by Reardon, carried 5/0, to move the remainder of the morning agenda items to the afternoon session of the meeting.**

The meeting thereupon recessed at 12:07 p.m. and reconvened at 1:37 p.m. with Jacalone, Bryant, Meiszer, Reardon, Kohnke, Adams, Lopez, and Deputy Clerk Lenora Newsome present.

(10/09/01 - 6 - 1:37 p.m.)

5a. RESOLUTION WATER AND WASTEWATER NOCATEE UTILITY SERVICE AREA

Jacalone reviewed this item and asked for the Board to support this resolution rescinding the earlier one. Reardon stated that he would rather agenda this item. Meiszer questioned if there was some urgency with doing this resolution today. Jacalone responded yes and explained. Discussion followed on the resolution. **Kohnke called the question, carried 4/1 with Reardon opposed. Motion by Kohnke, seconded by Bryant, carried 3/2 with Meiszer and Reardon opposed, to approve Resolution No. 2001-198.**

#### RESOLUTION NO. 2001-198

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RESCINDING RESOLUTION NO. 2001-82 WHICH TRANSFERRED A PORTION OF THE COUNTY'S DESIGNATED (WATER AND WASTEWATER) SERVICE AREA TO THE COUNTY'S EXCLUSIVE (WATER AND WASTEWATER) SERVICE AREA IN ACCORD WITH THE PROVISIONS OF ORDINANCE 99-36**

(10/09/01 - 6 - 1:49 p.m.)

5b. DISCUSSION - TDC (*No paperwork on this item*)

Jacalone added this item, stating that the City of St. Augustine's Mayor contacted him last week regarding the possibility of having an attorney present during TDC meetings for their assistance. Bryant suggested since the meetings are held in the auditorium and the Attorney's Office is right next door, the Attorneys could be called to the auditorium at any time for questions or assistance during the meetings. Jacalone asked Bryant to inform the TDC of his suggestion and see if that would be acceptable to them. Jacalone also mentioned that the Mayor was concerned that the revenue that was projected for the TDC to operate with, would be diminished based on what happened on September 11 and the reduction in travel. Glenn Hastings, Tourist Development Counsel, spoke on tourism in St. Augustine. MacDonald left the meeting.

**Motion by Jacalone, seconded by Reardon, carried 5/0, to move reports to the end of the afternoon.**

(10/09/01 - 6 - 1:55 p.m.)

6. PUBLIC HEARING - NON-ZONING VARIANCE TO LOT 218 TURTLE SHORES WEST UNIT 2B AND 3 - BUILDING PERMIT #110396. THE SUBJECT PROPERTY

IS LOCATED AT LOT 218, TURTLE SHORES WEST, UNIT 2B AND 3 (OFF OF A1A NORTH). A NON-ZONING VARIANCE TO SECTION 3.03.02D 3 B OF THE ST. JOHNS COUNTY LAND DEVELOPMENT CODE TO REDUCE THE FLOOR ELEVATION BY 2 ½" WAS APPLIED FOR BY DON WILFORD, VICE PRESIDENT OF INTERVEST CONSTRUCTION OF JAX, INC. THE CONTRACTOR, ICI, WHO IS SEEKING TO OBTAIN A NON-ZONING VARIANCE TO THE MINIMUM HEIGHT SET FORTH BY THE LAND DEVELOPMENT CODE. THIS IS NOT THE FIRST TIME THE CONTRACTOR HAS BUILT A HOME BELOW THE REQUIRED ELEVATION. PREVIOUSLY THE CONTRACTOR BUILT TWO HOMES WHERE THE FLOORS HAD TO BE RAISED AFTER THE FACT, TO MEET THE REQUIRED BASE FLOOR ELEVATION (BFE). THE STRUCTURE DOES NOT MEET THE REQUIREMENTS SET FORTH BY THE COUNTY'S LAND DEVELOPMENT CODE, THEREFORE, STAFF CANNOT RECOMMEND APPROVAL OF THE STRUCTURE OF THIS ELEVATION.

Proof of publication of notice of public hearing on proposed non-zoning variance File# NZVAR 01-0023 Turtle Shores Lot 218, was received having been published in The St. Augustine Record on September 28, 2001.

Cathy UpChurch, St. Augustine Court Reporter, was present. Harold Law, St. Johns County Building Official, reviewed this item, using visual display, stating that the Staff and the Building Department does not support this. Kohnke spoke on FEMA not liking having variances to their regulations and that the builders had done this twice before, having to adjust the floor elevation. Law responded that was true and the builder was here and could speak to that question. (2:04 p.m.) George McClure, 170 Malaga Street, representing Intervest Construction Inc., stated that this item was an issue about 2 and half inches and gave the history of this item. (2:09 p.m.) Robert Franques, 1520 Sawgrass Village Drive Unit 333, engineer for Turtle Shores, responded to questions asked by McClure on his credentials and lot elevations. (2:11 p.m.) Jacalone left the meeting. (2:15 p.m.) Don Wilford, Vice President of Intervest Construction Inc., responded to questions asked by McClure regarding his credentials, floor elevations and seeking vesting. (2:25 p.m.) Jacalone re-entered the meeting. (2:29 p.m.) Jeff Ward, 7950 Belford Parkway, Jacksonville, land surveyor, responded to questions asked by McClure regarding his experience in connection with this and other St. Johns County projects to determine appropriate floor elevations.

(2:31 p.m.) Law asked questions of Franques regarding the floor elevation. Law asked questions of Wilford regarding how many houses were built. Law asked questions of Ward regarding FEMA requirements. (2:35 p.m.) Linda Bell, Department of Community Affairs and Emergency Management, Tallahassee, spoke on flood insurance, and distributed information on flood insurance costs and elevation certificates. Discussion followed on how many times the surveyor reviewed the project early in the construction period and what he does, how serious a 2-and-half-inch deviation was, the rating system, and the building code. McClure summarized his request and gave his closing statements regarding variances, whether there is a solution, corrective action being expensive, and the ceiling heights from the bottom floor.

(3:18 p.m.) Joyce Cornell, 708 Blue Seas Court, Ponte Vedra Beach, spoke on being very concerned about discussion on the immensities area, and her flood insurance being canceled because of where she lives.

**Motion by Kohnke, seconded by Meiszer, carried by roll call vote 3/2 with Jacalone and Bryant opposing, to deny NZVAR 2001-000023, a Non-Zoning Variance to allow the structure to remain below the minimum elevation set forth in the Land Development Code.**

## Roll Call Vote

Reardon     yes  
Jacalone    no  
Kohnke      yes  
Bryant      no  
Meiszer     yes

## Motion passed.

Meeting recessed at 3:23 p.m. and reconvened at 3:34 p.m.

(10/09/01 - 8 - 3:35 p.m.)

7. PUBLIC HEARING – WARREN AND HEATHER MICHAEL. THE APPLICANT IS REQUESTING AN APPEAL OF A DENIAL BY THE PLANNING & ZONING AGENCY TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON AND OFF-PREMISE CONSUMPTION IN CONNECTION WITH A BED AND BREAKFAST, WITH A RESTAURANT AND RETAIL STORE. THE SUBJECT PROPERTY IS LOCATED AT 7601 A1A SOUTH AND THE PROPERTY IS ZONED CHT AND IS DESIGNATED A-RESIDENTIAL BY THE COMPREHENSIVE PLAN. THE APPLICANT HAS VERIFIED COMPLIANCE WITH SECTION 2.03.02 OF THE LAND DEVELOPMENT CODE, RELATING TO DISTANCE REQUIREMENTS FOR ALCOHOL VENDORS. STAFF ORIGINALLY RECOMMENDED APPROVAL OF THE REQUEST FOR ON-PREMISE CONSUMPTION AND DENIAL OF THE REQUEST FOR OFF-PREMISE CONSUMPTION. STAFF FOUND THAT THE REQUEST FOR OFF-PREMISE CONSUMPTION DIDN'T MEET THE REQUIREMENTS OF ARTICLE XII, DEFINITION OF SPECIAL USE, BECAUSE THE APPLICANT OFFERED NO CONDITIONS TO ENSURE COMPATIBILITY WITH THE SURROUNDING RESIDENTIAL AREA. AT THE PLANNING & ZONING HEARING THE APPLICANT OFFERED THE FOLLOWING CONDITIONS: (1) NO ADVERTISING OF PACKAGE SALES; (2) PACKAGE STORE WOULD CLOSE AT 10:00 P.M., AND (3) ON-SITE INVENTORY OF BEVERAGES CONTAINING MORE THAN 14% ALCOHOL CONTENT WOULD BE LIMITED TO ONE HUNDRED (100) BOTTLES. BASED ON THESE CONDITIONS, STAFF STATED NO OBJECTIONS TO APPROVAL OF THE SPECIAL USE PERMIT FOR BOTH ON AND OFF-PREMISE CONSUMPTION. HOWEVER, THE APPLICANT IS NOT OFFERING ANY CONDITIONS AT THIS TIME; STAFF CAN NO LONGER SUPPORT THE REQUEST FOR OFF-PREMISE CONSUMPTION. THE PLANNING & ZONING AGENCY DENIED THE REQUEST ON JULY 5, 2001, FINDING THE REQUEST INCONSISTENT WITH THE DEFINITION OF SPECIAL USE AND INCONSISTENT WITH THE COMPREHENSIVE PLAN, SPECIFICALLY POLICIES A.1.11.1(C) (1) AND A.1.11.1(H).

Proof of publication of notice of public hearing on 7601 A1A South SUPMIN 2001-33/ Appeal, was received having been published in The St. Augustine Record on September 17, 2001.

Cathy UpChurch, Court Reporter, was present. Rosemary Yeoman, Zoning Manager, stated that the applicant is requesting an appeal of a denial by the Planning and Zoning Agency to allow the sale of alcoholic beverages for on and off-premise consumption in connection with a bed and breakfast, with a restaurant, and retail store. The applicant is not offering any conditions, so Staff can not support the off-premise request. She stated that Staff recommended the support of the on-premise consumption in connection with the services provided on-site and recommended denial of the off-site. She distributed conditions that she recommends to the Board to consider if any portion of this request is



granted; non transferrable, not to run with the title of the property, and that it commits within a year. Jacalone disclosed ex-parte stating that to the best of his recollection, he has had no oral contact with either the applicants or anyone concerning this matter, has had several written correspondences either via e-mail or by letter. Kohnke disclosed having ex-parte in written form. Yeoman explained the motions from Staff. Kohnke questioned when restaurants have bars, is there anything that prevents them from having outdoor music. Yeoman responded that the only thing that would prevent them from having outdoor music is the zoning classification that would prevent outdoor activities, in this case, CHT does not prevent outdoor activities. Kohnke stated that if the Board grants the sale of on-site liquor, there should be statements made that they may not have any outdoor or amplified music. Yeoman stated that they have no ordinances requiring it, so unless the applicant offers it, the County cannot suggest nor imply that it be a part of it. Bryant disclosed having ex-parte through e-mails opposing the license. Meiszer disclosed having written ex-parte, heard from the South Anastasia Community Association, and had publication from the applicant. George McClure, 170 Malaga Street, Suite A, spoke on behalf of Warren and Heather Michael, using visual display, reviewed the application. He stated that the applicant offered the following conditions; the package store will close by 10:00 p.m., Sunday-Thursday and 11:30 p.m., Friday and Saturday, a limit of not more than 100 bottles of liquor in excess of 14% capacity on premise for either on or off premise consumption, no advertising on A1A of the existence of a package store on premises, no outdoor music or performances of any kind on this property, and conditions which were included with respect to non-transferability and that these would have to be implemented within one year. He stated that they feel that they are entitled to this use and that the Michaels will live on the top floor of this property. Discussion followed on the explanation of on-premise and off-premise, and no advertising along A1A in reference to liquor sale.

(3:55 p.m.) Patrick McCormack, 19 Old Mission Avenue, spoke on behalf of the surrounding residents, stated that McClure did not make the proper case to the Board. He explained what a special use is pertaining to the code. He spoke on Florida Statute 163.3194(1)(a), special exception granted by the Zoning Board, County Comprehensive Plan, explanation of residential, Density Zone A and B designations, neighborhood commercial, three bases for the Board to deny. He reviewed the drainage connection permit, spoke on the confusing motion listed on the cover sheet, spoke on where alcohol beverages are and are not allowed, and complying with the Comprehensive Plan. He played a video tape regarding this use not serving the surrounding area.

(4:27 p.m.) Judith Gannon, 7566 A1A South, asked the Board to deny the liquor license.

(4:28 p.m.) Greg Kostca, 7567 A1A South, expressed that he was strongly opposed to the use of alcohol.

(4:36 p.m.) Claude Goodwin, 7654 A1A South, spoke in opposition of the liquor license.

(4:37 p.m.) Art Gannon, 7566 A1A South, voiced concern that the facility being proposed would not serve any useful purpose to the community.

(4:39 p.m.) Gordon R. Lohman, 7648 A1A South, voiced the request of the South Anastasia Community Association, on being opposed to the sale of alcoholic beverages.

(4:41 p.m.) Jo Ann Lohman, 7648 A1A South, spoke in opposition of the alcohol license.

(4:43 p.m.) Terry Ustasici, 7578 A1A, spoke in opposition of the alcohol license.

(4:48 p.m.) Clay Gibson, 7618 A1A South, voiced opposition to the alcohol license.

(4:49 p.m.) Jim Gibson, 7618 A1A South, spoke in opposition to the alcohol beverage license.

(4:49 p.m.) Robert Carr, 7636 A1A South, voiced opposition to the alcohol license.

(4:50 p.m.) McClure gave his brief rebuttal. Heather Michael, 5348 A1A South answered questions by McClure. McClure gave his closing comments.

(5:03 p.m.) McCormack mentioned that his clients are Matt Kenyon and Greg Kostca. He stated that this all boils down to giving credibility to the Comprehensive Plan and that he prepared a suggested motion for the Board to consider. Discussion followed on the restaurant being open to non-guests, if it was customary for a Bed and Breakfast to serve alcohol for off-premise consumption and how many of them did, and the distinction between beer and wine and hard liquor. **Motion by Reardon, seconded by Kohnke, carried by roll call vote with Jacalone opposing, to deny application SUPMIN 2001-33, Special Use Permit allowing the sale of alcoholic beverages for on and off-premise consumption on property located at 7601 A1A South with the following Findings of Fact: 1) The application does not comply with the definition of "Special Use" as provided by the St. Johns County Land Development Code. Particularly, the application would not promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare of the neighborhood, 2) Section A.1.11.2 which requires the compatibility in size and scale to the surrounding residential area, and 3) This usage is not considered appropriate or legal in Residential Land Use A in the Comprehensive Plan.** (5:24 p.m.) David Halstead, Assistant County Administrator, entered the meeting and Adams left the meeting.

#### Roll Call Vote

Jacalone	no
Kohnke	yes
Bryant	yes
Meiszer	yes
Reardon	yes

The motion passed 4/1.

(10/09/01 - 10 - 5:29 p.m.)  
COMMISSIONERS' REPORTS

Commissioner Kohnke:

No report

(5:29 p.m.)  
Commissioner Reardon:

No report

(5:29 p.m.)  
Commissioner Bryant:

No report

(5:29 p.m.)  
Commissioner Meiszer:

Meiszer spoke on the old issue of a change in the boundary between St. Johns County and Flagler County coming up for consideration.

Meiszer mentioned that the people who spoke on behalf of St. Johns Application regarding funds did a good job.

Meiszer mentioned attending the meeting of the Florida Association of Counties in Orlando on Wednesday, regarding them being very concerned about the Special Session that is coming up in the first week in November or the last of October concerning the cut of \$1.6 billion from the current year budget.

Meiszer spoke on the Sheriff's security measures. He voiced concern about why the Commissioners were not informed about them, how long they would last and the appearance of the barricades. He suggested removing the stop sign at the west end of the road behind the complex. Halstead responded to Meiszer's questions.

(5:39 p.m.)

Commissioner Jacalone:

Jacalone spoke on the request by letter to seek an Attorney General Opinion on assessing the utility overhead line relocation for the MSD and ask the Board's opinion on seeking that request. Kohnke replied that she would check it out and bring it back to the Board for consideration.

Jacalone mentioned that liaisons to county committees are over participating and taking over the meetings.

(5:41 p.m.) Reardon voiced concern about the traffic circulation in front of the courthouse and the handling of the handicapped. Halstead stated that he would address it to the Sheriff and the Judge to see what they thought was appropriate.

(10/09/01 - 11 - 5:43 p.m.)

COUNTY ADMINISTRATOR'S REPORT

Halstead mentioned that the Joint Board and School Board meeting scheduled for Thursday, October 18, 2001 for 9:00 a.m. needs to be changed to 10:00 a.m.

(10/09/01 - 11 - 5:43 p.m.)

COUNTY ATTORNEY'S REPORT

Lopez gave a brief update on the Olsen Tire litigation.

(10/09/01 - 11 - 5:44 p.m.)

CLERK OF COURT'S REPORT

No report

**Motion by Kohnke, seconded by Reardon, carried 5/0, to adjourn the meeting.** There being no further business to come before the Board, the meeting adjourned at 5:44 p.m.

REPORTS:

1. St. Johns Board of County Commissioners Check Register Check No. 309544 through 309844 (10/02/01)
2. St. Johns Board of County Commissioners Check Register Check No. 309845 through 309854 (10/02/01)

3. Minutes of Landowners Meeting Sampson Creek Community Development District (10/12/2000)
4. Minutes of the Meetings of the Sampson Creek Community Development District for August 29, 2000
5. Minutes of the Meetings of the Sampson Creek Community Development District for October 12, 2000
6. Copy of the Series 2000 Engineer's Report for Marshall Creek Community Development District (01/04/2000)

CORRESPONDENCE:

1. Letter dated October 3, 2001 from Rose, Sundstrom and Bentley, LLP, regarding Intercoastal Utilities Inc.; Docket No. 2001-0007-0023-0003 Our File No. 26003.17
2. Copy of a Rule from the Land and Water Adjudicatory Commission, Chapter 42DD-1 establishing the Sampson Creek Community Development District (12/04/2000)
3. Copy of Ordinance 99-54 establishing the Marshall Creek Community Development District (01/04/2000)
4. Cover page and backup from September 28, 1999 BCC Agenda regarding Marshall Creek Community Development District
5. St. Johns County Draft Ordinance No. 99-54 (09/22/99)
6. Cover page and backup from September 7, 1999 BCC Agenda regarding Marshall Creek Community Development District
7. County Version "A" and Marshall Creek Version "B" of the Memorandum of Understanding between Hines Interests Limited Partnership, Marshall Creek, LTD., Genesis, LTD., and St. Johns County (08/23/99)

Approved November 6, 2001

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: \_\_\_\_\_  
Marc A. Jacalone, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: \_\_\_\_\_  
Deputy Clerk