

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
MARCH 16, 2004
(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: Karen Stern, District 2, Chair
Nicholas Meiszer, District 1
Marc Jacalone, District 3
James E. Bryant, District 5
Ben W. Adams, Jr., County Administrator
Daniel Bosanko, County Attorney
Lenora Newsome, Deputy Clerk

Also present: Allen MacDonald, Finance Director

Commissioner Maguire was not present at the meeting.

(03/16/04 - 1 - 8:06 a.m.)

Chair Stern called the meeting to order and announced the County lawsuit.

CLOSED SESSION - THIS IS A PRIVATE ATTORNEY - CLIENT MEETING OF THE BOARD OF COUNTY COMMISSIONERS HELD IN ACCORDANCE WITH SECTION 286.011(8), FLORIDA STATUTES. THE SPECIAL MEETING WILL BE CONFINED TO SETTLEMENT NEGOTIATIONS AND LITIGATION EXPENSE STRATEGY PERTAINING TO THE LAWSUIT BETWEEN LARRY S. HYMAN, AS LIQUIDATING TRUSTEE FOR GOVERNMENTAL RISK INSURANCE TRUST VS. ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS. IN THE CIRCUIT COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR SARASOTA COUNTY, FLORIDA. CASE NO.: 2002 CA 17-347 NC. THE SPECIAL MEETING HAS BEEN ADVERTISED FOR 8:00 A.M. CONFERENCE ROOM "A" HAS BEEN RESERVED FOR THIS MEETING

Proof of publication of the Notice of Meeting on Attorney/Client Trust was received, having been published in *The St. Augustine Record* on March 3, 2004.

(8:07 a.m.) Bosanko read a statement regarding the meeting: *"I would like to inform you that I need advice concerning the lawsuit between Intercoastal Utilities, Inc. and the Board of County Commissioners of St. Johns County, relating to the lawsuit between Larry S. Hyman, as Liquidating Trustee for Governmental Risk Insurance Trust, vs. St. Johns County Board of County Commissioners. In the Circuit Court, Twelfth Judicial Circuit, in and for Sarasota County, Florida, Case No.: 2002 CA 17-347 NC. Florida Statute 286.011 allowed the Board to hold a private meeting in order to provide that advice."*

(8:08 a.m.) Stern announced that the closed Client/ Attorney Meeting would commence in Conference Room "A," and was estimated to last 45 minutes. The names of the people in attendance were: Karen R. Stern; James E. Bryant; Nicholas M. Meiszer; Marc A. Jacalone; Ben W. Adams, Jr.; Daniel J. Bosanko, Esquire; Laura Lee Barrow, Esquire; James W. Middleton, Esquire, special counsel to the Board, and Laura Pierle, Court Reporter.

(9:02 a.m.) Stern announced the termination of the Closed Attorney/Client Settlement Meeting and adjourned it at 9:02 a.m. Bosanko left the meeting and Michael Hunt, Deputy County Attorney, entered the meeting.

The meeting recessed at 9:03 a.m. and reconvened at 9:10 a.m.

(03/16/04 - 2 - 9:10 a.m.)

Stern called to order the Regular Meeting.

(03/16/04 - 2 - 9:11 a.m.)

Meiszer gave the Invocation and Bryant led the Pledge of Allegiance.

(03/16/04 - 2 - 9:11 a.m.)

ROLL CALL

Stern announced that four Commissioners were present and that Maguire was absent.

(03/16/04 - 2 - 9:12 a.m.)

PROCLAMATION DESIGNATING MARCH 16, 2004 AS CHARLES USINA DAY

Stern read the Proclamation and Charles Usina accepted it, stating that it had been a rewarding experience serving the citizens of St. Johns County.

(03/16/04 - 2 - 9:17 a.m.)

ACCEPTANCE OF PROCLAMATION

Motion by Jacalone, seconded by Bryant, carried 4/0 with Maguire absent, to accept the previously read Proclamation.

(03/16/04 - 2 - 9:17 a.m.)

PUBLIC COMMENT

Richard Thomas, 4322 Palmetto Street, Chairman of the St. Johns County Civic Association Round Table, spoke on growth and finance regarding new developments and impact fees. He stated that the Round Table recommended updating the Nichols Report regarding the impact fees.

(9:21 a.m.) Mary Kohnke, 29 South Roscoe, also spoke on impact fees. Scott Clem, Director of Growth Management, stated that they had discussed with Dr. Nichols working on the Nichols Report. Kohnke mentioned that the County should look at its needs, and then determine what needed to be done. Bryant stated that they would be focusing on the County's needs in this budget cycle.

(9:30 a.m.) Dante Salamone, 5225 Datil Pepper Road, voiced concern about people burning trash in their back yard; and stated that he would like to have the observation towers brought back. He also spoke on transportation issues. Stern directed Adams to have a representative, from the Division of Forestry, come and give an update on fire issues. Jacalone spoke on addressing a regulation that would limit burning by certain single-family property owners.

(9:35 a.m.) Bobby Hall, Fire Chief, stated that the Florida Statutes allowed for certain types of burning to be conducted. He stated that there were limitations during extreme drought conditions.

(03/16/04 - 3 - 9:36 a.m.)
DELETIONS TO CONSENT AGENDA

Adams requested to pull Consent Item 5, and stated he would reschedule it at a later date.

(03/16/04 - 3 - 9:36 a.m.)
APPROVAL OF CONSENT AGENDA

Motion by Jacalone, seconded by Bryant, carried 4/0 with Maguire absent, to approve the Consent Agenda, as amended.

1. Approval of the Cash Requirement Report
2. Approval of Minutes:
01/30/04 - BCC Workshop
02/17/04 - BCC Regular Meeting
02/24/04 - BCC Regular Meeting
3. Motion to adopt **Resolution No. 2004-48**, recognizing unanticipated revenue in the amount of \$3,858,359 and appropriating it to the Community Based Care Fund for use in the County's Community Based Care Administration Department

RESOLUTION NO. 2004-48

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AMENDING THE FISCAL YEAR 2004 COMMUNITY BASED CARE REVENUE AND EXPENDITURE BUDGETS TO RECOGNIZE UNANTICIPATED REVENUE AND AUTHORIZE ITS EXPENDITURE

4. Motion to adopt **Resolution No. 2004-49**, authorizing the County Administrator to execute two Easements, per the Agreement adopted by Resolution No. 2003-250, December 16, 2003, between Sembler Florida, Inc. and St. Johns County

RESOLUTION NO. 2004-49

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE TWO EASEMENTS, AS PER THE AGREEMENT ADOPTED BY RESOLUTION NO. 2003-250 ON DECEMBER 16, 2003, BETWEEN SEMBLER FLORIDA, INC. AND ST. JOHNS COUNTY

5. Motion to adopt a Resolution approving the terms and authorizing the County Administrator to execute a certain Purchase and Sale Agreement for property needed for a retention pond for improvements to Roberts Road

This item was pulled from the Agenda and will be scheduled at a later date.

6. Motion to adopt **Resolution No. 2004-50**, authorizing the Chair to execute Contract No. C-026, between St. Johns County and the State of Florida Division

of Administrative Hearings, providing for Administrative Hearing Services at a pre-determined rate of \$129.00 per hour, plus actual travel expenses

RESOLUTION NO. 2004-50

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CHAIR PERSON TO EXECUTE CONTRACT NO. C-026, BETWEEN ST. JOHNS COUNTY AND THE STATE OF FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS FOR APPOINTMENT OF HEARING OFFICERS, WHO ARE EXPERTS IN THE ADJUDICATION OF ADMINISTRATIVE DISPUTES, FOR THE PURPOSE OF CONDUCTING PUBLIC HEARINGS IN ANY PROCEEDING AFFECTING THE SUBSTANTIAL INTERESTS OF A PARTY IN FORMAL PROCEEDINGS BEFORE THE ST. JOHNS COUNTY WATER AND SEWER AUTHORITY

7. Motion to authorize the County Administrator, or his designee, to enter into contract with Project Special Care for the provision of Emergency Shelter and Respite Home Services
8. Proofs:
 - a. Proof, Notice to Bidders, Bid No. 04-29
 - b. Proof, Notice to Bidders, Bid No. 04-64
 - c. Proof, Notice of Meeting, Sunshine Law Public Meeting, Thursday, February 12, 2004 at 1:30 p.m.
 - d. Proof, Public Hearing Notice, Florida Department of Community Affairs, Small Cities Community Development Block Grant, Tuesday, February 17, 2004 at 9:00 a.m.
 - e. Proof, Certificate of Insurance, CH2M Hill, Inc.
 - f. Proof, Certificate of Insurance, E J Breneman, L.P.
 - g. Proof, Certificate of Liability Insurance, England, Thims & Miller, Inc.
 - h. Proof, Certificate of Liability Insurance, Connelly & Wicker, Inc.
 - i. Proof, Certificate of Liability Insurance, HDR Engineering, Inc.
 - j. Proof, Certificate of Liability Insurance, Herrington Industries, Inc.
 - k. Proof, Certificate of Liability Insurance, Dyer, Riddle, Mills & Precourt, Inc.
 - l. Proof, Certificate of Liability Insurance, First Financial Employee Leasing, Inc. L/C/F Staff Masters of Jacksonville, Inc.

(03/16/04 - 4 - 9:36 a.m.)

ADDITIONS/DELETIONS TO REGULAR AGENDA

Adams requested to pull Item 3, per Maguire's request.

(03/16/04 - 4 - 9:37 a.m.)

APPROVAL OF REGULAR AGENDA

Motion by Bryant, seconded by Stern, carried 4/0, to approve the Regular Agenda, as amended.

(03/16/04 - 4 - 9:37 a.m.)

1. PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT 2004 APPLICATION - THIS WOULD BE THE SECOND OF TWO PUBLIC

HEARINGS REQUIRED TO RECEIVE CITIZEN'S VIEWS CONCERNING THE COMMUNITIES ECONOMIC AND COMMUNITY DEVELOPMENT NEEDS. THE DEPARTMENT OF COMMUNITY AFFAIRS HAS ANNOUNCED THE ANTICIPATED FUNDING AVAILABILITY UNDER THE FLORIDA SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR ECONOMIC DEVELOPMENT AND COMMUNITY DEVELOPMENT. THE BOARD OF COUNTY COMMISSIONERS PREVIOUSLY APPROVED A CONTRACT WITH JORDAN & ASSOCIATES TO PREPARE AN APPLICATION FOR THE 2004 FUNDING CYCLE, FOR AN AMOUNT NOT TO EXCEED \$750,000.00, EACH FOR ECONOMIC AND COMMUNITY DEVELOPMENT. STAFF ANTICIPATES THE FUNDS WILL BE USED IN THE AREA OF REHABILITATION, NEIGHBORHOOD REVITALIZATION, COMMERCIAL REVITALIZATION, OR ECONOMIC DEVELOPMENT TO BENEFIT LOW AND MODERATE INCOME PERSONS, AID IN THE PREVENTION OR ELIMINATION OF SLUMS OR BLIGHT OR TO MEET COMMUNITY DEVELOPMENT NEEDS. APPLICATIONS ARE BEING PREPARED AS FOLLOWS: WEST AUGUSTINE - HOUSING REHABILITATION AND VILANO BEACH TOWN CENTER - ECONOMIC DEVELOPMENT. BETTY JORDAN OF JORDAN & ASSOCIATES WILL BE AVAILABLE TO ADDRESS QUESTIONS

Proof of publication of the Notice of Public Hearing on Consideration of Grant Applications was received, having been published in *The St. Augustine Record* on February 12, 2004 and March 4, 2004.

Tom Crawford, Director of Housing and Community Services, reviewed this item.

(9:38 a.m.) Steven Massey, Jordan and Associates, reviewed what the application included, the housing categories and the costs.

(9:41 a.m.) Stephan Crooms, 936 Ervin Street, spoke on being in total approval of this grant and hoped the Board would approve it. He mentioned scheduling a meeting in the evening with the Board of County Commissioners and the Steering Committee regarding the West Augustine area. Stern directed Adams to schedule the meeting on an agenda. Jacalone asked Massey if they had contacted Congressman Mica. Massey replied that they had not contacted him, but he wouldn't be able to help because the grants were all competitive and scored.

(9:44 a.m.) Walter Kelly, 1515 A1A South #71, Chairman of the Economic Development Steering Committee, spoke on Congressman Mica taking an extensive tour of West Augustine and stated that he was appalled by the conditions that existed there. Kelly stated that this particular Block Grant would alleviate some of the problems that existed there and he spoke in favor of the grant.

(03/16/04 - 5 - 9:45 a.m.)

2. CONSIDER A MOTION TO CONFIRM THE APPOINTMENT OF DR. DAWN C. ALLICOCK, M.D., M.P.H, AS ST. JOHNS COUNTY'S HEALTH DEPARTMENT MEDICAL DIRECTOR

Dottie Hudson, St. Johns County Health Department, spoke on Dr. Dawn Allcock being a great applicant for the Medical Director's position. Bryant stated that Dr. Allcock was a very vital person and he thought that she would be an asset to the St. Johns County Public Health Department. (9:47 a.m.) **Motion by Bryant, seconded by Stern, carried 4/0 with Maguire absent, to confirm the appointment of Dr. Dawn C. Allcock, M. D., M.P.H., as St. Johns County's Health Department Medical Director.**

(9:48 a.m.) MacDonald left the meeting.

3. CONSIDER APPOINTMENTS TO THE COASTAL CORRIDOR/PONTE VEDRA ARCHITECTURAL REVIEW COMMITTEE

This item was pulled from the Agenda.

(03/16/04 - 6 - 9:48 a.m.)

4. CONSIDER AN APPOINTMENT TO THE CONTRACTORS REVIEW BOARD

Melissa Lundquist, Administrative Coordinator, reviewed this item, stating that they had received only one application, Mr. Dick Pittman. (9:49 a.m.) **Motion by Bryant, seconded by Stern, carried 4/0 with Maguire absent, to appoint Mr. Dick Pittman to the Contractor Review Board for a partial term, scheduled to expire September 24, 2006.**

(03/16/04 - 6 - 9:49 a.m.)

5. CONSIDER A MOTION TO TRANSFER \$3,450 FROM GENERAL FUND RESERVES TO BUILDING MAINTENANCE FOR THE PREP AND PAINTING OF THE LIGHTHOUSE MUSEUM FASCIA

Gene Burns, Facilities Maintenance Director, reviewed this item, stating that they were requesting funds to be transferred to accommodate the maintenance items. Bryant asked if there was any assurance that the accounts were being monitored so there wouldn't be too many overages. Burns responded. Jacalone spoke on the lease agreement and the amount that the County would be responsible for. (9:53 a.m.) **Motion by Jacalone, seconded by Bryant, carried 4/0 with Maguire absent, to transfer \$3,450 from General Fund Reserves (0083-59920) to Facility Maintenance Department - Building Maintenance (0031-54600) for the prep and painting of the Lighthouse Museum fascia.**

(03/16/04 - 6 - 9:54 a.m.)

6. CONSIDER A MOTION TO TRANSFER \$8,333.44 FROM GOLF COURSE RESERVES TO GOLF COURSE BUILDING MAINTENANCE FOR MAINTENANCE REPAIRS TO THE GOLF COURSE RESTAURANT

Burns mentioned that this request was for the money to be transferred from their reserves into the building maintenance line item to improve the appearance of the facility. Meiszer asked if this included enclosing the porch. Burns replied no. Meiszer suggested enclosing the porch and asked Burns to check into it. Discussion followed on having continuous maintenance at the golf course, repairing the hood system in the kitchen, enclosing the front porch, and looking at all the needed repairs during the budget process. Meiszer mentioned that they needed a sprinkler system and suggested eliminating the little lockers in the locker room. Jacalone asked about periodic updates. Adams replied that he would check into it. Jacalone stated that they needed to get an idea of how much it would cost to enclose the front porch. Adams responded. (10:05 a.m.) **Motion by Jacalone, seconded by Meiszer, carried 4/0 with Maguire absent, to transfer \$8,333.44, from Golf Course Reserves (4434-59920) to Golf Course Administration (4429-54600).**

(03/16/04 - 6 - 10:06 a.m.)

7. CONSIDER AN AGREEMENT WITH FLORIDA POWER & LIGHT FOR GUARANTEED ENERGY PERFORMANCE SAVINGS AT THE COUNTY'S CRIMINAL JUSTICE FACILITY

Burns reviewed this item, stating that the County could save in excess of \$115,000 per year at the County's Criminal Justice Facility by retrofitting certain energy conservation

devices. Jacalone mentioned that this was something they must do and he spoke on the recommended financing. Burns responded. Meiszer stated that they needed assurance from the legal department that all the purchasing procedures were met. Hunt responded to Meiszer, and asked the Board to substitute his opinion letter as opposed to the opinion letter that was originally put in the packet. (10:18 a.m.) **Motion by Jacalone, seconded by Meiszer, carried 4/0 with Maguire absent, to execute the Construction and Implementation Order Agreement with FPL for Guaranteed Energy Performance Savings.** (10:18 a.m.) **Motion by Jacalone, seconded by Stern, carried 4/0 with Maguire absent, to execute the Guaranteed Energy Savings Agreement with FPL.** (10:18 a.m.) **Motion by Jacalone, seconded by Stern, carried 4/0 with Maguire absent, to adopt Resolution No. 2004-51, directing the County Administrator to execute the agreement with GE Capital Public Finance, Inc., to fund the retrofitting project for the Criminal Justice Facility.** *Hunt requested to include the substitution of his Opinion Letter, as opposed to the recommended Opinion Letter that was included in the original contract packet and the maker accepted Attorney Hunt's Opinion Letter as the substitution.*

(10:19 a.m.) Burns presented checks totaling \$4,000 to the County from FPL on the savings from the energy measures done over the project.

RESOLUTION NO. 2004-51

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE EXECUTION BY THE COUNTY ADMINISTRATOR OF A LOAN AGREEMENT WITH G.E. CAPITAL PUBLIC FINANCE, INC., FOR THE ACCOMPLISHMENT OF AN ENERGY SAVING RETROFIT PROJECT AT THE COUNTY CRIMINAL JUSTICE FACILITY

(03/16/04 - 7 - 10:20 a.m.)
COMMISSIONERS' REPORTS

Commissioner Meiszer:

No report.

(10:20 a.m.)
Commissioner Stern:

Stern spoke on their trip last week to Tallahassee for St. Johns County Day in and she thanked the County Staff for all their hard work. Adams mentioned that thanks should go to the Commissioners also, for their leadership. Meiszer stated that there was no mention in the news of Shorty Robbins and Troy Blevins wearing authentic homemade costumes.

Stern spoke on reading an article in the *Florida Times Union* regarding problems with getting land for St. Johns County schools, particularly in the northwest. She directed Adams to have a report next week on how they could get some assistance from the School Board on relocating the lighting placed in the playing fields.

(10:28 a.m.)
Commissioner Jacalone:

Jacalone spoke on St. Johns County Day being the best one they had ever had, because it was more productive. He also spoke on the lack of coverage on St. Johns County Day by the *St. Augustine Record*.

(10:32 a.m.)

Commissioner Bryant:

Bryant mentioned the discussions at St. Johns County Day regarding Health and Human Services.

Bryant also spoke on sports and recreation.

(03/16/04 - 8 - 10:37 a.m.)

COUNTY ADMINISTRATOR'S REPORT

No report.

(03/16/04 - 8 - 10:37 a.m.)

COUNTY ATTORNEY'S REPORT

Hunt reported that the Swiss Cove communications tower, mentioned at the Board meeting two weeks ago, had come down.

(03/16/04 - 8 - 10:38 a.m.)

CLERK OF COURT'S REPORT

No report.

The meeting recessed at 10:38 a.m. and reconvened at 1:36 p.m. with Commissioners Stern, Maguire, Meiszer, Jacalone and Bryant, Dan Bosanko, County Attorney and Ben Adams, County Administrator and Diane Gorski, Clerks Office, present.

(1:36 p.m.) Jacalone clarified a comment made during his Commissioner report about the *St. Augustine Record's* coverage on St. Johns County lobbying effort in Tallahassee last week. He explained that there was coverage in Thursday's edition and apologized to the *Record* for the mistake and also thanked them for their coverage.

(03/16/04 - 8 - 1:38p.m.)

8. PUBLIC HEARING - PUD 2003-21 SURFSIDE LODGE - THIS REQUEST WAS CONTINUED FROM THE JANUARY 13, JANUARY 27 AND FEBRUARY 17 BCC MEETINGS. THIS IS A REQUEST TO REZONE 0.66 ACRES OF LAND FROM CHT TO PUD TO ALLOW FOR A 20-UNIT EXTENDED STAY HOTEL. THE SUBJECT PROPERTY IS LOCATED AT 3080 COASTAL HIGHWAY AND IS DESIGNATED AS COMMERCIAL ON THE FUTURE LAND USE MAP, PURSUANT TO A SMALL-SCALE AMENDMENT APPROVED ON JANUARY 13. THE APPLICANT IS SEEKING THE PUD ACCORDING TO A SETTLEMENT AGREEMENT APPROVED SEPTEMBER 14, 2001. THE APPLICANT HAS REQUESTED THREE WAIVERS FROM THE LAND DEVELOPMENT CODE AS PART OF THIS PUD REQUEST. 1. TO SECTION 5.03.03.B.2 REQUIRING A 20-FOOT SETBACK FOR BUILDINGS, PARKING AND/OR STORAGE AREAS ALONG PROPERTY LINES ADJACENT TO ROAD RIGHT-OF-WAY AND ADJACENT RESIDENTIAL USES. THIS WAIVER IS REQUESTED FOR THE NORTH AND WEST PROPERTY LINES. THE PUD PROPOSES A TEN-FOOT SETBACK ALONG THE NORTH AND WEST PROPERTY LINES. 2. TO SECTION 5.03.03.1.4 REQUIRING A TEN-

FOOT NATURAL/LANDSCAPED BUFFER ALONG THE PROJECT'S BOUNDARIES. THE PUD PROPOSES 10-FOOT ALONG THE NORTH AND WEST PROPERTY BOUNDARY AND 6 FOOT ALONG THE SOUTH PROPERTY BOUNDARY. 3. TO SECTION 6.01.03 AND ARTICLE XII, DEFINITION OF YARD, REQUIRING THAT THE SETBACKS BE MEASURED FROM ANY POINT OF THE STRUCTURE 30 INCHES ABOVE THE GENERAL GROUND. THE APPLICANT HAS REQUESTED THAT THE SETBACKS BE MEASURED FROM THE VERTICAL WALLS OF THE STRUCTURE. THE APPLICANT HAD REQUESTED A WAIVER FROM SECTION 6.04.07.H REQUIRING SIDEWALKS ALONG A1A. THIS WAIVER IS NO LONGER REQUIRED, AS THE COUNTY DOES NOT REQUIRE SIDEWALKS ON STATE ROADS

(1:38 p.m.)

Bosanko requested that Deborah Andrews be given the opportunity to present four witnesses, as well as cross examine witnesses from the other side. Stern questioned whether or not this would replace public comment. Bosanko explained that public comment would be separate and suggested that following Teresa Bishops presentation; the applicants would make their presentation and allow Andrews to cross-examine and then allow her to present.

(1:39 p.m.) Teresa Bishop stated that this was the fourth hearing and that it had been continued from meetings held in January and February. She explained that the applicant had requested to rezone .66 acres of land from CHT to PUD to allow for a twenty unit extended stay hotel and that the applicant was seeking the PUD in accordance with a settlement agreement approved in 2001. She explained that the applicant had also requested three waivers. She stated that the request had been routed to all reviewing departments and that there were no outstanding comments. Bishop noted, that subject to Board approval of the waivers, the request was consistent with the Land Development Code and Comprehensive Plan designation of Commercial and that staff had recommended approval. The Planning and Zoning Agency (PZA) recommended approval at the December 18, 2003 meeting with a 6/1 vote. Bishop pointed out that the County had received nine letters in opposition and one letter in favor of the project. (1:42 p.m.) Jacalone asked Bishop to describe to the Commission how the applicant had altered the proposal since it was last presented. Bishop recalled that at a previous meeting the applicant had dropped the number of units from twenty-five to twenty and that twenty units were still proposed and that there would still be two, three-story buildings and the major change would be additional landscaping along the boundaries of the property as well as an increase in the setback on the northern property line by three or four feet. (1:43 p.m.) Meiszer requested clarification of the third waiver text regarding the measurement of the structure "above the ground" requirement versus measurement from the vertical wall of the structure. Bishop explained that anything that was thirty inches above the ground was required to meet the setbacks. The applicant had requested that they be able to measure from the vertical wall of the building, which would allow protrusions, such as balconies and patios into the setback area. (1:45 p.m.) Maguire verified measurement at the 30" point. (1:46 p.m.) George McClure, 170 Malaga Street, Suite A, on behalf of Concessions Inc., and its principals Mr. Robert Solano and son, reviewed the request for a vesting application that had been denied by SJC staff. He explained that an appeal was then filed by the applicant in accordance with the procedures of St. Johns County to the PZA who overturned the original decision, and granted the vesting application. The staff then filed an appeal to challenge the decision. The applicant filed an appeal with the Circuit Court stating that due process had not been served and that the staff was not a party that could appeal the case. He explained that staff could not decide the issue, staff did not live within three hundred feet and staff had no stake in the outcome. McClure stated that there was no evidence in the record that staff had even been authorized to file an appeal by the Board of County Commissioners. Subsequently, an affected homeowner had hired private council, Sid Ansbacher, of Upchurch, Bailey and Upchurch, who then became involved with the mediation and litigation and had

recognized the unusual nature of the case. A settlement agreement was reached involving the affected parties and was pending action by the Board of the County Commissioners. McClure explained that during the mitigation process, the original plans were modified in accordance with the settlement agreement. McClure explained that the site had been zoned commercial under the Comprehensive Plan, which meant that residential use of any type were not permitted. McClure explained the changes from the original request to the current request (Exhibit A). He explained that the applicant had requested that the eave of the overhang not be included in the setback. McClure also explained that although the numbers had been reduced to twenty, that the parking spaces would be twenty-six to accommodate the design. He pointed out the building would be kept off the northern property line by twenty feet. He reviewed the survey in relation to the coastal setback line. (1:59 p.m.) Jacalone asked McClure to describe the prior appeal in detail. McClure responded that past procedure had been that staff first made a vesting decision and that if the applicant was unhappy with their decision it was then appealed to the PZA. McClure noted that in the original request, staff had advised them that the property was zoned CHT and that it could be used as a hotel/motel. He explained that at that time a Coastal Corridor Plan was in place for the barrier islands and the plan permitted commercial development in sites already zoned commercial. Based on this information, Mr. Solano purchased the property. Once the property had been purchased, Mr. Solano returned to the County, at which point, there had been a change in staff. New staff members did not interpret the Coastal Corridor Plan as allowing for a motel/hotel to be built and did not grant a building permit. McClure stated that an appeal had been filed which had explained the conditions, reviewed what had been said to the applicant, the changes decided upon by staff and the reliance upon the statement made by staff to Mr. Solano's detriment and that County staff wrote a letter saying that they did not believe Mr. Solano was vested or that there was an estoppel. (2:01 p.m.) Jacalone confirmed that the applicant appealed the staff's decision to the PZA. McClure stated that the appeal had been granted by the PZA and that he recalled that the decision had been unanimous. Jacalone stated that he recalled that the staff had appealed the PZA decision to the Board and asked McClure to explain what happened next. McClure stated that the appeal had been lost by a 3/2 margin and that the Commission had overturned the decision of the PZA and that the applicant was not vested. McClure then explained that the Board's decision was appealed to Judge Traynor's office. McClure commented on the honesty of County staff, who, when approached, confirmed the original approval and testified on the applicant's behalf. McClure explained that the issue was that the staff was not somebody who had a stake in the outcome to appeal the decision of the PZA. McClure stated that subsequent to the appeal made by his client, the Commission adopted a policy that authorized staff to file appeals. Jacalone questioned what happened when the County Commission overturned the PZA decision, and the applicant appealed to Circuit Court. McClure explained that they went to mediation and that Mr. Burchfield from Jacksonville was the applicant's mediator and that the current application was the recommended settlement. Jacalone then questioned the substance of the project and whether or not any further concessions could be made by the applicant. McClure stated that no further concessions were possible. (2:03 p.m.) Maguire clarified that the roof would be the only intrusion into the setback and questioned why the applicant's waiver request did not state this clearly. McClure verified that the only portion permitted to extend into the setback would be the eaves. Maguire also questioned why the five-unit building was so big. (2:04 p.m.) Les Thomas, Architect, 32 Cordova Street, responded that the reason the building appeared to be longer was because it was narrow as a result of setting the parking back ten feet, with nineteen foot parking spaces, and twenty-four foot out widths. Maguire asked the architect to explain the layouts of all three floors. (Exhibit E) Thomas stated that the first floor would be an office and laundry area. He then explained that the perimeter of the second floor would be about thirty feet wide by sixty feet long. Maguire asked what the standard size hotel was. Thomas stated that it would be approximately fourteen by twenty-eight feet. He reminded staff that within the thirty feet of width in the north/south dimension a five foot balcony on the south side and a five foot walkway on the north side would be included, which meant that the building would only be twenty feet wide. Thomas stated that the other unit was basically the same except that it ran east and west. Maguire asked for clarification on the setback on the second building. Thomas verified that it was similar to the first and that the state controlled the shoreline parallel distance where building is allowed across

one hundred foot lots. (2:07 p.m.) Bosanko asserted that ex parte contacts and the substance thereof must be exposed. He also mentioned that Andrews might want to cross-examine the witness and that now might be a good time to do that. (2:08 p.m.) Meiszer requested clarification on the Master Development Plan in the agenda packet. He also requested clarification on the hash marks on the site plan and what they indicated. McClure verified that the walkway would not be included in the setback, but that an eave would overhang one foot of the setback and that was why the waiver was being requested. Meiszer asked McClure to explain the fence on the site plan and the setback. McClure explained that the setback was five foot from the eave. Meiszer stated that the sidewalk was not included in the setback. He noted that the distance between the vertical wall and the fence would be more than five feet. McClure concurred and stated that the walkway was thirty inches above the surface and that the exterior walkway was counted as well. He explained that a walkway would be on all three floors. Meiszer requested clarification of the walkway and balcony areas. McClure stated that a balcony would be private to the unit and that the walkway would represent an area where people would come around the building and go up or down the steps. Meiszer stated that he had no issue with commercial building, but that the architect should be able to design this hotel within the existing land use restrictions with little trouble. Meiszer stated that he would endorse the project, but would only approve a waiver or variance if there had been a specific problem or hardship that would be necessary to resolve the problem. (2:12 p.m.) Jacalone revealed his ex parte conversation with Attorney McClure and stated that nothing specific was discussed only the basic issues with the project. (2:13 p.m.) Stern introduced Attorney Deborah Andrews, representing Mr. Ken Reinhold who owned property north of the proposed motel. She questioned Mr. Thomas about the walkways around the buildings and asked for clarification of the site plan. She stated that there were only fifteen feet from the balcony to the north property line on the second and third floors. Thomas concurred and stated that it would be the same on the south side of the building. (2:15 p.m.) Jacalone questioned the distance from the balcony to the property line. Thomas confirmed that it would be fifteen feet from the balcony to the property line. Thomas noted that the parking spaces, if measured from the north property line to the first space would be ten feet and then another five feet to the balcony and another five feet to the three-story building. Andrews verified that the balcony was five feet wide. Andrews asked about the beach walkway. Thomas stated that it was on grade. Andrews noted that it would be between the ten and fifteen foot setbacks. Thomas mentioned that the walkway would be at grade and would probably be concrete near the building and become a wooden boardwalk heading towards the beach. Andrews asked about the location of the dumpster on the northwest corner of the parking lot. Thomas stated that the dumpster would be located within the fifteen foot setback and that it would take up the whole parking space and would be able to be moved forward or backward if necessary. (2:17 p.m.) Maguire required clarification on the western most building and the square footage of the walkway for the second and third floors. Thomas stated that the walkways would be five feet wide. Maguire mentioned that the unit square footage could be reduced to do away with the waiver request. Thomas stated that the problem with the building at the north south location would be the parking space, the drive lane and the parking space under the building. He mentioned that if the parking spaces were moved back the building would become smaller. (2:18 pm.) Jacalone questioned Maguire's calculations on the building size. Maguire clarified that he used the scale on the site plan and determined that from wall to wall the building would be roughly thirty-five feet in depth. Andrews stated that the issues before the Commission were related to the application for the PUD rezoning and the variances requested. She mentioned that the project had been amended to commercial in accordance with the Comprehensive Plan and that it had the old existing commercial zoning status attached to it. She explained that the issues would be related to the zoning and rezoning and the PUD and variances. (Exhibit B) Andrews stated that she recognized that there was a history to the case, but that it was irrelevant. Andrews' applicant's issues were related to the specific site plan to the project and the intensity. Andrews explained that commercial should be measured based on intensity and that density is a residential indicator, not a commercial indicator. Andrews expressed concern over the reference to density in this project because it is zoned commercial and not residential. Andrews stated that if the intent behind building oversized and with the definition of extended being unclear, that if these units were to be used as

residential units in the future, that this would be a violation of the Comprehensive Plan. Andrews explained that twenty units would not be allowed under residential for the size of the property in the Comprehensive Plan to use as residential dwelling units. She expressed concern over the term "dwelling unit" in the settlement agreement. She reiterated that commercial should be referred to as intensity, which referred to square footage, and commercial should be measured this way. She also questioned the lack of details regarding drainage on the property. Andrews asserted that the architect could redesign the project to comply and be compatible with the Land Development Code and the residential neighborhood. Andrew stated that the twenty-foot set back should be enforced and requested that the commission deny the waiver. (2:32 p.m.) Maguire asked Andrews to give her definition of extended stay. Andrews stated that she had been trying to figure that out herself. She stated that she didn't know what extended stay meant. She expressed concerns that these units would become residential dwelling units. Maguire asked Bosanko if there was anything in the Code that defined extended stay. (2:33 p.m.) Bosanko gave the legal definition of extended stay: "Extended stay lodging facilities - a building, or group of buildings containing self sufficient lodging units designed for rent or lease by the day or week. Common areas associated with the facility, such as recreation facilities, business meeting rooms, lobby registration areas, and parking areas are to be utilized by guests only. A common eating area for residents only may be provided, no additional services such as restaurants or commission facilities shall be provided; neither retail establishments or personal services shall be permitted." Maguire asked if that could be interpreted that someone would be able to stay more than a week. Bosanko responded that rentals would have to book in one-week increments. Maguire stated that the units appeared to be larger than a standard hotel room. (2:34 p.m.) Meiszer stated that a one-week rental would not be long term. Meiszer questioned the definition of long term. He then asked for clarification on the drawing legend, which had referred to the coastal construction control line that is drawn through the building on the diagram. He asked what the coastal construction control line meant. (2:36 p.m.) Thomas explained that the actual coastal construction line was about fifteen feet to the east of A1A and that was called the new construction line that was drawn in 1990. Meiszer questioned the reasoning for omitting the new coastal construction line from the drawing and references to the old one. Thomas stated that the homes all lined up against the old construction line. (2:38 p.m.) Meiszer stated that he found the omission peculiar, as the information was not shared with everyone. Thomas stated that when the plan was submitted to the state, the house next doors balcony and deck were built to the old line. He explained that when the state reviews the permit, the building must be in the line of existing houses. (2:39 p.m.) McClure mentioned that there was a difference between the coastal control line and the setback line. He explained that the control line was established by survey and over time, the shoreline moved and was based on aerial interpretation and that the state would move the setback line as it saw fit. The state defined the setback line as a number of feet east or west of the control line. He mentioned that the line, in and of itself, did not represent a measurement of where you could or could not build. McClure explained that all of the homes on the east side of A1A are forward of the setback line which meant that a permit from the state would be required to build. (2:41 p.m.) Meiszer stated that he did not dispute the information given, but pointed out that there was no line on the drawing called a setback line and that McClure had just stated another element of information omitted from the drawing. (2:41 p.m.) Andrews responded that her understanding of the coastal construction line was that if development were proposed eastward of the line a state permit would be required. She explained that the applicant would need permission from local government to meet part of the requirement for state permitting. Andrews stated that with site plan approval from the County, the state permitting requirement would be met. She questioned the lack of drainage information submitted. (2:42 p.m.) Jacalone explained that the text on the site plan addressed the drainage. Andrews replied that the site plan itself should demonstrate how drainage would be handled. (2:43 p.m.) Teresa Bishop explained that there was a note on the site plan that indicated that the storm water would be underground and that the note was sufficient for Master Development Plan purposes, which indicated that when the construction plans were produced they would be designing the drainage system at that time. (2:43 p.m.) Discussion regarding drainage issues ensued. (2:47 p.m.) Andrews called Ken Reinholt, 3104 Coastal Highway to speak before the commission. He revealed that he was not included in the party involved in the settlement agreement,

and that Attorney Ansbacher's previous settlement did not represent the residents in the area as a whole. He suggested that developing the area would compromise the property values, and that the park would end up being used as overflow parking for the motel. He noted that there would be an increase in traffic as well as flooding in the area. Reinholt requested that the County limit commercial use of the property to only that which is already on the books. He asked the Commission to deny the waivers. (2:51 p.m.) Sally Murdock, adjacent property owner, presented photographs of the area Murdock expressed concern that hotel guests would use the Surfside Park parking lot and limit the number of available spaces to the residents (Exhibit D). She also requested that the dumpster be relocated. Murdock had opposed the large commercial building and pleaded that no variances be granted regarding setbacks. (2:58 p.m.) Mrs. Pat Reinhold, 3104 SR A1A, had drainage concerns. She explained that the area already flooded with heavy rain. She mentioned that the park area would fill with people, and that the motel would take away the parking spots, cause excessive traffic problems and beach congestion. (3:00 p.m.) Dr. Lyle Spencer, 3100 Coastal Highway, presented photographs of the current motel, dumpster, residents homes and the coastal setbacks (Exhibit F). He mentioned that the settlement agreement included one family only and that he had attended a meeting with Sally Murdock held by Mark and Linda Wilson, located directly across the street from the proposed commercial construction site. He stated that the Wilson's had hired Attorney Ansbacher and paid him to oppose the development. He further stated that the other owners were not aware of the settlement. He announced that Attorney Andrews had advised him to say that he was a professional statistician with a PhD. from the University of Chicago. He maintained that the reduction of units from twenty-five to twenty was meaningless. Spencer went on to explain density and population statistics. He stated that Solano owned other multi-million dollar properties and that there was no excuse for the way the current property was being maintained as demonstrated in the photograph earlier. He believed that the condition of the current motel gave no indication that the new construction would be maintained any differently. He said that this new motel would lower property values; endanger children, increase traffic and that crime would rise in the area. (3:06) Jacalone verified that Mr. Spencer had included properties one mile north and south of the proposed new construction. Spencer stated that he was uncertain of the exact distance reviewed. Jacalone asked why the multi-family projects on the ocean, south of this area and also another to the north, which should be contained within the radius Spencer had included in his statistical data were not included. Spencer stated that he had used addresses in the 3100 block, but was not sure which addresses were included. Maguire mentioned that Sea Scape was approximately a quarter mile to the south. Jacalone mentioned that within one mile to the North, Mariners Watch was located on the other side of the street and that it was a multi family complex. Spencer then stated that he had used only three hundred feet in his calculations. (3:09 p.m.) McClure verified that Mr. Spencer's home was not visible in the photograph he had presented to the Board and asked if he objected to the placement of Mrs. Murdock's home. Spencer answered that he had no objections. McClure then asked Mr. Spencer if he had any problem with anybody else building in line with Mrs. Murdock's home. Spencer stated that Tallahassee would not allow him to build there because the Murdock's had a legitimately grandfathered little projection out from the far west on the fly over there. McClure stated, that to be clear, that west would be A1A and that A1A was not visible in the photograph. Spencer said that the line of average, according to the Tallahassee office, was the mean of the houses along there. McClure asked if Mrs. Murdock's home was in line, roughly, with the existing homes shown in the photograph. Spencer answered that they roughly were, but without the little projection out. McClure asked if Mr. Spencer's home was in line with the face of the main portion of Murdock's structure and he stated that it was. McClure then asked if Spencer had any issue with anyone else building in line with the face of the main structure of Murdock's home to which Spencer answered he did not, but requested that everyone comply with the setback rules dictated by Tallahassee. McClure asked Spencer if the applicant were abiding by those rules would he have any objections. McClure asked Spencer if, as a Statistician with a degree from the University of Chicago, would he be familiar with the concept of comparing apples and oranges and Spencer stated that he would. McClure asked what that would mean as a PhD statistician from the University of Chicago and Spencer answered that it meant a comparison to similar things. Spencer then explained that he was comparing similar things that would include dwelling unit

density. McClure then asked several questions regarding density comparisons in the Vilano area. Spencer explained that he did not include comparisons outside the three hundred foot limit. McClure asked if Spencer had compared the unit density with other hotel units in the area and Spencer stated that he had not as it would be irrelevant. Cross-examination from McClure of Spencer ensued. (3:15 p.m.) Andrews stated her objection with the line of questioning and stated that McClure was reaching the point of badgering the witness. Andrews stated that the discussion was outside the scope of the questioning and asked that it be wrapped up. Stern stated that she would like to wrap it up and McClure interrupted and stated that he would like to make the point that somehow it seemed that the standards of common decency and rationality were applied only to applicants. He stated that he normally did not typically cross-examine private citizens who had a legitimate concern about what went on in their neighborhood. He explained that the statements Dr. Spencer had made, unfounded, about his client, were offensive and that is why he had taken the opportunity to question him. (3:17 p.m.) Stern requested Miss Andrews call her next witness. Meiszer asked if additional witnesses were to be called and Andrews stated that there were not. Meiszer then asked McClure if he had been speaking on his client's behalf. (3:18 p.m.) Bosanko suggested they ask Miss Andrews if she had finished stating her case. Andrews requested that the variances be denied and that opportunity for rebuttal be given if necessary. Meiszer reviewed the definition of extended stay and asked if Solano would lease the units or rent them for more than one week. McClure asked Solano to approach the Board and explained that his understanding of the issue was that it was a pricing issue and that meant it could be advertised as an extended stay motel but had to indicate that they would be rented by a nightly or weekly rate. (3:19 p.m.) Meiszer questioned the week-to-week extended stay intention of the applicant and McClure answered it would be rent paid week to week. Meiszer asked that if a customer requested a stay longer than weekly would Solano would allow it. He explained that his interpretation would be that if the lessee were to pay his rent weekly he would be able to stay on indefinitely and that Solano would most likely allow it. Meiszer questioned the site plans reference to the existing concrete wall. McClure answered that the wall did not belong to his client. Meiszer questioned the plan to construct a six-foot wooden fence in front of a two-foot high concrete wall owned by St. Johns County (3:23 p.m.) Solano expressed interest in landscaping and maintaining the county owned area without change in ownership. (3:25 pm.) McClure reviewed the site and building plans and explained that the depth of the building would be thirty-eight feet which included a six foot balcony on the back and a five foot walkway on the front which reduced it to twenty-seven feet and that it would be concrete block construction and another eight inches would be reduced on each end. He explained that the length of the units would be twenty-feet, eight inches and the width would be fourteen feet, four inches, and that each unit per floor would be three hundred and seventy square feet. He further explained that the front units would be slightly less than fourteen feet wide and that they would be one-story units approximately three hundred and forty square feet. McClure addressed the concern regarding residential use by the applicant. He mentioned Beacher's Lodge in Crescent Beach, and explained that those units were both lived in by permanent owners and renters. He explained that in this particular case, the zoning in the Comprehensive Plan prohibited residential use and that there would be few people, if any, that would be willing to pay nearly \$3,000 a month to live in an ocean front hotel. In the event that someone would be willing to incur the expense they would not be allowed to enroll their children in school, there would be no residential address, you could not vote and would not have any other residential privileges. McClure then emphasized that Andrews had persistently used the term variance and that PUD's do not include variances. He explained that the PUD guidelines were set up to use as a model to follow and that a waiver from the model was requested and no hardship would need to be shown. McClure reminded the Commission that the legal issues dated back to 1999 and that the applicant would have the option to pursue further legal action which meant it would be retroactive and that the application would be eligible to use the standards under the Land Development Regulations in affect in 1999, which would mean that there would be a fifteen foot setback on the north and the south and there would be no overlay, no separation requirements or other criteria in affect today. McClure further explained that in the event Solano failed to succeed in litigation, the property would be able to be used for other CHT zoned business which would include Bed and Breakfasts, convenience stores, drive thru or sit down

restaurants, gas stations and so on. McClure stated that the dumpster issue described by Murdock earlier would no longer include trash from units which had no food service facility to the trash associated with restaurants and food service. He stated that Solano would not do this, but someone else might and rezoning would not be required. McClure mentioned that the concerns of the residents would be better appreciated if the property in question had not already been zoned commercial or if the property were vacant land or a residence that would need to be torn down. McClure asserted that the property had been zoned CHT in the 1970's and had been used as a motel for years. McClure stated that the suggestion for deletion of the six-foot fence and adding to the existing masonry fence and landscaping to beautify the area to prevent the impression of crowding on the south end is something that the applicant would be willing to do. He further explained that if that were to be any storm water treatment ponds needed, that the applicant would need to return to the Board. (3:32 p.m.) Stern questioned Teresa Bishop about the history of this request and asked what had changed in the application since it was first submitted. She asked if the footprint of the building had changed at all? Bishop stated that the footprint had not changed. Stern mentioned that the applicant had pushed the area parking inside building, which had decreased the number of units by five and the setback by five feet. Bishop concurred. Stern asked Bishop if the waivers remained unchanged since the first application and Bishop concurred, with the exception of the sidewalks. Stern asked if there would be a problem with the signs. Bishop stated that there were problems with the signs and that the overlay would require thirty-two square feet and that it was mentioned to McClure, who indicated that the applicant would be willing to meet those standards and that the change would be reflected in the application text. Stern stated that she appreciated the applicant's willingness to landscape to add a buffer at the south end of the property but that it was not enough on the north side. Stern said that she had no objection with the rezoning from CHT to PUD but she did not support the waivers. (3:34 p.m.) Maguire asked McClure to verify that there was no hardship. (3:34 p.m.) Bosanko stated that the applicant would have to bear the burden of proof to demonstrate the basis for the need of the waiver. Bosanko stated that the file should have included some evidence as to the need for the waiver. (3:35 p.m.) Maguire recused himself, and stated that he would not be able to vote, but expressed his concern over the lack of fencing on the south side of the property which would allow people to jump through the landscaped area in the parking lot and that the parking lot would become abused. He preferred that a fence be constructed on the south side. He also had an issue with the vertical height. (3:37 p.m.) Bosanko explained that Maguire would need to state the reason for his conflict and fill out the form. Maguire stated that his family owned property next door to the parking lot (Exhibit C).

Stern recessed the meeting at 3:38 p.m. and reconvened at 3:47 p.m.

(03/16/04 - 16 - 3:47 p.m.) Jacalone shared his opinion that the plan had evolved for the better and that the original plan had been more intense and evasive and that he had appreciated Meiszer suggesting the idea of using the concrete wall as the separation point. He stated that we would regret not approving the project with the facts in this case, with the current zoning and Comprehensive Plan designation. (3:49 p.m.) Bosanko conveyed that Andrews requested she be able to address one more issue before the Board and that if this was allowed, they would also need to give McClure opportunity to respond. (3:50 p.m.) Andrews announced her confusion as to how the issue was being handled. She stated that she thought she would have been allowed to give closing arguments. She requested that McClure's suggestion that the past would affect the present be disregarded. She asserted that there would always be an option to take something to the circuit court, but that the current issue had nothing to do with the 1999 settlement agreement. Andrews explained that this was a rezoning and variance issue, and that the applicant should be required to bear the burden in proof regarding the hardship requirement. She requested that she objected to the ex parte communications with McClure revealed by Jacalone and requested that Jacalone recuse himself. (3:53 p.m.) McClure clarified that the 1999 state case was settled pending the outcome of this issue. (3:55 p.m.) Jacalone mentioned that Stern had the option as chair to conduct these types of hearings with some bit of flexibility and Bosanko concurred. Jacalone requested clarification in that this was not a court of law where there were

strict rigid guidelines pertaining to procedure and that the chair has some flexibility in that. He asked Bosanko if the chair had conducted the meeting in accordance with the statutory requirements for a quasi-judicial hearing. Bosanko concurred that this meeting met the statutory and constitutional requirements. Jacalone responded to Andrews request that he recuse himself and explained that proper disclosure was necessary, which was why he mentioned his conversation with McClure, and that recusal was not mandated. Bosanko concurred and stated that unless a conflict of interest or an appearance of a conflict of interest occurred, the commissioner would not be able to legally recuse himself. Jacalone responded that McClure had described the history associated with the project and expressed concern over the testimony by staff members, the fact that the property had already been zoned commercial and that there had been vesting determinations that were given and taken away and that there was a court recommended settlement agreement and that these factors would play into who would ultimately be successful on the request. Jacalone stated that he did not like the County's position and that the plan had come a long way. (3:57 p.m.) **Motion by Jacalone, to move to enact Ordinance 2004-17, known as PUD 2003-21, Surfside Lodge PUD adopting findings to support the motion contained in the package one through six, including the altered waivers to include concessions made by the applicant and include the sidewalk waiver, died for lack of a second.** (3:59 p.m.) **Motion by Bryant, seconded by Jacalone, carried 4/0 with Maguire recusing himself, to enact Ordinance 2004-17, known as PUD 2003-21, Surfside Lodge PUD, adopting findings of fact to support the motion one through six with the correction of the sign size to conform with the Coastal Corridor overlay and without the waivers.**

Motion by Bryant, seconded by Jacalone, carried 5/0, to adjourn the meeting. With there being no further business to come before the Board, the meeting adjourned at 4:00 p.m.

REPORTS:

1. St. Johns Board of County Commissioners Check Register; approving check number 347989 through 348011, totaling \$28,052.16 (03/04/04)

CORRESPONDENCE:

1. Letter dated March 9, 2004 to Liz Cloud, Chief, Bureau of Administration Code, filing St. Johns County Ordinance Numbers 2004-15 through 2004-16
2. Letter dated February 18, 2004 to the Heritage Park Community Development District regarding the proposed budget for fiscal year 2003/2004, providing certified copies of Resolution 2004-07 and Resolution 2004-09, pursuant to Chapter 190, Florida Statutes

Approved April 6, 2004

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Karen R. Stern

Karen R. Stern, Chair

RENDITION DATE 04/07/04

ATTEST, CHERYL STRICKLAND, CLERK

By: Yvonne King
Deputy Clerk