

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
JUNE 14, 2006
(9:00 A.M.)**

Proceedings of a special meeting of the Board of County Commissioners of St. Johns County, Florida, held in the auditorium at the County Administration Building, 4020 Lewis Speedway (County Road 16-A) and US 1 North, St. Augustine, Florida.

Proof of publication of the notice of special meeting regarding the Fishkind Report was received having been published in *The St. Augustine Record* on June 6, 2006.

Present were: James E. Bryant, District 5, Chairman
Cyndi Stevenson, District 1, Vice Chair
Karen R. Stern, District 2
Ben Rich, District 3
Bruce A. Maguire, District 4
Ben W. Adams, Jr., County Administrator
Michael Hunt, Deputy County Attorney
Yvonne King, Deputy Clerk

(06/14/06 - 1 - 8:12 a.m.)

Chairman Bryant called the meeting to order.

(06/14/06 - 1 - 8:12 a.m.)

1. 8:00 AM - CLOSED SESSION - THIS SPECIAL MEETING 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 AMERICAN CONTRACTORS & DEVELOPERS, INC., VS. ST. JOHNS COUNTY, BOARD OF COUNTY COMMISSIONERS. IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT IN AND FOR ST. JOHNS COUNTY, FLORIDA. CASE NO. CA 04-626. CONFERENCE ROOM "A" HAS BEEN RESERVED FOR THIS MEETING

Proof of publication of the notice of a special and private meeting regarding the lawsuit American Contractors & Developers, Inc. vs. St. Johns County, was received, having been published in *The St. Augustine Record* on June 2, 2006.

Bryant called the special meeting to order. Hunt informed the Board that he needed advice concerning the lawsuit, American Contractors & Developers, Inc. vs. St. Johns County, Board of County Commissioners in the Circuit Court of the 7th Judicial Circuit; Case No. CA04-626; Florida Statute 286.011, which allows the Board to hold a private meeting in order to provide that advice. Bryant then announced the Closed Client/Attorney Meeting to convene in Conference Room "A." Bryant then announced the specific names of persons attending the meeting. The meeting Attendees moved to Conference Room "A" at 8:13 a.m. for the Closed Session. (9:07 a.m.) The closed session reconvened. **Motion by Stevenson, seconded by Rich, carried 4/0 with Maguire absent, to adjourn the special meeting.**

(06/14/06 - 1 - 9:08 a.m.)

ROLL CALL

Bryant announced that all commissioners were present, with the exception of Maguire.

(06/14/06 - 2 - 9:08 a.m.)

The Invocation was given by Bryant. The Pledge of Allegiance was led by Stevenson.

(06/14/06 - 2 - 9:09 a.m.)

ADDITIONS/DELETIONS TO SPECIAL MEETING AGENDA

There were no additions, nor deletions to the Special Meeting Agenda.

(06/14/06 - 2 - 9:09 a.m.)

APPROVAL OF SPECIAL MEETING AGENDA

Motion by Stern, seconded by Rich, carried 4/0 with Maguire absent, to approve the Special Meeting Agenda.

(06/14/06 - 2 - 9:09 a.m.)

1. ST. JOHNS COUNTY CHAMBER OF COMMERCE - FINANCIAL SUSTAINABILITY STUDY PRESENTATION

Joe Gordy, Chairman of the Economic Development Council of the St. Johns County Chamber of Commerce, introduced Dr. Henry Fishkind.

(9:11 a.m.) Maguire entered the meeting.

(9:12 a.m.) Henry Fishkind, Fishkind and Associates, Inc., reviewed the study's goals, sustainable strategies and budgetary pressures. He also addressed the Growth Management Act, made some recommendations, then, spoke on: the Capital Improvements Projects; funding the CIP; U.S. Forecast Summary for 2005-2008; recent trends in GDP and inflation; growth in real GDP; growth in payroll employment; consumer sentiment; growth in retail sales year-over-year through April; oil prices-acquisition cost for U.S. Refiners; the states that would be in recession; consumer price index; year-over-year percentage change; interest rates; key forces driving St. Johns County Economy; Jacksonville MSA growth population and employment; St. Johns County growth population and employment; growth in households v. volume of housing starts; St. Johns County commercial construction; key factors driving the budget outlook for St. Johns County; National Economy; Florida Economy; St. Johns County Economy; St. Johns County comparison to comparable counties; FY 2004 per capita spending for General Government; FY 2004 per capita spending for Transportation; FY 2004 per capita spending for economic development; St. Johns County summary budget outlook for 2006-2010; St. Johns County Summary Operating Budget Outlook; factor driving budget trends; factors driving operating expenditures percentage growth for 2006-2010; why existing growth does not pay for itself; the type of growth that is most beneficial to St. Johns County; a one cent sales tax for 10 years for infrastructure - A Better St. Johns County; raising gas tax five cents and use MSBU for transportation; and revise roadway impact fees. (9:57 a.m.) Discussion followed regarding additional revenue sources; prioritizing of the capital improvement projects; adjustments to the commercial impact fees; a gas tax; a sales tax; and health care costs.

(10:21 p.m.) Tom Manuel, 505 Becker Branch Place, Fruit Cove, commented on the budget, the budgetary process, and the Fishkind report.

(10:24 a.m.) Bill Lazar, Executive Director of the St. Johns Housing Partnership, suggested affordable housing issues be included in this type of impact analysis. Discussion followed regarding affordable/workforce housing.

(10:37 a.m.) Cathy Brown, Council on Aging, expressed concern with the social service aspect not being a part of the Fishkind report; then, commented in support of a sales tax.

(10:40 a.m.) Barbara Hendee, 480 Diosa Court, representing the League of Women Voters, urged the Board to fund the proposed community pools.

The meeting recessed at 10:43 a.m. and reconvened at 10:57 a.m.

(06/14/06 - 3 - 10:57 a.m.)

2. PRESENTATION OF REQUESTED CAPITAL IMPROVEMENT PROJECTS (CIP) PROJECTS TO BE FUNDED BY ADDITIONAL COUNTY REVENUE SOURCES

Doug Timms, Director of Office of Management and Budget, gave a PowerPoint presentation, which included: proposed additional revenue sources for CIP requests; FY2007-2011 CIP requests; the 5-Year PFM financial model; additional County debt capacity; projected unfunded CIP projects; projected possible debt service; proposed financing of the CIP projects; and the CIP Projects. (11:13 a.m.) Discussion followed regarding the proposed financing for the CIP projects; the Northwest District Park (Helow); and the Aberdeen park site.

(11:36 a.m.) Tom Manuel, 505 Becker Branch Place, Fruit Cove, commented on the financing of the CIP projects.

(11:38 a.m.) Barbara Hendee, 480 Diosa Court, representing the League of Women Voters, urged the Board to fund the proposed community pools.

Discussion followed regarding funding for the proposed public schools, the West Augustine District Park, the Hastings Gymnasium Improvements and Pool, the NW District Community Center and Pool, athletic fields, landfill soccer fields, the Synthetic Field at Plantation Park, financing with commercial paper, and financing with a sales tax.

The meeting recessed at 12:15 p.m. and resumed at 1:37 p.m. with Rich, Stevenson, Bryant, Maguire, Adams, Bosanko and Deputy Clerk Terry Bulla present. Stern entered the meeting shortly thereafter.

(1:37 p.m.) Doug Timms resumed the session, explained that the issue was concerning transportation and a 6-cent local option gas tax bonding capacity, with \$32.7 million remaining. He said it would be phase two bonding from fiscal year 2004. Timms said the nickel capacity would now bring in about \$24 million per 5 years, but they could bond more than just that total.

(1:40 p.m.) Joe Stephenson, Public Works Director, reviewed gas tax revenues and stated that the County collected gas tax revenues, and they were proposing the use of those revenues to support debt service on a bond issue, separate from any other bond issue. It would be subject to all rules that the gas taxes would be subject to. He said a list of projects had been developed using the proceeds of that bond (Exhibit B). He asked the board for projects on the list that should be removed, for projects that were not included that should be included or for projects that should be prioritized in a different manner. He reviewed several of the projects that were of the highest priority, and stated the other projects were in their Capital Improvement Plan.

(1:48 p.m.) Rich said he supported the list as presented.

(1:49 p.m.) Maguire said he liked the list as well, but he said he had limited knowledge as to why they were listed the way they were, and questioned the SR 305 extension, Heritage Landing extension, and Four Mile Road improvement, segment one. Stephenson explained SR 305 extension was in the design and permitting phase from 206 to CR 13/204 and a great deal of work had already been done in that area, and it provided a direct connection for Flagler Estates to St. Augustine. He explained its priority was based on safety and its location in the County. Maguire said he would include 305 above the Mitigation Land, but that was where he would draw the line for funding.

(1:54 p.m.) Stern said she believed that CR 305 had been looked at for preliminary engineering for some time, and it was an important roadway and right-of-way acquisition should be included. She clarified that Maguire wanted the SR 305 extension, Heritage Landing extension and Four Mile Road improvements to be included above the cut off line. Maguire said that was correct.

(1:55 p.m.) Bryant reiterated that the debt service for these projects came from the Gas Tax.

(06/14/06 - 4 - 1:56 p.m.)

3. CONSIDER COUNTY ATTORNEY SELECTION PROCESS

Bob Peters, Interim Human Resources Director, spoke regarding the proposed policy for selecting the County Attorney and the County Administrator. He said he needed direction on who was to oversee the interviewing and selection process.

(1:57 p.m.) Bryant stated that the attorney worked for the Board, the Board should hire them and the Board was capable, as was the Human Resources Department, of doing the interviewing.

(1:58 p.m.) Stern reiterated that the School Board selection process for the Superintendent of Schools was an excellent process and reviewed that process. She noted they recommended the top ten applicants and then interviewed the top four or five. She said there was no need for another committee.

(2:01 p.m.) Maguire opposed selection of a committee by the Board, as it would lend itself to political issues. He said Human Resources could review and recommend each candidate. He suggested three individuals, possibly Judge Mathis, Judge Watson and Hamilton Upchurch, all of whom had the highest integrity in the legal profession, and could make the selection. He said the second issue was that in two and a half months Bosanko would be gone. Peters said selection of a committee would drag out the process. Maguire said he would not support a committee based on each Commissioner choosing a member. Bryant said he would support a committee composed of those three individuals.

(2:03 p.m.) Rich said he would support Human Resources being able to appoint a committee to do the evaluation process. He said he was more concerned about looking for a process that would be employed for selecting the positions of County Attorney and County Administrator for now until forever, so as to eliminate the political process. Rich referred to a letter from Senior Assistant County Attorney, Isabel Lopez (Exhibit A). He recommended going back to the drawing board on the contract, and said he would support the three mentioned individuals as a selection committee.

(2:07 p.m.) Bryant said it would not work because each Commissioner would make the vote as they saw fit and could change the Ordinance with a simple majority. He agreed

that the selection of an Administrator was more involved and could require a larger search. He concluded that the County Attorney position did not need as much emphasis as the County Administrator.

(2:08 p.m.) Dan Bosanko said the BCC could not lock in future Boards as to that process.

(2:09 p.m.) Stevenson said she spoke with Martha Mickler, who worked on the search for the School Board, and said the search with a School Board Superintendent would be analogous to that of the County Administrator search, but said it was different than the County Attorney role. She noted that judges did not always have the background to make decisions regarding the selection process. Bosanko said that he agreed. She said her reservation would be to the breadth of their experience. She suggested Richard Cane, Daytona Beach Mayor for several terms, as well as the City Attorney for Hallendale.

(2:12 p.m.) Bosanko said at least half his job was not legal but managerial. He said issues required a lot of involvement by the County Attorney, and there was a lot more to being a County Attorney than legal issues.

(2:14 a.m.) Stern said she wanted to revise what she had said earlier. She said the County Administrator was a broader position, and it was not necessary to have a group of prestigious attorneys or judges to choose the County Attorney. She said Human Resources, a legal representative and even a psychologist would not be a bad idea to include on a committee. She asked the deadline for applications. Peterson said they did have ten applications in hand and a deadline had not been set. Stern suggested they have a deadline set so they could begin the procedure before Bosanko left. She said a group of three, with Peters included and perhaps two others with judicial background and management background and someone in the people business.

(2:18 p.m.) Rich asked for consensus of the Board on the procedures for hiring. He asked them to look at the recommended items of 1 through 7 as he had proposed.

(2:18 p.m.) Maguire said he supported setting a deadline.

(2:19 p.m.) Bryant said some of Rich's suggested procedures were not pertinent. He attempted to clarify that the Board had determined that they would have a committee. Maguire said Peters could fulfill the position for someone with interviewing skills, and the suggestion was to add two people from the legal profession.

(2:20 p.m.) Rich proceeded to review Item Number 1 of his suggested procedural recommendations. He asked the Board if there was consensus for fine-tuning the document using the Attorney's letter as direction. Stevenson said it should be simple and that she didn't want to say that this was the exact contract that they were going to offer. Peters said the contract was a generic one and was a starting point for the Board to look at, prepared by the County labor attorney, Constangy Brooks & Smith.

(2:23 p.m.) Bryant said they could work on the details of the contract later but currently needed recommendation of the candidates to them.

(2:24 p.m.) Rich proceeded with Number Two on the list of recommendations and asked specifically where they would advertise. He said they could be specific for one shot, one term, and one attorney and they could be specific as to what trade magazines they were going to advertise in. He proceeded to Item Number three and then to four.

(2:25 p.m.) Bryant said the majority of the Board had agreed for Peters to be one of the committee members. Rich said that would be improper because if they used this same format to pick the County Administrator, Peters would be picking his own boss.

(2:27 p.m.) Bryant said they were not talking about the selection of a County Administrator, but the selection of the County Attorney, a one-time deal and no precedent would be set. Rich said he was trying to establish a procedure that would not have to be changed each time. Bryant said the consensus of the Board was that Peters would be one of the screeners and asked for recommendations for the other two.

(2:28 p.m.) Stevenson said Robert Mathis, Richard Watson and Hamilton Upchurch had been mentioned and were fine with her. Maguire asked Peters to ask all three and the first two who were available could be selected.

(2:31 p.m.) Rich said he would go with Mathis and Watson. He recommended a fourth member, Upchurch, with Peters as a voting member. All the members concurred.

Public Comment:

(2:32 p.m.) Doug Burnett, 170 Malaga Street, said he had reviewed the packet for today. He offered his opinion and suggested they ask the committee for their input on the contract and said all three of them would have extensive experience on contracts. Watson and Mathis had been Division Chiefs, ran the State Attorney's Office, had managed the attorneys, and all three had experience in management and contract disputes. He noted they all trusted Bosanko and suggested that he look at the applicants and make recommendations as well.

(2:34 p.m.) Rich asked the Board to determine the number of candidates to be recommended to the Board, and he recommended two. There was general discussion and Peters summarized: The committee would include at least two and possibly all of the three mentioned names and himself. He said the candidate list would include a minimum of two and a maximum of four recommendations to the Board. He said the deadline would be 30 days from today for advertising. Bosanko said there was one main place, The Florida Bar Magazine, where most state agencies advertised for attorneys, but it was not quick and easy to get an ad in it.

(2:41 p.m.) Rich clarified that the board would be four members. He asked if there would be additional names recommended.

(2:42 p.m.) Maguire said they were making it too complicated.

(2:42 p.m.) Stevenson questioned the salary range and if it was appropriate for counties of our size. Peters stated where he got the range. She said she would also like to know that it was a full time job. Bryant said he would not support allowing them to have private clients outside of the County. Stevenson said it should be included in the contract.

(2:44 p.m.) Bryant said the \$130,000 maximum was in line because there were fringe benefits in addition to the salary.

(2:44 p.m.) Rich said consensus had not been reached on the contract. He asked them to review the letter from Lopez. He asked the committee to review the contract and make recommendations. Stern suggested an advertising deadline of August 1 should be set.

(2:46 p.m.) Peters said an ad had already been placed in the legal journal, a second one had been placed in the Florida Times Union and it was also advertised on the Internet. Stern suggested they change it until 30 days from that date. Bosanko said the original ad was very generic with 8 years experience and Board Certification required.

(2:47 p.m.) Maguire said he saw no need to advertise again and they should set a deadline for two weeks, after which no more applications would be accepted. He asked that the Board consider asking Bosanko to stay on for another month if they were unable to complete the process by September 30.

(2:49 p.m.) Rich asked if they were recommending that they go with the advertising already done and the applications on file and if that was sufficient in order to meet the requirements for the job. Peters said if they had time to meet the deadline, he would like to get another ad of a better quality in there. There was Board consensus.

(2:52 p.m.) Adams commented on the Fire Ban, and stated the drought index was at 580. He said they wanted to extend the ban for one more week.

(2:52 p.m.) Bosanko said they had received a letter from the Ortel law firm in Tallahassee, which represented the company that makes sparklers. He said they had taken exception with the burn ban as it related to sparkles, and said it was illegal to include sparklers in the burn ban. Bosanko said their opinion was questionable, and suggested they err on the side of public safety rather than accepting the argument that the Board could not regulate sparklers in an emergency situation. He said they could arrange the burn ban to be extended for another seven days and would it be due tomorrow. Maguire stated they did not have to face the liability and the Board did, so they should just leave it like it was. He asked when the next meeting would be. Adams said it would be Tuesday, June 27, a shade meeting at 8:00 a.m. for Helo.

(2:54 p.m.) Motion by Bryant, seconded by Stern, carried 5/0, to adjourn the meeting.

With there being no further business to come before the Board, the meeting adjourned at 2:54 p.m.

Approved July 11, 2006

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: James E. Bryant
James E. Bryant, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: Wanne King
Deputy Clerk