

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
SEPTEMBER 26, 2006
(1:30 P.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.

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
Patrick McCormack, Assistant County Attorney
Terry Bulla, Deputy Clerk

(09/26/06 - 1 - 1:37 p.m.)

Chairman Bryant called the meeting to order.

(09/26/06 - 1 - 1:37 p.m.)

ROLL CALL

All five commissioners were present.

(09/26/06 - 1 - 1:38 p.m.)

Bryant gave the invocation, and Stevenson led the Pledge of Allegiance.

(09/26/06 - 1 - 1:38 p.m.)

ADDITIONS OR DELETIONS TO THE SPECIAL MEETING AGENDA

Bryant asked that the finalizing of the County Attorney's contract be added as Item 4a.

(09/26/06 - 1 - 1:39 p.m.)

APPROVAL OF THE AGENDA

Motion by Stern, seconded by Stevenson, carried 5/0, to approve the agenda as amended.

(09/26/06 - 1 - 1:39 a.m.)

1. PUBLIC HEARING - REZ 2006-20 MOLNER COMMERCE CENTER REZONING - THIS IS A REQUEST TO REZONE 4 +/- ACRES OF LAND FROM OPEN RURAL (OR) AND COMMERCIAL GENERAL (CG) TO COMMERCIAL, INTENSIVE (CI). THE PROPOSED USE IS 40,000 SQUARE FEET OFFICE/STORAGE. THE PROPERTY IS LOCATED AT 2121-2125 STATE ROAD 16. THE PROPERTY HAS MIXED USE DISTRICT (MD) LAND USE AS DEPICTED ON 2015 FUTURE LAND USE MAP. CENTRAL WATER AND SEWER WILL BE PROVIDED BY ST. JOHNS COUNTY UTILITY DEPARTMENT. ADJACENT ZONINGS ARE PLANNED UNIT DEVELOPMENT (PUD) AND COMMERCIAL, INTENSIVE (CI). THE PLANNING AND ZONING AGENCY RECOMMENDED APPROVAL OF THIS REZONING REQUEST AT THEIR AUGUST 17, 2006 HEARING BY A VOTE OF 6/0

Proof of publication for the notice of public hearing regarding REZ 2006-20, Molner Commerce Center, rezoning was received, having been published in *The St. Augustine Record* on September 11, 2006.

Michael Blackford, Planner II, gave the presentation, and stated it was a request to rezone approximately 4 acres from open rural to commercial intensive for the construction of 40,000 square feet of warehouse and accessory office space. He said the Planning Department supported the request and found it to be consistent with the Comprehensive Plan.

(1:40 p.m.) Ed Paucek, 970 Irma Way, spoke on behalf of Rick Molner, owner of the property. He said they were in compliance and would be good neighbors for the area.

(1:42 p.m.) Rich spoke regarding an e-mail he had received from Charles Atkerson, Managing Partner of Portofino of St. Augustine, aka Old Town Village, and read it into the record. He asked if the use would be deed restricted to its use, so that it would be used for lower intensity uses allowed within CI. Paucek said it would be for the full usage of CI. He said it would not be a high intensity or high traffic area, and they would be good neighbors.

(1:45 p.m.) George McClure, 81 King Street, stated that he represented Charles Atkerson, a developer living in Ponte Vedra. He said their objective was not to derail the project, and they were in support of the particular application, however their concern was for the straight commercial intensive zoning. He said that Old Town Village, which Mr. Atkerson had developed, was located close by, all but ten units were already sold, and there was concern that the owners would not have had notification that the property was CI and that development could occur there as a matter of right. He noted there was a pretty good distance between their development and what Mr. Molner had planned. He said the drawings provided were for illustration purposes and had not been committed to, and changes would have to be made to it for required purposes such as a buffer, storm water retention, open space and landscaping, etc. He noted that variances or exceptions would be objected to, in an effort to protect their buyers. He said that if the project was good to go, with no changes, things would be fine. Bryant said it was a mixed-use area, and asked what they wanted done. McClure said he just wanted them to be aware that if there were changes, there would be objections by his client. Bryant said there were no variances requested in the rezoning, and they were raising a potential objection, which does not exist.

(1:53 p.m.) Stevenson asked if they could return with a multi-story building without requesting a variance. Blackford responded that they could, but would have to abide by the CI height limits, not to exceed 35 feet. He said if they needed a variance of any type it would come back before the Board, otherwise, it would be a DRC review where staff would review the project. Stevenson said the issue was not a matter of trust, but a matter of making agreements that would protect people in the future.

(1:55 p.m.) McCormack said all zoning variances, except for height issues, would be applied for before the PZA. It could then be appealed to the Board of County Commissioners.

(1:55 p.m.) McClure said they wanted to be sure that their purchasers were aware of it. He said the concurrency certificate was only for low capacity. He said he wanted to make sure that staff was scrutinizing it carefully to assure that all requirements were met.

(2:00 p.m.) Motion by Rich, seconded by Stevenson, carried 5/0, to enact Ordinance 2006-110, known as REZ 2006-20, Molner Commerce Center, adopting findings of fact 1 - 4 to support the motion.

ORDINANCE NO. 2006-110

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

(09/26/06 - 3 - 2:01 p.m.)

DAVID DINKINS, ST. JOHNS COUNTY EXTENSION SERVICE - UPDATE ON SPINACH E. COLI OUTBREAK

Mr. Dinkins urged people to go to the University of Florida website, Solutions For Your Life, to get the latest information on the spinach, E. coli outbreak. He noted it had been tracked to three counties in California. He recommended not buying spinach at that time, and until the FDA's warning had been lifted.

(09/26/06 - 3 - 2:05 p.m.)

2. PUBLIC HEARING - PUD 2006-14, THE OAKS PLANNED UNIT DEVELOPMENT - THIS REQUEST SEEKS TO REZONE APPROXIMATELY 1.734 ACRES FROM RESIDENTIAL MOBILE HOME (RMH) TO PLANNED UNIT DEVELOPMENT (PUD) IN ORDER TO CONSTRUCT UP TO 13 MULTIFAMILY UNITS. THE PROJECT WILL UTILIZE AN AFFORDABLE HOUSING DENSITY BONUS AND CONSTRUCT 4 AFFORDABLE UNITS. THE SITE IS LOCATED ON THE EAST SIDE OF WOODLAWN RD, JUST NORTH OF SR 16. THE MASTER DEVELOPMENT PLAN PROPOSES ONE ACCESS POINT FROM WOODLAWN RD. A FUTURE CONNECTION IS PROVIDED ALONG THE NORTHERN PROPERTY BOUNDARY TO THE EXISTING ACCESS EASEMENT THAT SERVICES ADJACENT PROPERTY. THERE WILL BE A FOUR-FOOT INTERNAL SIDEWALK AND A FOUR-FOOT SIDEWALK ALONG WOODLAWN RD. A TEN FOOT PERIMETER BUFFER IS PROVIDED ALONG THE PROJECT PERIMETER AND A 25' SETBACK IS PROVIDED ALONG WOODLAWN RD. THERE IS A TOTAL OF .80 ACRES OF OPEN SPACE OR 46% OF THE SITE. A MINIMUM OF .22 ACRES OF ACTIVE RECREATION WILL BE PROVIDED; AMENITIES INCLUDE A TOT LOT AND JOGGING TRAIL. CENTRAL WATER AND SEWER WILL BE PROVIDED BY THE CITY OF ST. AUGUSTINE. THE PROJECT SITE IS SURROUNDED BY THE FOLLOWING EXISTING ZONING CATEGORIES: OPEN RURAL (OR), RESIDENTIAL SINGLE FAMILY (RS-3), COMMERCIAL GENERAL (CG) AND RESIDENTIAL MOBILE HOME (RMH). THE SURROUNDING FUTURE LAND USE IS RESIDENTIAL-C AND MIXED USE. THE PLANNING AND ZONING AGENCY RECOMMENDED APPROVAL OF THIS REZONING REQUEST AT THEIR AUGUST 17, 2006 HEARING BY A VOTE OF 5/1. THE VOTE TO DENY WAS OPPOSED TO WAIVER #1

Proof of publication for the notice of public hearing regarding PUD 2006-14, The Oaks Planned Unit Development, was received, having been published in *The St. Augustine Record* on September 8, 2006.

Michael Blackford, Planner II, gave the presentation. He noted there was one correction: the maps for Item No. 3 were in the Item No. 2 packet. He noted that two waivers had been requested: a waiver, which required a 50-foot building setback from major collector roads. The applicant proposes to provide a 25-foot setback with a B screening standard; and a waiver, which required a 20-foot buffer with screening standard B along the southern property line. The applicant proposed a ten-foot buffer instead with a B screening standard. He stated that staff did not object to either of those waivers. He said there were no open issues and it was consistent with the Comprehensive Plan.

(2:06 p.m.) Stern asked what was incorporated within the affordable housing category. He said there were varying degrees of affordable housing. He noted it was a small development, and there was not a way to incorporate them within the other units. He said they have applied for a density bonus by adding 4 units, rather than the 2 required. Stern noted they would qualify for a density bonus. There was discussion regarding buffers and setbacks.

(2:12 p.m.) Rich declared ex-parte communication with Karen Taylor concerning a general overview of what was proposed for the development.

(2:13 p.m.) Karen Taylor, 3070 Harbor Drive, spoke on behalf of the applicant. She explained the density bonus. She said the \$140,000 range was the maximum but would be considered affordable. She discussed the requested waivers and buffers. She showed them a site plan and noted there were giant oak trees and other large trees that they had worked hard to keep. She said the lowered priced units were the 2 bedroom units, which were duplexes.

(2:18 p.m.) Stevenson asked if the tree ordinance had affected the project. Taylor said they probably would, but she wasn't sure at that point. Stevenson asked if it was a commitment to four affordable housing units. Taylor said if they had to come back they would lose two units. She said they were only requesting increased density in return for the four units.

(2:22 p.m.) Stern asked about the trees and the existing drive and if it would be close to the same destination on their development plan. Taylor said it would be pretty close. Stern asked if they would have to remove some trees. She said they would have to lose a few of the trees, including those in the middle of the lake and those within the proposed roadway. Stern asked about the range of the affordable units. Taylor said they were \$129,000 to \$149,000 for all the units. Stern asked the reason for the affordable units. Taylor said one unit was for the density bonus, but they had agreed to the other three for no additional reward. Stern asked about the pricing of the units. Blackford said the range for affordable housing was low, medium low, and very low, but he did not know the price ranges. He said they were only required to have one affordable unit and they would meet that requirement. Stern said she did not see this project as affordable housing and she had a problem with it. She said they were small units and were duplexes. Taylor responded that her client's goal was to include affordable units, they had gone above and beyond the requirements and it had been approved by Tom Crawford. She said it had been determined that for 10 years they had to be sold at the same affordable rate. She said the 30 feet that he lost on the front had a major impact on the small development area. Taylor said it was in the application and they would not qualify if it had not been within the plan. She said they were all within the affordable range but he had only committed to four units.

(2:35 p.m.) Brian Beverly, 4555 Carter Rd., said he was the developer. He stated the project was to be built by Covenant Homes in a joint venture, and they went for the

bonuses for the affordability of the land. He said without the density bonuses the project itself would bump almost \$10,000 to \$15,000 per net unit in the cost. He noted the entire project would fall within the SHIP guidelines.

(2:36 p.m.) **Motion by Rich, seconded by Stevenson, carried 5/0, to enact Ordinance 2006-111, known as PUD 2006-14 The Oaks PUD adopting findings of fact 1 through 7 to support the motion and waivers 1 and 2.**

ORDINANCE NO. 2006-111

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM RESIDENTIAL MOBILE HOME (RMH) TO PUD (PLANNED UNIT DEVELOPMENT); PROVIDING FINDINGS OF FACT; PROVIDING A SAVINGS CLAUSE; REQUIRING RECORDATION; AND PROVIDING AN EFFECTIVE DATE

(09/26/06 - 5 - 2:37 p.m.)

3. PUBLIC HEARING - PUD 2006-13, WESTWIND PLANNED UNIT DEVELOPMENT - THIS REQUEST SEEKS TO REZONE APPROXIMATELY 9.86 ACRES FROM OPEN RURAL (OR) TO PLANNED UNIT DEVELOPMENT (PUD) IN ORDER TO DEVELOP A RESIDENTIAL COMMUNITY OF TWENTY-TWO (22) SINGLE-FAMILY RESIDENTIAL UNITS, WHICH WILL HAVE ACCESS DIRECTLY ON DATIL PEPPER ROAD. THE SITE IS LOCATED WEST OF U.S. HIGHWAY ONE, AND SOUTH OF WATSON ROAD. THERE WILL BE A FOUR (4) FOOT SIDEWALK ALONG ONE SIDE OF THE INTERIOR ROADWAY AS DEPICTED ON THE MASTER DEVELOPMENT PLAN MAP. THE LOT COVER AND LOT SIZE WILL BE 50% AND 5,500 SQUARE FEET RESPECTIVELY. MAXIMUM HEIGHT FOR BUILDINGS SHALL NOT EXCEED THIRTY-FIVE (35) FEET. THE PROJECT HAS MINIMUM OF 3.24 ACRES OF OPEN SPACE OR THIRTY-TWO (32%) OF THE OVERALL SITE, ABOVE THE PUD MINIMUM REQUIREMENT OF 25%. OPEN SPACE TOTALS INCLUDE WETLANDS AREAS, BUFFER AREAS, AND PARK AREAS. CENTRAL WATER AND SEWER WILL BE PROVIDED BY THE ST. JOHNS COUNTY UTILITY DEPARTMENT. THE PROJECT SITE IS SURROUNDED BY THE FOLLOWING EXISTING ZONING CATEGORIES: OPEN RURAL (OR), AND RESIDENTIAL SINGLE FAMILY TWO (RS-2). THE SURROUNDING FUTURE LAND USE: MIXED USE DISTRICT AND RESIDENTIAL B. THE PLANNING AND ZONING AGENCY RECOMMENDED APPROVAL OF THIS MODIFICATION AT THEIR AUGUST 17, 2006 MEETING BY A VOTE OF 6/0

Proof of publication for the notice of public hearing regarding PUD 2006-13, Westwind PUD, was received, having been published in *The St. Augustine Record* on September 11, 2006.

Lindsay Haga, Planning Director, gave the presentation and stated it was a rezoning request for 9.86 acres from Open Rural to Planned Unit Development in order to develop 22 single-family homes. She reviewed the staff report.

(2:39 p.m.) Karen Taylor, 3070 Harbor Drive, stated that she represented Bob and Rob Sherno, and was there with Doug Burnett, from Rogers Towers, attorney for the

applicant. She said it was for single-family development, in a Mixed Use district, and reviewed the site plan.

(2:41 p.m.) Rich asked about the lot sizes in the surrounding residential area. She said there were different sizes from a half-acre to an acre. She said the development would bring water and sewer to the area. He said it appeared that there were 2 to 3 acre lots to the south and to the north lots were a half-acre to an acre in size.

(2:44 p.m.) *Stevenson said it was important to announce connectivity to prospective buyers, especially since it was a cul-de-sac. Taylor said her client would be happy to provide disclosure.*

(2:45 p.m.) *Doug Burnett, 170 Malaga St., said the applicant would be happy to provide disclosure regarding connectivity.*

(2:49 p.m.) Stevenson asked if the lots were large enough to add secondary homes. Taylor said it would be difficult on some lots.

(2:50 p.m.) *Rich asked if it was required that a letter from the school board be included regarding the availability of schools. She said it was not required at the staff level. He requested that letters be sent and be an agreed to item because the schools in that area were in serious trouble. Burnett said it would be no problem with his client. Rich asked they look at traffic calming.*

(2:53 p.m.) Motion by Rich, seconded by Stevenson, carried 4/1 with Maguire dissenting, to enact Ordinance 2006-112, known as PUD 2006-13, Westwind PUD, adopting findings of fact 1 through 7 to support the motion and with the additional language regarding interconnectivity and schools.

ORDINANCE NO. 2006-112

**AN ORDINANCE OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, REZONING LANDS AS
DESCRIBED HEREINAFTER FROM OPEN RURAL (OR)
TO PUD (PLANNED UNIT DEVELOPMENT);
PROVIDING FINDINGS OF FACT; PROVIDING A
SAVINGS CLAUSE; REQUIRING RECORDATION; AND
PROVIDING AN EFFECTIVE DATE**

(09/26/06 - 6 - 2:54 p.m.)

4. PUBLIC HEARING - MAJMOD 2006-07, RIVERTOWN PUD/ DRI - THIS IS A MAJOR MODIFICATION TO REVISE THE RIVERTOWN PUD TO INCLUDE 15.76 ACRES PREVIOUSLY CONTAINED IN THE BARTRAM PLANTATION PUD. THE PROPERTY IS LOCATED ADJACENT TO GREENBRIAR ROAD WITHIN THE RIVERTOWN DRI (AS APPROVED BY RESOLUTION 2004-45). THE SITE IS DESIGNATED COMMUNITY COMMERCIAL ON THE 2015 FUTURE LAND USE MAP. THIS APPLICATION PROPOSES TO INCLUDE THE 15.76-ACRE SITE, LIMIT THE ALLOWABLE COMMERCIAL USES AND PROVIDE CERTAIN BUFFER AND HEIGHT REGULATIONS. THE COMMERCIAL USES WILL BE LIMITED TO USES WITHIN THE COMMUNITY COMMERCIAL LAND USE, EXCEPT THE FOLLOWING USES WILL BE PROHIBITED ON THIS SITE: GROCERY STORES, GAS PUMPS, DRIVE THROUGH FACILITIES ASSOCIATED WITH RESTAURANTS. SPECIALTY FOOD STORES AND TAKE OUT WINDOWS FOR SIT DOWN RESTAURANTS ARE ALLOWED. HEIGHT IS LIMITED TO FORTY (40) FEET WITHIN THIS SITE. THE SITE WILL INCLUDE A FIFTY (50) FOOT DEVELOPMENT EDGE ALONG THE PROPERTY BOUNDARY, REMAINING UNDISTURBED DURING CONSTRUCTION ACTIVITIES. THE EDGE MAY BE

ENHANCED WITH ADDITIONAL LANDSCAPING AND FENCING. THE APPLICANT PROPOSES A FIFTY (50) FOOT BUILDING SETBACK FROM THE PROPERTY LINE. THE PLANNING AND ZONING AGENCY WILL CONSIDER THIS ITEM DURING THE AUGUST 3, 2006 MEETING. ROBITZCH/NELSON MOTION TO RECOMMEND APPROVAL TO THE BOARD OF COUNTY COMMISSIONERS. THE VOTE PASSED BY 7/0. DISCUSSION DURING THE HEARING CENTERED ON THE TIMING OF THE DRI AND FLUM AMENDMENT APPROVAL AS IT RELATES TO ADJACENT PROPERTY OWNERS AND CLEARLY DEFINING THE TYPE OF COMMERCIAL USES TO OCCUR ON THE SUBJECT PROPERTY

Proof of publication for the notice of public hearing regarding MAJMOD 2006-07, RiverTown PUD/DRI, was received, having been published in *The St. Augustine Record* on September 8, 2006.

Lindsay Haga, Planning Director, gave the presentation, and stated it was a Major Modification to revise the RiverTown PUD to include 15.76 acres previously contained in the Bartram Plantation PUD, and to clearly identify how the commercial uses would be developed on that particular site, as well as use type, limiting below that allowed by the future land use, location, buffering, screening and height of the buildings.

(2:55 p.m.) Stevenson asked about Bartram Plantation PUD. Haga said there was a PowerPoint presentation that would explain it. Stevenson asked if the issue of a buffer had been presented to the Bartram Plantation residents. Haga said the original Bartram Plantation PUD was approved in 1999 and showed the 15-acre piece, not as buffer, but it did include wetlands. She explained the buffer requirements.

(2:59 p.m.) Stevenson said she had had ex-parte and attended the community meeting where Mr. Cassala had spoken to a large group.

(3:00 p.m.) Nick Cassala, of the St. Joe Company, gave a PowerPoint presentation. He reviewed the conceptual site plan, the timeline, the development order conditions, the conceptual land plan, property buffering, the existing wetland buffer, community concerns, design criteria, the additional public benefit of adding a right-of-way to the County to construct a sidewalk, and public meeting and hearing history. He noted that all the concerns had been addressed in the major modification they had before them.

(3:21 p.m.) Cecille Hammond, 616 Branchwater Dr., Jacksonville, spoke in opposition to the project, and that her property backed up to the property in question. She said that a mistake had been made when the Future Land Use Map was set.

(3:28 p.m.) Rich asked what the previous land use category had been at the time Bartram Plantation was created. Haga said that she did not know. Rich stated he was concerned that the residents affected had an expectation that the property in question would be residential.

(3:29 p.m.) Stevenson said the plan had not been promised to be residential. Haga said that the land was not included on the plat, and it was designated on the RiverTown development map as community commercial. Haga reviewed the current requirements.

(3:31 p.m.) Rich commented on a message from Mr. Burrow, stating that in the Bartram Plantation PUD it was not commercial. He asked if any of that statement was accurate. Haga said she could not answer that, and that it was included in the original PUD. Cassala told her it was Residential B. Rich said that it was an issue for people who had

contractual agreements for property that backed up to the property in question, in that they believed it to be Residential B as opposed to Commercial. Haga said that would be a misinterpretation based on their land use plan in that all Residential categories allowed for Commercial uses.

(3:35 p.m.) Stevenson clarified that it had been Residential B, but was now Community Commercial.

(3:37 p.m.) Deputy Clerk Yvonne King entered the meeting; Deputy Clerk Terry Bulla left the meeting.

(3:37 p.m.) Stevenson said she would be happier if it was zoned Office Professional. She further noted there was a good deal of congestion in that area.

(3:39 p.m.) Motion by Bryant, seconded by Stern, to enact Ordinance 2006-113, known as MAJMOD 2006-07, RiverTown PUD, adopting findings of fact 1-6 to support the motion.

Rich said he was not satisfied that there had been adequate interface with the people of the community by the developer, and that the uses for the land should be restricted concerning liquor stores etc., and he could not support the request. Maguire commented that development of this nature had not been shown to devalue adjoining properties under the new concepts of development as implemented in the Development Code.

(3:45 p.m.) The motion carried 4/1, with Rich dissenting.

ORDINANCE NO. 2006-113

**AN ORDINANCE OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, APPROVING A MAJOR
MODIFICATION TO THE RIVERTOWN PLANNED UNIT
DEVELOPMENT (PUD) ORDINANCE NUMBER 05-100,
AS AMENDED, MAKING FINDINGS OF FACT;
REQUIRING RECORDATION; AND PROVIDING FOR
AN EFFECTIVE DATE**

The meeting recessed at 3:45 p.m. and reconvened at 3:56 p.m.

(09/26/06 - 8 - 3:56 p.m.)

4a. COUNTY ATTORNEY CONTRACT

Bosanko reviewed the changes to the contract, which included the start date, so there would be no overlap. He said the actual turnover date would be on midnight Saturday. He said the other change had to do with the severance provisions, and the substantive changes were based on the Board's previous comments. He stated that during the first 6 months of the new County Attorney's employment, he would have a right to 3 months notice or 3 months severance pay. After he had been here six months, and no action had been taken to terminate him, that would in effect act as a probationary period, then it would become 6 months notice or 6 months severance pay. He stated that Human Resources Director, Bob Peters, had made changes and the Board had already reviewed them.

Maguire stated that he had two issues; the first was that the contract should only be for three years. The second issue regarded termination without cause, and that two

months was all the severance pay that should be given in that case.

Bryant asked for a consensus on the three-year contract.

- Rich opposed 3 years, but favored 5 years or no term at all.
- Stevenson said she would rather adjust the termination period from 6 to 4 years.
- Stern said she had no problem with the open term.
- Bryant said they could leave it like it was with an open end.

Bryant said the consensus was for an open-end contract. He asked if the consensus now was to leave it a four, three or two months for severance and notice.

- Rich said to leave it at 6 months once he reached the six-month period.
- Stevenson said she favored 4 months.
- Stern said she was fine with the way it was currently.
- Bryant said he was satisfied with the way it was.

(4:06 p.m.) Motion by Stern, seconded by Rich, carried 4/1 with Maguire dissenting, to approve the attached County attorney contract and to authorize the Chairman of the BCC to execute same with prospective County Attorney Patrick McCormack.

(4:07 p.m.) Marcella Bridier, Risk Management, advised the Board on insurance coverage for county buildings. She said that Greg Baker of Thompson Baker would appear on October 3 to give the Board a quick update on the status of the property insurance market in Florida. She stated that the County had to go out to market for property insurance coverage for the October 1 renewal for the first time in almost 20 years. She said it was due to the near collapse of the property insurance market in our state, primarily as a result of all the hurricanes. She said Thompson Baker was able to find coverage for the County's 100 properties but at a 50 percent increase in cost from the previous year and with a large portion of the risk being transferred back to the County, specifically in regard to wind coverage. She noted that 70 of the 100 properties had very limited wind coverage. She stated that more details would be made available at the October 3 meeting.

(4:09 p.m.) Stevenson said she had received a letter from Representative Proctor regarding insurance and the quality of life issues in Florida. He stated the Insurance Council was quoted as saying they were looking at a "financial crisis", and that most insurers were done with doing business in Florida. She said more of the burden was going to fall upon the homeowner to retrofit their homes to secure their personal property.

(4:12 p.m.) Rich asked how the County was going to get business to move here if we couldn't even insure our own homes. He reiterated that we were going to lose the majority of our wind damage coverage and be charged 50 percent more for the privilege. Bridier said that was correct, and that we were lucky to have it. He suggested they take a look at self insuring or combining with other counties to self-insure. Adams said this could impact the General Fund and he wanted the Board to be aware of the issue. Bridier said the premium estimate was right at \$1 million and the total property value was at \$152 million. Adams said it might be prudent to hold that money and self-insure.

(4:15 p.m.) Maguire questioned new properties such as Fiddler's Green, which was right on the ocean. He asked for an update on how much that would cost the County if that went through. He also asked about other properties along the waterfront. Bridier said that in the process of seeking more coverage, she found that Hartford, the company

that had insured us for almost 20 years, had said they would not insure anything within 1,000 feet of the ocean. She said that necessitated them to look elsewhere for coverage.

The meeting recessed at 4:17 p.m. and resumed at 5:35 p.m. Commissioner Bryant called the meeting to order. Present were: Commissioners Bryant, Rich, Stern and Stevenson. Maguire was absent. Ben Adams, County Administrator, Patrick McCormack, Senior Assistant County Attorney and Laura Pierle, Court Reporter, were also present.

(09/26/06 - 10 - 5:35 p.m.)

5. PUBLIC HEARING - EXTENSION OF SUMMER HAVEN BUILDING PERMIT MORATORIUM ORDINANCE - 2ND OF 2 REQUIRED PUBLIC HEARINGS - THIS IS THE SECOND OF TWO REQUIRED PUBLIC HEARINGS OF THIS ORDINANCE. THE FIRST PUBLIC HEARING WAS HELD AT 9:00 A.M. SEPTEMBER 6, 2006. THE PLANNING AND ZONING AGENCY FOUND THIS ORDINANCE CONSISTENT WITH THE COMPREHENSIVE PLAN BY A VOTE OF 4/1 AT ITS SEPTEMBER 7, 2006 MEETING. ORDINANCE NO. 2005-85 WAS ENACTED BY THE BOARD ON SEPTEMBER 13, 2005, WITH THE PROVISIO FOR EXTENSION BY ORDINANCE IF REASONABLY REQUIRED TO MEET THE HEALTH, SAFETY, AND WELFARE OF THE SUBJECT AREA. SUCH EXTENSION IS DEEMED NECESSARY

Proof of publication for the notice of public hearing regarding the Extension of Summer Haven Building Permit Moratorium Ordinance - 2nd of 2 Required Public Hearings was received, having been published in *The St. Augustine Record* on September 16, 2006.

Patrick McCormack, Assistant County Attorney, spoke and then gave a PowerPoint presentation. He stated it was the second of two public hearings regarding extension of the Summer Haven building permit moratorium. He reviewed the previous actions and the various options available to the Board. He gave a timeline for the last 12 months on the actions, which had been taken by the County. He noted they had been in litigation throughout that 12-month period. He reviewed photographs of work that had been done on the Summer Haven area and showing the challenges of driving in that area.

(5:39 p.m.) Baron Bartlett, 185 N. Roscoe, Palm Valley, said he was the owner of blocks 58 & 59 along with his partner, on the southern portion of the road. He said his was a heartfelt plea to preserve his property rights. He showed an 1886 survey map showing a road in existence at that point in time and a photograph showing the property as it existed today. He asked them to consider an exclusion for properties along the southern end of the subdivision. He said he was willing to take his chances, and would be happy to provide a fire and/or ambulance turn around. He noted most of the problems that related to the road were about 2/3 of a mile from him. He stated that he would participate in a MSBU or an MSTU to be a part of the overall fix, but he just wanted them to respect his property rights.

(5:46 p.m.) Rich asked legal staff if he could build and hold the County harmless, and assuming that he could, if it was unreasonable to allow him to build on his property.

(5:48 p.m.) McCormack said he was aware that there were examples of waivers, but he had not seen a contest of one as to whether it was enforceable. He expressed concern because his property was in danger of erosion and it would increase the risk to County equipment and manpower. He said County staff would serve the people that were out there now, but the more people that were added, the higher the risk became.

(5:51 p.m.) Rich said if they can't get to you, you will die, or your house will burn. He said these were serious matters and if he wanted to face those issues without the support of the County, he was prepared to tell him to do whatever he wanted to do, if he signed all legal documents to hold the County harmless.

(5:53 p.m.) Bryant said the shoreline had not changed based on the earlier map. He said he would support it as well if there was a legal way to do it.

(5:54 p.m.) Stern asked if they could see the lots that were the least affected.

(5:55 p.m.) Barrow said lots 3 at the north end to 65 at the south end were included in the moratorium. Bartlett said his lots were 58 & 59. She said there was still some pavement in front of his lots but it was not up to County standards and it was not stable and was being undermined, and the conditions had clearly changed since 1886. She noted the ocean had completely washed through to the Summer Haven River a number of times in a number of places. She said the ordinance, as it was currently worded, would allow building if they could document that the road in front of his property would last for 10 years. She said the moratorium was a temporary suspension of building permits until the County could study the problems and come up with solutions and decide who would pay for it. She said there was not enough room for a turn around and a house, and maybe not even enough room for a turn around alone. She said emergency rescue vehicles had gotten stuck in the past, with damage to the rescue vehicles.

(6:05 p.m.) Bartlett said he had 240 feet of width with the two lots combined. He said it could be engineered, and he would present a design and an engineering opinion.

(6:06 p.m.) Stevenson said they were fighting a war that they knew they were going to lose. She asked Joe Stephenson if this area was more accessible than the remainder. Stephenson said that SR A1A had the ocean wash over it at the southern end, and it was not necessarily safe. He said the edge of the road was very close to the water line and they had had to shore up the road on many occasions. He noted that no part of the road was necessarily defensible, and that in the past year they had had to carry sand to re-build a berm between the ocean and the pavement. Stevenson asked if the conditions could change on a weekly basis. Stephenson said the road was vulnerable, and under high tide conditions there would be wash over of the road. Stevenson said nothing had substantially changed. She said she could not support his request.

(6:17 p.m.) Bartlett asked only that he be allowed to proceed with the building of his property.

(6:18 p.m.) Rich recommended he submit the request when his engineering was done, and he would support it.

(6:20 p.m.) McCormack stated that Bartlett did appreciate risk but that their recommendation was to extend the moratorium, and asked that they pass the ordinance to allow the staff to explore other options to try to solve the problem.

Bryant asked if they allowed the exclusion whether others would be allowed to be a part of the exclusion as well. McCormack said they could pass the ordinance and allow him and others to apply for variance under the existing language, which gave a provision.

(6:21 p.m.) Peggy Pegg, 9421 Old A1A, said the County had taken their tax dollars and it was time to come forth with tax dollars to rectify the situation. She stated that the

PZA had said it was illegal and did not comply. She said if they passed the moratorium, to be prepared to buy the land of the homeowners at full fair coastal market prices. Bryant said the PZA did not have the authority to determine whether it was illegal, and it was only a recommendation.

(6:25 p.m.) McCormack stated that the PZA recommended adoption and approval of the extension of the moratorium with a 4/1 vote and found it consistent with the Comprehensive Plan. He said they had not approved it the previous year, but had not had the benefit of the related staff briefings that the BCC had had. He noted that this year the PZA had been more educated on the issues.

(6:26 p.m.) Barrow said Pegg had confused the dates and said that all Summer Haven issues were noticed and advertised. She said all the individual property owners had received notice via the mail, as had their legal advisors. Pegg responded that the comments occurred on January 12 during the commissioner reports, and it was an 11-minute conversation to pursue the emergency moratorium. She said a decision was made in May to pass an emergency moratorium.

(6:29 p.m.) Motion by Rich, seconded by Stevenson, carried 4/0 with Maguire absent, to enact Ordinance No. 2006-114 extending a moratorium on building permits within a portion of the particular area of St. Johns County known as Summer Haven (blocks 3 through 65) making findings of fact as outlined in the ordinance; providing for exclusion to the moratorium; providing related regulations, and establishing an effective date and an expiration date.

McCormack asked if the maker of the motion would consider adding, a portion to authorize staff to further explore engineering options pertaining to the Summer Haven area. Rich said he would also like to include that \$150,000 set aside to conduct the studies, be made available to conduct the studies as outlined by McCormack. Stevenson stated that she accepted the amendments to the motion.

Further, that staff be authorized to further explore engineering options pertaining to the Summer Haven area and be authorized to utilize \$150,000 set aside to conduct the studies.

ORDINANCE NO. 2006-114

**AN ORDINANCE OF THE COUNTY OF ST. JOHNS,
STATE OF FLORIDA, EXTENDING A MORATORIUM
ON BUILDING PERMITS WITHIN A PORTION OF THE
PARTICULAR AREA OF ST. JOHNS COUNTY KNOWN
AS SUMMER HAVEN (BLOCK 3 THROUGH 65);
MAKING FINDINGS OF FACT; PROVIDING FOR
EXCLUSIONS TO THE MORATORIUM; PROVIDING
RELATED REGULATIONS; AND ESTABLISHING AN
EFFECTIVE DATE AND AN EXPIRATION DATE**

(6:31 p.m.) Adams said he had a request from the Town Clerk of Hastings to get both boards together, and it was tentatively set up for October 18 at 5:30 p.m. He noted that a special meeting was being held that same day at 9:00 a.m. and they anticipated being through before lunch. He said the request was to discuss transportation concerns relating to the Mariposa development at the St. Johns/Putnam County line.

Adams said there was a request from the School Board to reschedule a meeting for 1:30 p.m. October 11, rather than the previously scheduled time on the same day.

With there being no further business to come before the Board, the meeting adjourned at 6:33 p.m. with a motion by Rich, seconded by Stern, which carried 4/0, with Maguire absent.

Approved _____ October 17 _____, 2006

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

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

ATTEST: CHERYL STRICKLAND, CLERK

By: Cheryl Strickland
Deputy Clerk

