

**MINUTES OF MEETING  
BOARD OF COUNTY COMMISSIONERS  
ST. JOHNS COUNTY, FLORIDA  
FEBRUARY 15, 2011  
(9:00 A.M.)**

Proceedings of a regular meeting of the Board of County Commissioners of St. Johns County, Florida, held in the auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida.

Present: J. Ken Bryan, District 5, Chair  
Mark Miner, District 3, Vice Chair  
Cyndi Stevenson, District 1  
Ron Sanchez, District 2  
Jay Morris, District 4  
Michael Wanchick, County Administrator  
Patrick McCormack, County Attorney  
Lenora Newsome, Deputy Clerk

Also present: James Whitehouse, Senior County Attorney

(02/15/11 - 1 - 8:59 a.m.)  
CALL TO ORDER

Bryan called the meeting to order.

(02/15/11 - 1 - 8:59 a.m.)  
ROLL CALL

The clerk called the roll; all the commissioners were present.

(02/15/11 - 1 - 9:00 a.m.)  
INVOCATION

Pastor Mark Frenier, of Homeport Christian Church, gave the invocation.

(02/15/11 - 1 - 9:02 a.m.)  
PLEDGE OF ALLEGIANCE

Morris led the Pledge of Allegiance.

(02/15/11 - 1 - 9:02 a.m.)  
SPECIAL RECOGNITION OF COUNTY EMPLOYEE BRANDON ESTES, RETURNING FROM FLORIDA NATIONAL GUARD MILITARY ACTIVE DUTY OVERSEAS

Chief Robert Hall recognized Fire Fighter/EMT Brandon Estes for serving overseas in the Florida National Guard. Miner mentioned that he and Estes were in the same battalion overseas and thanked him for his service. Bryan read the certificate recognizing Estes. Estes thanked the County and said that he was happy to be working for St. Johns County Fire Rescue.

(02/15/11 - 1 - 9:08 a.m.)  
DELETIONS TO CONSENT AGENDA

There were none.

(02/15/11 - 2 - 9:08 a.m.)  
APPROVAL OF CONSENT AGENDA

**Motion by Miner, seconded by Sanchez, carried 5/0, to approve the Consent Agenda as submitted.**

1. Approval of the Cash Requirement Report
2. Minutes:
  - January 11, 2011 Emergency BCC
  - January 25, 2011 Joint School Board & BCC
  - February 1, 2011 Regular BCC
3. Motion to authorize the County Administrator, or his designee, to purchase one 2011 Braun Ambulance from Ten-8 Fire Equipment, Inc., from the Florida Fire Chiefs' Association, Florida Sheriffs' Association & Florida Association of Counties Contract #10-09-0907, in the amount of \$239,614.00. This ambulance will replace Rescue 28, which is a 14 year old model ambulance with over 220,000 miles
4. Motion to adopt **Resolution No. 2011-30**, accepting a Temporary Construction Easement to perform work as part of Segment III of the Volusia Street/Four Mile Road Improvement Project

**RESOLUTION NO. 2011-30**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT TO PERFORM WORK AS PART OF SEGMENT III OF THE VOLUSIA STREET/FOUR MILE ROAD IMPROVEMENT PROJECT**

5. Motion to adopt **Resolution No. 2011-31**, approving the terms of and authorizing the County Administrator, or designee, to execute a Purchase and Sale Agreement for property needed for the County Road 13 Bridge Replacement

**RESOLUTION NO. 2011-31**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR PROPERTY NEEDED FOR THE COUNTY ROAD 13 BRIDGE REPLACEMENT**

6. Motion to adopt **Resolution No. 2011-32**, accepting an Easement Agreement and a Temporary Construction Easement for the Russell Sampson Road Drainage Improvements Project; and authorizing the Board Chair to join in the execution of the Easement Agreement on behalf of the County

**RESOLUTION NO. 2011-32**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT AGREEMENT AND A TEMPORARY CONSTRUCTION EASEMENT FOR THE RUSSELL SAMPSON ROAD DRAINAGE IMPROVEMENTS PROJECT AND AUTHORIZING THE BOARD CHAIR TO JOIN IN THE EXECUTION OF THE EASEMENT AGREEMENT ON BEHALF OF THE COUNTY**

7. Motion to adopt **Resolution No. 2011-33**, declaring a 0.25 acre parcel of County owned property, located south of Poplar Avenue, as surplus property and approving a private sale to the adjoining property owner, pursuant to Section 125.35(2), Florida Statutes; and authorizing the Board Chair to execute a County Deed on behalf of the County

**RESOLUTION NO. 2011-33**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, DECLARING A 0.25 ACRE PARCEL OF COUNTY OWNED PROPERTY AND APPROVING A PRIVATE SALE TO THE ADJOINING PROPERTY OWNER, PURSUANT TO SECTION 125.35(2), FLORIDA STATUTES, AND AUTHORIZING THE BOARD CHAIR TO EXECUTE A COUNTY DEED ON BEHALF OF THE COUNTY**

8. Motion to adopt **Resolution No. 2011-34**, declaring a certain County owned property (Daniels Street) as surplus and approving a private sale to the adjoining property owner, pursuant to the provisions set forth in Florida Statutes Section 125.35(2); and authorizing the Board Chair to execute the County Deed prior to closing on the property

**RESOLUTION NO. 2011-34**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, DECLARING CERTAIN COUNTY OWNED PROPERTY AS SURPLUS AND APPROVING A PRIVATE SALE TO THE ADJOINING PROPERTY OWNER PURSUANT TO THE PROVISIONS SET FORTH IN SECTION 125.35(2), FLORIDA STATUTES AND AUTHORIZING THE BOARD CHAIR TO EXECUTE THE COUNTY DEED PRIOR TO CLOSING ON THE PROPERTY**

9. Motion to adopt **Resolution No. 2011-35**, declaring certain County owned property (Old Dixie Highway) as surplus and approving a private sale to the adjoining property owner; and authorizing the Board Chair to execute the County Deed prior to closing on the property

**RESOLUTION NO. 2011-35**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, DECLARING CERTAIN COUNTY OWNED PROPERTY**

AS SURPLUS AND APPROVING A PRIVATE SALE TO THE ADJOINING PROPERTY OWNER PURSUANT TO THE PROVISIONS SET FORTH IN SECTION 125.35(2), FLORIDA STATUTES AND AUTHORIZING THE BOARD CHAIR TO EXECUTE THE COUNTY DEED PRIOR TO CLOSING ON THE PROPERTY

10. Motion to adopt **Resolution No. 2011-36**, approving the terms of and authorizing the County Administrator, or designee, to execute a certain Purchase and Sale Agreement of Easement to perform work as part of Segment III of the Volusia St./Four Mile Road Improvement Project

**RESOLUTION NO. 2011-36**

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A CERTAIN PURCHASE AND SALE AGREEMENT OF EASEMENT TO PERFORM WORK AS PART OF SEGMENT III OF THE VOLUSIA STREET/FOUR MILE ROAD IMPROVEMENT PROJECT

11. Motion to adopt **Resolution No. 2011-37**, declaring certain County owned property (US 1 North) as surplus and approving a private sale to the adjoining property owner; and authorizing the Board Chair to execute the County Deed prior to closing on the property

**RESOLUTION NO. 2011-37**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, DECLARING CERTAIN COUNTY OWNED PROPERTY AS SURPLUS AND APPROVING A PRIVATE SALE TO THE ADJOINING PROPERTY OWNER PURSUANT TO THE PROVISIONS SET FORTH IN SECTION 125.35(2), FLORIDA STATUTES AND AUTHORIZING THE BOARD CHAIR TO EXECUTE THE COUNTY DEED PRIOR TO CLOSING ON THE PROPERTY

12. Motion to adopt **Resolution No. 2011-38**, authorizing the County Administrator, or designee, to execute the Interlocal Agreement, as necessary, to complete the permitting, repair/restoration maintenance and conveyance of stormwater improvements of stormwater pond ("SMF-K") for CR 2209

**RESOLUTION NO. 2011-38**

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF AN INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY AND THE DURBIN CROSSING COMMUNITY DEVELOPMENT DISTRICT, RUSSELL SAMPSON LLC, ENGLAND-THIMS AND MILLER, INC., KATHY BARCO-LANE AND BARRY RAY BARCO; AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY

13. Motion to approve a budget transfer of \$1,776.40 from General Fund Reserves to the Law Enforcement Trust Fund Reserves to authorize the Sheriff to utilize unclaimed evidence funds that were not expended in FY 2010
14. Motion to adopt **Resolution No. 2011-39**, amending the terms, provisions and conditions and requirements of a contracting between St. Johns County and Flagler Hospital to provide outpatient psychiatric services through the St. Johns County Health and Human Services Department; and authorizing the County Administrator, or designee, to execute the Agreement on behalf of St. Johns County; and motion to approve transfer of \$37,300 from Mental Health Fund - Reserves to the Mental Health Fund - Contractual Services

**RESOLUTION NO. 2011-39**

A RESOLUTION OF ST. JOHNS COUNTY, FLORIDA,  
AUTHORIZING THE COUNTY ADMINISTRATOR TO  
SIGN THE AMENDED CONTRACT BETWEEN ST.  
JOHNS COUNTY BOARD OF COUNTY  
COMMISSIONER AND FLAGLER HOSPITAL FOR THE  
PROVISION OF PSYCHIATRIC OUTPATIENT  
SERVICES AT THE ST. JOHNS COUNTY HEALTH AND  
HUMAN SERVICES CENTER MEDICATION  
MANAGEMENT CLINIC

15. Motion to adopt **Resolution No. 2011-40**, recognizing the unanticipated revenue into the General Fund for the Community Development Block Grant (CDBG) FFY 2009-2010 Housing Rehabilitation Program and increase the Housing Department budget in the amount of \$750,000

**RESOLUTION NO. 2011-40**

A RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,  
AMENDING THE FISCAL YEAR 2011 HOUSING &  
COMMUNITY SERVICE FUND BUDGET TO  
RECOGNIZE UNANTICIPATED REVENUE IN THE  
AWARD OF A COMMUNITY DEVELOPMENT BLOCK  
GRANT (CDBG) AND AUTHORIZE ITS EXPENDITURE  
BY THE ST. JOHNS COUNTY HOUSING &  
COMMUNITY SERVICES DIVISION

16. Motion to adopt **Resolution No. 2011-41**, recognizing the importance of protecting native plants and plant communities and the removal of non-native plants, as well as recognizing National Invasive Species Awareness Week, February 28 - March 3, 2011

**RESOLUTION NO. 2011-41**

A RESOLUTION BY THE BOARD OF COUNTY  
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,  
RECOGNIZING THE IMPORTANCE OF PROTECTING  
NATIVE PLANTS AND PLANT COMMUNITIES;  
RECOGNIZING THE IMPORTANCE OF REMOVAL OF  
NON-NATIVE PLANTS; AND RECOGNIZING THE  
IMPORTANCE OF NATIONAL INVASIVE SPECIES  
AWARENESS WEEK, FEBRUARY 28 TO MARCH 3, 2011

17. Proofs:
- a. Proof: Request for Bids, Bid #11-48 - Two Turbine Pumps & Motors, published January 15, 2011 and January 22, 2011, in The St. Augustine Record
  - b. Proof: Request for Bids, Bid #11-38 - Weed/Pest Control - Athletic Fields, published January 15, 2011 and January 22, 2011, in The St. Augustine Record
  - c. Proof: Request for Bids, Bid #10-91A - Modular Office Building, published January 15, 2011 and January 22, 2011, in The St. Augustine Record
  - d. Proof: Notice to Bidders, Bid #11-48 - Two Turbine Pumps & Motors, published January 21, 2011, in the PV Recorder
  - e. Proof: Notice to Bidders, Bid #11-38 - Weed/Pest Control - Athletic Fields, published January 21, 2011, in the PV Recorder
  - f. Proof: Notice to Bidders, Bid #10-19A - Modular Office Building, published January 21, 2011, in the PV Recorder
  - g. Proof: Notice to Bidders, Bid #11-40 - Purchase of one 2010 or 2011 ¾ ton Regular Cab Pick-up Truck 4x4, published January 14, 2011, in the PV Recorder
  - h. Proof: Notice of Joint Workshop for St. Johns County Board of County Commissioners and SJC School Board occurring on January 25, 2011
  - i. Certificate of Liability Insurance, Boys and Girls Club of Northeast Florida, Inc.
  - j. Certificate of Liability Insurance, First Coast Honda, First Coast Suzuki

(02/15/11 - 6 - 9:08 a.m.)

PUBLIC COMMENT

Jerry Blount, 135 Ford Street, spoke on his property at Railroad and Nassau Streets. He said that he would like the County to buy the property from him because the County had dug a ditch through it.

(9:12 a.m.) Mike Davis, 23 Park Terrace Drive, spoke on homeless issues. He asked for a representative from the County to join the Home Again St. Johns Committee Site Selection Committee, to help generate ideas on where to locate an emergency shelter or a transitional center.

(9:13 a.m.) Regina Ross, Assistant County Attorney, entered the meeting and Whitehouse left the meeting.

(02/15/11 - 6 - 9:13 a.m.)

ADDITIONS/DELETIONS TO REGULAR AGENDA

Wanchick requested to add an item to consider an unanticipated revenue resolution for \$24,000 for Fort Mose as Item 1a.

(02/15/11 - 6 - 9:14 a.m.)

APPROVAL OF REGULAR AGENDA

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

(02/15/11 - 6 - 9:15 a.m.)

- 1a. RECOGNITION OF UNANTICIPATED REVENUE FOR THE FORT MOSE BOARDWALK CANOE/KAYAK PLATFORM PHASE II CONSTRUCTION

Will Smith, Assistant Director St. Johns County Recreation and Parks Department, stated that this item was to accept unanticipated revenue of \$24,000 for the Fort Mose Boardwalk, with a canoe/kayak platform. He spoke on receiving a grant.

(9:15 a.m.) **Motion by Miner, seconded by Sanchez, carried 5/0, to adopt Resolution 2011-42, recognizing unanticipated revenue in the amount of \$24,000, increasing the revenue budget.**

#### RESOLUTION NO. 2011-42

### A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AMENDING THE FISCAL YEAR 2011 BUDGET TO RECEIVE UNANTICIPATED REVENUE AND AUTHORIZE ITS EXPENDITURE BY THE ST. JOHNS COUNTY FLORIDA BOATING IMPROVEMENT TRUST FUND

(02/15/11 - 7 - 9:16 a.m.)

#### 1. REPORT ON THE CURRENT STATUS OF THE PINE ISLAND/PALENCIA FIRE STATION CONSTRUCTION AND STAFFING

Wanchick said, as the 2011/2012 budget year approached, there were a few issues he wanted to bring to the Commission, in anticipation of the formal budget process, to get direction, so staff could deliver an Administrator's draft budget to them. He said that the first item dealt with the staffing of Fire Station 15, in the Palencia area, and he reviewed slides regarding it, *Exhibit A*. He gave a brief history on Fire Station 15, and said it was a necessary station. He stated the issues were when to open it and how to pay for its operation, given the financial constraints the County was incurring at the present time. He reviewed the Fire Rescue Budget; the staffing considerations (needing 12 additional positions); the Fire Rescue Budget without 12 new positions; and the Fire Rescue Budget with the 12 new positions. He mentioned that Fire Service was currently operating out of reserves, as they were not bringing in enough money through their ad valorem assessment, specifically identified for fire, to cover their costs. He identified three options: delay opening Station 15 indefinitely, until revenues were rebuilt; opening Station 15 with existing/reassigned personnel; or opening the station with new personnel funded with a SAFER Grant, or as part of FY 2012 Budget process. He explained the pros and cons of the three options. He said they put together a recommendation with Chief Hall and Doug Timms, Office of Management and Budget, and the following was the course of action they were recommending to the Commission and needed their feedback on, to reaffirm to Homeland Security that they were, in fact, interested in receiving the SAFER Grant, and if they received it, they would proceed to open the station. He stated that the Fire Rescue Fund was in the negative, and was drawing down on reserves and would be in the red by 2013. An issue they were going to have to address in the very near future.

Miner asked what the timeline was in responding to the grant. Wanchick replied that they were ready to respond now and the sooner they gave them an affirmative indication that the Commission was interested, the higher the probability they would receive one. Miner said they were definitely interested, but they could not commit to anything until they get into the budget process. Bryan spoke on drawing down on the reserves and explained. Wanchick said they were required, as a local government, to maintain certain funding in reserves in the event of an emergency. He spoke on reserves. Morris spoke on Option 3a, with discussion following. He stated that they already had a structural deficit in Fire Rescue that needed to be addressed. He said that local government was entrusted to provide a core set of services.

Stevenson spoke on government operating like a business. She asked if they had trended it with a flat revenue number, and if they ran into trouble. Wanchick replied that that line was turning negative and it was just a matter of time before it would hit zero. He spoke on people throughout the county paying into Fire Rescue. Sanchez spoke on Fire Rescue response time and said he was ready to support this item. Miner said that he was not willing to commit to accepting the grant. Wanchick replied that they had to give them an indication today, or within a very short period, that they were willing to accept the grant and that they understood the implications of accepting it.

(9:44 a.m.) Ellen Whitmer, 1178 Natures Hammock Road South, spoke in favor of Option 1 and explained. Stevenson said that station also covered a number of older communities that had been there for a long time.

(9:47 a.m.) Randy Covington, 669 Scrub Jay Drive, spoke on the funding of the grant. Wanchick said they would be technically in default of the grant and would have to repay the money. Sanchez spoke on defaulting on the grant and paying the Federal Government back or spending more to follow through with the grant. Wanchick spoke on defaulting on a Federal grant.

(9:49 a.m.) Andrea Coneglio, 175 La Mesa, spoke on the distance to the closest fire station from Palencia. She said Palencia donated land to the Board of Education, which was now going to be used to build a new elementary school on in Palencia. Morris stated that he was not big on Federal grants, but safety was important. Wanchick said that they currently had the structural deficit that he mentioned, and they needed to address how to make up that deficit. Miner asked if they passed this today, and the situation changed, were they bound to it. Wanchick replied that they weren't legally bound to it. Discussion followed.

(9:59 a.m.) **Motion by Stevenson, seconded by Sanchez, to direct the County Administrator, or his designee, to respond to the Department of Homeland Security and notify them that the County would accept the 2011 SAFER Grant, providing salaries and benefits reimbursements for two years to staff the Pine Island/Palencia Fire Station. Wanchick mentioned to add to the motion, in the event they don't receive the grant, they roll the discussion into this summer's budget discussions. The maker of the motion accepted Wanchick's addition to the motion and the second agreed. The motion carried 4/1 with Miner dissenting.**

(02/15/11 - 8 - 10:00 a.m.)

2. OVERVIEW OF THE REQUEST FOR PROPOSALS FOR A NON-FOR-PROFIT AGENCY TO MANAGE A GRANT PROGRAM AND TO MARKET ST. JOHNS COUNTY AS A ARTS, CULTURAL, AND HERITAGE DESTINATION FOR THE ST. JOHNS COUNTY TOURIST DEVELOPMENT COUNCIL. CONSIDER AUTHORIZATION TO BEGIN NEGOTIATIONS WITH THE NUMBER ONE RANKED RESPONDENT, ST. JOHNS COUNTY CULTURAL COUNCIL, REGARDING RFP #11-11 ARTS, CULTURAL AND HERITAGE DEVELOPMENT

Glenn Hastings, TDC Executive Director, gave the history of the RFP. He said that they were asking to begin the process with the number one ranked firm, if the Board authorized them to proceed. He encouraged the Commissioners to either attend the meeting at 1:30 p.m. on February 28th, or send their thoughts to him, and he would make sure they were read at the TDC meeting. Sanchez asked Hastings to explain how the money was handled and who spent it. Hastings explained how the money was handled and how it was spent.

(10:07 a.m.) Eva Doolittle, 3624 Lone Wolf Trail, spoke on three points she thought were important: having good representation of the cultural organizations, who spoke in favor



of St. Johns Cultural Council; having only two people, who didn't represent any arts or cultural organizations, voice their opinions for the University of Florida; and the arts and culture community stood united and asked the Board to follow the recommendation of the TDC. She distributed a handout, *Exhibit A*.

(10:09 a.m.) Maureen Ortagus, 1445 Masters Drive, spoke on addressing situations of the Cultural Council.

(10:12 a.m.) Gregory Von Hausch, 844 Ocean Palm Way, spoke in support of the St. Johns Cultural Council.

(10:15 a.m.) Randy Covington, 699 Scrub Jay Drive, stated that the money did not belong to the cultural community, that it belonged to all the taxpayers of the county. He spoke on local preference.

(10:18 a.m.) Wendy McDaniel, 51 Water Street, spoke on Fort Mose's art exhibits. She stated all the people involved were good people.

(10:21 a.m.) Beth Lambert, 4435 US Highway 1 South, Executive Director of the Limelight Theater, spoke on managing the Category II dollars.

(10:24 a.m.) McCormack reviewed the decision before the Board today. He stated there was no contract or commitment involved with the motion. Bryan spoke on the panel and listed its members. Sanchez spoke on comments that were made. He thanked the McDaniels for all they did for the community. Stevenson spoke on how the grants were handled. Miner addressed the TDC.

**(10:38 a.m.) Motion by Sanchez, seconded by Miner, carried 4/1, with Stevenson dissenting, to authorize the County Administrator, or his designee, to negotiate with the number one ranked respondent, St. Johns County Cultural Council, for Arts, Cultural and Heritage Development and to present a draft contract to the BCC at a later date for consideration.**

(10:39 a.m.) Hastings announced that the next TDC meeting was scheduled for February 28, 2011, at 1:30 p.m.

The meeting recessed at 10:40 a.m. and reconvened at 10:55 a.m.

(02/15/11 - 9 - 10:56 a.m.)

District 3

3. PUBLIC HEARING - APPEAL OF A DECISION BY THE PLANNING AND ZONING AGENCY, PURSUANT TO SECTION 9.07.03 OF THE LAND DEVELOPMENT CODE (PLANAPPL 2010-02 PUBLIX LIQUOR STORE #377). THIS IS AN APPEAL FILED PURSUANT TO SECTION 9.07.03 OF THE LAND DEVELOPMENT CODE REGARDING DECISIONS OF THE PLANNING AND ZONING AGENCY (PZA). THE PZA ISSUED A FINAL DECISION REGARDING A ZONING VARIANCE (ZVAR 2010-11) TO THE 3,000-FOOT MINIMUM DISTANCE REQUIREMENT BETWEEN TWO ALCOHOL VENDORS. THE PZA VOTE WAS SPLIT 3-3 ON THE PROPOSED VARIANCE, EFFECTIVELY DENYING THE APPLICATION--SECTION 8.01.03 OF THE LDC STATES THAT THE FAILURE TO RECEIVE A MAJORITY VOTE OF THE MEMBERS PRESENT SHALL ACT AS A DENIAL OF THE APPLICATION. MOREOVER, THE AGENCY'S ORDER WAS ISSUED FINDING THAT THE REQUEST DID NOT FULLY MEET THE DEFINITION OF A VARIANCE. THE SUBJECT PROPERTY IS LOCATED IN THE MOULTRIE SQUARE PLAZA, SOUTHWEST OF THE WILDWOOD DRIVE & HWY US1 INTERSECTION. THE SPECIAL USE TO ALLOW THE LIQUOR STORE (SUPMAJ 2010-27) WAS

CONTINUED INDEFINITELY. IF THE PLANNING APPEAL IS APPROVED,  
THE SPECIAL USE WILL BE REHEARD BY THE PZA

Proof of publication of the notice of public hearing for PLANAPPL 2010-02, Publix Liquor Store #377, was received, having been published in *The St. Augustine Record* on January 31, 2011.

Catherine A. Ardito, St. Augustine Court Reporters, was present.

Michael Roberson, Planning Department, reviewed the planning appeal on the proposed Publix liquor store, distributing a handout from the opposition, *Exhibit A*. He said that staff recommended denying this appeal. All the commissioners disclosed the same ex parte communication with Karen Taylor and the representative from Publix. Stevenson asked what the purpose of the 3,000 feet was and how it compared to other communities. Roberson replied it was in place, because they didn't want to get a conglomeration of liquor stores in the area, and was not due to competitive reasons. Stevenson asked if he knew how they compared to other communities that had a distance requirement. Whitehouse replied that it was a provision that had been carried over, not initially instituted when they passed the Land Development Code (LDC), but was one that was adopted from previous land development regulations and was over fifty years old.

(11:03 a.m.) Whitehouse gave the format for today's presentations. McCormack mentioned that they might have late breaking news regarding an old decision by the County that may have some relevance to the Board's decision today. He said Growth Management had recently discovered some information, and if true, he would get a copy of it to distribute to the applicant, the opponent, and the Board.

(11:06 a.m.) Karen Taylor, 77 Saragossa Street, reviewed the request for the distance variance for Publix, displaying pictures, *Exhibit B*. Sanchez asked about the entrance to the store. Taylor responded. She spoke on the definitions from Section 12 of the LDC, the code only addressing the distance, Publix not opposing the other liquor store in 2004, and zoning code reasons for granting or not granting variances.

(11:17 a.m.) Sid Ansbacher, 50 North Laura Street, spoke on orderly compatible development.

(11:20 a.m.) Chris King, Moultrie Publix Store Manager, 1760 Hickory Lane, stated that he tried to satisfy customers by offering services they request. He said that they didn't currently sell alcohol products. He asked the Board for their consideration.

(11:24 a.m.) Frank Upchurch, 780 Ponce de Leon Blvd., representing Shores Discount Liquor Store, spoke on the history of liquor stores in the county. He spoke on the law of variances. He asked if Publix was even eligible for a variance. He reviewed the County's code, *Exhibit C*. He asked if it would cause a hardship, what the problem was with the existing ordinance, stated there was no practical difficulty, and that a legal hardship must meet certain requirements. He said that his client was concerned that Publix would put them out of business. He spoke on the purpose of the Code and following the law. He asked the Board to deny the appeal.

(11:46 a.m.) Taylor said that this was not about competition; the variance was on the books before the opposition applied for their liquor license. She spoke on the practical difficulty; reducing congestion; and meeting the intent of the Code. She explained the hardship, and not being contrary to the public interest.

(11:50 a.m.) Ansbacher spoke on looking at the code language, specific to this case, together with the definition. He said the "spirit and purpose" meant that the nature of

the neighborhood was being changed. Miner said that he was ready to make a motion to grant the appeal. Bryan spoke on the traffic in that area.

(11:57 a.m.) McCormack spoke on another St. Johns County case that might relate to this matter, but it was not directly on point, so that was why it had not been introduced as argument by either side. He reviewed the legal standards, a section on zoning variances, and hardship not being defined, but that zoning was defined. He stated that the literal enforcement of the requirements of the Code would cause either undue hardship to carry out the spirit and purpose of the Code, or would be contrary to the spirit and purpose of the Code. He reiterated what was required to grant a variance. He mentioned the intent and explained the variance criteria for them to use in rendering their decision. Stevenson stated that she saw a lot of hardships on the way the rule could affect the community. She said one of their goals was to reduce unnecessary trips. Morris spoke on the 3,000 foot minimum distance requirement between two alcohol vendors and stated that it should be upheld. McCormack read a letter from Mr. Patel, V & R United, Inc., asking the Board to deny the variance, *Exhibit D*. Bryan asked why Publix couldn't put the liquor store on the other side of Publix, instead of where they were proposing to put it, because it would be a longer distance from the other store. Roberson stated that anywhere in that shopping center would have been below the 3,000 foot distance.

(12:13 p.m.) Taylor responded to the distance mentioned by Bryan. Stevenson asked if there was a definition of a pedestrian route in the Code. Taylor responded. Discussion followed. Sanchez stated that he was prepared to support it.

(12:18 p.m.) **Motion by Miner, seconded by Sanchez, to grant Planning Appeal 2010-02, Publix Liquor Store #377, and zoning variance 2010-11, adopting findings facts one through four to support the motion. Whitehouse stated that the motion from the packet was approving the appeal and if you were approving the appeal, then you were granting the variance, and if you were granting the variance, you had to base it upon something. He said the four findings were on the page just prior to attachment #1, in the Planning and Zoning Staff Report packet. He also added that they didn't state subject to the four conditions, so it would be based on the four findings subject to the four conditions.** Roberson added the special use permit that ultimately allowed this, was continued indefinitely, so the special use permit would have to be reheard. Bryan said it might be something to look at in the future, on a future agenda. McCormack said that was a topic to bring up under Commissioners' Reports or at a later meeting. *Whitehouse said, in looking at the suggested findings, it did specifically refer in #2 to Section 10.04.02, the Board may wish to add #5, which specifically said that they find that this met the definition for zoning variance because of an extraordinary situation or condition of such a piece of property. Miner amended the motion and the second agreed to include a fifth finding stated by Whitehouse. The motion carried 4/1 with Morris dissenting.*

(02/15/11 - 11 - 12:23 p.m.)  
COMMISSIONERS' REPORTS

Morris recognized former Commissioner Ray Quinn and thanked him for his service.

(12:23 p.m.) Sanchez welcomed Ray Quinn also, and spoke on Hillsborough County following up on their pill mill ordinance. He also did some investigating and found out that they should also set some regulations in the auto insurance category, due to fraud taking place.

(12:25 p.m.) Miner supported reevaluating the ordinance regarding the 3,000 foot distance. McCormack asked if there was a consensus for the Board to move forward with an examination of the 3,000 foot provision. (12:27 p.m.) *There was a consensus of*

*the Board to have the County Attorney's Office check out the ordinance regarding the 3,000 foot distance.*

Miner announced that the first community meeting was tomorrow night at 6:00 p.m. at the Anastasia Branch Library. He stated that last Thursday he went to his first North Florida TPO meeting; he stated that significant portions of the Summer Haven River had filled up with sand.

(12:28 p.m.) Joe Stephenson, Public Works Director, spoke on the barrier island being breached by the Atlantic Ocean. He stated that a study needed to be done. Miner said that a majority of the residents in that area would like something to be done.

(12:32 p.m.) Stevenson spoke on the State Bike and Pedestrian Council's meeting that was held on February 7th, and stated that the State was working on a pedestrian safety action plan.

(12:35 p.m.) Bryan stated that he had a letter signed by John Mica, and a request from Greg White of West Augustine, asking for a letter of support for the West Augustine Historical Community Development Corporation in receiving 501(c)(3) non profit status. He said that if he had a consensus from the Board, he would send a letter of support along with Congressman Mica's.

Bryan said that he had another request from the National Trust Advisory Council regarding the Historic Preservation Award for the federal partnership in historic preservation, that had to do with the Bridge of Lions' nomination. He stated that they had to have at least five letters of recommendation from the community in order to be eligible to qualify for the award, and if the Board would give him the authority, he would sign a letter to support that as well.

Bryan said that he had the pleasure of attending the first concert at the Ponte Vedra Concert Hall on Sunday night and it was fantastic.

Bryan stated that he attended the City of St. Augustine's meeting regarding the Galimore Center pool and the letter of appreciation between the City of St. Augustine and St. Johns County. He requested that staff look into the interlocal agreements.

(02/15/11 - 12 - 12:43 p.m.)

#### COUNTY ADMINISTRATOR'S REPORT

Wanchick stated that they were already looking into the interlocal agreements.

Wanchick mentioned that they had a request from Sheriff Hardy in Putnam County to hold a bar-b-que and motorcycle ride, that would end at the St. Johns County Fairgrounds, to support a terminally ill deputy. They were requesting to waive the fees. He said it was a tri-county event. *There was concurrence for Wanchick to waive the fee.*

Wanchick spoke on the possible acquisition of the Health and Human Services site by Lowe's, doing it in a way that would be cost neutral to the County. He said talks were going very well. He stated that they were at the point in the discussion where they needed to obtain an appraisal of the true market value of the building and land. He stated that they would like to request the Board's approval to transfer \$10,000 from the General Reserves Economic Development line item to undertake that assessment. *The Board gave him direction.*

Wanchick spoke on the amount of money in the reserves. He said that they had over \$27 million in General Fund reserves, which would be down to less than \$10 million over the next two years. Stevenson commented on community redevelopment areas.

Bryan stated that the people in the community needed to understand that they were working as hard as they could, in the spirit of cooperation, to look out for the safety, health and welfare of their constituents. Wanchick spoke on the Galimore pool issue.

(02/15/11 - 13 - 12:50 p.m.)

COUNTY ATTORNEY'S REPORT

McCormack spoke on bringing back more language regarding appointed boards and committees, the purchasing manuals, and criticism from the public towards the Board being reviewed by the County Attorney.

(12:53 p.m.) Stevenson spoke on the Board having discretion when interpreting rules in the Land Development Code to make a decision.

(02/15/11 - 13 - 12:54 p.m.)

CLERK'S REPORT

No report.

With there being no further business to come before the Board, the meeting adjourned at 12:55 p.m.

REPORTS:

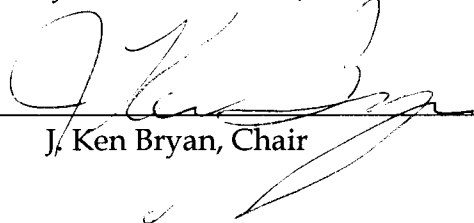
1. St. Johns County Board of County Commissioners Check Register, Check No. 466243, totaling \$47,118.34 (1/27/2011)
2. St. Johns County Board of County Commissioners Check Register, Check Nos. 466244 through 466253, totaling \$1,610.00 (1/28/2011)
3. St. Johns County Board of County Commissioners Check Register, Check No. 466254, totaling \$207.50 (1/31/2011)
4. St. Johns County Board of County Commissioners Check Register, Check Nos. 466255 through 466257, totaling \$2,534.35 (1/31/2011)
5. St. Johns County Board of County Commissioners Check Register, Check Nos. 466258 through 466511, totaling \$2,555,228.00 (2/01/2011)
6. St. Johns County Board of County Commissioners Check Register, Check No. 466512 totaling \$34.70 (2/01/2011)
7. St. Johns County Board of County Commissioners Check Register, Check Nos. 466513 through 466516, totaling \$2,464.25 (2/02/2011)
8. St. Johns County Board of County Commissioners Check Register, Check Nos. 466517 through 466521, totaling \$170,862.95 (2/02/2011)
9. St. Johns County Board of County Commissioners Check Register, Check No. 466522, totaling \$10,437.24 (2/02/2011)
10. St. Johns County Board of County Commissioners Check Register, Check No. 466523, totaling \$2,467.95 (2/03/2011)
11. St. Johns County Board of County Commissioners Check Register, Check No. 466524, totaling \$2,428.20 (2/04/2011)
12. St. Johns County Board of County Commissioners Check Register, Check No. 466525, totaling \$23.69 (2/04/2011)
13. St. Johns County Board of County Commissioners Check Register, Check No. 466526, totaling \$138.39 (2/04/2011)
14. St. Johns County Board of County Commissioners Check Register, Check Nos. 466527 through 466714, totaling \$862,755.90 (2/08/2011)
15. St. Johns County Board of County Commissioners Voucher Register, Voucher No. 4927 through 4970, totaling \$277,022.63 (2/08/2011)

CORRESPONDENCE:

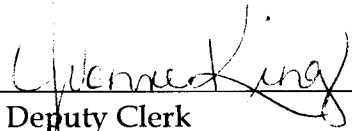
1. Letter dated February 3, 2011, to Liz Cloud, Program Administrator, Bureau of Administrative Code and Weekly, filing Ordinance Number 2011-5

Approved March 1, 2011

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By:   
J. Ken Bryan, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By:   
Deputy Clerk

