

**Nassau County Board of County Commissioners
Regular Session, May 23, 2022, 6:00 P.M.
Commission Chambers, 96135 Nassau Place, Yulee, Florida**

Call to Order, Invocation, and Pledge of Allegiance to the American Flag.

Commissioners:

Present: Chairman Aaron C. Bell, Commissioners John F. Martin, Thomas R. Ford, Jeff Gray, and Klynt A. Farmer.

Other Officials Present: Denise May, County Attorney; Taco Pope, County Manager; and Marshall Eyerman, Assistant County Manager.

Staff Present: Heather Nazworth and Melissa Lucey, Deputy Clerk.

Official Agenda Summary:

Audience Input:

RS220523 - (Tab A) Non-Agenda Items and (Tab B) Agenda Items.

NEW BUSINESS:

RS220523 - 6:01:45 (Tab C) Consider a Resolution of the Board of County Commissioners of Nassau County, Florida, approving the placement of a referendum on the ballot for the November 2022 election for the electors within Nassau County to vote on the authorization of the County to issue up to \$30 million in general obligation bonds for a Conservation Land Acquisition and Management (CLAM) Program.

Discussion: Holly Coyle, Assistant Planning Director, came forward to provide a summary and timeline of the CLAM Program. Pagen Hanrahan, Southeast Conservation Finance Director, Trust for Public Lands (TPL), came forward and reviewed the results from the 2022 New Bridge Strategy Public Opinion Poll of 300 registered votes throughout Nassau County regarding potential ballot language for the November 2022 election. She read verbatim of the ballot language recommendation, noting that 62 percent of the majority votes were in favor of supporting this proposal.

Motion: Approve Tab C as stated above and authorize the Chairman to sign Resolution No. 2022-108.
Maker: Commissioner Martin
Second: Commissioner Farmer
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:43:37 (Tab D) Approve a Resolution authorizing the Chairman to execute Supplemental Agreement No. 1, Contract No. CM2967-A1, to the Local Agency Program (LAP) agreement between the State of Florida Department of Transportation (FDOT), and the Board of County Commissioners, increasing the funding by \$89,856.00 for a total of \$800,781.00 for the construction and oversight of the Amelia Island Parkway Trail from Fletcher Avenue to Via Del Ray.

Motion: Approve Tab D as stated above and authorize the Chairman to sign Resolution No. 2022-109.
Maker: Commissioner Ford
Second: Commissioner Martin
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:44:08 (Tab E) Approve a Resolution authorizing the Chairman to execute Supplemental Agreement No. 1, Contract No. CM3118-A1, to the Local Agency Program (LAP) agreement between the State of Florida Department of Transportation (FDOT), and the Board of County Commissioners, increasing the funding by \$50,000.00 for a total of \$3,096,053.00 for the safety improvements on CR 108 from Bay Road to Middle Road.

Motion: Approve Tab E as stated above and authorize the Chairman to sign Resolution No. 2022-110.
Maker: Commissioner Farmer
Second: Commissioner Ford
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220228 - 8:45:05 (Tab F) Approve the Evaluation Committee's final ranking of the proposals for Construction Engineering Inspection (CEI) for the safety improvements to CR 108 from Middle Road to US 17 and authorize staff to enter into negotiations with the top-ranked firm, AE

Engineering, and bring back to the Board for approval and execution.

Motion: Approve Tab F as stated above.
Maker: Commissioner Martin
Second: Commissioner Farmer
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:44:40 (Tab G) Approve a Resolution authorizing the Chairman to sign the Construction and Maintenance Agreement with the Florida Department of Transportation (FDOT), for the safety improvements on River Road from CR 121 to US 1, Contract No. CM3168.

Motion: Approve Tab G as stated above and authorize the Chairman to sign Resolution No. 2022-111.
Maker: Commissioner Gray
Second: Commissioner Farmer
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:42:44 (Tab H) Approve the Sidewalk Fee-in-Lieu Policy created per Board direction following a public hearing held on February 14, 2022, regarding revisions to Ordinance No. 99-17, Roadway and Drainage Standards.

Motion: Continue to June 27, 2022, to consider Tab H as stated above.
Maker: Commissioner Martin
Second: Commissioner Farmer
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:45:37 (Tab I) Approve and authorize the Chairman to sign the Sovereignty Submerged Lands Fee Waived Lease Renewal with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, Contract No. CM2441-A1, for operations of the North End Boat Ramp and authorize payment of the Submerged Land processing fee in the amount of \$712.66 for June 27, 2022, through June 27, 2027.

Motion: Approve Tab I as stated above.
Maker: Commissioner Gray
Second: Commissioner Farmer

Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:46:11 (Tab J) Approve and authorize the Chairman to sign Contract No. CM2786-WA15 with Florida Governmental Authority Utilities (FGUA) for grant/loan administration and special assessment services for the Nassau Amelia Utilities Lift Station 27 Conversion Project.

Motion: Approve Tab J as stated above.

Maker: Commissioner Farmer

Second: Commissioner Ford

Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

REGISTER:

The Chairman signed the register for the following warrants: Warrant Nos. 281387 thru 281486 dated 5/20/22 for a register total of \$832,721.11; and Warrant Nos. 2206158 thru 2206177 dated 5/18/22 for a register total of \$1,002,533.06.

NON-QUASI JUDICIAL PUBLIC HEARING(S)

RS220523 - 8:46:35 (Tab K) Approve a Resolution approving an Interlocal Agreement with the City of Jacksonville, Florida; approving the issuance by the Issuer of its Health Care Facilities Revenue Bonds (Baptist Health) to finance, reimburse, or refinance all or a portion of the costs of the acquisition, planning, development, construction, renovation, improvement, equipping, and installation of health care facilities located or to be located in Nassau County; and providing an effective date.

Ms. May read the legislative procedures.

Motion: Open the floor to public discussion.

Maker: Commissioner Gray

Second: Commissioner Martin

Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

Discussion: Mr. Eyerman reviewed the request and noted that this request does not approve any development rights.

Public input: Scott Finnegan, Senior Vice President, Finance, and Chief Officer for Baptist Health, came forward to advise that the project is to construct a 25,000-square-

foot emergency room in Nassau County and would take a year to complete.

Motion: Close the floor to public discussion.
Maker: Commissioner Gray
Second: Commissioner Ford
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

Motion: Approve Tab K as stated above and authorize the Chairman to sign Resolution No. 2022-111A.
Maker: Commissioner Martin
Second: Commissioner Gray
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:42:44 (Tab L) Consider ORD22-001, an Ordinance amending Chapter 29 of the County Code of Ordinances, Subdivision and Development Review, Section 29-46, Public Uses; specifically Section 29-46(b)(3), Trails, to add provisions of the adopted Fee-in-Lieu of required trail construction policy; providing for severability; providing for codification; and providing an effective date.

Motion: Continue to June 27, 2022, at 6:00 p.m. or soon thereafter as the matter may be heard, to consider Tab L as stated above.
Maker: Commissioner Martin
Second: Commissioner Farmer
Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

RS220523 - 8:42:44 (Tab M) Consider for transmittal to state agencies for review, CPA21-009, an amendment to the 2030 Nassau County Comprehensive Plan; amending the Future Land Use Map (FLUM) Series Map FLUMS-1, 2030 FLUM; amending the FLUM Series Map FLUMS6, the East Nassau Community Planning Area (ENCPA); Master Land Use Plan; providing for transmittal; providing for severability; and providing an effective date. Application filed by Wes Hinton, Raydient Places and Properties, owner; and Lindsay Haga, England-Thims & Miller, agent.

Motion: Continue to June 27, 2022, at 6:00 p.m. or soon thereafter as the matter may be heard, to consider Tab M as stated above.
Maker: Commissioner Martin

Second: Commissioner Farmer
Action: Aye: Commissioners Bell, Martin, Ford, Farmer and Gray

RS220523 - 8:43:18 (Tab N) Consider for transmittal to state agencies for review, CPA21-010, an amendment to the 2030 Nassau County Comprehensive Plan; amending the Goals, Objectives, and Policies of the Transportation Element, amending the Future Transportation Map Series; providing for transmittal; providing for severability; and providing an effective date.

Motion: Continue to June 27, 2022, at 6:00 p.m. or soon thereafter as the matter may be heard, to consider Tab N as stated above.

Maker: Commissioner Ford

Second: Commissioner Martin

Action: Aye: Commissioners Bell, Martin, Ford, Farmer, and Gray

QUASI-JUDICIAL PUBLIC HEARING(S)

RS220523 - 8:52:36 Ms. May read the Quasi-Judicial procedures applicable to Tab O.

RS220523 - 8:56:20 (Tab O) Consider the appeal of a decision of the Conditional Use and Variance (CU&V) Board, Application No. V2022-01, Sandy Ridge Development, LLC.

Commissioners Ex-parte Communications:

RS220523 - 8:56:31 Commissioner Gray disclosed that he received a email. The other commissioners indicated none.

RS220523 - 8:57:07 Documents submitted into the record: Application for appeal - 8 pages; V2022-001 Final Order - 3 pages; CU&V Agenda Backup from the February 24, 2022 meeting including Staff Report; Aerial, Zoning, and FLUM Map; V16-001 Staff Report; Minutes from June 23, 2016, CU&V meeting regarding V16-001; Application V2022-001; Applicants Evidence and PowerPoint; Staff's PowerPoint Presentation from February 24, 2022 - 82 pages; Verbatim from Tab F, CU&V meeting held on February 24, 2022 - 25 pages and correcting the record that the staff report provided and identified at CU&V meeting on February 24, 2022, should be corrected to reflect Application 2022-001.

Motion: Accept documents into the record as presented above.

Maker: Commissioner Martin
Second: Commissioner Farmer
Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

Motion: Open the floor to public discussion for Tab O.
Maker: Commissioner Martin
Second: Commissioner Ford
Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

Deputy Clerk swore in Thad Crowe, Planning Director, to provide testimony.

Discussion: Mr. Crowe reviewed the request, noting that the same presentation was presented at February 24, 2022, Conditional Use and Variance Board meeting.

Applicant's Presentation: Randy Martinuzzi, SEDA Construction Project Manager, was sworn to provide testimony. He advised that the property has been zoned Residential-Single Family 2 (RS-2) since 1997; however, there have been multiple changes to the Land Development Code (LDC), which now requires 2.5-acres per 100 houses for parks and forced the development to give up 10 feet of land off Miner Road. He explained that the special condition and circumstances stem from the irregular-shaped lot required for the development to be redesigned to accommodate those requirements, including a 15-foot buffer along Miner Road. Mr. Martinuzzi explained that the variance request would provide relief for the requirements being put upon them; however, the Planning Department recommends that the developer apply for the Planned Unit Development (PUD). He pointed out that SEDA Construction provided a public benefit by dedicating the 10 feet of land off Miner Road and should be recognized through the variance. He provided a brief overview of lots based on different lot coverage percentages and side setbacks.

Motion: Close the floor to public discussion.
Maker: Commissioner Ford
Second: Commissioner Farmer
Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

Discussion: Ms. May clarified that the 10 feet of land off Miner Road was a requirement for all the property owners

abutting Miner Road. Robert Companion, Deputy County Manager/County Engineer, came forward and was sworn in to provide testimony. He confirmed that any property owner along Miner Road and major and minor collectors would be required to give additional right-of-way for future expansions and improvements to the roadway; however, there are mobility credits for those donations. He advised that these regulations were in place before this variance request was submitted for development. Mr. Crowe confirmed that the surrounding developments have similar requirements for the setbacks.

Motion: Approve, based upon record and testimony received, find that there is competent substantial evidence to affirm the decision of the Conditional Use and Variance Board to deny the variance, Tab O as stated above.

Maker: Commissioner Martin

Second: Commissioner Farmer

Action: Aye: Commissioners Martin, Bell, Gray, and Farmer

Nay: Commissioner Ford

COUNTY ATTORNEY'S BUSINESS:

RS220523 - 6:32:21 (Tab P) Riverstone Properties, LLC. - Bert J. Harris Claim.

Discussion: Ms. May explained that the Board of County Commissioners passed Ordinance 2021-08, which reduced the maximum height in certain districts, including Residential General 2 (RG-2), on June 14, 2021. This Ordinance also reduced the maximum height for structures within 1,000 feet of the Coastal Construction Control Line (CCCL) to 35 feet. Ms. May advised that on June 14, 2021, the Board of County Commissioners passed Ordinance 2021-20, amending Ordinance 2021-08, which removed reference to the CCCL. Riverstone Properties, LLC., through its attorneys, presented a notice under *Florida Statute 70.001* to put the County on notice that the property owner deems the impact of a new law or regulation on the property to be clear and unequivocal on December 3, 2021. Furthermore, through its attorneys, Riverstone Properties, LLC., served its Notice of Claim and written appraisal to the County on March 7, 2022. Ms. May noted that on March 8, 2022, the County forwarded that notice to its insurance providers. On March 23, 2022, FACT provided a Reservation of Right letter on coverage and assigned the firm of Marks Gray and Susan Erdelyi to represent the County. Pursuant to the Act, the County must

take one of the following actions within the statutory timeframe of 90 days:

1. Offer a settlement agreement as presented tonight.
2. Present to the claimant a settlement offer and agreement as amended by the Board of County Commissioners.
3. Present a settlement offer with no changes to the regulations and a statement of allowable uses.
4. Any other action as this Commission deems in the public interest.

Ms. May reminded the Board that the Statutory deadline is June 6, 2022. She noted that no settlement offers been made, and only the Board of County Commissioners can make a settlement offer.

Ms. Erdelyi came forward and provided a summary of her past litigations involving the Bert J. Harris Private Property Rights Protection Act. She noted that each claim would differ based on the facts of the case. She advised that under the proceeding of this law, there is a provision that requires the County to make an offer. Ms. Erdelyi reported that the County Attorney and staff have met with the property owner, which resulted in the property owner indicating that they would accept to not litigate this claim. She noted that is one of the offers for the County to consider tonight; however, the other option is a settlement offer with no changes to the regulations and a statement of allowable uses. If the County does not accept the property owner's request, the property owner might file a Bert J. Harris claim. She reported that the County has defenses available against the claim; however, the stakes remain high if the County does lose. In a response posed by the Board, Mr. Erdelyi provided a brief summary of the option of a settlement offer with no changes to the regulations and a statement of allowable uses; and her expertise and experience in the Bert J. Harris claims.

Public input: The following individuals came forward to speak in favor of a settlement offer with no changes to the regulations and a statement of allowable uses and were in opposition of the claim from Riverstone Properties, LLC., regarding the Bert J. Harris claim: Bob Schmonsees, Candis Whitney, Lyn Pannone, Margaret Kirkland, Marian Phillips, Jeanne Shields, Miranda Roberson, Peter Brual, James Tuten, Joyce Tuten, Cameron Moss, Elise Pearlstine, Stevie Allen, Joni Clemens, Laura Hemke, Jack Booth, Bonita Gardner, and

Berta Arias. They addressed their concerns relating to significant real estate devaluation implications and character; loss of trees mitigation; conservation and environmental efforts on Amelia Island; Rogers Towers recent legal cases; economic impact; over-development; access to the beach; endangered species and designated wildlife areas; Riverstones Properties' claims; impacts to traffic, healthcare and first responders; and Nassau County Mobility Plan.

The following individuals appeared via "Zoom": Julia Mandale, Rick Taylor, and Tommy Grimes. They addressed concerns relating to Bert J. Harris Private Property Rights Protection Act and potential changes to changes in Nassau County Ordinance relating to height restrictions.

Next, the following individuals came forward to speak: Marilyn Green, Chadd Charland, Lowell Hall, Craig Heffman, Alexandra Lajoux, Jeff Packer, Richard Grice, Andrea Hoffman; and Bob Solomon. They addressed their concerns relating to setting precedence in Nassau County for developers; economic development; protecting the traditional rights of beach access; loss of trees mitigation; tourism impacts; property owner rights; over-development; quality of life and wellbeing of Nassau County residents; traffic; and pollution.

Noted: The Board recessed at 7:58 p.m. and reconvened at 8:08 p.m.

Discussion: Chair Bell announced that public comment would be paused to allow discussion among the Commissioners. Further discussion ensued about how to proceed.

Motion: **Approve a settlement offer with no changes to the regulations and a statement of allowable uses regarding the Bert J. Harris claim from Riverstone Properties, LLC.**

Maker: **Commissioner Martin**

Second: **Commissioner Farmer**

Discussion: The Board further discussed the potential costs, the cost on the taxpayer, and general obligation bonds.

Action: **Aye: Commissioners Martin, Bell, and Farmer**
Nay: Commissioners Ford, and Gray

Noted: The Board recessed at 8:21 p.m. and reconvened at 8:33 p.m.

Public input: The following individuals came forward: William Drewry, Jr., Rande McCollum, and Agnes Lyden. They expressed their concerns regarding traffic safety for entering Amelia Island from A1A, the potential lawsuit from the developer, and the settlement offer from Riverstone Properties, LLC.

INFORMATIONAL ITEM(S) :

RS220523 - 9:17:49 (Tab AD) Board of County Commissioners Newsletter for April 2022.

DISCUSSION ITEMS:

RS220523 - 9:17:55 All the Commissioners expressed appreciation for the citizens who came forward to provide public input.

There being no further business, the regular session of the Nassau County Board of County Commissioners adjourned at 9:31 p.m.

Approved on: September 26, 2022

Jeff Gray, Chairman

Attest:

John A. Crawford, Ex-Officio Clerk