

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on April 5, 2018 at 5:03 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Rita Pritchett	Chair/Commissioner District 1	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Kristine Isnardi	Vice Chair/Commissioner District 5	Present	

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezonings and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness testimony showing that the request meets the Zoning Code and the Comprehensive Plan criteria. Opponents must also testify as to facts, or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board, takes action on the request. Likewise, if a Commissioner has made a site visit, inspections, or investigation, the Commissioner must disclose that fact before the Board, takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes of rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

MOMENT OF SILENCE

Chair Pritchett called for a moment of silence.

PLEDGE OF ALLEGIANCE

Commissioner Isnardi led the assembly in the Pledge of Allegiance.

ITEM II.D.1., APPOINTMENTS/REAPPOINTMENTS

The Board appointed **Marcus Herman** as alternate to the Zoning Board of Adjustment, with term expiring April 5, 2019.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.A., PUBLIC HEARING, RE: POWELL-GEARY SERVICES, LLC, REQUESTS AMENDMENT TO EXISTING BDP IN A PIP ZONING CLASSIFICATION (17PZ00150)

Chair Pritchett called for public hearing on a request by Powell-Geary Services, LLC, for an amendment to an existing Binding Development Plan (BDP) in a PIP zoning classification on property located on the south side of Broadway Boulevard, and east side of Industrial Drive, approximately 0.47 mile west of U.S. Highway 1.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a request for an amendment to a BDP by Powell-Geary Services, LLC, in a PIP zoning classification located in District 1; the applicant is present; and the revision of the binding development plan is in the Board's package.

Richard Powell expressed his thanks to the Board for allowing him the time to come back to the Board to address the issues that have been raised by staff and the residents that are along the east side of the property that he wants to develop, and to better define the binding development plan. He highlighted the key items in the existing BDP, addressed the issues from the Planning and Zoning board, the concept of the binding development plan submitted in the Board's package that shows how he plans to develop the property, address the property uses along Industrial Drive, discuss the new binding development plan provisions, staff comments, and what he has done to date; he stated one of the provisions in the current BDP prohibits septic tanks; and after his discussions with staff, his understanding of the reason for that being in there is because the property had been misused, and improperly storing liquids there. He stated if a building is being built there, there is no sewer there, and it will have to have a septic system which is a tank in his mind; in the permitting process a septic system would be addressed and it would be approved by the County; another provision in the current BDP was truck parking and storage; truck is a rather nebulous term and he owns several trucks, and he thinks the issue was with tractor trailer trucks turning on that property and coming close to the residents; but in his binding development plan, it is limited to that, it is better to define what trucks are allowed to park there. He advised that he has a GMC 3500 dually with six wheels and that will need to be parked there; he defined a truck for no parking is anything of excess of six wheels, which would address the initial concern that the residents had raised; it also limits the structures to only an office on the property; and if the area is looked at, he thinks an office building is not a viable investment for that location. He stated he would like to expand on things there; he is more specific of what he wants to do for his business in the proposed binding development plan. He stated in the reasons for denial of his request from the Planning and Zoning board was incompatibility, lack of buffering, and incomplete binding development plan; he agreed the binding development plan was not sufficient and he has addressed that; the lack of buffering on the concept plan the Board has in its package shows there is a 25-foot setback along the eastern part of the property that abuts the neighbors, and in the definition of a PIP there has to be some kind of a noise barrier which will be addressed in the site planning approval process; and the residents asked for some type of buffering, which had to be addressed anyway. He stated the development along Industrial Drive is for industrial, it is that type of street; across the street is a company that manufactures concrete; down the street there is a new development that will be storing aggregates to be sold to residents of County and surrounding areas; further down the street and connecting into the property on U.S. Highway 1, will be a new residential area; and he wants to put mini self-storage on the property, because there is going to be more of a demand for that if that project goes through. He continued to say when he attended the

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Planning and Zoning board meeting he made a mistake because he did not take any notes; the board asked him to talk to the residents a second time; he had gone to every resident and in the Board's package, it will see a thing titled 'Spoke to Richard Powell', which is who he talked to, and who he did not talk to; it has been updated and he has talked to every resident there except for two; one would not talk to him; and he talked with a representative of the Canadian residents who do not live here full-time. He added he had two people ask him to purchase their property; that is something that he does do; but in this particular case, it is not in his plan; there are other things he would like to talk about, but he is nervous; he is available for any questions; he was not present at the last meeting because he was in the hospital, but at the meeting before that one Commissioner Tobia mentioned the shortage of industrial properties and how those things are disappearing; and that is what he plans on doing, is helping to develop a piece of industrial property.

Henry Adams stated he has talked with Mr. Powell about his agenda and he cannot seem to agree with him about what he wants to do; Mr. Powell told him about this, but he does that; he has nothing specific and he is building on a property that used to be zoned for housing; it was rezoned for business because the person who owned the property wanted to put a trailer on the land to have it zoned for business; this trailer never existed and the land has stayed empty for 10 years; and nothing has ever been built at this location. He mentioned there being turtles galore there and it is more like a sanctuary for the turtles; he inquired how can one say nothing over six wheels because he is going to put storage units there; trucks are going to come in pulling trailers, they are going to be loading and unloading; the street is busy enough, with a rock quarry behind them; there are as many as 50 trucks a day going up and down that street; and there is no need for more traffic, or a big building back there for what Mr. Powell wants, it is almost ludicrous; and is it just because he got the property reasonable and it was zoned right. He remarked he does not know how it got zoned for business, because there is no kind of business on it; he stated he talked to every person that lives on that side of the street; he could not find one of them who agreed that Mr. Powell should have a big building back there; they see no sense for it; they just figured he was going to have storage sheds; and as far as that goes, he still does not know what Mr. Powell is going to have back there. He added Mr. Powell said he wanted a mechanic shop, a leather shop, and a ceramics shop; he inquired if there is going to be a paint shop there; he does not want this because it pollutes the air; it is bad for the kids because it is a kids neighborhood; he reiterated he is not for it; and all of the neighbors he had spoken to are not for it, and the reason they are not present is because he is 79 and the others are older. He understand how they feel because they cannot make the meeting; there are times that he does not want to attend these meetings; but if he does not attend, things get passed that are not needed to be passed, that is how it got zoned business in the first place because there was not enough people to say there is no need for a business back there. He went on to say for the first 10 years he lived there, there has been no business back there; when he purchased his property the realtor said to him there will never be anything built behind him; obviously that was a lie; he wishes the Board would listen to him and keep it as it is; let the turtles run; no business is needed back there; he is sure there is other land Mr. Powell could find; the people who did not show up today are going to regret it when Mr. Powell starts filling his storage sheds, people rent them for one month, and then move out; and there will be trucks in and out of that complex more than they can imagine.

Chair Pritchett inquired if this was left alone what could Mr. Powell possibly put on this property; and could he bring businesses in right now. Ms. Sterk responded he can only do the office use on the property today with the existing BDP in place. Chair Pritchett inquired if he could build on the property. Ms. Sterk replied he could. Chair Pritchett inquired if there is going to be some type of building built on it; she stated the only thing that he is changing is the BDP. Ms. Sterk confirmed he has expressed a limited list of uses in the binding development plan from the PIP zoning classification list of uses; but she stated it is an expanded list when compared to just office use alone. Chair Pritchett remarked it is a little bit better than it could be because it is less

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intense of what it could possibly be. Ms. Sterk advised it is definitely less intense than the full list of uses in PIP.

Chair Pritchett stated a little history on this is Mr. Powell visited her in her office a little while ago and she had mentioned that he did not have enough in the binding development plan, it was too vague; she told him she would probably not be able to get it voted through at that time, and he was going to have to come back with some idea of what he wanted to do; Mr. Powell has done that; the Planning and Zoning board that heard him felt the same way, but he kind of has taken care of that; there is potential for him to build buildings on it now; and changing his BDP is not really going to change the prospect of buildings showing up on that property soon, because it already has that type of zoning. She advised that she likes him putting the 25-foot setback buffer of a wall behind all of the residents, that is an important factor; she thinks it is a good fit because there is already some industry with the rock quarry located near Mr. Powell; and she is comfortable with this.

Commissioner Isnardi stated she agreed after looking at the package and the things that Mr. Powell has tried to do to not have much of an impact on the neighbors; his outreach is being a responsible developer; she thinks Mr. Powell is doing the right thing with this property; it is an appropriate use; and she will support it.

Commissioner Barfield deferred to Chair Pritchett; he agreed that he does not see anything out of the ordinary; Mr. Powell does appear to put a lot of binding items in there, which is good; and he is okay with it.

There being no further comments or objections, the Board approved the request by Powell-Geary Services, LLC, for an amendment to an existing Binding Development Plan in a PIP Zoning classification on property located on the south side of Broadway Boulevard, and east of Industrial Drive, approximately 0.47 miles west of U.S. Highway 1.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.B., PUBLIC HEARING, RE: W.K.&R. GROVES, INC. (CHAD GENONI) REQUESTS A CHANGE OF CLASSIFICATION FROM AU TO RR-1 AUTOMATICALLY TABLED TO MAY 3, 2018.

Erin Sterk, Interim Planning and Zoning Manager, stated Item IV.B., is a request by the applicant to automatically table to the May 3, 2018, Board of County Commissioners Meeting.

There being no objections heard, the Board approved the applicants request to automatically table request by W.K.&R. Groves, Inc., (Chad Genoni) to the May 3, 2018, Board of County Commissioners Meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	John Tobia, Commissioner District 3
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

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ITEM IV.C., PUBLIC HEARING, RE: ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM PROHIBITING ANY AND ALL COMMERCIAL PARKING LOTS

Chair Pritchett called for public hearing for an ordinance establishing a temporary moratorium prohibiting any and all commercial parking lots.

Tad Calkins, Planning and Development Director, advised this is a request to conduct the first public hearing for an ordinance establishing a temporary moratorium prohibiting any and all overnight commercial paid parking lots in the unincorporated areas of Brevard County; the ordinance proposes a temporary moratorium that will sunset upon the sooner of six months, or the Board's enactment of an ordinance regulating overnight commercial parking lots, or the repeal of the ordinance by the Board, whichever occurs first; and at the March 20 meeting an ordinance was presented for a second reading, but the Board chose to table it to April 24. He went on to say as part of the Motion it was requested by the Board to have a moratorium; and this is the ordinance establishing that.

Commissioner Isnardi inquired if this does not include any applications that are already in the process; and she inquired if this will take six full months. Mr. Calkins responded affirmatively; he replied he is bringing back an ordinance on April 24, based on the Board's conversation of March 20; but he stated he does not know if the ordinance is going to be in alignment with what was advertised for the first ordinance, so he may need to re-advertise. He added he cannot tell the Board today that on the 24th the Board will have something that can be adopted, because all of that is not sorted out; and the 24th may be at a point where there will be a need to have the first reading, and later have the second reading. He went on to say that everything that has been submitted to date is able to move forward and those applications are moving forward.

Commissioner Isnardi stated she is supportive of this; and she encouraged the Board to not drag its feet on making its decision.

Commissioner Barfield stated this needs to be pushed through as fast as possible because of the potential impacts that are occurring and could occur in the future; and this will need to be worked on as fast as possible.

There being no further comments or objections, the Board conducted the first public hearing for an ordinance establishing a temporary moratorium prohibiting any and all overnight commercial paid parking lots within the unincorporated areas of Brevard County; and granted permission to advertise for the second public hearing.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

FRANK ABBATE, COUNTY MANAGER, RE: REPORT

Frank Abbate, County Manager, advised there is a Workshop scheduled on April 19 that has no agenda.

The Board cancelled the Workshop Meeting scheduled for April 19, 2018.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

COMMISSIONER JOHN TOBIA, DISTRICT 3, RE: REPORT

Commissioner Tobia stated he would like to discuss school safety; there has been some information in the *Florida TODAY* that may have direct impact on budgets; the Legislature passed a Bill dealing with school safety; the Sheriff noted that the fiscal impact on this could be as much as \$7.8 million; the State has provided \$2.4 million in funds; and that leaves \$5.4 million difference. He went on to say it is his belief that school security is a core function of the School Board and the County will be dealing with extreme budgeting challenges in the coming years, which do not apply directly to the School Board; this year voters will be deciding on whether or not to grant that additional \$25,000 Homestead Exemption that will directly impact Brevard County's budget; but that \$25,000 Homestead Exemption does not impact the School Board budget. He advised if the County were to pick up this budget item of \$5.4 million, it would be a force to raise taxes; the School Board is sitting on a little bit more than \$17.4 million in its reserves; he has confidence that the School Board will consider all options whether or not to go with a program that the Sheriff has offered, or to fund more Resource Officers; but should the School Board not make a decision in an expeditious fashion, he hopes the Board comes together to have a joint-workshop potentially with the School Board to figure out the funding before the deadlines are set by the State, or before the beginning of the next school year to have a more Resource Officers. He added he does not want this to be a last-minute question brought up of whose responsibility is it to fund the difference of \$5.4 million. He asked the Board to pay close attention and to speak with the School Board Members; he stated he is hopeful that they make a decision one way or another, he is not advocating one way or another; but whatever decision they make, that they make a decision on how to fund that instead of passing it over to the County.

COMMISSIONER/CHAIR RITA PRITCHETT, DISTRICT 1, RE: REPORT

Chair Pritchett stated there are so many rumors flying around right now about the Indian River Lagoon (IRL); she received a phone call today from someone who heard the County is getting ready to do away with the Citizen Advisory Board of the IRL and overthrow its Plan; she has confidence in the Board to make a good decision; and she is hopeful the citizens are attending the Advisory Board meetings to vet his or her ideas through the Advisory Board. She expressed her appreciation to the Advisory Board and to Virginia Barker, Natural Resources Management Director, for doing a very good job. She remarked there are people who are very concerned right now and she is not about to overthrow the government opinions right now of what is being done, because the County has such a good staff.

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Upon consensus of the Board, the meeting adjourned at 5:31 p.m.

ATTEST:

SCOTT ELLIS, CLERK

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA