

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 May 31, 2012 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

Call to Order

Attendee Name	Title	Status	Arrived
Robin Fisher	Commissioner District 1	Present	
Chuck Nelson	Chairman/Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Commissioner District 4	Absent	
Andy Anderson	Vice Chairman/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, inspection, 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 for 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.

INVOCATION

The invocation was given by Pastor Stan Linder, Calvary Chapel, Viera.

PLEDGE OF ALLEGIANCE

Chairman Chuck Nelson led the assembly in the Pledge of Allegiance.

ITEM I.A. RESOLUTION, RE: RECOGNIZING THE TECHNOLOCHIKS

Chairman Nelson read aloud, and the Board adopted, Resolution No. 12-133, recognizing the Technolochiks.

Accepting the Resolution were Samantha Branch, Reilly Branch, Caroline Buback, Hannah Centore, Savannah Duggar, Adrianna Gonzalez, and Hannah Perala.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Chairman/Commissioner District 2
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Andy Anderson
ABSENT:	Mary Bolin Lewis

ITEM II.C. ROBIN FISHER, DISTRICT 1 COMMISSIONER

Commissioner Fisher stated there is a request by the owner of the Cocoa Expo for the Board to consider changing the Zoning Code to allow a change of zoning on the property in order for improvements to be made. He requested that the Board allow staff to bring forward the necessary Code changes and rezoning request for the Cocoa Expo property. He noted staff has also been advised to continue to work with the property owner to keep moving forward in the areas they can legally do so until the Board can hear the zoning changes.

Commissioner Infantini expressed interest in scheduling an emergency hearing in order to expedite the change. Robin Sobrino, Planning and Development Director, advised the schedule coincides with the first meeting after the Board's recess in June.

Bryan Bennett, Vice President of Sales, Cocoa Expo, stressed the importance of the Christmas event that is to take place at the Cocoa Expo, but it will have to be cancelled if the zoning is not changed in time to complete the necessary improvements.

Chairman Nelson commented on the fact that before recently coming to the Board, the Cocoa Expo was dealing with the City of Cocoa on the issue of annexation.

The Board further discussed the possibility of scheduling an emergency hearing. Ms. Sobrino explained the timeline and process for changing an ordinance and applying for a zoning change request. Mel Scott, Assistant County Manager, advised staff is going to go back and look at the entire site to determine if there are other elements that can begin taking place.

Jay Bergman, Executive Director for Baseball Operations, Cocoa Expo, stated he has contacted over 2,000 college baseball and softball coaches; his credibility is on the line with this project; and he hopes to see the process expedited.

Chairman Nelson pointed out that the Board is being asked to make a change that could potentially impact every property in the County that comes before the Board.

Richard Dee, Days Inn, Cocoa, expressed concerns over the loss of business if improvements are not made to the Cocoa Expo.

Ms. Sobrino advised many of the structures on the property are non-conforming, which means they are not consistent with current zoning regulations; the Zoning Code allows the continuation

of non-conforming structures, but there is a limitation that they cannot be expanded, only repaired or maintained up to 50 percent of their value. Commissioner Infantini commented on the Board needing to loosen its regulations.

Oral Ali of the Clarion Hotel, and Stuart Bortun, expressed support for the expedited improvements at the Cocoa Expo, as it will impact Merritt Island and Cocoa Beach, as well as the entire County.

The Board directed staff to do the following: 1.) Provide the Board on July 10, 2010, with Legislative Intent and permission to advertise an ordinance proposing a change to the Brevard County Zoning Code Section 62-1921, Commercial Entertainment and Amusement Enterprises; 2.) Schedule the public hearing for the Local Planning Agency (LPA) on July 23, 2020, for the proposed ordinance; 3.) Schedule the enactment public hearing with the Board on July 24, 2012, for the proposed ordinance; and 4.) Schedule the rezoning hearing for Cocoa Expo with the Board for August 2, 2012. Additionally, the Board directed staff to continue working with the property owner to identify permits that can legally be issued until the zoning is resolved.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Andy Anderson
ABSENT:	Mary Bolin Lewis

ITEM II.D. TRUDIE INFANTINI, DISTRICT 3 COMMISSIONER

Commissioner Infantini stated it has come to her attention that two of the candidates for Sheriff have indicated that they do not want a \$4 million building for the North Precinct; and inquired if the Board should reconsider the new building and wait for the new Sheriff to take office to see what he would like.

Commissioner Fisher stated he looked for other buildings, but did not find any; and noted he is building a new building for the entire Sheriff's Department, and not for Sheriff Parker specifically. He commented on the condition of the current Sheriff's Department facility in Titusville. Chairman Nelson pointed out that the funding source for repayment is fines and forfeitures, not from property taxes.

ITEM II.G. CHUCK NELSON, DISTRICT 2 COMMISSIONER, CHAIRMAN

Chairman Nelson commented on meeting with Senators Andy Gardner and Thad Altman, who were briefed on Space Florida and NASA; and noted that Senator Gardner will be the Senate President. He stated he also met with a group that is dealing with BRAC (Base Realignment and Closure), and noted nothing has been scheduled yet, but Patrick Air Force Base seems to be in good shape.

ITEM V. PUBLIC HEARINGS, RE: P&Z BOARD RECOMMENDATIONS OF MAY 7, 2012

Chairman Nelson called for the public hearing to consider Planning and Zoning Board recommendations of May 7, 2012.

(12PZ-00019) - RONALD A. & ELLEN M. CODY - REQUESTS A CHANGE FROM GU TO AU ON 1.05 ACRES. LOCATED ON THE SOUTH SIDE OF CANAVERAL GROVES BOULEVARD, APPROXIMATELY 0.3 MILE WEST OF GRISSOM PARKWAY. (3375 CANAVERAL GROVES BOULEVARD, COCOA)

There being no objections, the Board approved the request for a change from GU to AU on 1.05 acres, located on the south side of Canaveral Groves Boulevard, approximately 0.3 mile west of Grissom Parkway (3375 Canaveral Groves Boulevard, Cocoa), as recommended, with the stipulation of no commercial use.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Andy Anderson
ABSENT:	Mary Bolin Lewis

ITEM V.B.2. (12PZ-00021) - DIANE A. BUCKLEY - REQUESTS A CHANGE FROM GU TO AU ON 2.38 ACRES. LOCATED ON THE WEST SIDE OF FAN PALM AVENUE, APPROXIMATELY 500 FT. NORTH OF ARECA PALM STREET. (5030 FAN PALM AVENUE, COCOA)

There being no objections, the Board approved the change fro GU to AU on 2.38 acres, located on the west side of Fan Palm Avenue, approximately 500 feet north of Areca Palm Street (5030 Fan Palm Avenue, Cocoa), as recommended, with the stipulation of no commercial use.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Andy Anderson
ABSENT:	Mary Bolin Lewis

ITEM V.B.3. (12PZ-00011) - CC MERRITT ISLAND, LLC - (H. LEE CHAPMAN, III) - REQUESTS A CUP FOR A TOWER & ANTENNA IN A BU-2 ZONING CLASSIFICATION ON 0.116 ACRE, +/- . LOCATED APPROXIMATELY 420 FT. NORTH OF MERRITT ISLAND CAUSEWAY (S.R. 520) AND APPROXIMATELY 230 FT. EAST OF PLUMOSA AVE. (PART OF 450 E. MERRITT ISLAND CAUSEWAY, MERRITT ISLAND)

Lee Chapman, representing CC Merritt Island LLC, outlined the request for the Board. He advised the request has received no opposition from the Planning and Zoning Board, MIRA (Merritt Island Redevelopment Agency), or area residents.

Lauralee Westine, representing Overlook Towers and Capital Telecom, stated she was before the Board several months ago with another tower application, which the Board denied. She mentioned another location that has been approved by MIRA, and is due before the Board on August 2nd; and requested the CC Merritt Island item to be continued to August 2nd. She pointed out that the Code requires the applicant's engineer to be the one who provides the data and justifies location height. Ms. Westine continued that there has been no competent substantial testimony today upon which the Board can make a decision.

Discussion ensued on the utilities on the east side of the subject property and the common ownership between Office Depot and Circuit City.

Chairman Nelson inquired what the issues would be for relocating the tower to the other side of the building, which would provide 240 feet for separation. Cynthia Fox, Zoning and Enforcement Manager, advised the Board cannot consider relocation, as the application is for a specific leased area and legal description, which was advertised.

There being no further discussion, the Board approved the request by CC Merritt Island, LLC, for a CUP for a Tower and Antenna in a BU-2 Zoning Classification on 0.116 acre, +/-, located approximately 420 feet north of Merritt Island Causeway (S.R. 520) and approximately 230 feet east of Plumosa Avenue (part of 450 E. Merritt Island Causeway, Merritt Island), as recommended by the Planning and Zoning Board.

RESULT:	ADOPTED [3 TO 1]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Robin Fisher, Trudie Infantini, Andy Anderson
NAYS:	Chuck Nelson
ABSENT:	Mary Bolin Lewis

ITEM V.C. VARIANCE REQUEST BY UR HOSPITALITY LLC (D/B/A SURFCASTER INN/DEANGELO'S BY THE SEA ITALIAN GRILL), RE: CONSTRUCTION OF A DECK EAST OF THE BREVARD COUNTY COASTAL SETBACK LINE

Clayton Bennett, Bennett Engineering and Consulting, representing the applicant, requested the Board continue the item in order to allow him and his client an opportunity to work through some of the issues.

The Board continued the public hearing to consider a variance request by UR Hospitality, LLC (d/b/a Surfcaster Inn/DeAngelo's By The Sea Italian Grill), for construction of a deck east of the Brevard County Coastal Setback Line, to the August 2, 2012, Board meeting.

Donald Moore, Stephen Donaldson, and Valerie Amneus, all spoke in opposition of the proposed deck. Mr. Donaldson provided the Board, and the Clerk, with a petition signed by 82 residents.

RESULT:	TABLED [UNANIMOUS]	Next: 8/2/2012 5:00 PM
MOVER:	Trudie Infantini, Commissioner District 3	
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5	
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Andy Anderson	
ABSENT:	Mary Bolin Lewis	

May 31, 2012

ITEM VI.A. APPROVAL, RE: FY 2012-2014 NEIGHBORHOOD STABILIZATION PROGRAM 3 AD-HOC SELECTION COMMITTEE AND PROTEST COMMITTEE RECOMMENDATIONS (NSP3)

Stockton Whitten, Assistant County Manager, outlined the issue of the NSP3 (Neighborhood Stabilization Program 3), and advised after conferring with the County Attorney's Office, Edwards Construction and another company have the right to go to the Protest Committee. He reported there is still a potential issue with regards to NSP1, which also involves Mr. Edwards. He presented a PowerPoint presentation explaining the Neighborhood Stabilization Process. He noted staff has met with the National Veterans Homeless Services (NVHS) several times to go over the RFP response; and staff offered a compromise to have a CHODO (Community Housing Development Organization) that meets the HUD (Department of Housing and Urban Development) requirements mentor the organization.

Commissioner Fisher inquired if a mistake is made in the paperwork, does the applicant agree to work with the County to correct the mistake. Chuck Mays, Housing and Human Services Department, responded yes, they are to cooperate if an issue comes up that was unavoidable. Mr. Whitten pointed out that Mr. Edwards is going to get the dollars that are due to him; he already has ownership of the property with the County having a lien on it; after the rehabilitation work, he would transfer it to either an individual or a CHODO; and correcting any inefficiencies is covered by the fact that at some point he has to turn over ownership.

Keith Edwards stated staff did not pass along his paperwork in a timely fashion, causing his inventory to be expelled before anything could happen; he cannot get any inspections or appraisals done; staff has had meetings with his non-profit organization without his knowledge; and he feels the Homestead Avenue property should go to Mr. Taylor, who was willing to purchase the property at the time it was up for purchase.

Mr. Whitten pointed out that Mr. Edwards' properties are reviewed at staff level and construction manager level, and as of Tuesday, the department director will review them as well.

George Taylor inquired if properties are not sold under NSP, what is the percentage of those that will go to veterans. Mr. Whitten replied the property is designated for veterans; and as a local requirement, 30 percent of the homes will go to veterans.

Mr. Taylor stated there should be an audit to prove that the mandate is met for the veterans. He explained that the properties that were supposed to be submitted were on Clearlake Road; the application was submitted to the Housing Council, which accepted it and forwarded it to the Commissioners; and the Board approved housing for NVHS under the original application, but the property did not pass, so they went to a different property without asking him for a new application.

Commissioner Fisher inquired if the Homestead Avenue property can go to Mr. Taylor. Mr. Whitten responded if he wants to buy it, the County will sell it to him. He advised the Affordable Housing Council agreed to mentor Mr. Taylor and utilize his SHIP (State Housing Initiative Program) funds, but Mr. Edwards said he did not want to do that; and the recommendation for the Board was to move those dollars to SHIP with a different CHODO as the managing entity.

Sam Dettra, Housing and Human Services, commented on meeting with Mr. Taylor several times regarding the rental units and building up his capacity.

Mr. Whitten stated there were 232 properties submitted with a success rate of 34, which covers eight developers; Mr. Edwards stands to have three properties approved; and he has an

May 31, 2012

opportunity to look for properties and to gain some measure of success by sheer submission volume.

Preston Roberge commented on Keith Edwards being an honorable and reputable business man; and stated the house on Homestead Avenue should go to veterans.

Sean Marks, Brevard Community Partnership (BCP), spoke in regards to the Homestead Avenue property; and stated staff asked BCP to meet with Mr. Taylor and the Affordable Housing Council, and to have the opportunity to take over possession of the property and to manage it, but put only veterans from NVHS into the home. He stated BCP's intention is still the same.

Board discussion ensued.

Mr. Whitten pointed out that with the way the grant is structured, the developers bring the properties to the table, not County staff. Commissioner Anderson commented on not wanting to be in a situation where the Board is not following the HUD mandates.

Chairman Nelson stated no Board action is required, but he would ask that Mr. Taylor continue to work with staff to get him where he needs to be.

ITEM VII.E.1. RESCINDING MOTION, RE: COST OF AN INCORPORATION FEASIBILITY STUDY FOR MERRITT ISLAND

Mary Hillberg corrected an error she made at a previous Board meeting when discussing millages in incorporated areas versus unincorporated areas. She concurred with Chairman Nelson's decision to rescind the Board's previous vote to direct staff to determine the cost of a feasibility study.

The Board rescinded its motion from May 15, 2012, to determine the cost for an Incorporation Feasibility Study for Merritt Island.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Andy Anderson
ABSENT:	Mary Bolin Lewis

ADJOURNMENT

Upon consensus of the Board, the meeting was adjourned at 8:09 p.m.

ATTEST:

MITCH NEEDELMAN, CLERK

CHUCK NELSON, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA