

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 September 12, 2013 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

5:00 PM Meeting called to order on September 12, 2013 at Board Room, Board Room, Viera, FL.

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

INVOCATION

Invocation was given by Pastor Tom Unrath, Messiah Evangelical Lutheran Church, Cocoa.

PLEDGE OF ALLEGIANCE

Commissioner Mary Bolin Lewis led the assembly in the Pledge of Allegiance.

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ITEM I.A., RESOLUTION, RE: RECOGNIZING SEPTEMBER 14, 2013, AS POW/MIA RECOGNITION DAY

Chairman Anderson asked the J.W. Mather's Jr. American Legion Auxillary Unit 163, to introduce themselves to the Board. Ann Keen Smith, President introduced Pauline Kneese, Anna May, and Dorothy Duke; stated they are a very active group and are happy to be at the meeting; and they appreciate the Board's support.

Chairman Anderson read aloud the resolution recognizing September 14, 2013, as POW/MIA Recognition Day.

Ms. Smith invited everyone to join them at the American Legion Post Number 163, at 4:00 on Saturday; there will be a POW-MIA recognition day. She added it is a very somber event, there are a lot of groups involved from the Boy Scouts to ROTC; a lot of good things happening, and some new announcements she made regarding scholarships that they are sponsoring to some deserving ROTC students; and they would love to have everyone there.

The Board adopted Resolution No. 13-148, recognizing September 14, 2013, as POW-MIA Recognition Day.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM II.A.1., APPROVAL, RE: CHANGING OCTOBER 17, 2013, LAGOON WORKSHOP LOCATION AND START TIME

Mel Scott, Assistant County Manager, requested the Board approve the October 17, 2013, date for the Lagoon Workshop; the Lagoon House is the proposed location. He added this is the Welcome Center for the Indian River Lagoon Scenic Byway; it is owned by the City of Palm Bay, and ran by the Marine Resources Council; and the calendars lined up nicely, and Congressman Posey can make it. He advised Senator Nelson will be out of the Country, but he is well aware of the event. He noted it will be at 6:00 p.m. that Thursday.

The Board approved changing the October 17, 2013, Lagoon Workshop location from the Government Center Florida Room to the Ted Moorhead Lagoon House, 3275 Dixie Highway NE, Palm Bay; and approved changing the start time of the Workshop from 9:00 a.m. to 6:00 p.m.

ITEM II.C., ROBIN FISHER

Chairman Anderson stated Commissioner Fisher is absent today due to something he had to do.

ITEM II.D., CHUCK NELSON

Commissioner Nelson stated the Resolution was very timely today, the veterans at Veteran's Memorial Park are also going to be holding an event the Friday, September 20, 2013, it is a candlelight vigil where candles are hung for those that are missing; and encouraged everyone to come to both events.

ITEM III.A.1., RESOLUTION, LONG RANGE BUDGET, AND STATE COST-SHARE REQUEST, RE: BREVARD COUNTY SHORE PROTECTION PROJECT

The Board adopted Resolution No. 13-149, supporting the Brevard County Shore Protection Project; approved request for State grant cost-share funding, matched by Federal funds and local option tourist tax that is dedicated to the Beach Improvement Fund for shore protection projects; authorized the County Manager or his designee to execute contracts and task orders to secure grant funds and accomplish work approved under grant; and authorized the necessary budget change requests.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.C.1., APPROVAL, RE: BUDGET CHANGE REQUESTS

The Board approved the Budget Change Requests, as submitted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM IV., PUBLIC COMMENTS

Rick Charbonneau stated he understand the Board is trying to find money for the Fire Department; he met with the Fire Department Union; he understands the teachers and the Board has, but seeing the teachers turning down a \$1700 increase, and the Fire Department is basically groveling for a \$300 increase; and he thinks that is just not quite right. He added they have asked him to try and find some money for them some place.

Chairman Anderson called for a public hearing on Tabled Items, Planning and Zoning Board recommendations of August 5, 2013, and Tabled Items from the May 6, 2013, and July 8, 2013 Planning and Zoning Meetings.

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ITEM V.A.1., (13PZ-00029) - WILLOW LAKES RV PARK, INC., - (LOYS WARD) - REQUESTS A SMALL SCALE PLAN AMENDMENT (13S.05) TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 2 TO REDIDENTIAL 6, AND A CHANGE FROM TR-2 TO RVP ON 4.97 ACRES MORE OR LESS. LOCATED ON THE NORTH SIDE OF PARRISH ROAD, APPROXIMATELY 840 FT. EAST OF U.S.1. (2650 & 2690 PARRISH ROAD, TITUSVILLE)

Cynthia Fox, Planning and Zoning Manager, stated she is requesting the tabling of this item; the applicant is still working things out with the two parties, and Commissioner Fisher is not present this evening. She added she would like to table it to the October 3, 2013, Zoning meeting.

Chairman Anderson inquired if the applicant was okay with that. Gary Sellers responded yes.

Commissioner Infantini stated this happened one time down in the South Beaches, where the applicant tabled it at one point, and then the second time, all of her residents were present to speak and the applicant asked to table it again. She advised that waiting until the day of the meeting, when all the residents are present, tabling the item is not in the best interest or fairness to the speakers; and she believes Chairman Anderson should also hear what the residents have to say on the item. She added she spoke with one of the parties present regarding Willow Lakes; and spoke with individuals on the Marina Holdings issue also.

Chairman Anderson stated Commissioner Fisher intended on being here; he knows Commissioner Fisher's circumstances, and he tried every effort to be here; and with what he has going on he could not get out of it. He added if he could not make it because of an emergency, and there was an item in his District, he would like to be there to discuss it, but he will leave it up to Commissioner Bolin Lewis.

Commissioner Nelson stated in the past there was a circumstance very similar, and the Board allowed the folks who did attend to speak with what their concerns are. He added it may help the process, and then move it forward. Chairman Anderson stated the Board can allow them to speak if they wish to speak. Commissioner Nelson stated he would still like to table it to give Commissioner Fisher the chance to be present, but would like to give the benefit of someone who drove here in the rain to speak. Chairman Anderson stated under the understanding the Board is not taking any action to even discuss this item, either the applicant, or any of the speakers that would like to speak can speak.

Commissioner Nelson stated he spoke to a couple of people on the phone about this item.

Gary Sellers stated his property joins about 400 feet of the southern boundary of Willow Lakes RV Park. He added he spoke at the P&Z meeting in opposition to the Zoning change, and were invited to a meeting with Mr. Liten and Loys Ward over at their office, as well as some of the neighbors; and they were able to tour the development and see what it was all about. He noted they received a letter saying there may have been some misunderstanding, and on his part, that is what happened, it was a misunderstanding. He advised they have resolved a lot of their issues, and Mr. Liten has provided the written issues they have addressed, and have guaranteed his property which drains onto Willow Lakes, that the issue will be resolved; it will either drain into their lake or into the stormwater runoff, so the biggest thing he has is a fence issue. He stated he does not want a commercial fence that has barbed wire on top of it; they are fine with a six or eight foot chain link fence, but would prefer not to have the same fencing that is seen on Culyer Road; and they were informed that the applicant would keep them involved in some of their plant selection for the buffer between both of their properties. He advised they are in understanding that they do not want to see each other; and he is rescinding his opposition for re-zoning change.

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Chairman Anderson asked if the applicants would like to speak. Loys Ward and R.C. Liten declined.

Commissioner Nelson stated the applicant heard the comments and asked that they take that into consideration for when it comes back, so the issues will be addressed.

Frank Skiengel stated he met with the owners and some of the overflow water into the ditch has been directed; and it seems like the egress behind his house and others have been directed so that some people are more at ease. He added there was a petition made of over 100 people; when it was signed, it was about the rezoning of RVP on Parrish Road. He stated there were a lot of people who signed the petition, and many who were given notice about the meeting. He noted there is a little bit of imbalance in that with the Planning and Zoning meeting, and with the meeting with Randy Long; and he would like that understood. He added all of these people who were not informed did sign the petition to not have this rezoning; the zoning that is there is consistent with the whole neighborhood; the RVP is going to stick in the middle of the R-2; and the transition that used to exist would not be there anymore. He stated the reason for this change is because they need 50 acres to do their project which gives them a resort destination, but these three lots come up to 51.8 acres and that first lot in the front is 1.4 acres, so 50 acres minus the 1.4 and they still have their 50 acres to do the project behind the neighborhood without creating the compatibility issue within the neighborhood.

Commissioner Infantini inquired if he was saying that the community would be ok if the applicant did the project in the northern two lots as long as it was not done in the southernmost lot. Mr. Skiegel responded yes, RVP would expand into the back two lots, but the consistency of the R-2 would stay with the community that has been there for 50 plus years. Commissioner Infantini inquired if he has approached the applicant to see if he is in agreement with that. Mr. Skiengel stated he did bring it up at the Planning and Zoning meeting, but they seemed like the concern was more about how many homes he could put on that piece of property than actually addressing this. He added R-2 is two homes per acre, he lives on a little over half an acre and he has one home on it, so there is a minimum for keeping R-2. He advised there is no need to have 1.4 acres to keep R-2; it could be brought to the back line of their homes and still have more space; and there is also other ways. He added he is not trying to be a stick in the mud, he just does not want a thorn in the neighborhoods side, because there was a petition that went out, and was one of the concerns, along with the water and access road. He noted they have a stem road that comes from the back lots that would be 50-foot wide, and would serve as a great emergency access road, but they would not have to put a typical street formation down to Parrish Road. He stated all of their homes have driveways, the properties go from one-half acre up to five acres, and they are zoned R-2, but they all have driveways, no streets running through them.

Chairman Anderson stated the Board now has the comments on record, and staff can advise Commissioner Fisher that there were comments made so he can review them before the next meeting.

There being no further comments or objections, the Board tabled consideration of the request for Small Scale Plan Amendment (13S.05) to change Future Land Use designation from Residential 2 to Residential 6, and a change from TR-2 to RVP on 4.97 acres more or less, to the October 3, 2013, Board meeting.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER: Chuck Nelson, Commissioner District 2
AYES: Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT: Robin Fisher

ITEM V.B.1., (13PZ-00055) - THE VIERA COMPANY - (MARIA PUZINO) REQUESTS A CONDITIONAL USE PERMIT FOR ALCOHOLIC BEVERAGE FOR ON-PREMISES CONSUMPTION (BEER & WINE ONLY) IN A PUD ZONING CLASSIFICATION FOR UNIT 115, ON .026-ACRE. LOCATED ON THE NORTH SIDE OF VIERA BOULEVARD, 350 FT. WEST OF STADIUM PARKWAY (5380 STADIUM PARKWAY, ROCKLEDGE)

Cynthia Fox, Planning and Zoning Manager, stated this request is for a Conditional Use Permit (CUP) for the on-premises consumption of beer and wine.

Commissioner Nelson inquired if this was in conjunction with the restaurant. Ms. Fox responded yes.

There being no further comments or objections, the Board approved the request for a Conditional Use Permit (CUP) for Alcoholic Beverage for On-Premises Consumption (beer and wine only) in a PUD zoning classification for Unit 115, on .026 acre, as accessory to a restaurant.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT: Robin Fisher

ITEM V.B.2., (13PZ-00060) - CLARK-GAICH ENTERPRISES - (KELLY GUION) - REQUESTS A CONDITIONAL USE PERMIT FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN A BU-1 ZONING CLASSIFICATION FOR UNIT 110, ON 0.02 ACRE. LOCATED ON THE EAST SIDE OF N. WICKHAM ROAD, APPROXIMATELY 150 FT. SOUTH OF SUNTREE BOULEVARD (7025 N. WICKHAM ROAD UNIT 110, MELBOURNE)

Cynthia Fox, Planning and Zoning Manager stated this is a request for a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption, and is in conjunction with a retail floral business in concept and an eight seat bar.

Commissioner Nelson stated having had all the bad experiences of CUP's for alcohol that have been presented to the Board as one type of use that then changed to a different type of use, example of LaJava Hut, which is now Hogan's Bar. He requested the Board make this request in conjunction with a retail florist shop, so it does not turn into a biker bar or some other use; because if this person decides this is not their business model and wants to change, it would be totally incompatible at that point with the other uses there. He believed there is a dry cleaner and a computer care clinic, and having an alcoholic bar would be problematic. Commissioner Bolin Lewis stated she does not see that the business model would ever want one in that location with a bar, but it is a what-if scenario. Commissioner Nelson stated he does not have a

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problem with what they are asking, but has a problem that it can change after they are gone; and would like to see the Board protected against that.

There being no further comments or objections, the Board approved the Conditional Use Permit for Alcoholic Beverages for On-Premises Consumption in conjunction to a retail floral business in a BU-1 zoning classification for Unit 110, on 0.02 acre, in conjunction with a retail floral business.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM V.B.3., (13PZ-00050) - GRAY BREWER, JR. - (DANIELLE M. VANN) REQUESTS A SMALL SCALE PLAN AMENDMENT (13S.07) TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 1 TO RESIDENTIAL 2, AND A CHANGE FROM AU TO SR ON 1.09 ACRES. LOCATED ON THE NORTHWEST CORNER OF INDIAN RIVER DRIVE AND INDIAN TRAIL. (NO ASSIGNED ADDRESS. IN THE COCOA AREA)

Chairman Anderson inquired if the Board was going to continue with the items in District 1, being there are no cards in opposition. Cynthia Fox, Planning and Zoning Manager, responded yes.

Ms. Fox stated this is a request for an SR zoning classification; the Planning and Zoning Board recommended that the Small Scale portion of the item be denied, and in its place a Binding Development Plan limiting the property to one unit, one single-family home be approved instead. She added the applicant was present at the meeting and agreed to that; this motion if the Board chooses to approve it would be approved subject to a Binding Development Plan limiting the development to one single-family home.

Commissioner Infantini inquired one single-family home for the one-acre. Ms. Fox responded yes, for the subject property.

The Board approved the request subject to a Binding Development Plan limiting the development to one single-family home.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM V.B.4., (13PZ-00058) - JERRY W. DAVIS, TRUSTEE - (ROBERT GRASSMAN) - REQUESTS A SMALL SCALE PLAN AMENDMENT (13S.08) TO CHANGE THE FUTURE LAND USE DESIGNATION FROM NC TO CC, AND A CHANGE FROM GU TO BU-2 ON 2.29 ACRES. LOCATED ON THE EAST SIDE OF GRISSOM PARKWAY, 200 FT. NORTH OF AL KLEINFELDT WAY, COCOA (NO ASSIGNED ADDRESS. IN THE CANAVERAL GROVES AREA)

Cynthia Fox, Planning and Zoning Manager, stated this is a request for a Small Scale Plan Amendment to change the Future Land Use designation from Neighborhood Commercial to Community Commercial, and a change from GU to BU-2, for the purposes of developing a 20,000 square-foot warehousing and storage business.

There being no further comments or objections, the Board approved the request for a Small Scale Plan Amendment (13S.08) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), and a change from GU to BU-2 on 2.29 acres. Located on the east side of Grissom Parkway, 200 feet north of Al Kleinfeldt Way, Cocoa; and adopted Ordinance No. 13-29, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, Entitled "The Comprehensive Plan", setting forth the seventh Small Scale Plan Amendment of 2013, 13S.08, to the Future Land Use map of the Comprehensive Plan; Amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM V.B.5., (13PZ-00008) - LEAH MARINA HOLDINGS, LLC - (THIERRY BRUNSCHWIG) - REQUESTS A CUP FOR MITIGATING A NON-CONFORMING USE PURSUANT TO SECTION 62-1190 IN AN RU-1-11 (SINGLE-FAMILY RESIDENTIAL) ZONING CLASSIFICATION, ON 8.88 ACRES, +/- . LOCATED ON THE WEST SIDE OF S. BANANA RIVER DRIVE, APPROXIMATELY 0.2 MILE SOUTH OF MILI AVE. (PART OF 1357 S. BANANA RIVER DRIVE, MERRITT ISLAND)

Commissioner Nelson stated he would like to put on the record that he met with the applicant, there was a conversation, and he felt uncomfortable after the conversation relating to some of the information he received; and he would like to get it on the record, because he would like this to not come back in litigation at some point in time potentially. He advised in discussing with the applicant, there was a question about a discussion he had with Commissioner Infantini; during the course of that discussion, it was indicated what her thoughts were in terms of how she was going to vote. He advised that caused concern for him because it puts him and her both in an awkward position; he does not believe there was any intent to try to share the information, but he believes that is what has happened. He added he would like to say that the conversation did occur, it does not change the fact that he is going to listen to all of the testimony this evening, but it could potentially be a violation for one or more of the Commissioners.

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Commissioner Infantini stated she does not know how Commissioner Nelson would know how she is going to vote because she has not decided how she is going to vote until all of the facts and circumstances are presented. She advised this is a quasi-judicial proceeding; she did discuss things that she was in favor of and not in favor of; but to be able to share with someone how she is going to vote is not correct. Commissioner Nelson stated he was not weighing in on that, he was weighing in on what he heard. Commissioner Infantini stated she does not doubt what he heard; and will say that was one of the most interesting conversations she has ever had in her office.

Cynthia Fox, Planning and Zoning Manager, stated this is a Conditional Use Permit to mitigate a non-conformity of an existing use, pursuant to Section 62-1190; it is not a section of the Code the County uses on a regular basis; this section of the Code requires that the Board identify the existing non-conforming conditions of the marina; and the Planning and Zoning Board was to put forward a list of conditions to mitigate the non-conformities. She added what is in front of the Board this evening is a negotiated list of conditions between a representative of the marina and the neighborhood at the time; staff started with 24, maybe 26 items, and have cut it down to 17, with an additional stipulation regarding the dumpster; and she will leave it up to the Board to discuss any of those items or what was discussed at the Planning and Zoning meeting. She noted at this moment she believes the applicant is willing to comply with these conditions, or as amended by the Board.

Commissioner Nelson stated he would like some clarification on things that were talked about.

Ron Abeles stated he has lived in Brevard County since 1980, and came here with the United States Air Force.

Commissioner Nelson stated this is probably one of the most interesting lists of things he has ever seen in his seven years as far as the conditions go. He noted there are a couple things in the list that are cause for concern; one is item nine on the list. Ms. Fox inquired if he would like for her to read into record that condition. Commissioner Nelson responded yes.

Ms. Fox stated condition number nine states the applicant shall be responsible for the cleaning of the basin, culvert, and baffles on the northern portion of the basin. Commissioner Nelson asked for clarification because when looking at the survey, the pipe actually extends into private property; and he believes that is problematic, because he does not believe the Board can cause a business to go on someone else's property where it has no authority to do so. He added there is probably a bigger issue, as it is probably part of the drainage system and that is maybe something Public Works needs to look at in terms of why it is, where it is, and how it got there; but to put the condition on the applicant to take care of a ditch he has no authority over is beyond the Board's responsibility; and he suggested adding on marina property to that item. He added Mel Scott, Assistant County Manager, could speak to Public Works about whether or not that is part of the drainage system, because that system all comes south on Merritt Island between New Found Harbor Drive and Banana River Drive; it probably does serve a function with drainage; and the Board could certainly have Ron service on his property, but Public Works needs to look at the specifics. He went on to say, Item 10 is related to the private sewer system, and for clarification, he believes the concern was they did not want others to have to hook up to that system; and he does not believe there was any intent to do that, but it was not clear. He added the way this item reads, someone would not be able to use a gravity line on their own property; and he believes it should read, the owner shall install a private sewer system connected to the County's system for Marina use only. Mr. Abeles stated he believes some of the residents were under the misnomer that if he were to put in a sewer system, they would have to connect to it, and that would be a cost to them, but that is not in fact true. Commissioner Nelson stated he can, when installing a system, cause residents to have to hook up to the system; he understands that was not the intent and wanted to clarify that. He added

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item number 12 states the owner shall remove the existing laundry facility upon installation of the new facility or connect the existing laundry facility to the sewer system; and he would like to add the word 'private' into that. He advised the one item he has the most concern with is, while he believes it is commendable, he does not know how the Board can make the applicant have a space for a government unit.

Chairman Anderson stated he is glad that was brought up, because that was a big red flag to him. Commissioner Nelson stated he believes if the applicant wishes to do so, that would be great; it is a good thing to do; but he is a little uncomfortable making the applicant have a space. He added the Board does not put the parameters on it, or say what the facilities are that go with it, or who pays for it. Mr. Abeles stated he has no problem with any law enforcement coming into the marina and parking their boat. Chairman Anderson stated he does not believe there were any requests from any of those agencies to have a spot there, it was just something that was thrown in. Commissioner Nelson noted he would encourage the applicant to do that, but out of his own free will, as opposed to the Board requiring it.

Commissioner Infantini stated she had a concern regarding the 50 slips of full-time live-a-boards, because when looking at the density, just north, she sees how much space 50 residencies would occupy; and if it were flipped and put on the square footage, it was a great deal more. She stated she is trying to keep the neighborhoods consistent, because that is what she would not want is higher-density in her neighborhood than what other people would expect in their neighborhood; and she is trying to be consistent in what she expects from her to deliver to the South area; and she is looking for input to get ideas, as people may consider boats different. She understands they are different because they are in the water, but they would need land space for children to play, and for pets. Commissioner Nelson stated his concern was the opposite; there could have been 104 live-a-boards; and in this particular case, he believes it was agreed to.

Commissioner Infantini stated she had some concern and expressed it; the applicant was not very excited about her concerns; but she told him that she would be honest with him, because the last thing she would want to do is blind-side someone who comes and stands before the Board. Mr. Abeles stated his concern was the way she approached it; density is not the correct word to use in his opinion; density is how many buildings, let us say, per acre; in that residential area, there could be four houses per acre; and it does not say how many people can live in that house. He went on to say there could be 10 people living in that house; the size of these boats could not hold 10 people; so there could be more people by what is allowable by the density in this R-U-2 than he could even try to have on the boats.

Commissioner Nelson stated what he struggles with is that it could have been 104, but he has agreed to 50, and he is okay with that. He added that was the recommendation of the Planning and Zoning Board at the meeting. Mr. A stated he went to the Planning and Zoning Board three times, so it has been worked through and there have been discussions.

Mel Scott, Assistant County Manager inquired if the Board would consider on Item 11, that states the owner will be required to pay all impact fees, and add applicable, so it would read the owner shall pay all applicable impact fees, so staff is not faced to see if Transportation Impact Fees are applies or not.

There being no further comments or objections, the Board approved the Conditional Use Permit (CUP) for mitigating a Non-Conforming Use pursuant to Section 62-1190 in an RU-1-11 (Single-Family Residential) zoning classification, on 8.88 acres, +/-, with the following conditions agreed to by the applicant: 1.) the use of the property shall be limited described herein; 2.) The use of the property shall be limited to office space and a bathroom/laundry facility, its existing use as a commercial/recreational marina, and potential single-family residential development with no

other commercial uses on the west side of South Banana River Drive; 3.) a six-foot masonry wall shall be constructed along the north property line as depicted on the sketch plan, per Section 62-1937. The wall must be completed prior to use of the bathroom/laundry facility; 4.) The marina shall be limited to 104 slips; 5.) No more than 50 of the slips may be utilized as full-time liveaboards; 6.) No hardening or bulkheading of the basin walls unless all applicable permits are obtained from regulating authorities; 7.) No expansion of the basin unless all applicable permits are obtained from regulating authorities; 8.) Any expansion must meet all fire and safety codes; 9.) The owner shall be responsible for cleaning of the basin culvert and baffles on the northern portion of the basin **marina property**; 10.) The owner shall install a private sewer system, **connected to the County system for marina use only**. Any continued use of the old bathrooms shall be connected to the sewer system unless the old bathrooms are removed; 11.) The owner will be required to pay all **applicable** impact fees upon submission of an application for a building permit if required; 12.) The owner shall either remove the existing laundry facility upon installation of the new facility or connect the existing laundry facility to the **private** sewer system; 13.) The hours of operation of the marina office if moved to the CUP Property shall be from 6:00 a.m. to 9:00 p.m. and shall be posted; 14.) The owner shall require that all activities comply with County performance standards. The owner shall post that no motor repairs shall be performed after 9:00 p.m.; 15.) The owner shall maintain the adjacent bascule bridge owned and operated by owner in good working condition, and shall cooperate with any requests by the County and/or FDOT to inspect the bridge; 16.) The owner shall provide educational information, including in-water signs and an educational kiosk regarding manatee protection and no wake zones as coordinated with appropriate State and County agencies; and 17.) **THIS CONDITION WAS DELETED**. The Board further stipulated that the trash dumpster remain in its current location.

ITEM V.C.1., (13PZ-00045) - SECTION 31, TOWNSHIP 24, RANGE 37, SUB. #01, PARCEL 88, OWNED BY NANCY C. AND EURO ALBERTI, CO-TRUSTEES - 0.27 ACRE, LOCATED ON THE WEST SIDE OF MILFORD POINT DRIVE, APPROXIMATELY 800 FT. NORTH OF HWY 20 (E. MERRITT ISLAND CWSY) (235 MILFORD POINT DRIVE, MERRITT ISLAND)

Cynthia Fox, Planning and Zoning Manager, stated the "C" agenda items are administrative rezonings; staff has brought a group of these to the Board previously. She added V.C.1., V.C.2., V.C.3., V.C.4., V.C.6., and V.C.7., are for the Board's consideration and they can be done as one motion if it desires. She noted Item V.C.5. has been withdrawn by staff.

The Board approved changing the zoning from RU-2-15 (Medium-Density Multi Family Residential) to RU-1-7 (Single-Family Residential on 0.27 acre, located on the west side of Milford Point Drive, approximately 800 feet north of Highway 520.

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

ITEM V.C.2., (13PZ-00046) SECTION 31, TOWNSHIP 24, RANGE 37, SUB. #01, LOT 90 OWNED BY CHRISTA M. DUGAN, LIFE ESTATE - 0.30 ACRE, LOCATED ON THE WEST SIDE OF MILFORD POINT DRIVE, APPROXIMATELY 870 FT. NORTH OF HWY 520 (E. MERRITT ISLAND CSWY) (245 MILFORD POINT DRIVE, MERRITT ISLAND)

The Board approved changing from RU-2-15 (Medium-Density Multi-Family Residential) to RU-1-7 (Single-Family Residential), on 0.30 acre, located on the west side of Milford Point Drive, approximately 870 feet north of Highway 520 (E. Merritt Island Causeway).

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

ITEM V.C.3., (13PZ-00047) SECTION 31, TOWNSHIP 24, RANGE 37, SUB. #01, LOT 91 OWNED BY CURTIS C. AND CHERYL E. GLEMSER - 0.30 ACRE, LOCATED ON THE WEST SIDE OF MILFORD POINT DRIVE, APPROXIMATELY 940 FT NORTH OF HWY 520 (E. MERRITT ISLAND CSWY) (255 MILFORD POINT DRIVE, MERRITT ISLAND)

The Board approved changing the zoning from RU-2-15 (Medium-Density Multi-Family Residential), to RU-1-7 (Single-Family Residential), on 0.30 acre, located on the west side of Milford Point Drive, approximately 940 feet north of Highway 520 (E. Merritt Island Causeway).

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

ITEM V.C.4. (13PZ-00048) SECTION 31, TOWNSHIP 24, RANGE 37, SUB. #01, LOT 93 OWNED BY CHARLES J. AND KAMI R. LINDENBERGER - 0.32 ACRE, LOCATED ON THE WEST SIDE OF MILFORD POINT DRIVE, APPROXIMATELY 1,040 FT. NORTH OF HWY 520 (E. MERRITT ISLAND CSWY) (265 MILFORD POINT DRIVE, MERRITT ISLAND)

The Board approved changing the zoning from RU-2-15 (Medium-Density Multi-Family Residential) and RU-1-13 (Single-Family Residential), to All RU-1-13 (Single-Family Residential), 0.32 acre, located on the west side of Milford Point Drive, approximately 1,040 feet north of Highway 520 (E. Merritt Island Causeway).

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

September 12, 2013

ITEM V.C.6., (13PZ-00036) - SECTION 19, TOWNSHIP 24, RANGE 37, PARCEL 504 OWNED BY SCHOOL BOARD OF BREVARD COUNTY - 18.5 ACRES LOCATED ON THE WEST SIDE OF N. BANANA RIVER DRIVE, 120 FT. NORTH OF BERMUDA AVENUE

The Board approved changing the zoning from GU (General Use) to GML(I) (Government Managed Lands - Institutional) on 18.5 acres located on the west side of Banana River Drive, 120 feet north of Bermuda Avenue.

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

ITEM V.C.7., (13PZ-00037) SECTION 18, TOWNSHIP 24, RANGE 37, PARCEL 267 OWNED BY SCHOOL BOARD OF BREVARD COUNTY - 16.03 ACRES LOCATED ON THE NORTH SIDE OF MARTIN BOULEVARD, BETWEEN PALM LAKE DRIVE AND QUEEN ANN STREET

The Board approved the change in zoning from GU (General Use), to GML(I) (Government Managed Lands - Institutional) on 16.03 acres located on the north side of Martin Boulevard, between Palm Lake Drive and Queen Ann Street.

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

Upon consensus of the Board, the meeting was adjourned at 5:46 p.m.

ANDY ANDERSON, CHAIRMAN

ATTEST:

SCOTT ELLIS, CLERK