

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 30, 2013 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	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 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 Steve Hart, First United Methodist Church, Port St. John.

PLEDGE OF ALLEGIANCE

Chairman Anderson led the assembly in the Pledge of Allegiance.

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ITEM I.A., RESOLUTION, RE: RECOGNIZING MICHAEL CHAY SPANGLER FOR OBTAINING HIS BOY SCOUT TROOP EAGLE SCOUT AWARD

Chairman Nelson read aloud, and the Board adopted, Resolution No. 13-097, recognizing Michael Chay Spangler for obtaining his Eagle Scout Award.

Michael Chay Spangler stated his project consisted of building and reconstructing the entrance ways to two entry ways into the Pine Island Kayak trails; they built two signs that provided information about the trails and maps so a person can lead themselves through the trails without getting lost; they marked them clearly; and it is part of a bigger project to reopen Pine Island to the community. He stated in his many years of Scouting, he has enjoyed camping, learning the skills to become a leader, and really just become a well-rounded Scout and citizen of the community.

The Boy Scout Troop 343 introduced themselves to the Board.

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

ITEM II.B., REPORT, RE: SCOTT KNOX, COUNTY ATTORNEY

Scott Knox, County Attorney, stated he distributed to the Board resolution of necessity in the Barnes II lawsuit, involving U.S. Townhouses, Meadowbrook, and Tradewinds Plaza; it corrects a typographical error and a call that was supposed to be 01 but it was recorded as 00; and he requested the Board approve those changes.

The Board adopted Resolution No. 13-098, amending Resolution 13-079, declaring the necessity to acquire certain real property located in Brevard County for Barnes Boulevard roadway widening, construction, maintenance, placement of utility lines, and associates facilities or incidental public road related uses on the properties.

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

PUBLIC HEARING, RE: PLANNING AND ZONING BOARD RECOMMENDATIONS OF MAY 6, 2013.

Chairman Anderson called for the public hearing to consider the Planning and Zoning Board's recommendations of May 6, 2013.

ITEM V.B.1., (13PZ-00009) - ADAM S. & DARCY L. WATSON - REQUESTS A CHANGE FROM GU TO AU ON 1 ACRE. LOCATED ON THE EAST SIDE OF SATELLITE BOULEVARD, APPROXIMATELY 170 FT. NORTH OF TERRI LEE AVENUE. (1501 SATELLITE BOULEVARD, COCOA)

Cindy Fox, Planning and Zoning Manager, stated this is a request for a change from GU to AU; the applicants are present; they wish to do their own personal gardening; and they have some accessory structures on the property that require the AU Zoning Classification.

Commissioner Nelson stated the Board needs to address the AU category for one acre; typically AU is for two and one-half acres; he will vote for this item tonight; but he would like for staff to look for some alternative for this, because people can line the property with chicken coups if they want. He went on to say AU is what he calls green industrial; a person can do so many different things in AU that was intended to be used for larger zoning categories; he requested staff provide a report on some of the alternatives; stated he wants people to be able to do what they are doing; but the zoning categories do not quite fit that mix.

There being no further comments or objections, the Board approved the Zoning Item as recommended by the Planning and Zoning Board.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM V.B.2., (13PZ-00012) - EDWARDS MACY-BRENNER'S EAST, INC. - (JONATHAN SHELDON) - REQUESTS A CUP FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN A BU-1 ZONING CLASSIFICATION ON 0.05 ACRE, +/- TOTAL SITE IS 6.406 ACRES AND IS LOCATED ON THE WEST SIDE OF N. COURTENAY PARKWAY, APPROXIMATELY 150 FT. NORTH OF CITRUS BOULEVARD, ALSO HAVING FRONTAGE ON THE NORTH SIDE OF CITRUS BOULEVARD, APPROXIMATELY 150 FT. WEST OF N. COURTENAY PARKWAY. (PART OF 771 N. COURTENAY PARKWAY, MERRITT ISLAND)

Cindy Fox, Planning and Zoning Manager, stated this is a request for a Conditional Use Permit (CUP) for the on-premises consumption in the BU-1 Zoning Classification; this is for a micro-brewery in the Merritt Island Redevelopment Agency (MIRA); and this item was approved by MIRA.

Commissioner Nelson stated at the MIRA meeting it was approved for beer and wine, with some operating hours; and his understanding is that the applicant agreed to that.

Jonathan Sheldon stated there was some confusion on the hours, because he was saying they would be open until 11:00 p.m. on Friday and Saturday nights; they were fine with the hours because they will not be open until 2:00 a.m.; and in most cases, they will be in early the next morning to brew beer.

Commissioner Nelson inquired if there was a request for liquor. Mr. Sheldon replied just beer and wine. Commissioner Nelson stated he is fine with beer and wine and the operating hours up to midnight.

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There being no further comments or objections, the Board approved the Zoning Item, with the stipulation of beer and wine only, and operating hours up to midnight.

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

ITEM V.B.3., (13PZ-00008) - LEAH MARINA HOLDINGS, LLC - (THIERRY BRUNSCHWIG) - REQUESTS A SMALL SCALE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 4 TO COMMUNITY COMMERCIAL; AND A CHANGE FROM RU-1-11 TO BU-1, WITH A CUP FOR A COMMERCIAL MARINA OR, ALTERNATIVELY, A CUP FOR MITIGATING A NON-CONFORMING USE PURSUANT TO SECTION 62-1190, ON 8.88 ACRES, +/- . LOCATED ON THE WEST SIDE OF S. BANANA RIVER DRIVE, APPROX. 0.2 MILE SO. OF MILI AVE. (PART OF 1357 S. BANANA RIVER)

Cindy Fox, Planning and Zoning Manager, stated this item needs to be tabled to the August 1, 2013, Board meeting; and it was tabled by the Planning and Zoning Board to its July 8, 2013, meeting.

There being no comments or objections, the Board tabled Leah Marina Holdings, LLC's request for a Small Scale Plan Amendment to change the Future land Use designation from Residential 4 to Community Commercial; and a change from RU-1-11 to BU-1, with a CUP for a Commercial Marina or, alternatively, a CUP for mitigating a Non-Conforming Use pursuant to Section 62-1190, on 8.888 acres ±, on property located on the west side of South Banana River Drive, south of Mili Avenue, to the August 1, 2013, Board meeting.

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

ITEM V.B.4., (13PZ-00010) - SAN SEBASTIAN HOLDING, INC. - (JEFF & STEPHANIE CHANDLER) - REQUESTS A CUP FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION, IN CONJUNCTION WITH A RESTAURANT, IN A BU-1 ZONING CLASS ON 2.54 ACRES. LOCATED ON THE S. SIDE OF MAIN ST., APPROX. 650 FT. W. OF U.S. HWY. 1 (4015 MAIN STREET, MICCO)

Cindy Fox, Planning and Zoning Manager, stated this is for an expansion of a Conditional Use Permit (CUP) from beer and wine to include full liquor; this is an existing restaurant and marina; and the Board approved beer and wine in 2006 for this site.

Commissioner Nelson stated the applicants have multiple uses, marina, boat ramp, and restaurant; he would think the alcohol would give them additional business; and he inquired if all those uses would have adequate parking as a combination. Ms. Fox stated that is correct, this is an existing marina that is non-conforming by design; the existing parking on the site and the marina development has accrued over time; and in this situation staff just evaluated the number

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of seats that they have based on the actual paved parking, with the acknowledgement that they have a stabilized overflow parking area to the north, which the applicant will attest they have added in the recent years.

Jeff Chandler stated when the septic was put in, in 2005 or 2006, it cleaned the whole east side up, and allowed for more parking for trailers for the boat ramp; and there is parking all the way across, approximately 21 spaces, that goes from the restaurant all the way to the other side of the boat ramp, which is not for trailers, it is for just vehicles.

Commissioner Nelson stated he wants to make sure the Board is not adding additional parking requirements to an area that may not have enough; and it happened to one of his projects on Merritt Island where the parking was inadequate and the County was adding uses to it. He stated his request would be to approve the item with staff to review the parking for adequacy. Ms. Fox inquired if Commissioner Nelson wants to approve with an evaluation to bring the site into compliance with the current parking standards. Commissioner Nelson stated he does not want them to pave it, but he wants to see that they have enough space, because they are using overflow grass already; and he at least wants to know there is enough parking to accommodate the uses that are there, because otherwise it would be pushing those into the neighborhood.

Commissioner Infantini stated she is fine with this because the applicants are offering food; many people like to have an alcoholic beverage to go along with their food, which she sees at other restaurants; it is not really increasing so much the capacity necessary for parking, because they already have a restaurant facility; and it is more of the applicants being able to increase the dollar value of their sales as opposed to increasing more patrons coming. She pointed out she does not have the same concerns over capacity.

Commissioner Fisher stated he believes everyone is fine with the concept; Commissioner Nelson is worried about the parking situation; he worries a little about it from the site plan; and inquired if Commissioner Nelson's desire is to go over some type of sketch of the parking plan and make sure it is properly planned and to make minor adjustments to accommodate any additional parking.

Commissioner Nelson stated he does not want a full site plan or for them to pave; he thinks the applicants will get additional business and that is great as a result of serving alcohol; and inquired how to make sure they are a good neighbor in a very tight area. He went on to say he wants that comfort level that there is adequate parking, because he wants to see the applicants be successful and not back before the Board as a Code violation.

Ms. Fox there are two options; one is the item can be tabled and staff could do an in-house study; staff has to find out with existing marinas what the number of slips are and evaluate it based on what they are allowed to have at the State level for the number of slips for the existing marina; and then staff will evaluate the restaurant with the bar area. She explained the item can be tabled and staff can come back to the Board with evaluation at that point, or it could be approved with the acknowledgment that it will still happen before they actually sign off on the item. Commissioner Nelson stated he prefers the second suggestion, to approve it and bring it back if any problems are identified.

There being no further comments or objections, the Board approved as recommended with the acknowledgement that staff will do an evaluation on the parking.

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

ITEM V.B.5., (13PZ-00014) - SRK VIERA VILLAGE ASSOCIATES, LP - (JEREMY NORCROSS) - REQUESTS A CUP FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN A PUD ZONING CLASSIFICATION FOR UNITS ON A TOTAL SITE OF 11.22 ACRES. SITE IS LOCATED ON THE W. SIDE OF MURRELL RD., APPROX. 420 FT. NORTH OF VIERA BOULEVARD. (PART OF 5410 MURRELL ROAD, ROCKLEDGE)

Cindy Fox, Planning and Zoning Manager, stated this is an item that was approved for alcohol for 16 seats; the applicant wanted to do 39 seats initially; and that is what this approval is.

There being no comments or objections, the Board approved the item as recommended by the Planning and Zoning Board.

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

ITEM V.C., JOINT PLANNING AGREEMENT (JPA) WITH CITY OF MELBOURNE, RE: TWELVE MONTHS EXTENSION

Chairman Anderson called for a public hearing to consider a 12-month extension to joint planning agreement with the City of Melbourne.

There being no comments or objections, the Board executed Fifth Amendment to Joint Planning Agreement with the City of Melbourne, extending the term of the Agreement to May 21, 2014.

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

ITEM V.D., ORDINANCE, RE: ADOPTION OF SMALL SCALE COMPREHENSIVE PLAN AMENDMENT (13S.04) - NEVINS FRUIT COMPANY, LLC

Chairman Anderson called for a public hearing to consider an ordinance adopting the 13S.04 Small Scale Comprehensive Plan Amendment.

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There being no comments or objections, the Board adopted Ordinance No. 13-20, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Fourth Small Scale Plan Amendment of 2013, 13S.04, 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:	Robin Fisher, Commissioner District 1
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM V.E., ORDINANCES, RE: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT PACKAGE 2013-1

Chairman Anderson called for a public hearing to consider ordinances adopting the Comprehensive Plan Amendment Package 2013-1.

Cindy Fox, Planning and Zoning Manager, advised the Board that Item V.E. should be discussed prior to Item V.B.6.

Chairman Anderson stated he has cards for Item V.B.6.; and he inquired if the speaker cards should be taken at the same time as the Board considers this item. Robin Sobrino, Planning and Development Director, replied if it relates to Item V.B.6. and also the Comprehensive Plan Amendment, which is Amendment No. 1 in the Comprehensive Plan package, she thinks the Board should take the testimony.

Bruce Moia, Engineer representing the Kelsey Group, stated he is present to answer any questions; he believes what the Board is going to hear is an issue regarding planned capacity for Barefoot Bay; they provided the information from the Utility Department to the Barefoot Bay folks; and he believes they have shown, without a doubt, that there is plenty of capacity, not only for this project, but for every single either vacant or empty lot in Barefoot Bay, including the old Crystal Bay Project that is still on the books. He went on to say according to County staff and Utilities, there is plenty of capacity for this project. Chairman Anderson inquired if Mr. Moia wants to reserve his time for rebuttal. Mr. Moia responded affirmatively.

Wilma Weglen stated she is present on behalf of the Barefoot Bay Homeowners Association, which she is the Treasurer. She expressed her appreciation to the Board for allowing her speak on behalf of Mr. Call who is out of town at this time; stated Mr. Call had sent the Board an email earlier in the year on their concerns with this property; not just this property, but the basic problem being the water plant; and most people are aware they have a very aged water plant, which is servicing Barefoot Bay and Snug Harbor presently. She added, there is some piping into Paladin Estates and Crystal Bay. She went on to say their biggest concern is the age of the water plant, even with the upgrades; she understands a grant is being applied for to help with the upgrades; several homes have experienced a yellow residue; they talked to the Engineer about it, and he told them it is not a problem as it is not all over the Bay; they have at least 5,000 lots in Barefoot Bay; and they are the major people who pay for the plant to keep it going. She pointed out she has been involved for many years in visiting this plant and the sewer plant;

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the sewer plant is not a problem, it is new; but the water plant is aged. She stated they have been told over this time that the capacity usage so far has come from 90 percent of capacity to in May of this year a capacity of 436, which Mark, who is the Engineer for the County, concurred with the report sent to Mr. Call; he also advised her the reserve for Crystal Bay was 133; but they receive conflicting stories all of the time with this. She added, Paladin Estates had pending 186 and 686 units; these figures from Mark were given to her in April of this year; and they were also advised by Indian River Shores, which is a small mobile home community on US 1, that they had applied to be hooked up to the water plant a few years back and were denied. She noted the confusion residents in Barefoot Bay find so disheartening is that every time they get on the subject of the water plant, different figures are thrown to them; after a while a person quits believing what he or she hears; they are not against development, but they would like to see something go forward, possibly in the Binding Development Agreement, to the effect that any lot that is sold would have a well drilled on it so they would be using well water to keep their lawns and gardens in place instead of using water from the plant itself; and she understands it has been done in the past for other developments.

Phyllis Sperling stated she had two ideas she would like the Board to consider when it decides this; if land is zoned for limited density, and people come to the area and buy in thinking this is the way of life, the decision to change zoning should not be taken lightly; and if a change of zoning will result in overcrowding of schools, the builder can and should be required to take that into account. She went on to say in some places they had to donate land and physically build the building to provide for the extra students they brought in.

Louise Crouse stated in the report they were given at the Planning and Zoning meeting, they were told that Sunrise School, which would service this area, at the last phase of the 45 homes that would be built in their five phase program, the school would be over capacity by six students; she does not know the actual results as far as the capacity potential from Herron Bay and Waterstone which are located nearly adjacent to Sunrise School; those nearest schools for Barefoot Bay students, if the capacity was reached, would be Westside or Port Malabar; and as the Commissioners know, anytime students are moved from their own community, or the community where they are enjoying being with their friends, there are concerns of the distances traveled. She went on to say traffic is also a concern; on the land use study, which she kind of used as her resource for these comments, in the infrastructure, the general conclusion is the existing public infrastructure meets the level of service requirements for the demand placed upon it by the dwelling units constructed at a lesser density than that adopted by the Future Land Use; it would appear that in 2010 when the study was done, it already indicated there were issues surrounding the infrastructure; and rezoning without regard to traffic, water, sewer, and emergency services and roads is not a good business practice. She pointed out Ms. Weglen mentioned the water and sewer, and the difficulty they have had getting numbers that seem to coincide with each other; the Comprehensive Plan she referenced states that 200 gallons per day is a normal single-family unit; the plan they see from the Barefoot Bay Water and Sewer indicates 120 gallons per day; and they are either dirtier in their area or they do not meet the standards. She added, water consumption is 265 gallons per day; the Barefoot Bay report shows 133; that is quite a drastic difference; consumption usage data is from the County's Land Use Plan from 2010; the Comprehensive Plan statement for public water and waste water services says, "Under the existing Residential 15 land use, the build out of the subject properties at their fullest potential would require upgrading of the public infrastructure. Under the proposed Residential 6 land use, which is reflective of the density actually developed for the properties, the existing public infrastructure meets the required levels of service"; and she thinks the County must have a conversion level from Residential 15 to the RU-13 being talked about. She stated the environmental concerns are also there; no site inspection was done when the environmental concerns were addressed for the Zoning Commission; the area contains mapped hydric soils; if the wetlands are confirmed, then there are some issues about how many houses can actually be put in the entire 99 acres; there is also protective species

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concern for that; and she believes there is sufficient data to indicate this zoning change has not been fully-evaluated and should not receive affirmation from this Board.

Bruce Moia stated as far as they know there is not environmental issues; the staff report was very complete that addressed every issue from capacity to environmental to water and sewer treatment plants; they received the concurrency from water, sewer, and school; when they did the land use, the school was not an issue; and there was nothing in there that said the school would be at capacity at the end. He went on to say they project how they are going to sell lots over so many years; they are spaced out through the time frame; and that is how the school looks at it. He stated the issue with the water treatment plant is historic; it has been an issue for years; before this was undertaken, they met with the Utility Department to make sure they would not have an issue; and he is the community engineer for Barefoot Bay and he did not want to short them any water. He noted they sat down with staff and made sure they would not adversely affect the Barefoot Bay community for water capacity for the additional lots; they already have water for the number of lots they have out there; the 100 lots they are making smaller because no one wants to buy one-acre lots there; and in order to move this property, which has been vacant ever since it was developed, they want to develop it. He pointed out the numbers of the plant change all of the time; if another study is done in a year, it will be different; and that is why the numbers are looking different to the Barefoot Bay folks. He added, when someone submits for capacity, especially with the State, they say that one household will take 350 gallons of water a day; in actuality the plant says they know there are so many houses, how much water is used, and they do simple math; and once the paper capacity comes to actual capacity, they do not use as much as is set aside. He stated they have no problem providing irrigation, it is almost standard that every lot provides a well for their own irrigation system; and if that is the only issue, he hopes the Board will approve the item.

Commissioner Infantini stated she understands about the different numbers between the State and the water plant; Barefoot Bay has a lot of resident dwellings that has only one or two individuals living there; from her understanding, the statistics the State was using was based on three and one-half family members; and that brings down the overall average. She stated she spoke with staff regarding Paladin Estates, and they assured her there is plenty of capacity with the water plant. She inquired if Mr. Moia would be willing to require having each residence require a well for irrigation purposes to reduce the demand on the water. Mr. Moia stated he has no objection to that. Chairman Anderson stated that will fall in when the Board gets to V.B.6. instead of the Comprehensive Plan.

Commissioner Bolin Lewis inquired if any numbers have been drawn up on how many of the places in Barefoot Bay are seasonal where there are not residents there year round; and stated that would also make a difference with the water consumption. Mr. Moia stated the numbers they come with are peak annual, they do not take it at a certain point in time; and they use that peak number because they know those residents are seasonal.

There being no further comments or objections, the Board adopted Ordinance No. 13-21, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2013-1.1; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

There being no further comments or objections, the Board adopted Ordinance No. 13-22, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2013-1.2; amending Section 62-501,

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entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

There being no further comments or objections, the Board adopted Ordinance No. 13-22, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2013-1.3; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part I, Entitled Conservation Element; and Part III, entitled Recreation and Open Space Element; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

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

ITEM V.B.6., (12PZ-00084) - ATLANTIC COAST PALADIN ESTATES, LLC; MICCO ROAD INVESTMENTS, LLC; AND PALADIN ESTATES HOMEOWNERS ASSOCIATION, INC. - (BRUCE MOIA) - REQUESTS A CHANGE FROM EU, WITH TWO EXISTING BDPS, TO RU-1-13, WITH A REPLACEMENT BDP, ON 99.85 ACRES. LOCATED ON THE SOUTHEAST CORNER OF MICCO RD & PALADIN CIRCLE. (IN THE MICCO AREA)

The Board approved the item, with the Binding Development Plan to include that new residences to have their own irrigation well.

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

ITEM V.F., PRELIMINARY PLAT AND FINAL ENGINEERING APPROVAL, RE: RODINA DRIVE ROAD PLAT – THE VIERA COMPANY

Chairman Anderson called for a public hearing to consider a preliminary plat and final engineering approval for Rodina Drive Road Plat - The Viera Company.

There being no comments or objections, the Board granted preliminary plat and final engineering approval for Rodina Drive Road Plat, subject to minor changes, if necessary, and developer responsible for obtaining all other necessary jurisdictional permits.

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

ITEM VI.A., DISCUSSION, RE: BREVARD COUNTY HURRICANE SANDY EMERGENCY BEACH BERM PROJECT

Ernie Brown, Natural Resources Management Director, stated the Board may recall back in January it directed staff to pursue cost share dollars from the State to address the impacts of Hurricane Sandy on the County's emergency berm, in particular, the Mid Reach area of Brevard County, which is in the Satellite Beach area, and the South Beaches, which is south of Spessard Holland down to, but not including, the area just north of Sebastian Inlet, a 12-mile segment of beach; staff pursued that and worked with the Brevard County Delegation; and they did a fantastic job in bringing a little over \$5 million back to Brevard County to match 50 percent of the beach project. He went on to say recognizing that funding is extraordinarily limited at the local level, staff has continuously been seeking possible avenues to fund that 50 percent match of the State grant dollars; the Tourist Development Council (TDC) made the recommendation to fund 100 percent of that match for the Mid Reach area, which has a lot of hotels and tourist traffic; and they also voted to recommend one-half a million dollars to go towards the South Beaches area, recognizing that there are bed tax revenues being generated from that area because of the hoteliers and things of that nature, and the tourism that does transpire in the area. He stated staff is present today asking direction in how to proceed.

Tom Williamson, Chairman of the TDC, stated the TDC discussed this issue, and obviously there was not a good answer; they came up with what they thought was a workable answer; he has been told by Mike McGarry that he has come up with a plan for the south portion for the \$500,000 that he thinks is a workable plan; they want to maintain the beach as it is Brevard County's number one asset; and if it erodes, Brevard County can watch the economy erode. He encouraged the Board endorse the item.

Randal Agostini stated this is an exercise in futility and a waste of money; summer storms remove the sands on the beaches and it is naturally replenished in the winter and spring; and it is nature taking its natural course. He pointed out except for specific locations, the beaches for the most part, are used by surfers, walkers, and fisherman; none of these pursuits are impacted when the sand is removed; a casual walk along the beaches reveal some wildlife that lives in the sand; birds that feed on what lives in the sand, and turtle nests; and with the exception of turtles, replenishment of the sand is harmful to the creatures that live in the sand and removes the birds when they cannot find food. He added, before the replenishment program began, there were many more sand creatures and birds; inquired where the threat was; stated an expert would say that there is a good chance that there will be stronger storms and greater damage to property; but sand does not protect this eventuality, it only delays the process. He stated it is time this Board considers safeguarding property and A-1-A, the vital communication artery; this is where the funds should be invested in building sea walls in areas that would impose the greatest threat to the A-1-A artery and all the properties that lie west of the highway on lower land.

Mike Daniel, representing the Sebastian Inlet Chapter Surfrider Foundation, stated he has surfed and fished on Brevard County's beaches for the last 40 years; the Mid Reach area has not changed much; these are dynamic, high-energy beaches; sand comes and goes; it is never

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the same two days in a row; but long-term over the time he has been here and on these beaches, the area has not changed much at all. He added, if anything there is more sand on the beaches than 30 or 40 years ago. He inquired if the Board has looked at these beaches; stated the depth of the beach has increased quite a bit, which is a natural process; the Florida Department of Environmental Protection (FDEP) ranked the projects this winter; the larger Mid Reach Project did not score very well; and the main high water line in that area is actually moving seaward. He added, it is not eroding very much if the main high water line is moving seaward. He stated if something is built right on the edge, a person is assuming some risks; he is surprised no one has touched on the cost benefit factors of these things; people say the entire economy in Florida will collapse if the beaches are not filled; and if the Board believes that, he has a causeway he wants to sell it. He went on to say there are a lot of needs in the County; the Indian River Lagoon is in the process of collapsing, roads, schools, and lots of things; hopefully if what Mike McGarry has proposed in doing a smaller project on the South Reach as possible, perhaps it can be done without dipping into the general fund; and the Board has options related to that. He pointed out the TDC has \$10.5 million set aside for the larger Mid Reach Project; it is an incredibly large local share; and some of that money can be freed up to use to complete both of the projects as designed. He stated a portion can be done, and smaller projects can be done, which what is being proposed for the South Beaches. He noted yesterday the Governor signed common sense insurance reform in this state that caps the payout on citizens policies from \$2 million to \$700,000 over a period of three years, and it also eliminated new policies for citizens for new construction seaward of the coastal construction control line; the people of Florida are tired of subsidizing coastal development; and the Board should be as well.

Commissioner Infantini stated Mr. Daniel mentioned some comments about the Mid Reach scored very low; and inquired how the South Reach scored, because she saw a tremendous amount of erosion in the south. Mr. Daniel advised they planted over 2,000 linear feet of sea oats down there in February, south of Ponce de Leon Park and south of Coconut Point Park; he visited those sea oats a few weeks ago and the level of sand right up against the dune has come up about one foot in those two months; it may not be obvious when a person goes to the beach, but the beach itself is beat up; and there was an escarpment that is not nearly as high as it was. Commissioner Infantini stated Mr. Daniel is correct, it is no where near as deep.

Tuck Ferrell stated he is present to support the beaches; they are important for tourism and a lot of other reasons; there is 72-74 miles of beaches, depending on how it is figured; and that is one of the County's greatest assets. He went on to say he surfs and spends a lot of time on the beaches; getting the money was very difficult; they worked with Brevard County's Delegation, Indian River County, Florida Beaches and Shores, and a whole group of people; and it is difficult to get matching funds. He went on to say it would be a shame to give them and follow up with what they are really trying to make a commitment to with the State; there are federal funds, but they did not expect that; when this all started, everyone went together to try to get some beach funds; and Hurricane Sandy did tremendous damage. He pointed out in the beginning, Brevard County was going to get turned down; all of the money went to New York and New Jersey; the hurricane destroyed and compromised the dune; and that does not always happen. He stated what they are trying to do is restore the dune and beaches to some extent; the turtles and the shore birds cannot deal with that; they like to nest upon the dune; and that is not possible now. He added if the dunes are not good, the turtles will not survive; Archie Carr Reserve is the greatest turtle nest in the world; and the Mid Reach is important. He pointed out homes have to be worried about; the dune also protects the Indian River Lagoon; and it behooves the County to fix it.

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Commissioner Infantini asked SCGTV to pull up some photos from the South Beaches. She stated the problem is the way the allocation is going, only 10 percent of the funds will go to the South Beaches; the greatest amount of devastation from Hurricane Sandy was in the South Beaches; and for that reason, she cannot accept this proposal unless at least 50 percent of the funds go to the South Beaches. She went on to say more hotels are in the Mid Reach and she gets that; they are generating most of the revenue; and they would like a decent portion to be spent in the Mid Reach. She pointed out when she did a quick calculation of the property taxes and assessments on the taxable values, the South Beaches should really have 28 road deputies; there are actually 18; it does not make sense to have that many deputies because there is not the need and it would be irresponsible of the government; that is what she is saying about the sand; and to place sand where there is a sufficient amount of sand instead of where the dune was the most eroded seems the inefficient use of government money. She requested 50 percent of the sand be put on the South Beaches where it is most needed rather than the Mid Reach, where because of prior beach re-nourishment, they fared well during the hurricane.

Chairman Anderson asked staff to explain the lines of delineation for Mid Reach and South Reach.

Mr. Brown explained Flug Avenue, which is the start of the Mid Reach area, north up to essentially Patrick Air Force Base is the Mid Reach, and south of Flug Avenue, Indialantic, Melbourne Beach, down to Spessard Holland is the area called the South Reach, which is a federal shore protection project; and south of Spessard Holland is called the South Beaches down to the Inlet itself. He went on to say the challenge staff has with this particular scenario is since 2005 the County has invested over \$1 million from the General Fund in the South Beaches Dune Project; this is an emergency project; this is not beach re-nourishment; one is well above the high water line along the dune itself; and the other expressly dealing with re-nourishment projects is the beach itself. He pointed out the dunes do not naturally recover; the seasonal recovery rates that were being discussed by Mr. Agostini and Mr. Daniel do not naturally recover, they sluff.

The Board recessed at 6:00 p.m. and reconvened at 6:25 p.m.

Commissioner Bolin Lewis inquired where the other revenues for the match the County is lacking is coming from. Mr. Brown advised staff was not able to identify any reasonable revenue streams for this particular project; obviously in the past, the County has considered and used the General Fund; there is no question that is a limited resource this year; they spent \$2 million since 2005 on the Emergency Berm Project; and \$1 million of that was spent in the South Beaches segment for this project overall. He went on to say the TDC was generous enough to make the recommendation; the way that kind of unfolded at the TDC was out of that existing Mid Reach funding that the Reserves have in place right now, they asked the question how much they could afford to take out of that fund and not compromise the Federal Shore Protection Project, which is going to go to build in 2015; the answer to that question was \$3.4 million; so \$4.9 million was to address the Mid Reach Project, because that is coming out of the Mid Reach funding; and the balance of that one-half million dollars they recognized for tourist-related activities in the South Beaches. Commissioner Bolin Lewis inquired if the Board were to accept and approve the TDC suggestions, would this be funded with their money, the County would not be able to take all of the State money because they would be giving it more than what the TDC was going to be able to supply; and would staff be able to move forward and have some projects with money that could be used for matches with the TDC. Mr. Brown responded it would give

the County the ability to address the berm repair work in the Mid Reach and address the hot spots, which Commissioner Infantini showed the Board, in the South Beaches, the areas that received the worst damage and repair the actual dune itself.

Commissioner Infantini stated there are some individuals south of Publix and the Archie Carr Reserve that had to spend probably \$80,000 to replenish his dune; and would this funding go to reimburse him. Mr. Brown replied no. Commissioner Infantini inquired if a person was astute and took care of their own self immediately a person is out, but if he or she waits, they are a winner. Mr. Brown advised the \$1 million does not give the County the luxury of restoring the dune; it structurally repairs the dune; it restores its slope and angle so it can begin to revegetate in a manner that is effective; but it will take the areas impacted the worst that lost the most in the South Beaches and repair the actual dune itself so they would no longer have that large cliff. He added by recreating the slope, it is a more stable environment to recover through wind driven sand activities. Commissioner Infantini stated the southern most property is 10 miles out of the 20 miles they were allocated money from the State; she does not think the State had the intention when it gave the County funds for 20 miles, for 90 percent of its money be spent on the northern most 10 miles, and only 10 percent of the money on the southern most 10 miles; and she doubts the Governor would have approved that. She stated if the Board is going to go through with this unfair treatment of the South Beaches where 50 percent of the funding was intended, and take 90 percent of the funding giving it to the 10 most northern miles, it is not right.

Commissioner Nelson stated \$2.9 million is half of the State allocation; and the County is struggling for whatever is left of the match. Mr. Brown advised the Board the County is short \$1.75 million in the South Reach; in volume, the Mid Reach lost more sand than the South Beaches, and it is a smaller stretch; there are hot spots in the South Beaches that took significant hits; and those are the areas staff proposes to focus on. Commissioner Nelson inquired if the Mid Reach section is not restored, does it jeopardize the Federal share; stated previously they had damage that if it was not fixed the Federal share would be lost. Mr. Brown stated with the FEMA Emergency dune, which they have in the past given the County enormous cost share; if the County does not demonstrate it maintained the berm system, the County will lose the ability to seek that cost share in the future; if it was split 50/50, 100 percent of the emergency berm would not qualify because it was not full maintenance; in this situation, the Mid Reach, which the TDC generates a lot of its revenue from, they would be able to fully-restore that to a level that would meet the criteria that the County has maintained its emergency berm; and it cannot be done in the South Beaches with the funding that is available. He stated his preference is to have enough money to do all of the restoration work; but the funding has just not presented itself.

Chairman Anderson stated this is tough; money is jeopardized if the County tries to do the whole thing; the TDC money is supporting the match, which is generated in the Mid Reach; and he will support it.

The Board approved matching Tourist Development Council (TDC) funds in the amount of \$2.9 million for the Mid Reach Beaches and \$0.5 million for the South Beaches, to leverage State funding, for engineered dune repairs; authorized the Chairman to execute a contract with the State of Florida, with County Attorney and Risk Management approval, to accept State funds for this project; authorized the County Manager or his designee to execute task orders or contracts to accomplish the project; and authorized any necessary budget change requests.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
NAYS:	Trudie Infantini

ITEM VII.A.1., STIPULATED FINAL JUDGMENT, RE: BREVARD COUNTY V. SUMERSET FLORIDA, LLC, ET AL (PARCEL 143 SK & NK UNITED, INC. AND ALLEN E. WESTER AND COLLEEN B. WESTER), CASE NO. 05-2011-CA-031229-XXXX-XX

Scott Knox, County Attorney, stated this is a proposed settlement for a parcel in the Barnes Boulevard Project; the County is saving money by doing this; the estimated cost of a trial is about \$30,000; and this settlement is considerably less than that.

The Board approved Stipulated Final Judgment for Brevard County v. Somerset Florida, LLC, et al (Parcel 143 SK & NK United, Inc. and Allen E. And Colleen B. Wester), Case No. 05-2011-CA-031229-XXXX-XX.

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

ITEM VII.A.2., APPROVAL, RE: AMENDMENT TO SPACE COAST STADIUM LEASE, AND ASSIGNMENT AND ASSUMPTION AGREEMENT

Howard Tipton, County Manager, stated the Washington Nationals have advised, just before this meeting started, that they would like this item tabled; and there is no date to return to it.

Commissioner Fisher stated the Board needs to be prepared to have more conversation with the Washington Nationals; and he met with their attorney today.

Chairman Anderson stated Mr. Tipton and Stockton Whitten, Deputy County Manager, worked very hard negotiating. He stated between the cost of construction of the stadium and stuff put into it since the inception of the stadium, it was right around \$20 million; when and if the Washington Nationals leave, if the Board were to accept this agreement that was tabled, the County would be looking at somewhere between \$750,000 to \$1 million a year in maintenance costs; he will be generous by saying \$500,000 to \$750,000 in maintenance costs; and if the Manatees were to leave, the money would not be derived out of TDC revenues, it would come out of the General Fund for the Board to support this. He went on to say it is nice to talk about youth athletics and concerts, but if there is someone who will generate \$750,000 at that stadium every year, he would like to meet them; because of State Legislation, and it is a moot issue because it is being tabled, the County is put at a disadvantage; Osceola County is getting a mess of State money and building a stadium to take the Washington Nationals there, and the money was never intended by the Governor; and the idea was to save the team from going to Arizona. He stated the County should negotiate further; it should get a better deal than what was laid on the table with the negotiations; and there should be a Commissioner representative.

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He advised the Board it should not be him because he is too emotional about it; he would like the lead negotiator for everything, Commissioner Fisher, to engage with the Washington Nationals and bring back to the Board something that would safeguard the taxpayers in the long run, if Commissioner Fisher is up to that.

Commissioner Fisher stated he thinks there is something better on the table for Brevard County; there are some things that have been discovered through some of that State Legislation that could be in Brevard County's interest; Mr. Whitten and Mr. Tipton negotiated in good faith; and the Board may have more leverage than there appeared to be before. He added, there are operating costs through 2018 that he is not sure the County should be assuming until it is known for sure whose liability it is.

Chairman Anderson stated the Board does not know what the Manatees are doing; and there are a lot of unknowns.

The Board tabled consideration of an amendment to the Space Coast Stadium Lease through an Assignment and Assumption Agreement with the Washington Nationals to a future Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

The Board directed Commissioner Robin Fisher to represent the Board in future conversations with the Washington Nationals and any other interested parties.

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

Mr. Tipton stated a great amount of credit and recognition needs to be given to Attorney Knox and Shannon Wilson, Deputy County Attorney, in terms of who has really spent a lot of time, it was Mr. Whitten and those two.

Attorney Knox stated staff had an appraiser who did an appraisal in 2008 on the whole complex; one of the things needed before it is all said and done is some sort of an update on that; and inquired if the Board could give the authority to seek that at a maximum price of \$15,000. Chairman Anderson inquired what that includes. Attorney Knox stated it included the stadium, practice fields, and everything.

The Board authorized an appraisal on Space Coast Stadium, not to exceed \$15,000.

Mr. Tipton inquired when Commissioner Fisher was appointed to represent the Board, in addition to the Washington Nationals, would it be other interested parties. Chairman Anderson responded affirmatively.

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Mr. Whitten inquired in terms of the appraisal if the money would come from the four cent tourist development tax fund. Chairman Anderson responded affirmatively.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ADJOURNED

Upon consensus of the Board, the meeting adjourned at 6:43 p.m.

ATTEST:

ANDY ANDERSON, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

SCOTT ELLIS, CLERK