

**PLANNING AND ZONING BOARD MINUTES
LOCAL PLANNING AGENCY MINUTES**

The Brevard County Planning & Zoning Board, and Local Planning Agency, met in regular session on **Monday, September 8, 2014, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Andy Barber; Clyde Thodey; Bill Cannon; Bruce Moia; Robert LaMarr; Ron McLellan; Loretta Goggin, and Ron Barcher

Staff members present were: Morris Richardson, Assistant County Attorney; Cindy Fox, Planning and Zoning Enforcement Manager; George Ritchie, Planner II; and Jennifer Jones, Special Projects Coordinator II.

The eight regular members voted throughout the meeting.

Henry Minneboo – Item 1 on the LPA agenda will be heard by the County Commission on September 16th and October 2nd. Is that still correct? Okay. The Planning and Zoning Board is an advisory board to the Board of County Commissioners, and all the decisions that we make here today will be in front of the Commission on October 2nd at 5:00 p.m. back in this room. So, anybody here that has an agenda item needs to remember, October 2nd back here at 5:00 p.m. Each applicant today will be given 15 minutes to express their project, and anybody speaking for or against will be given five minutes. Did everybody have an opportunity to see the P&Z minutes of August 11th?

Clyde Thodey – Motion to approve.

Ron McLellan – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Cindy Fox – Good afternoon, board. We have several items on the agenda. The first item is related to item III.C.1., so we'll start with No. 1 and I'll bring in III.C.1.

LPA AGENDA:

1. An ordinance modifying various Sections of the Brevard County Code, creating the Communications Facilities Ordinance of Brevard County, Florida.

LPA Recommendation: McLellan/Thodey – Approved. Vote was unanimous.

Cindy Fox – What you have before you is the consideration of an ordinance modifying various sections of Brevard County Code, but more importantly creating the Master Communications Facility Ordinance for Brevard County. As you are aware, this board and the Board of County Commissioners have wrestled with cell tower applications over the years, and what we have decided to do is take a step back and create a master plan tool for this board to utilize, and for the direction of Brevard County. This is an ordinance that creates various sections of Code regarding future communication facilities. It takes into consideration all of the zoning, types of regulations, federal and state standards, proposed master tower heights, it identifies different areas of the county where these heights would be more preferable, it sets some design standards, and it also provides an inventory of sites in areas of need that are owned by the County. What this will do, through item III.C.1., is it will take some identified properties that the consultant has worked to identify with the County and streamline these properties for a better planned tower siting process, and basically, it considers all of these properties at one time for the conditional use permit process, and it allows them to go right to a site plan and permit stage. There's a lot of other things that I can say, but I can tell you that we have spent many hours on this and we worked with the consultant and the consultant has visited the Board of County Commissioners twice through workshops. This is very comprehensive, and I know some of you have had a tough time downloading the file and being able to look at it, but we're very pleased – and this is really a very proactive planning tool for the

County as we go forward. I think that you'll see that this is going to be something that is not done everywhere, but it's being done here. Overall, the consultants feel that there will probably be a gradual need for about 8 – 10 more towers in the county, which equates to 20 – 30 more antennas in the county. As we move to the new technology, 3G, 4G, 5G, the infrastructure is going to become very important. One of the major things that we have changed as part of this ordinance is that we had a very large setback to the closest single-family residential zoning classification. It was actually five times the height of the tower. And if any of you have been on the board for very long, you'll know that we were always considering waivers as part of that request, so we have fixed that. And we have fixed some other very elemental things in the Code that were kind of holding us back for what an outdated Code usually does. So, unless you have some other questions, or some general statements, I can answer anything else you'd like to know.

Henry Minneboo – Unless some other board member has a question.....the consultant you all selected sure did a great job on it.

Cindy Fox – They did.

Henry Minneboo – I understood the magnitude of it. It's pretty interesting, some of the locations that will be utilized, hopefully, in the future. It should really reduce the amount of time that some of the tower people are involved, so I think you all did a great job and the consultants certainly did a good job. I guess it's our prerogative to either approve or deny. Any other board member have any questions?

Andy Barber – I have one question. I didn't read this extremely carefully. Did the School Board provide any sites? Are they included in any of these locations, or is it just County property?

Cindy Fox – It is just County-owned property. The School Board property is not being considered.

Andy Barber – So, they still have a no-go policy for towers?

Cindy Fox – As far as we know. Certainly, they could undertake this type of activity and partner up with us some time in the future perhaps.

Henry Minneboo – Anybody else? Is there anybody out in the audience that would like to speak for or against these towers? Okay, yes, sir? Please state your name and address for the record.

Robert Scolah – Hi, I'm Robert Scolah, and I live at 4950 Ralphs Lane, Merritt Island. I'm against part of the plan you have, as it affects amateur radio operators. I know that during storms we're liable to be without communications. My tower now wouldn't be affected because it would be grandfathered-in, but if I move I'd have to apply for a permit and everything else. I have back-up solar power and everything else. I think it's only a matter of time that the County is without communications. It's not 'if', it's 'when'. So, I know you're going to need the amateur radio operators, and I can't see any reason why we can't stick to the plan we had in the past. It has worked fine and we don't need to change it as far as it affects amateur radio operators. Thank you.

Henry Minneboo – Anybody else in the audience? Seeing none, I bring it back to the board.

Cindy Fox – May we clarify about the amateur radio?

Henry Minneboo – Please.

George Ritchie – Under the proposed ordinance, we are allowing those amateur radio operators to have antennas up to 100 feet tall. They just have to come in for a building permit and meet minimal setback

requirements. If they request a tower in excess of 100 feet that is where we would be going through the public hearing process to justify that additional height allowance.

Henry Minneboo – What's the cost to make application under the 100-foot threshold?

George Ritchie – You're looking at a CUP, which is \$849.00.

Cindy Fox – This is the current process; we're not changing that. This is the way it is now.

Ron McLellan – What's the normal height for an amateur radio tower?

Cindy Fox – 35 feet to 100 feet, probably.

Ron McLellan – So, 100 feet is a good.....

Robert Scorah – Mine when it's cranked down is 20-foot and goes up to 45-foot. It also lays across the roof of my house if we have a storm to help hold the roof down.

Ron McLellan – So, you're within the 100-foot?

Robert Scorah – Definitely, but if I move why would I want to pay \$800 to do something that would help the County.

Morris Richardson – This gentleman won't have to. Sir, because you are under 100 feet, you won't be required to get a conditional use permit, it would just be a standard building permit, and if you meet the setbacks you will be fine. That hasn't changed at all, sir.

Robert Scorah – There wouldn't be any permit fee then?

Morris Richardson – There would be a building permit fee for a new tower.

Henry Minneboo – What would that cost him?

Cindy Fox – It's a percentage of the cost of construction of the tower.

Ron McLellan – He would have to do that anyway.

Cindy Fox – Yes, there's nothing changing.

Henry Minneboo – We helped you some. What's the pleasure of the board?

Ron McLellan – I move for approval.

Clyde Thodey – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

III.C.1. – (ADMINISTRATIVE REZONING) – Proposed Zoning Overlay for the Development of Communication Facilities within Certain County-owned Properties by Tax Account Numbers

P&Z Recommendation: Barber/McLellan – Approved. Vote was unanimous.

Cindy Fox – This is the administrative rezoning. These are the County-owned properties that are located in the area of need that are now, as part of this process, will receive the overlay and be able to proceed through the process for getting the towers in a streamlined way, and you will not have to see these again for conditional use permits.

Henry Minneboo – That's exciting.

Andy Barber – Do we need a motion for that?

Henry Minneboo – Yes.

Cindy Fox – Yes, please.

Andy Barber – Move to approve.

Ron McLellan – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

THE FOLLOWING ITEM WAS AUTOMATICALLY TABLED FROM THE 07/07/14 P&Z MEETING AND THE 08/07/14 BCC MEETING (Letter received 06/25/14)

III.B.1. (14PZ-00055) – MORTGAGE INVESTMENT FUND I, LLC – requests an amendment to an existing CUP for Commercial, Entertainment, and Amusement Enterprises, to include racing, swap meets, and vehicle shows for cars, air boats, tractors, trucks, riding lawn mowers, go carts, and ATV's, with spectator seating, concessions, and a grandstand for awards and live music, with a waiver of 50 ft. from the required 75 ft. setback for a building, mobile home, trailer, vehicle, or maintenance equipment, in an IU zoning classification, on 21.84 acres, located on the south side of Eau Gallie Blvd., approx. 410 ft. west of Jones Rd. (Tax Parcel 751: No assigned address. In the Melbourne area; Tax Parcel 753: 835 Paw Prints Ave., Melbourne; Tax Parcel 766: No assigned address. In the Melbourne area)

P&Z Recommendation: Barber/Moia – Tabled to the 11/10/14 P&Z meeting. Vote was unanimous.

Cindy Fox read aloud the request.

Rick Kern – Rick Kern, business address is 5963 Stillwater Avenue, and I'm representing the applicant. We understand there's been some opposition, letters submitted to the County that we haven't had a chance to review yet. The applicant has just retained an attorney this morning. What we'd like to do is request to table this item for two month so it will give us time to look into the opposition and to try to address any outstanding issues that there might be there as well. Plus, we also submitted a revised site plan, moving the racetrack away from the south boundary of the project, so a waiver would no longer be required for this request.

Henry Minneboo – Have you met with the contiguous – have you or the attorney – met with the contiguous land owners?

Rick Kern – I have not met with them. I know the owner has had some discussions with them – or confrontations – with them, so there is.....

Henry Minneboo – Discussions or confrontations?

Rick Kern – I think it's a combination of both. I'm not sure of the exact details, but there is a strong dispute going on there about drainage. The site does have an approved County and St. Johns permit. In recent months, it's my understanding that the property owner to the south has blocked off the drainage. County staff had to actually come out and ask him to unblock it, and I believe that did occur.

Henry Minneboo – We've got some pretty harsh letters here.

Rick Kern – I'm sure you do. We have been talking with Ernie Brown about it, about a possible global solution. We are optimistic about it. I think it would be good if we had a little bit of time to try to resolve those issues if that's possible.

Henry Minneboo – What's the pleasure of the board?

Andy Barber – I move to table.

Henry Minneboo – Let's define when this is going to happen, because I think there's some people here that are here for this.

Cindy Fox – November 10th would be the next scheduled meeting.

Henry Minneboo – How many people are here for this issue? Motion by Andy.

Bruce Moia – I'll second.

Henry Minneboo – Seconded by Bruce to table it for 60 days.

Andy Barber – I think the overriding issue here is that Natural Resources says they are in violation and has asked us to not act on this, so the question is do you want them to testify or not, but I do think we need to honor Natural Resources' request.

Henry Minneboo – I'd like you to meet with the people that are right next door to this guy's property. That's my personal opinion. There's a lot of good folks out there.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Cindy Fox – Just for clarification, that item has been tabled to the November 10th Planning and Zoning Board meeting.

Henry Minneboo – The people that came, this is going to be rescheduled for November 10th.

Cindy Fox – This is your notification right here that it's going to come back on November 10th.

III.B.2. (14PZ-00070) – KYLE LANE, INC. - (Katherine Johnson) – requests a change of classification from BU-2 to AGR, on 14.38 acres, located on the south side of Parrish Rd., approx. 0.12 mile west of Range Rd. (2704 Kyle Lane, Cocoa)

P&Z Recommendation: McLellan/Thodey – Approved. Vote was unanimous.

Cindy Fox read aloud the request.

Katherine Johnson – I'm Katherine Johnson with Friends for Animals Sanctuary, at 5000 N. Wickham Road, Suite 110, Melbourne, 32940. We are looking for rezoning of 14.38 acres to AGR so that we can have farm animals on the sanctuary. We're building a 17.6 acre no-kill, limited cage, all domestic animals, sanctuary to help Brevard County with their shelters and the issues that they're having right now. So, we won't be taking owner-surrender animals, we'll be taking strictly from the two County shelters so that they have room to try and get their animals adopted. The farm animals would probably come from the Sheriff's Department if they went in to a place and saw a horse that was starving, they could confiscate the horse and put it on our sanctuary. We would then rehabilitate, get them medical attention, and any issues that they would have with training and behavioral type stuff, and then get them adopted out into the forever homes.

Henry Minneboo – Anybody on the board have a question?

Ron McLellan – You're taking on all animals?

Katherine Johnson – I'm taking all domestic animals, not any wild animals, no snakes.

Ron McLellan – Most people only do cats and dogs, but you've got a good program here. I just want to make sure the board understands that you're taking all domestic animals.

Katherine Johnson – Yes, horses, cows, pigs, goats, lambs, ferrets, bunnies, cats, dogs, all domestic animals.

Ron McLellan – You've got a regular Noah's Ark there.

Katherine Johnson – I'm hoping so. We need it here in Brevard County.

Henry Minneboo – Is there anybody out in the audience that would like to speak for or against? Seeing none, I bring it back to the board.

Ron McLellan – I move for approval.

Clyde Thodey – I'll second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

THE FOLLOWING ITEM WAS HEARD BY THE BCC ON 02-06-14 AND APPROVED WITH A BDP. THE BOARD AGREED TO REOPEN THE PUBLIC HEARING ON 04-15-14. ON 08-11-14 THE P&Z BOARD TABLED THE ITEM TO THE 09-08-14 P&Z MEETING FOR APPLICANT TO POST SIGN

III.B.4. (13PZ-00098) FLORIDA RIVER RAT, LLC – (Jay Schenck) – requests a change of classification from AU and EU-2, with a BDP, to BU-1 on the west 400 feet (3.43 acres); and AU on the remaining 7.26 acres, with removal of existing BDP, on 10.69 acres, located on the east side of U.S. 1, approx. .23 mile north of Silver Hill Lane. (No assigned address. In the Cocoa area)

P&Z Recommendation of 01-06-14: Cannon/Goggin – Approved. Vote was unanimous.

BCC ACTION of 02-06-14: Fisher/Anderson – Approved with a Binding Development Plan limited to nursery operations and beekeeping. Vote was unanimous.

BCC ACTION of 04-15-14: Anderson/Nelson – Moved to reopen the public hearing, to be continued at a later date, following re-advertisement and re-noticing at the applicant's expense; and the motion effectively stayed the 120-day period and re-set it once the hearing has been concluded.

P&Z Recommendation: LaMarr/Cannon – Approved. Vote was unanimous.

Cindy Fox read aloud the request.

Henry Minneboo – Yes, sir.

Jay Schenck – Good afternoon, board members. I'm Jay Schenck, 3815 Indian River Drive, Cocoa, Florida. I live contiguous to this property.

Henry Minneboo – Any questions for Mr. Schenck? He's complied with everything?

Cindy Fox – Yes, we have his affidavit.

Andy Barber – So, this is a beekeeping enterprise?

Jay Schenck – Actually, no, we do have a farm up in Georgia and we do have beekeeping, but we've been very unsuccessful bringing bees down here to Brevard County. I just want to return this property back to the original zoning. A contractor bought this property in 2005 and had it changed from agricultural to BU-1 to the RU zoning. I just want to change it back. They had planned for 14 houses to go in that neighborhood, and all I'm asking for is to move the zoning back.

Henry Minneboo – Anybody have any questions? What's the pleasure of the board?

Robert LaMarr – I make a motion to approve.

Bill Cannon – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Upon consensus, the meeting was adjourned at 3:21 p.m.