

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 November 1, 2012 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

Call to Order

Attendee Name	Title	Status	Arrived
Robin Fisher	Commissioner District 1	Present	
Chuck Nelson	Chairman/Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Commissioner District 4	Absent	
Andy Anderson	Vice Chairman/Commissioner District 5	Absent	

INTRODUCTION TO ZONING PROCEDURE

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

INVOCATION

The invocation was given by Pastor Vernor Clay, Antioch Christian Fellowship Baptist Church, Titusville.

PLEDGE OF ALLEGIANCE

Chairman Nelson led the assembly in the Pledge of Allegiance.

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ITEM I.A., RESOLUTION, RE: CONGRATULATING THE ROCKLEDGE JUNIOR LITTLE LEAGUE BASEBALL TEAM ON WINNING THE 32ND JUNIOR LITTLE LEAGUE BASEBALL WORLD SERIES CHAMPIONSHIP

Chairman Nelson read aloud, and the Board adopted, Resolution No. 12-233, congratulating the Rockledge Junior Little League Baseball Team on winning the 32nd Junior Little League Baseball World Series Championship.

Team Manager David Clanton accepted the Resolution on behalf of the team and expressed appreciation to the Board.

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

ITEM II.A., MEL SCOTT, ASSISTANT COUNTY MANGER

Mel Scott, Assistant County Manager, stated staff would like to provide the Board a brief overview on what has transpired on the beaches of Brevard County as a result of Hurricane Sandy.

Ernie Brown, Natural Resources Management Office Director, displayed a PowerPoint presentation to the Board, showing various structures that have suffered damage, and stated Hurricane Sandy brought a lot of energy and wind; the winds were forecasted to shift on Saturday, which would have caused the effects of the storm to be reduced; but on Sunday morning, the wind shifted and did not reduce the energy of the storm; and by Monday morning it became clear that the deflation of the beaches during the past three or four days had made the dunes extremely vulnerable to the energy of the ocean. He stated through Saturday night, Sunday, and Monday morning, the dunes that were installed in 2005, while they did their job, were severely impacted; there are at least 18 structures that are vulnerable to future damage; and some structures are currently undermined. He noted Sebastian Beach Inn suffered a lot of damage, as well as residences, and Sandy Shoes Hotel, and other establishments; and stated there are dozens of crossovers that have been damaged or destroyed. He advised preliminary estimates to repair the damage are \$10 million in sand losses, and another \$15 million in losses associated with the Army Corps of Engineers' renourishment project, which is in Cocoa Beach, Cape Canaveral, and the Spessard Holland area of Indialantic; and stated the Army Corps of Engineers are looking at those areas now. He noted on Tuesday, the Chairman issued an emergency proclamation, which allows staff to waive permitting fees and waive permitting, and just work directly with the citizens to help them protect their properties and rebuild their structures; yesterday, the Florida Department of Environmental Protection issued an emergency final order, which also alleviates the permitting process for beach structures, and they delegated to local governments to expedite the process; and advised those two things combined are the greatest benefit to the citizenry because they can move unencumbered to protect their property.

Commissioner Infantini stated it is her understanding that there is a provision in the County Code that would permit the individual homeowners to shore up structures with harder materials rather than sand. Mr. Brown stated there is a provision called an Emergency Comprehensive Plan Amendment, but it no longer exists in State rule, so it has to go through a comprehensive

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plan amendment process to make it effectual; and there is no immediate process to be able to harden structures. He stated what has been done, and what was done after the 2004 hurricanes, is staff worked with the State to allow for an order of delegation for sandbag systems; and six of them were put in after the 2004 storms.

Mr. Brown stated Brevard County manages 32 miles of beaches for tourism, ecological sustainability, and shore/property protection; for ecological protection, there is managed retreat, which is when the County buys people off of the beaches and lets the ecosystem work itself out; the other extreme is the hardening of structures, which is to the benefit of protecting private property at the direct expense to the ecological sustainability and tourism; and noted Galveston, Texas, hardened structures and it decimated their tourism industry. He advised, since 1996, Brevard County has tried to do a managed re-nourishment, replenishment, and dune management system. Commissioner Infantini stated she does not know how many more times the County can afford to keep replenishing the sand, but at the same time if she were a property owner she would not want to watch her property wash into the ocean; and stated homeowners should be able to shore up their properties and lock in the outside perimeter. Mr. Brown stated the provision to address that is the sandbag solution, and it is a more permanent solution that still achieves balances.

Kimberly Prosser, Emergency Operations Director, advised \$25 million is the approximate estimated damage value in Brevard County; in comparison, Indian River County is at \$12.1 million, St. Lucie County is at \$4.5 million, Martin County at \$6.3 million, Palm Beach County at \$5.5 million, and Broward County is still collecting their numbers. She stated what staff has done, as well as the other counties, is submitted the initial damage assessment to the State Division of Emergency Management and requested a joint preliminary damage assessment, which is when the State and FEMA both send representatives to assess the damage to determine what is eligible as far as reimbursement; and once that is done the Governor will determine whether or not the State and the counties have the resources to address the issues, but if he believes they do not, he will request federal assistance. She stated at this point, staff is waiting for a response to the request for the joint preliminary damage assessment; staff has contacted Senator Altman's office, and they are contacting the Governor's office to ask for that to happen; and staff has also contacted Congressman Posey's office, who is contacting FEMA to make the request. She noted she spoke to the Region 4 FEMA external director this afternoon, and the director is going to get back with her after she speaks with the federal coordinating officer who is on the ground in Florida.

Mr. Scott stated to summarize, it is unfortunate, but to the County's advantage, that it has had so much experience with this situation in the past; the County has experienced the gamut of 100 percent reimbursement and zero participation financially, up to some kind of match. He stated staff will be continuing to pursue the renourishment and the assistance on behalf of the State and perhaps FEMA, and then returning to the Board at a future date once staff knows what the numbers are going to be and when the rate of participation is realized.

Commissioner Infantini stated Mr. Brown and Ms. Prosser worked all weekend checking on properties in the south beaches and they did an excellent job.

Commissioner Fisher inquired if staff is filing for full reimbursement. Mr. Brown stated FEMA and the State will determine what the County is eligible for, but staff will file for full reimbursement; and stated he believes there will be full reimbursement.

Chairman Nelson stated it will be an interesting discussion nationally, as opposed to just the State of Florida.

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ITEM II.C., ROBIN FISHER, DISTRICT 1 COMMISSIONER

Commissioner Fisher thanked the other Commissioners for attending the I-95 groundbreaking ceremony; and added, Florida Department of Transportation granted \$118 million to widen I-95 to six lanes four years ahead of schedule.

He stated Professional Aircraft Accessories (PAA) was getting ready to leave the marketplace with 120 jobs, but made the decision to stay in Titusville; PAA promised the Board that if it gave them incentives they would create 50 jobs, and they are 15 percent ahead of that, plus they kept the 120 that were getting ready to leave; and they are talking about expanding.

He displayed a PowerPoint presentation on the Field of Dreams, and stated West Melbourne is doing a master plan for the old Rhodes Park, of which five acres was cut out for Field of Dreams; and it is exciting that the County and West Melbourne is working together on the project.

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

Chairman Nelson congratulated County Manager Howard Tipton on achieving 30 years of public service; and stated Mr. Tipton began his career in Volusia County, then to Orange County as Deputy County Administrator, and then with the Orange County Clerk of Courts as the Chief Administrative Officer, and now has three years with Brevard County. He stated Mr. Tipton is active in the community, chairing the United Way Campaign for 2011, and has a number of awards; and stated he appreciates Mr. Tipton for all he has done for Brevard County.

Mr. Tipton stated it is a privilege to be in public service and to serve as the County Manager for Brevard County.

ITEM III.A., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS

The Board appointed **Jeff Piersall** to the Tourist Development Council, with term expiring December 31, 2012.

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

PLANNING AND ZONING BOARD RECOMMENDATIONS OF OCTOBER 15, 2012

Chairman Nelson called for the public hearing to consider the Planning and Zoning Board recommendations of October 15, 2012.

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ITEM V.B.1., (12PZ-00059) - GOLDEN TRIANGLE REALTY, INC. - (PIYUSH PATEL) REQUESTS A CUP FOR ALCOHOLIC BEVERAGES (BEER & WINE) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT IN A BU-1 ZONING CLASSIFICATION ON A SITE CONTAINING 11.49 TOTAL ACRES. LOCATED ON THE WEST SIDE OF N. WICKHAM RD., APPROX. 530 FT. SOUTH OF JORDAN BLASS DR. (UNIT 122 OF 6300 N. WICKHAM RD., MELBOURNE)

There being no comments, the Board approved the request by Golden Triangle Realty, Inc., as recommended by the Planning and Zoning Board.

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

ITEM V.B.2., (12PZ-00060) - RACHEL GLOVER AND HEZEKIAH GLOVER - (DAVID C. GLOVER) - REQUEST A CHANGE FROM AU TO TR-1 ON 0.36 ACRE. LOCATED ON THE NORTH SIDE OF MOORE, RD., APPROX. 350 FT. EAST OF E. RAILROAD AVE. (650 MOORE RD., COCOA)

Cindy Fox, Planning and Development Enforcement Manager, advised the application is for a small piece of property that is currently zoned AU (Agricultural Residential); it is under-sized and cannot be used at this time, as it has no development potential; the applicant is requesting TR-1 (Single-Family Mobile Home) zoning classification in order to place a mobile home on the property.

Kelli Jo Strabley distributed pictures to the Board, and stated Mr. Glover owns property behind her and beside her; she has three and a half acres, and part of her property is agricultural because she has horses and dogs; and her problem is with Mr. Glover rezoning and getting another trailer on his property. She advised Mr. Glover already has two properties that are supposed to be zoned for single-family residential, and he has multiple homes on both properties; stated he also owns property on the other side of her house, on which he has multiple trailers placed on it; and her concern is Mr. Glover adding more homes onto the property. She noted her home is for sale and she has had two offers on it, but when the prospective buyers see what is behind her and beside her, they pull their offers. She stated Mr. Glover does not maintain his properties, and she is concerned because Mr. Glover is close to her property and she has to look at it on a daily basis; stated she has tried to contact Commissioner Fisher with her complaints; and she has contacted Code Enforcement, but nothing is being done.

Commissioner Fisher inquired if Ms. Strabley contacted his office. Ms. Strabley replied she emailed his office several times. She stated the Planning and Zoning Board asked Mr. Glover what kind of trailer he planned to bring onto the property, and he could not answer them.

Commissioner Infantini inquired when the property was sectioned and sold. Ms. Fox replied it has happened over time; stated Ms. Strabley's property is to the north of an old non-conforming mobile home park that has been there since prior to 1958; the area has had a lot of different mobile home zonings, and so there are a lot of remnant pieces; and stated Ms. Strabley just wants the Board to understand the maintenance issues on the property and what she has to look at. She advised the subject property being considered for rezoning does not currently have

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anything on it. Commissioner Infantini inquired if Mr. Glover purchased the property knowing the zoning and what the uses are limited to. Ms. Fox pointed out that Mr. Glover has owned the property prior to zoning being in place in Brevard County.

Rachel Glover stated her dad has owned the land for the past 50 years; the piece of property Ms. Strabley is talking about has three trailers on it that can probably be removed, but the property they are requesting to have rezoned is where her dad was living until the house burned down in 1998; and they would like to rezone it so her brother can put a mobile home on it. She stated the whole neighborhood is not really developed; stated Ms. Strabley bought a house that had been there for 100 years and was tilted to the side, and she put a mobile home on the property. She stated there are other trailers near Ms. Strabley, and it is not just the three trailers that her family owns that is keeping her house from selling.

Hezekiah Glover stated the problem Ms. Strabley is having with selling her home is that she's asking \$400,000 for it.

David Glover stated he owns three properties; he would like to be able for his son to put a trailer on one of the properties; he needs to fix up the trailers he owns on the east side; and noted Ms. Strabley has a horse barn close to his property. He stated he has been on the property for over 40 years.

Chairman Nelson stated the discussion needs to be on the request and the use of the property. Commissioner Infantini inquired if Mr. Glover said he had a house on the subject property and it burned down; with Mr. Glover responding affirmatively. Commissioner Infantini stated she has already argued this point in Mr. Glover's favor on another piece of property.

Chairman Nelson stated there are two issues; one is if the request is a legitimate and appropriate use; the other issue is the Code issues, and Mr. Glover is going to have to deal with that and clean it up. Commissioner Fisher stated he thinks the Commissioners agree that there are two issues; Ms. Strabley's complaint is a Code Enforcement complaint, but that really does not have anything to do with the zoning of the land; and he believes the property is eligible to have a trailer on it that is conforming to the neighborhood. He stated if Ms. Strabley files a complaint with Code Enforcement tomorrow, it will be something Mr. Glover has to address with Code Enforcement.

There being no further comments or objections, the Board approved the request by Rachel Glover and Hezekiah Glover, as recommended by the Planning and Zoning Board.

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

ITEM V.B.3., (12PZ-00055) - SHERWOOD LANDS, LLC - (Z. SID CHEHAYEB) - REQUEST REMOVAL OF AN EXISTING BSP IN AN RU-2-10 ZONING CLASSIFICATION ON 7.766 ACRES, MORE OR LESS. LOCATED ON THE SOUTH SIDE OF LONDON TOWN RD., APPROX. 300 FT. WEST OF N. CARPENTER ROAD. (IN THE TITUSVILLE AREA)

Cindy Fox, Planning and Development Enforcement Manager, advised of the recommendation by the Planning and Zoning Board to approve the request with an amendment to the Binding

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Development Plan to provide a 50-foot setback for buildings 3 & 4, a 20-foot setback for building 2, and that mature trees and shrubs be planted between buildings along the south property line and the abutting single-family homes on lots 1-5.

Sid Chehayeb, Consulting Civil Engineers, stated he agrees to the recommendation. He stated there was one item that he wanted to mention to the Board; the owner of lot 5 has asked not to have a fence on her north property line; and stated staff has said they will work with the developer because it has to be addressed through the Code.

Commissioner Fisher advised he met with Mr. Chehayeb before the meeting.

There being no comments, the Board approved the request by Sherwood Lands, LLC, as recommended by the Planning and Zoning Board.

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

ITEM V.B.4., (12PZ-00057) - FRATERNAL ORDER OF EAGLES AERIE #4257, INCORPORATED - WITHDRAWN BY THE APPLICANT

This application was withdrawn by the applicant on November 1, 2012.

ADJOURNMENT

Upon consensus of the Board, the meeting was adjourned at 5:56 p.m.

ATTEST:

MITCH NEEDELMAN, CLERK

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