

**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, November 9, 2015**, 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; Clyde Thodey; Peter Aydelotte; Bruce Moia; Robert LaMarr; John Stone; Loretta Goggin; and Ron Bartcher.

Richard Charbonneau's presence was noted at 5:00 p.m.

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

The 8 regular and alternate members present at the outset of the meeting voted on all Items. Richard Charbonneau did not vote.

Henry Minneboo – This is the Planning and Zoning Board, which is an advisory board to the Board of County Commissioners, and ultimately they will have the final decisions on any decision that's made by this board today. They will review these items on December 3<sup>rd</sup> at 5:00 p.m. back in this room. Today, the people that have the project will be given 15 minutes for their presentation, and all those speaking in the audience will be given three [minutes]. I'll try to do my best to keep everything on schedule. Did everybody have an opportunity to look at the P&Z minutes?

Robert LaMarr – I'll make a motion to approve the minutes.

Bruce Moia – Second.

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

Henry Minneboo – There's two things we want to do before we get into the agenda. A lot of things have changed, board members, since the last time. It's my understanding we're allowed to carry now in these meetings. That's fully correct?

Cristina Berrios – Yes, that was the decision that the Board of County Commissioners made about two meetings ago.

Henry Minneboo – I didn't know if every board member knew, so it would be something a little different. On this table – a lot of people don't know – there's two layers of Kevlar, and that's just something for the board members to be knowledgeable. With that, in my ongoing protection of this board, when I chatted with some people about this there was – not board members, but other boards that meet have had some concern and just one of the solutions that is possible is to have a deputy here during our time of event. Is that something the board would.....I would hate to see everybody come in with guns strapped on.

Clyde Thodey – I make a motion that we do that.

Henry Minneboo – At least make a recommendation to the Board of County Commissioners? Peter, you're an ex-officer, does that sort of coincide?

Peter Aydelotte – I always feel safe here.

Bruce Moia – Who's allowed to carry? Is it just people with valid concealed weapons permits, or is it anybody?

Henry Minneboo – A person with a concealed weapons permit can bring one in here.

Cristina Berrios – That's correct. We did have a County policy that restricted it in all meetings, but the Board of County Commissioners about two meetings ago decided that they would go back to just what the State mandates, and the State only mandates that if an elected official is hosting a meeting that there's no guns in the room; otherwise, concealed carries are okay.

Loretta Goggin – Mr. Chairman, considering the degree of mental health services available in this county, I would have to agree with the motion that's on the table. Being in health care, I know that this county is lacking in mental health services significantly, and it doesn't take very much.

Henry Minneboo – Well, I thought I'd bring it up. Cindy, I guess we can bring that to the Board of County Commissioners, if the board recommends that?

Cindy Fox – Yes, that's fine. I can pass that on to the board.

Henry Minneboo – We've got LPA, P&Z, and the list goes on of what some of us are members of.

Cindy Fox – We can coordinate with the deputies ahead of time and let them know if it's a light schedule or heavy schedule. We can do that, no problem.

Henry Minneboo – We've done pretty good here, but sometimes they get drug out.

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

Cindy Fox – If the board would, go ahead and jump down to the LPA agenda. We need to do the Large Scale first, and then we can move back up to III.B.2.

#### **LPA AGENDA:**

1. An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth the adoption of the Fall Plan Amendment Cycle 2015-2; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions which require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date.

a. Plan Amendment 2015- 2.1 - a proposal initiated by Imperial South, Inc., to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from Planned Industrial Park to Residential 15 for approximately 30.7 acres located on the east side of Wickham Road at the south east intersection of Jordan Blass Drive.

*LPA Recommendation: Thodey/Aydelotte – Denied. Vote was 7:1, with Bruce Moia voting nay.*

Cindy Fox – This is a request that is related to III.B.2. This is the Comprehensive Plan Fall amendment package cycle, the second one for the year. We're just looking to go ahead and adopt this one. This is changing from Planned Industrial Park to Residential 15 for multi-family development.

Henry Minneboo – Is that your recommendation?

Cindy Fox – That would be what we're looking for today, yes.

Henry Minneboo – Is the applicant here?

Eric Juliano – Good afternoon, Eric Juliano, 4450 W. Eau Gallie Causeway, Suite 232, Melbourne, Florida. I'm with Bowman Consulting and we're here for any questions should you have any.

Henry Minneboo – Anybody have a question for this gentleman? Seeing none, I go out to the audience. Is there anybody who would like to speak for or against this item?

Mark Marine – I'm Mark Marine, 4 Southeby Way, Debary, Florida. I represent Preferred Materials, I'm the Executive Vice President of 6210 U.S. N. Hwy, and we have the asphalt facility that has been there since the early 1980's, and we are in great opposition of rezoning the property contiguous to us where we have an industrial asphalt plant, to heavy density housing. Without a question.

Henry Minneboo – You didn't surprise me.

Mark Marine – I'm responsible for 18 asphalt facilities in the State of Florida, and putting houses directly next to.....

Henry Minneboo – Is that the old Mack plant?

Mark Marine – Yes, it's the old Mack asphalt plant. It's been there since the early 1980's, and we have strict opposition to rezoning this.

Clyde Thodey – What is your main opposition to it?

Mark Marine – First off, just changing the overall use plan. It's zoned industrial, the area was allocated for an industrial park. The area around that piece of property is all commercially zoned. There is no residential contiguous to the property in question. We have an asphalt plant and are in the process of re-opening it, and we know in Brevard County a lot of the asphalt that has to be produced is produced at night and by having 24-hr operations with a potential of 500 families on the other side of the tracks will be very contentious for the Board of County Commissioners.

Henry Minneboo – Any other questions? Seeing none, I bring it back to the board.

Bruce Moia – I can definitely understand his concern. I mean, when you start putting residential next to industrial I'm sure the phone calls are going to be heard all over the place and I'm sure you don't want to field every phone call that happens every day, nor do the Commissioners. I'm not sure how to handle that, I mean, noise is going to be an issue. Are we talking about multi-story buildings, like three levels? Or is it going to be single-story buildings?

Eric Juliano – No sir, these are three-story buildings. Obviously, we've taken this into account and there's also a railroad track between us and them. We're providing adequate buffering and we're positioning the units in such a way that we're going to try to do what's best for the future residents. Obviously, the area around this corridor has changed quite a bit since the land use was originally industrial. We've got commercial uses right now next to us, such as a grocery store, dining facilities, and things like that. The residents are going to be able to go back and forth walking and on their bicycles. There are schools there and it lends itself very well, actually, to a residential use.

Bruce Moia – What's the size of the units? Is this high-end stuff?

Eric Juliano – I'd say it's high-end. There's anywhere from one to three-bedroom units. There's going to be a fitness center, a pool, and they're definitely nice units.

Bruce Moia – So, 1,500 to 2,000 square-foot units?

Eric Juliano – Yes.

Loretta Goggin – I kind of liken this to buying property next to an airport that was there first, and then calling the commissioners because the airplanes are there.

Eric Juliano – We know what's there and we know what we're doing.

Loretta Goggin – You know it's there as a property owner, but.....

Eric Juliano – These will be rentals, they're not going to be condos. They are apartments, not condominiums.

Henry Minneboo – Good comment, Loretta. Do you know how difficult it is to put an asphalt plant in this county?

Eric Juliano – That I do not know.

Henry Minneboo – To the best of my knowledge – and I know little bit about this county – I think there's three.

Eric Juliano – We're not asking them to go anywhere.

Henry Minneboo – Yes, but your people sure will. What's the pleasure of the board?

Loretta Goggin – For the rest of the board members, I know we need our roads fixed, I know we need cost of transporting supply meeting the demand. What concerns me is these are going to be rental properties. I know we need residents close to schools, and I know we need residents close to shopping, and need communities that we can live in, work in, and play in, but then we've got the environmental issues. So, those are my dilemmas.

Eric Juliano – The current land use would have more impact from a roadway standpoint than the proposed land use. Also, approving this will bring money to the county to help pay for the roads in a very direct manner. If it's an industrial use you'll have semi-trucks and all the things that cause problems on the road.

Henry Minneboo – I've been on the board a good while and I know a little bit about asphalt, not much. That plant was out there by itself at one time and Suntree would sure like to get rid of them. So, that's a location they've had, they've been grandfathered-in, and we have never approved another asphalt plant. I think we took a shot at one in Mims one time, away from everybody, and this board denied it. When you start talking about RU-2-15 next to this I just don't know.

Clyde Thodey – I'll make a motion that we not approve it. Deny it.

Peter Aydelotte – Second.

Henry Minneboo called for a roll call vote on the motion as stated.

Henry Minneboo – Yes to deny.

Clyde Thodey – Yes to deny.

Peter Aydelotte – Yes to deny.

Bruce Moia – I'm not in favor of denying it.

Robert LaMarr – Yes to deny.

John Stone – Yes to deny.

Loretta Goggin – Yes to deny.

Ron Bartcher – Yes to deny.

The motion passed 7:1 with Bruce Moia voting nay.

Cindy Fox – As a follow-up, you need to go ahead and address the zoning of the same property, which is III.B.2.

#### **P&Z AGENDA:**

#### **THE FOLLOWING ITEM WAS TABLED FROM THE 10/05/15 P&Z MEETING**

**III.B.2. (15PZ00056) – IMPERIAL SOUTH, INC.** – (Will Reynolds) – requests a change of classification from PIP to RU-2-15 on 30.7, located on the east side of Wickham Rd., approx. 330 ft. south of Jordan Blass Dr. (2975 Allen Hill Ave., Melbourne (Tax Parcel 253); 2600 Promenade Dr., Melbourne (Tax Parcel 254); 6375 N. Wickham Rd. Ste 107, Melbourne (Tax Parcel 756); Tax Parcels 265 and 250 have no assigned address and are in the Melbourne area)

**P&Z Recommendation: Thodey/Aydelotte – Denied. Vote was unanimous.**

Cindy Fox – Once you've denied the future land use, the zoning.....

Henry Minneboo – We still need to make a motion and a second.

Clyde Thodey – I'll make a motion to deny it.

Peter Aydelotte – Second.

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

#### **THE FOLLOWING ITEM WAS TABLED FROM THE 10/05/15 P&Z MEETING**

#### **DISTRICT 5**

**III.B.3. (15PZ00051) – ROY WAYNE YATES** – (David Agee) – requests a CUP for Land Alteration in an AGR and AU zoning classifications on 32.50 acres, located on the west side of Babcock St., approx. .50 mile south of Micco Rd. (9400 Babcock St., Fellsmere)

**P&Z Recommendation: Thodey/Aydelotte – Denied. Vote was 7:1, with Henry Minneboo voting nay.**

Cindy Fox – Just to let the board know, we have legal counsel now for both sides, so we need to have some new introductions.

Kim Rezanka – Good afternoon, Chairman Minneboo, members of the Planning and Zoning Board, my name is Kim Rezanka, I'm with the law firm of Dean Mead, 7380 Murrell Road, Suite 200, here in Viera. I am new to this project as of Saturday. I wasn't in planning to go over this entire project again. Mr. Agee is still here in expert capacity, but I know Mr. Aydelotte was not here. Did you have a chance to review the minutes?

Peter Aydelotte – Yes.

Kim Rezanka – And Mr. Moia, did you have the chance to review the minutes? I didn't see that you were at the meeting last time.

Bruce Moia – I wasn't at the meeting, but I did read the minutes.

Kim Rezanka – Thank you. We just don't want to go over everything that went before, so that's why I was making sure. At that meeting, I noticed the last three pages of the Planning and Zoning Board meeting you asked Mr. Agee to meet with the Deer Run residents, that there may be some misconceptions. I know he met with a couple of them, but he was not able to get a group meeting. I'll let him explain that to you. They are obviously here also. So, that is one thing that Mr. Agee will need to explain to you. As you know, the conditional use is required for land alterations because this property is AGR and AU zoning. Just to clarify, this is for mining of coquina shell and quartz sand. It's not for mining of rock. There will also be clay that may be buried between the layers that Mr. Agee can also explain to you, but there is no blasting, no rock crushing. It's sand and shell that will be mined. In fact, as you will learn later on, there cannot be blasting due to a settlement agreement that came out from part of the administrative hearing back in 2009. This application is different than the one that was denied in 2010. I know the findings of fact from that Board of County Commission meeting were in your packet. This is different, that indeed said blasting. I have not had a chance to review all of those prior zoning packages or minutes, but I know the facts and circumstances that were relied upon in 2010 are different than the ones now, and as you know, every conditional use permit application stands on its own with the evidence that you have before you. I provided a packet of materials. Some of it is very basic and generic, but I did not see that it had been covered at the October 6<sup>th</sup> [sic] Planning and Zoning meeting. First, we are here because we've got an AGR and AU designation, both of which require conditional uses under Subsection III of Ordinances 62-1333 and 62-1334; subsection c's both require a conditional use permit for land alterations over five acres. There was one that was previously approved back in 2006 that allowed the mining of the five acres on Mr. Yates' property. At that time, Mr. Yates had a contractor doing the work and his name was Elmo Greer; and although he may have had a blasting permit it was never used on this property. Mr. Yates does not have a blasting permit and cannot have one. As part of the approval of the conditional use, the board may prescribe reasonable conditions and safeguards, and that's what a conditional use is. As you know, it is a use that can be used on this property, that's on notice to everyone who purchases land near it, that if you can put conditions on it to make it compatible then it's to be approved. The applicant has already agreed to numerous conditions. We would need to itemize them out; I don't know that staff has done that, and I don't believe that we have done that. We're going to have to have fencing and meet all the requirements of the land development regulations. We're going to have to have hours of operation compatible with the ordinances. We're going to have fencing, and we have to have all variety of conditions that are spelled out later throughout these ordinances. The general standards of review say the proposed use will be compatible with the character of adjacent and nearby properties. It's clear if you looked at the package that was submitted to you, there are seven other borrow pits that have been in existence in this area. Some even closer than the borrow pit Mr. Yates did back in 2006. All these borrow pits were permitted or at least used after Deer Run was platted in 1980. So, these borrow pits have all been approved since Deer Run was approved. Continuing through my packet after the ordinances there is a section in the Code, 62-1936, Land Alteration, that supplies some more conditions. It has setback conditions from residentially zoned neighborhoods of 250 feet. We're further back than that; I believe we're 600 or 750 feet back from the residentially zoned properties, not to mention most of the residentially zoned properties are vacant adjacent to the north, except for Mr. Crumpler, I believe. Operations will be limited to dawn and dusk; no operations on

Sunday. Just to clarify, because there's been so many different discussions about blasting and mining and what are we doing at this borrow pit, we're excavating, and the definition of excavating is removal of rock, stone, minerals, shells, sand, clay, muck, or other like materials. That's what is going to be done here. It is a mine; a mine is also defined as a borrow pit; these words have been used in a negative connotation, but they're the words of your ordinances. Next in the packet is the operation of land.....these got out of order.....there's a whole division in your code regarding land alteration. Section 62-4394 has the purpose and intent; "the establishment of reasonable standards through review and regulation of land alteration activities"; so this is allowed under your code to have these activities, so long as they're done and accomplished in accordance of the provision of this district. Moving on, Section 62-4397, Operation of Land Alteration Activities – and this is the one that has all the conditions that we have to abide by even without you putting them on the conditional use permit – it has to have fencing, there was a concern raised about animals getting into this area, but they can't because there's going to be a fence. Hours of operation: it actually has to be one half hour after.....nothing conducted one half hour after or one half hour before sunrise; it has limitations on haul routes; it has restrictions and qualifications and requirements for water quality and quantity; it has regulations on noise levels; it has regulations on dust, all of the things the applicant has already agreed they will control. And you know very well if they don't control, the conditional use can be revoked and Code Enforcement will come out. Next in the packet.....when you look at it, it says 'motion to relinquish jurisdiction', this is just attached to the settlement agreement between the Deer Run Community Association Inc. Roy Yates, and the St. Johns River Water Management District. This was based upon, I'm assuming, but do not know for a fact, that Deer Run was upset when the consumptive use permit was issued by St. Johns and a proceeding ensued. There was a settlement agreement, and this settlement agreement has to be upheld by not only Mr. Yates, but also by St. Johns; it's a binding legal settlement agreement, or Deer Run can sue. If you look at No. 2 of the settlement agreement it talks that if Mr. Yates is operating the de-watering pump he is unable to withdraw water from his well at his residence using a centrifugal pump; for reasons other than pump problems, he will cease pumping; No. 3, he has to install a 2-inch diameter PVC monitoring well if the level drops 2 feet or more due to the de-watering authorizations to a total level depth of 10 feet or more of natural grade, then de-watering must cease. Mr. Crumpler talked in detail about his pond going down 10 feet, but it is permitted under the settlement agreement, if that indeed did happen, and if it was indeed caused by Mr. Yates' borrow pit; and this was agreed to after that happened in 2006; this is a 2008 settlement agreement. Mr. Yates has to install a piezometer – I don't know exactly what that is, but I know it was discussed at P&Z last month. No. 5, water quality sampling will be performed. No. 6, the District has a right to curtail permitted withdraw rates. No. 8, the monitoring data will be submitted to the District's Palm Bay office to regulate. No. 8, Mr. Yates will not use any blasting materials to remove materials from the mine pit. Then, even more telling is when you look at the renewal of the consumptive use permit – the technical staff report is your packet dated September 29, 2011 – this was even after the Board denied the prior expansion of the borrow pit, which by the way was for a much larger area than what we're asking for today. So, again, the 2010 stands on its own and we're here before you on a new application. If you go through this technical staff report, on page 3 of 8, Reasonable Beneficial Use Criteria – and I've underlined some of these things, I know you probably don't want me to go through all of them, but it does show that staff reviewed and considered whether the proposed use efficiently uses water, incorporates adequate water conservation measures, and incorporates adequate environmental protection matters. It talks about the hydraulic barrier system; limit the horizontal and vertical level of draw down during excavation; staff concludes that reasonable assurances have been provided and that the proposed use is reasonable beneficial. They talk about the use of the re-charge trench, that this is in the public interest, the permit duration; there are 19 conditions that go along with this consumptive use permit, all of which must be abided by and are stricter than any regulations you would put on this conditional use permit, so we believe adequate safeguards are definitely in place to make sure there's not a problem with de-watering or drawn down, or any of those issues the residents are concerned with. I would like to address a few of the comments that were made by residents at P&Z.....I'm sorry, the last page of the document that I submitted to you is also in your package, No. 22 of the original submission by the applicant, and it shows all those other borrow pits' conditional use permits that have been approved by Brevard County, and they are substantial, they are all around this Deer Run area; there's Pence Land Materials directly to the right; you have Brevard Land Materials

immediately to the north; so, again, there may have been drawn down issues, but without evidence before you of the ground water and how it moves and when it happened, which you have none of that before you as you sit here today, you can't tell that Mr. Yates' borrow pit in 2006 or 2007 did any of these complained of activities that were talked about at P&Z on October 5<sup>th</sup>. Again, looking at that testimony, it was layman testimony; you have Mr. Crumpler, who apparently is going to submit more evidence today, and he is a layman, he has not stated anything with specificity as to when these things happened or how he knows Mr. Yates was responsible; and again, that was then and this is now, this is almost 10 years later. There were comments also by Mr. Crumpler that he could hear the constant noise of the pumps; that's not a violation of any code, it's not a violation of any regulation; you can hear people speaking at the property next to you; so, there's no evidence of any noise violation under your code. Mr. Moss talked about the settlement agreement, and he stated conclusively, 'permanent issues with some residents' wells and pond waters', we don't know who, we don't know where, we don't know when, and we don't know why, so that is not competent evidence before you upon to base a denial. Nancy Allen was concerned about animals coming onto the property; again, it is going to be fenced. Ms. Huddleston apparently is a realtor, but she is not an MAI appraiser, so she cannot talk about devaluation of land without being an MAI appraiser, so anything she stated here is speculative and is not competent evidence before you. Theresa Torsiello talked about the blasting permit, and again, Mr. Yates does not have a blasting permit; she also talks in detail about de-watering activities, 'damaged ponds and my well, so I had to go down deeper'; again, there is not proof that what Mr. Yates did caused that to happen. The documents before you show adequate safeguards by the DOA settlement and the consumptive use permit; this has been reviewed by experts; it has been agreed to, and it must be enforced. St. Johns River Water Management District has obligations under the settlement agreement and duties under the law to enforce the consumptive use permit. Mr. Agee will discuss the geological aspects of these water draw down issues, and he is an expert, and he will present his resume or discuss his qualifications with you. Thank you, I ask that you approve this conditional use permit.

David Agee – Good afternoon, my name is David Agee, I'm with Agee Consulting at 120 Harrison Street, Cocoa Village. I've got some handouts I'd like to present. I think I'll piggyback with what Ms. Rezanka had to say. If you look at – I've got a copy in that package that you all may have as well – the consumptive use technical staff report dated April 4, 2006, and it will segway into some groundwater information I'll give you, but since these pages aren't numbered.....I think it's the fourth page, Public Interest, at the top of the fourth page.....in that paragraph, the first paragraph, the last sentence is, "Staff concludes that".....let me back up, they did the consumptive use analysis, and the on the effect of drawn down of the proposed five-acre borrow pit at the time, taking it down to 31 feet, or minus 7 elevation, to assess whatever its hydraulic – lateral hydraulic – impact might have. They concluded that, "Reasonable assurance has been provided that the proposed use will not cause an interference to any existing legal use of water pursuant to Section 9.2, provided the permittee complies with the conditions recommended of this permit".

Henry Minneboo – Did that come from you, or is that coming from.....?

David Agee – This comes from St. Johns River Water Management District. Significant to that is existing legal use of water. That's defined by a well, a pond, and anything that could be a water source, it could be potentially impacted. That included Wayne Yates' own well that's on his property that is about 85 feet from the northern limits of that borrow pit footprint at the time. So, the lateral extent of drawing down water is, by St. Johns criteria, is minimal.

Bruce Moia – Would Mr. Yates be the closest resident to the borrow pit that's proposed?

David Agee – It's on his property, but the well itself is the closest to his borrow pit. If you look at Figure 8.....it's horizontally to scale relative to the south boundary on the right, which would be the south of the Yates property boundary, to the north boundary.....and then approximately it's showing horizontally distant from that approximately 350 feet, and then another 700 feet to wells in the Deer Run subdivision that are

identified as 129 Deer Run Road well, and 143 Deer Run Road well. The aerial with some of the graphics on it is, again, just the property itself in yellow.....this is Yates' parcel, it's not specific to the land alteration piece, but just to show it diagrammatically.....the bolder yellow line is a cross section through Yates' property, which is reflective of this cross sectional view shown at the top. Important to that is a couple of things: One, there are a number of wells that are permitted by.....well permits of record, and they're shown on the aerial as either red or brown; the brown wells being relatively shallow wells, and the red wells being a deeper well, or a well that goes into the aquifer, the deep aquifer, or the confined aquifer. It also shows the casing intervals that the shallow wells average about 60 – 80 feet in depth and they're cased plus or minus 60 feet, about 30 feet below the proposed bottom level of the borrow pit site. The deeper wells are cased....in this case on this figure, about 147 feet; I have some other documentation from the original submittal that gives a range of casing for the deep well of about 130 – 160 feet or deeper; and the shallow wells 60 – 80 feet. They are cased and protected from any groundwater movement that could happen from water being lowered from the pit or anywhere else for that matter. Also on this figure are some.....there are three monitoring wells that are identified, TMW 1, 2, and 3; TMW 1 was just used as a pumping well, it was at a depth of 45 feet with 40 feet of casing, drawn down to about 30 feet. This table is just a summary of groundwater levels that were measured and recorded starting with May 7<sup>th</sup>, and pumped until about the 15<sup>th</sup> or 18<sup>th</sup>. We got stabilized water depths in the pumping well about 30 feet more or less. TMW 2 & 3 are just showing the effect of that draw down that reflects the approximate depth of the borrow pit. On TMW 2, which is about 150 – 200 feet north of TMW 1 towards the Deer Run subdivision, and TMW 3, which is about 300 feet from the initial well to the north, and essentially no draw down.

Bruce Moia – Can you say those distances again?

David Agee – TMW 2 about 150 feet north of the pump; and 3, about another 150 feet north of that. I met with Hugh Crumpler on October 9<sup>th</sup> at his house just to look at his property and talk about the potential for setting up a meeting. We had some email exchanges, which are in your packet, on the 12<sup>th</sup> and 23<sup>rd</sup>; he requested some information from his and my field meeting, some geologic information and things that we had talked about. I asked him at that time in an email if he could tell me who to contact at Deer Run and set up a meeting. He suggested I get with Wayne Yates because he would know that. I got with Mr. Yates and he really didn't know who that person was, so I was looking through minutes notes and found that Brian Curry was the HOA president, and I tried to give him a call on the 29<sup>th</sup> of October and left a message; and then I called back this past Saturday and left a voice message, asking him to all to talk about the Yates piece, and I haven't heard back. (TAPE CHANGE)

Henry Minneboo – So, you did try to make an attempt here to get in contact?

David Agee – Yes. I think I've gone over my time.

Henry Minneboo – Does anybody have any questions?

Bruce Moia – I just want to make sure I understand this diagram he's given us. So, the borrow pit you're proposing to dig is about 30 feet deep? Is that what this is showing?

David Agee – Yes.

Bruce Moia – And you'll be de-watering probably to a point of 35 feet because you've got to have a little bit deeper of a borrow pit?

David Agee – Yes.

Bruce Moia – And the shallow wells are cased 60 feet deep.....the closest well for the residents would possibly be cased about 60 feet, and then you show here where you pumped down the one well about 150 feet away.....you're not showing much of a draw down once you get that far away.

David Agee – Correct.

Bruce Moia – So, according to this, de-watering that down to 35 feet should have no effect on the wells, whether they're cased down to 60 feet or cased down to 129 feet. That kind of summarizes this?

David Agee – Yes, or maybe even uncased, but yes, it shows no effect. St. Johns supported that as well with their consumptive use analysis and their model took it down to 31 feet, and they said there was no interference; in fact, it's not in that document, but talking with David King with St. Johns he said that Mr. Yates' own well on site, which is about 85 feet from the northern boundary of the pit, wasn't affected at all.

Bruce Moia – That would probably be typical. If you're only going to draw down to 35, something to 60 feet wouldn't be.....that water doesn't travel up hill.

David Agee – Correct.

Bruce Moia – Thank you.

Henry Minneboo – Mr. Agee, what about when you're doing your observation out there of the permits, was there some wells out there without a permit? You don't know?

David Agee – No, what I looked at.....I wasn't going from property to property, what I did was pull up from the health department all the.....but that was all of record of what the depth casings and timings were.

Henry Minneboo – When you look at this map, your Figure 6, it looks like this is the only place that doesn't have a borrow pit. Everybody else has a borrow pit. Why is that?

David Agee – Why are there so many borrow pits?

Henry Minneboo – From your map there's six or seven; and this is the only one that doesn't have one, and I'm wondering if all.....Cindy, would all of them have to have complied to the same standards as this applicant has to?

Cindy Fox – Theoretically, yes. If they applied to do that type of business they would need a conditional use permit, and that has not changed over the years, or since these first pits began.

Henry Minneboo – You've got one here right next to Deer Run, on Figure 6.

David Agee – The one to the east?

Henry Minneboo – There's one to the north.

David Agee – That was the Brevard Land Materials, and Pence Land Materials to the east.

Henry Minneboo – Do you know how long they've been there?

David Agee – Not an absolute date. I know since.....'88 is their permit of record; '87 for the one to the north. The map is color coded by decade, just to generalize, but the.....

Henry Minneboo – Okay, I see what you did.

Bruce Moia – Cindy, has the land alteration permit requirements changed over the years, or has it been pretty steady?

Cindy Fox – It has been pretty steady. The Zoning Code, the only way we altered it recently is we took out a limitation on acreage in certain zoning classifications. It has only changed at the State level and through environmental types of reviews. There hasn't been anything in the Brevard County Zoning Code to change it.

Bruce Moia – Right, but the land alteration permit code that kind of dictates all the conditions and standards, that has been the same for.....

Cindy Fox – It's been the same, yes.

Bruce Moia – Thank you.

Henry Minneboo – Anybody on the board have questions for this gentleman? Everybody can speak if they'd like to. It appears that you all.....if I'm correct, have a representative, do you have an attorney? Are you going to speak for everybody? If we can try not to be redundant, but if you've got some new information we've got a lot of the same board members here.

Cindy Fox – Mr. Chair, if I could also make the audience aware that if you're not at the mic we cannot record you and you will not be part of the public record. If you speak at the same time as someone else we cannot hear you on the recording, so please don't do a back and forth between each other in the audience, or at the podium from the audience, you have to be at the podium to be recorded. So, let's stick to that because we had a tough time the last time catching the complete record.

Henry Minneboo – Would the homeowners' representative like to speak first? You want to go last? Okay, however you'd like to do it I'll try to get to everybody.

Hugh Crumpler – I guess they've elected me to go first. My name is Hugh Crumpler III, I live at 171 Deer Run Road, and I'm very close to Mr. Yates' property, I can see it every day. I've given each of you two different handouts. I don't have enough time in three minutes to go through every way that Mr. Yates' coquina mining has impacted my property or the property of Deer Run. The lady who came up and represented Mr. Yates did a real good job; she called me a layman; I've been called a lot worse; and I won't argue with that. She didn't know it, but I have a lifetime certificate to teach science in the State of Missouri; I taught earth science for two years at the third largest high school in Missouri, so I have a little bit of an idea how water flows, how the ground works, and what's underground. I've done research, I didn't just wildly guess at where the water in my pond was going. Very, very basically, when Mr. Yates started mining, the water level in my pond dropped; an artesian well that was not supposed to be used for the pond, I put all the water flowing in my pond, it did not keep the level normal, so I bought a pump from Lowes and turned it on full-time 24/7 spraying it out in a fireman's hose to try to keep oxygen in the water and try to keep the water in the pond. At no time did any pumping or any running of the artesian well raise the level of my pond; the water still flows down. The bottom of my pond is coquina. St. Johns asked me to check, so I went out there and stuck a PVC pipe down in the bottom and put my hand over the top, pulled up the pipe, and there was coquina there. St. Johns agreed the bottom of my pond is coquina and it connects with coquina. I asked Mr. Agee for a copy of the information that he showed me because the borings on Mr. Yates' property closest to mine showed coquina. It's got to be a direct flow; it just flows from mine to his; the water is still flowing; my elevation is higher than his elevation; and water flows downhill. I had a sprinkler system but I don't use it because the water is now going in my pond. I had a shallow well that's probably six feet from the surface to the level of the water that was used for sprinkling; I measured that when he was pumping, and whenever he pumped the water level in that well went

down; it would come back a little bit, but it would not come back all the way, and every time it pumped it went lower and lower. Mr. Yates finally quit mining, and basically I'm in a defensive mode of keeping water running in the pond, and I haven't pursued any kind of remedy with him. My land next to my pond was flat, now it's hilly, as much as a 2-foot depression, like miniature sink holes I guess is the best way you can put it. I didn't any people or cars or anything, but still, the water is gone from the coquina so the land sunk.

Henry Minneboo – What time of year was it that you noticed the pond going down?

Hugh Crumpler – Whenever he was mining; I don't remember when it was, but if it's a rainy season my pond will come up because the water level in the ground comes up, but I still have to keep watering it; at no time will it overflow, and when it's the dry season like it's getting now it's going down even though I'm putting water in it, but it's a natural flow.

Clyde Thodey – How much water do you think you lost?

Hugh Crumpler – The top of the berm of the pond was 12-foot from the bottom, and that's what was considered to be a 12-foot deep pond. It almost went dry, and at least 10 feet of water went out. I don't know, I didn't measure it.

Bruce Moia – So, when the pumping stopped the water came back up?

Hugh Crumpler – When the pumping stopped I just didn't have to put as much water in the pond to keep water in it.

Bruce Moia – Right now.....

Hugh Crumpler – Right now I have a well flowing 24/7.

Bruce Moia – In his pit the water is all the way back up to the level.....

Hugh Crumpler – When I drive by the road his pit is full.

Bruce Moia – And yours is still lower than his?

Hugh Crumpler – Mine is....my guess, I don't really know, is that the level of my pond goes with his. That's my guess, I'm not trespassing on his property to find out.

Bruce Moia – So, you think, basically, when he's pumping, your water is kind of taking that water along just by velocity, I guess.

Hugh Crumpler – It's like a siphon hose, you put it in and it's going to go downhill, and you pinch it off and it stops.

Debra Bohnsack – My name is Debra Bohnsack and I live at 207 Deer Run Road.

Clyde Thodey – You may want to drop that microphone down so we can get everything.

Debra Bohnsack – I did talk last time about the effects of a mine next to a community, the only one in Brevard County that is an equestrian community. I made this map, which I'm going to hold up for everybody to see, and I'll also pass it along to you. This is the original plat map from when the community was formed around 1980. The highlighted yellow line is our perimeter trail, and that is the trail that leads to our community park. The park is marked on here and the line is also marked on there. The bottom line on where, which is a berm

trail, is directly between the Deer Run community and Mr. Yates' property. That's the main trail that the trail riders use if they don't want to ride on the street, to get to our community park. So, there may be obviously a different distance between his mine and residents' wells and homes, but that dividing line, that trail system, is what all of the equestrians use to get to it. It's the width of about one car lane. I myself am a carriage driver, and we have a couple of other carriage drivers in our community as well. When you are carriage driving on the top of a berm trail that is one car wide, you cannot turn around if there is something scary going on up ahead. So, once you get on this trail up at the front of the subdivision and you are heading back towards the park, you're stuck there. If there's dump truck there clanging its back gate as it drops, or being filled with rock and making noise, trust me, those horses can hear it from 500 feet away, they can feel the vibrations in the ground. A lot of people use this trail that don't want to ride on the streets, and this is a trail that was designed with our subdivision, it's been there a long time, and we count on it. The last time he did his mine I didn't live in the community, but I have letters in my folder that I will be turning in from 17 of our equestrians who are against this going in because of the fact that it is not compatible next to an equestrian community with trails that are used by us, by our children, by carriage drivers, by trail riders. We need to keep this trail open and safe without having these loud noises. Vibrations in the ground, loud noises, unexpected sights and sounds, these are all things that spook horses. I do consider myself an expert; I've been riding since I was five; I've owned horses continuously for 38 years; I train my own horses; so I do know what I'm talking about with regard to that. Can I add one more very brief thing?

Henry Minneboo – Yes, ma'am.

Debra Bohnsack – With regard to what the other attorney talked about in 2010, I'm reading from the commission minutes, from the attorney that spoke on behalf of Mr. Yates. At that time in 2010 there was no blasting in the proposal; in 2010 it was only electric motors in the proposal; there's the same water truck that was supposed to be on site in the proposal, but now instead of that five-acre pit being 1,700 feet away from our riding trail, it's.....according to what I can figure out on Google Earth, about 475 feet from our riding trail, with no trees, per se, in between, but an open cow field. That's dangerous for us and it has been for a long time.

Henry Minneboo – Is the trail maintained? The perimeter trails around Deer Run, are they maintained?

Debra Bohnsack – Some of them are maintained by the County and some of them are maintained by the residents. So, they get mowed if that's what you mean. Can I pass this for you all to look at?

Henry Minneboo – Anybody else have any questions for this lady?

Bruce Moia – I guess it's not really a question, but more of a point, I know when Deer Run was built there wasn't anything out there, but to have a perimeter around the outside of the boundary of the development pretty much limits any kind of any activity from the neighboring properties just because there's no buffer between the trail and anybody that surrounds your property. I'm not saying that's anybody's fault, but it seems like it's kind of bad planning, not knowing what's going to happen in the future, to limit people around you from doing anything because you decided to build a trail with no buffer from the surroundings. That's not really a question, just a comment.

Debra Bohnsack – The property that is directly south of Mr. Yates' has been annexed into the City of Palm Bay; that's 2,100 acres and is not zoned agricultural, it is general use with a future plan of residential and mixed use. So, he himself has a future use of residential according to the County, as well. We're not against housing or a residential community going in, and normal sights and sounds that come with that, but a 17-acre pit mine with trucks coming in and out, scraping on the ground, ripping the materials out, air brakes on the trucks, clanging, that is something that is not consistent with an equestrian community or any residential community.

Henry Minneboo – Thank you. Who would like to be next?

Don Henderson – My name is Don Henderson, 271 Deer Run Road, Palm Bay, Florida. The water issue.....the borrow pits that they spoke about are all to the north and to the east; the water flows in the aquifer to the south, so any drawing of water south of us pulls our water; and 5,000 gallons a day coming out of there will impact our water, it will cause a saltwater intrusion to occur sooner. I am a P.E., so I'm not a layperson to the attorney. I want to speak to the ambiguity, or not clear stuff, in the permit. One of those items is the overburden. There's over 300,000 yards of overburden that he has to get rid of and there's no mention of that or what he's going to do with it. He's not allowed to pile dirt, or material, I believe it's either six or 12 feet in the permit. Don't be misled by the depth; I think it's minus 50; we're at elevation 27, so that's almost 80 feet deep he's going to be going, instead of the 45 or whatever he said it was. You don't think it's minus 50?

Henry Minneboo – No, that's not happening today.

Don Henderson – Okay, I like that part. On the pump operation he states that the pumps are going to run 12 hours a day, but he's only going to work six days a week, but he doesn't say if the pumps are going to be running on the weekend; and if he doesn't allow the pumps to run on the weekends, he's got a flow of water that's coming to fill that pit up and it's going to make one heck of a pumping action on Monday morning. He states that he's going to do 30 trips; and I don't know if that's 30 out and 30 back, or 30 trips a day with his trucks. In 2010/2011, he was going to be up to 250 trucks a day, trips a day, and that's a big difference. I don't know if 30 trucks a day is economically feasible, hauling a truck out of there with all the work involved with it. He states it's a level of service 'B'; the County says that level of service is 'D' on that roadway. The level of service is kind of immaterial. What is really important is the loads coming out of that pit on the road that's already deteriorated and is going to cause more damage. The other issue with that is there is nothing in the Brevard County work program to overlay, or rebuild, to widen, to do anything to Babcock Road in our area. The only thing in the work program is some intersection improvements. I spoke to them this morning in the Planning group, the Space Coast folks, there's nothing in there. He states in his permit that it's a five-year deal; in five years he walks away and we've got a damaged road, and there's nothing in the program to fix it. He has stated he is going to mine this with a backhoe and put it in trucks and truck it off. Well, Florida Statute 316.520 and 316.525 says he is not allowed to put wet material on public roadways. So, the coquina he digs up – there's a lot of water in coquina – is going to have to be stockpiled for some period of time. In my experience with mining, especially on 27 and anything out west, once the material is dug and is stockpiled for several weeks for the water to leak out before it can be taken on public roads, that's against the law and the statutes are there. He indicated he's just going to load his trucks and go. The biggest issue is our water, and with that much water being pumped, everything to the north – I've seen it many times with de-watering for borrow pits – that we pulled....D.O.T. has pulled water half a mile or a mile away from ponds and drained them, and that's what happens here with the water flowing south.

Steve Walbert – My name is Steve Walbert, I live at 129 Deer Run Road, I'm the sixth one in on the left. I couldn't make it to the last meeting, but I did send you all an email. I work for the City of Palm Bay and I'm the water plant operator; I have an 'A' license in water plant operation, and a 'C' license in wastewater operations. A half million gallons a day, at 700 hundred gallons a minute for 12 hours, that's what he's allowed to pump out of there. How do we know that? What's his metering things? We have to report everything, everything is electronic. How does he know when he hits that 500,000 gallon mark? That's the thing I would like to know, too. An acre is 43,500 square feet; and acre-foot of water is about 350,000 gallons; so it would take an acre and a half at a foot deep to do 500,000 gallons. Now we're talking about an aquifer, which might be at most 25% water, so do the other quarter back and you're talking about six acres pumping out a foot of water a day. If you take from the middle of his property to the first house there it's 1,300 feet; if you do the area of a circle, that comes out to 121 acres around his lot there; that's one foot of water every 20 days coming out of the 121-acre circle. That is a 2,600 foot circle, or half a mile, diameter circle; that's 18 feet a year coming out of that one half-mile circle. So, where does that come from? It comes from Deer Run to the north, his retention pond (unclear), but it's going to come from us. It's going to affect my pond; I've got over \$10,000 worth of koi in my

pond; I've got bass over 20 inches; in a half-hour you could catch 20 bluegills over 10 inches. My pond has been aerated for seven years, nonstop, 24/7; I take a lot of pride in that. That is going to drop. They talked about well casings; they do go down further, too, but when you're drawing that much water off the top of that aquifer you're bound to have the bottom saltwater aquifer come up, so the more likely you are to get saltwater intrusion, which we have that problem with some of the wells in Palm Bay. There's even some wells in Palm Bay that we put stipulations on that we can only run so much because peoples' water sprinklers.....the water level goes down on them. So, for the water level to come down.....the thing that bugs me – if I can go another minute – we talked about these things years and years ago.....if you guys had been planning to do this yourselves, and we came back now, and you've had years and years, would you have not had every 'i' dotted and every 't' crossed? And your first day to come and present this, and here we are with no notice two days the last meeting and coming back to explain ourselves.....it's a hard one. Now, he has a new person he just picked up last Saturday, or whatever it was. So, thank you.

Susannah Becker – My name is Susannah Becker, I live at 315 Pinto Lane, Deer Run. I want to draw your attention to Page 17 of the notes from the previous hearing. Section 62-1901(c)(2)(e), impact upon potable water and wastewater levels of service. It says in that Section that Mr. Yates is not going to use any potable water, but all the water in Deer Run is potable water. That is the water we use. A lowering of the water table will also lower the water tables on our property. Our homes depend on wells for their potable water supply. There's no piped water from Palm Bay municipality. Each home has dug its own well, installed pumps, pressure tanks, filter systems, aerator tanks, to disperse sulphur gas; our drinking water, showers, washing machines, septic tanks, drainage fields, rely on the underground water. I drink that water; that is potable water that he will be taking. Deer Run is a community crossed by canals, dotted with drainage ponds, sheltered by uncut vegetation. This combination is designated wetlands; Brevard County does not permit clearing of wetlands in order to build houses; the delicate balance of vegetation, gulleys, ditches, canals, underground water levels, and surface levels are essentials. Our residents respect and abide by the codes set by Brevard County. Space Coast Property Management helps residents observe the covenants and restrictions of Deer Run. Polluted well water, or no well water, is a daunting prospect. Will residents be able to stay in their houses, or sell their houses? Will they continue to pay their mortgages? Space Coast Property Management dues? Annual County taxes? Homeowners insurance? Flood insurance? Will they continue to maintain their properties and repair their roofs? The other issue with the water is that there are no fire hydrants in Deer Run. Well water and hoses are the first responders in case of fire, and not in frequent occurrence throughout the dry season in Brevard. Fire engines are approximately 15 minutes away. The trucks might need to suction water from our static water supply, that is ponds and canals that already drop their levels in the dry season. The other section that was mentioned in your notes from before, the impact upon property values of abutting residential properties. This community.....

Henry Minneboo – I'll give you a couple more seconds.

Susannah Becker - .....is stable hard working people employed in the cities of Brevard and beyond. Does Brevard County want to jeopardize this reliable tax base? Do the local public and private schools want to lose their students? There's no insurance or compensation for loss of well water, loss of surface water, loss of tranquility, loss of wildlife, and loss of equity in our houses. Thank you.

Henry Minneboo –Thank you. I think there's water to that school now, city water.

Barrow Patterson – I live at 238 Deer Run Road. I was here in the 2010 meetings and I was one of the ones who contacted (unclear) in regards to Mr. Yates and what he was doing over there, and they told me he was using that property that he had for.....where he was filtering feces that was not completely taken care of. I have all the paper work that you have gone through, and after reading it, what your last paperwork says with Yates, it says, here, I have it here, just one second. "The subject property is zoned AU and AGR and is developed for single-family use, five acres, alteration, mining, and agricultural use categories". It says, "Based

on the foregoing, the Board of County Commissioners hereby finds the proposed conditional use permit is incompatible with the residential subdivision that is locally based within. Therefore, the applicant has failed to meet the criterion of Section 62-115, the Code and Ordinances of Brevard County, Florida. Accordingly, the conditional use permit is hereby denied.” My letter to you is this: As a concerned resident of the Deer Run community, my husband and I would like to request that Planning and Zoning board members deny the request of Mr. Yates to extend the borrow pit to almost 4 times its present size. He has previously been denied on the basis of the impact to the Deer Run community that has developed and brought more families with school aged children in the last five years. Babcock Road is already in disrepair and the proposed traffic would substantially increase the wear and tear of the road. It’s already looking like a woman with varicose veins, it’s all bumped up and down and it needs fixing. It is not only a safety concern, but also a considerable expense to the county in terms of traffic along Babcock Road. Babcock Road is the only way for those of us in Deer Run to get to other main roads in the area. As previously noted in the last summary the draining of his pond affects the water table of the Deer Run residents since we rely solely on wells. The board will see that there is no change in the impact to our community. He has specified the size of the pit as well as no longer using explosives to get to the coquina. Please deny the request with pre-justice, if possible. This continued effort on the part of Mr. Yates is costing the taxpayer in terms of resources and time in order to promote his own self interests. Basically, we are all community here; we are the ones who keep Brevard County, pay the taxes, and live here. I don’t see why Mr. Yates with the special interests and people who are going to help him do those things to build another city. We are going to sit down and play dead with this? I might not know some of the words to use, but I’m asking you to please deny. Thank you.

Henry Minneboo – Jennifer, use that varicose veins if you can.

Tammy Rutkowski – Fabulous analogy. Tammy Rutkowski, 270 Deer Run Road. I just wanted you to know that I was involved with that agreement with St. Johns, and they’re consumptive use permit and the agreement that we have with Mr. Yates and Deer Run is solely for that initial consumptive use permit when he was de-watering that initial five acres. When we entered into that agreement it states on there that it is solely for that consumptive use permit and trying to mitigate the damages we were already suffering because he already had the de-watering permit. It is not for this 17 acres, or whatever acre that he’s trying to expand to now. He’s tried to expand so many times, I don’t even know how big he’s trying to go now. We’ve been here so many times. I just want you to be aware that what she alluded to is solely – and it’s on the written agreement – for that consumptive use permit from St. Johns. I’d also like to play devil’s advocate just a little bit because we are being characterized as this portion of the county that is nothing but borrow pits. There is one, one active borrow pit down there, and it is almost double the distance from Mr. Yates’ proposed site, and they are not de-watering actively at the time, and that is Pence. Nobody else is active. So, my point is that in the criteria for review you have to talk about cumulative effects, and if we are this massive nothing-but-borrow-pits site, which we’re not, then you have a cumulative effect there. At what point do we say, “I think we have enough borrow pits now.” That’s my point.

Henry Minneboo – Any questions?

Robert LaMarr – I’ve got a question for staff. So, it is a fact that Deer Run does not have any fire hydrants and no city water going to them, or county water going to that neighborhood?

Henry Minneboo – I think it only goes to the school.

Unidentified speaker – It goes down to Waterstone, to the school, the Waterstone development, and that’s the last one going south at all.

Robert LaMarr – Okay, so there’s no fire hydrants in the subdivision?

Unidentified speaker – No, sir. What they bring is they bring the tankers in full, or they draw from a pond.

Larry Vavroch – 321 Appaloosa Street, Deer Run. Prior moving into Deer Run I came down to Florida back in 2004. We have horses.....I actually rented property at 9232 Flannigans Place off of Willowbrook. If you look at the first chart it's the famous Figure 6. If you look at the little star we're about at the 'L' of Brevard Materials, so that's where we were renting property for those eight years or so. I was about a half mile away from the pit labeled Brevard Land Materials, and just under a mile from the one called Rolling Meadows that I knew as Blackhawk. I was a mile and a tenth from the Rolling Meadows entrance, and I was about five-eighths of a mile from the abandoned Rolling Meadows scale house. They actually had a scale house where if the truck was overloaded they had a little claw that would pick it up and throw the extra out. Those pits operated intermittently at best, and by intermittently I mean once or twice a year. Rolling Meadows probably had more trucks hauling dirt (TAPE CHANGE) but when they operate it, they operate for a week or two at a time, those two pits; they would massively de-water; pumps would come on and diesel engines would run 24/7; the equipment would rev and you'd have the equipment bucket loaders revving, you'd hear the buckets clanging as they'd empty the buckets; and that operated 16 hours a day in the summer when they had light that long. The trucks are kind of like Daytona; they get paid by the trip; over turn 3 they don't brake until the last second, so you can make that corner a little bit faster; you can hear those engine brakes a mile and a half away, and it's loud; you're not living near I-95; you're living in a quiet neighborhood; we don't even have light pollution except for Palm Bay, and Melbourne to the north of us. The diesel engines at full throttle are noisy from a mile and a mile and a half away; we not only heard them in our yards, we heard them in our house; we left the TV on when we went to bed so we could mask-out the sound of the diesel engines. Sound is in 3-D, it extends everywhere, so when you get half as close it is four times as loud; and I can't imagine 300 feet. In addition, I'd like you to look at sheet 2; that's the picture from Google at Babcock. If I wanted to buy a house and build it within 800 feet of that I would definitely think about what the aesthetic value of that is; the next picture is in the same time frame as the Yates borrow pit. I just want to leave you with one last thought. Would you pay the same amount for a house for a view of that and the equipment running as you would if you didn't have that in your back yard? Thank you.

Henry Minneboo - Yes, sir?

Keith McGregor - Nice meeting you after about 14 years; you were the Director of Road and Bridge, I believe?

Henry Minneboo - I don't tell people that.

Keith McGregor - My name is Keith McGregor and I live at 368 Deer Run Road, Palm Bay, Florida. As was mentioned about mining, Blackhawk Quarry, Rolling Meadows.....when we were having a severe problem with flooding I was very instrumental in getting the St. Johns River Water Management, with the County, to put a pump system into our subdivision, which was very, very helpful. Getting back to Mr. Yates, I think the underlying issue is really the new development with Emerald City of Palm Bay. If we look at Emerald City's proposal they need this coquina, and the best way for them to get it is to get to you, Planning and Zoning, so we can get cheaper movement of material for road base. That's the underlying factor. Contamination of well water; the gentleman preceding me indicated about diesel spilling; the fuel has to be maintained, it has to be controlled; the diesel is just obnoxious, period; and we live in a community that we think we bought, we invested, and we should maintain. We're asking for your support as Planning and Zoning for this county, to take into consideration would you live in that environment? I don't think so. So, ask yourself, as a planning and zoning commissioner sitting here, would you approve of such a facility that abuts your property? Thank you.

Linda Huddleston - My name is Linda Huddleston, I live 231 Deer Run Road, in the Deer Run subdivision. I am a licensed realtor with Keller Williams Realty, and have been selling real estate in Brevard County since 2003. My parents have lived in Brevard County since 1963 when my dad started working for NASA; my mom,

who will turn 95 after Thanksgiving, moved in with my husband Dave and I last Christmas after suffering a stroke; and 90% of her day is spent sitting on our back porch which overlooks our pasture and Mr. Yates's property just south of the canal behind our pasture. As a very active real estate agent I walk the different neighborhoods of Brevard County knocking on doors, meeting lots of people, and always asking the people I meet what brought them to Brevard County; and the number one reason is always a laid-back lifestyle here. While selling homes for 15 years I always look at a home and neighborhood questioning if I would like to here. The first time I rode into Deer Run I knew I need not look any further. I didn't care so much about the home that I purchased, but I did about the community of Deer Run. I would like to draw your attention to Brevard County's Ordinance Section 62-1901; the applicant, Mr. Yates, is applying for a permit to conduct mining activities; this ordinance specifically states that the applicant must comply by not impacting adjacent and nearby properties with noise, odor, particles, smoke, fumes, and other emissions. So, how do mining operations affect neighboring communities? I consulted the United Nations Office for project services and they have a publication called *Environmental Issues*. Section 7.41 in that publication states that quarrying and excavation can destroy the economic and aesthetic value of public and private properties, including agriculture and grazing land. It goes on to include the negative impacts of borrowing activities; some of these are increased traffic, movements and excavation, levels of vibration and noise can increase, health hazards can increase due to stagnant waterbodies and can cause drowning of children and act as a breeding sites for malarial mosquito larvae, erosion and loss of habitats due to vegetation clearing and excavation, traffic accidents may occur due to increased traffic movement in the project area, dust from traffic movements and excavation, as well as exhaust fumes from vehicles and machinery can lead to deterioration of air quality. One of the mitigation measures recommended by the United Nations Office for Project Services is to reduce the effects of noise and vibration due to excavation of borrow pits and quarries. These should be sited as far as possible from human settlement. I sincerely ask the Planning and Zoning board to protect this beautiful rural area near the intersection of Babcock and Micco Road by not granting Mr. Yates a permit to conduct mining operations on his property. We have more elderly residents in Deer Run besides my mom, as well as children and families, that will be adversely affected, as well as the value of their home. Thank you.

Tom Fallon - Good afternoon. My name is Tom Fallon, I live at 3 Deer Court, which is right off of Deer Run towards the Yates property; I look at his barn and his property every day. I'm as close as anyone, I suppose. I am the Vice President on the board the Deer Run community. Nobody has mentioned the St. Sebastian River Preserve, the State park that is directly across from Mr. Yates and us. I have three ponds on my two lots; I have two lots and approximately six acres, and I call it the Three Pond Ranch; as my neighbor Steve was up here recently, he has a wonderful pond, he takes care of it, and it's beautiful; I only hope to get half of what he's done with his. I am concerned about the saltwater intrusion; its freshwater aquifers, the movement of saline water into a freshwater aquifer, which can lead to contamination of my drinking water sources and other consequences. The best answer is over-pumping the aquifer; the effect is permanent contamination of the aquifer by the saltwater. I'm just a layman, I'm not a professional, I'm not quoting you, the verses of the ordinances, but as a layman I don't believe in coincidences. We do have some professionals to speak for us here, and like you, we are all volunteers. I would just like to have you consider and yield to the law of the people here in this community; it's gorgeous and I've selected it much like my predecessors who just spoke and are wonderful people and good neighbors, and we abide by all the rules of the County and City. The contamination issue, which is the most serious for all of us because we depend on that water. That's our only source. Thank you.

Dave Huddleston - My name is Dave Huddleston, Linda is my beautiful wife. We live at 231 Deer Run Road. We have five acres and my life is anything but laid back, so that keeps me very busy. To continue on, I just want to talk about saltwater intrusion. Yes, my mother-in-law is 95 years old and sits on the back porch. I saw turkeys in my backyard this weekend; I saw a pointed buck in my yard at night; and I'd like to keep it that way. One of the things that I want to speak about is we bought our home from a couple, actually from an elderly woman from Reddick whose husband passed and she could no longer take care of the property. I believe I've had to sink a new well as a result of saltwater intrusion that may have been caused by Mr. Yates' previous de-

watering. They had a well that was sank when they bought the house in 1998; obviously, it had to be a great well to give them good water; but when we went to look at the house.....you inspect a house and look at everything.....one thing I noticed was all the fixtures under the sinks and toilets were all badly corroded. We had to replace every one of them. We had to get a new well. The last time I was here I mentioned the fact that I had my water tested, both with the old well and after getting the new well. One of the things I measured.....I sent out water to the Environmental Test and Research Laboratory in Massachusetts because I wanted a good investigation of my water. They came back with a standard analysis of my water. I had, from that old well that was originally sank with the house, at 941.5 milligrams of chloride per liter. The EPA standard is 250 max. They had a perfectly good well, but over time something happened to it. I'm a layman and I don't know a lot of about that, but I am an engineer at Grumman and I'm building the next long-range bomb. With that, I had to get a new well, had to invest that money, which totaled about \$7,100 in getting the well and everything that goes with it. Right now, my water is at 50.9 milligrams of chloride per liter, so I'm well within the limit and the water tastes great, but I really do believe that anything that Mr. Yates has done. I don't know how this has been talked about but not really addressed. When you take fresh water off of the top of a layer of saltwater - and that's what's going to be causing the saltwater intrusion - the saltwater is going to rise, so it's getting into our wells. If Mr. Yates pumps fresh water off of his property and ours we're going to have more saltwater intrusion.

Henry Minneboo - Summarize if you can.

Dave Huddleston - I'm asking you to decline Mr. Yates' request and help us maintain the quality of our water, because I believe pumping that much water out of our shallow well area is going to bring in more saltwater.

Bruce Moia - How many units are there in Deer Run?

Henry Minneboo - How many homes?

Dave Huddleston - About 450. So, we'd like to grow.

Brian Curry - My name is Brian Curry, I reside at 184 Deer Run Road. I'm also the President of the Deer Run Community association. I do not have any handouts, although I would like to reference a handout that was previously provided to this board. Thank you for your time and patience to listen to us. This is a monumental issue for the residents of Deer Run, and your time today and patience is very much appreciated. I would like to jump to three points I have today. The first point is.....and with all due respect to Mr. Agee's testimony, the first time I was contacted by the Yates party was Saturday, two calendar days ago, at approximately 1:30 in the afternoon. I received a follow-up call on Sunday, yesterday, at about 3:30 p.m. in the afternoon. I was contacted twice; this past weekend I was away from my home; the voice messages are a testament to Mr. Agee's phone calls and the dates thereof, so I just wanted to put that down for the record. The primary reason why this board tabled the request was for the Yates party to contact Deer Run and to settle it amicably. The first and the only time we were contacted was this past weekend; the first time on Saturday, the second time on Sunday; and the request simply said, 'please contact me to discuss this situation'. I never received, to the best of my knowledge, a phone call in the month of October. Secondly, I do want to talk specifically about school buses. Ma'am, is it Ms. Goggin? Ms. Goggin, as you're the representative for the Brevard School system, I am a product of the Brevard County School system, K through 12, and I've spent over 25 years as a resident of Brevard County, fourth generation Floridian, and I love Brevard County and I think the school system is doing a fantastic job. Notwithstanding, my wife is a teacher in the school system, and both of our kids go to Sunrise. With that said, with regards to the school buses, there is a school bus that does drive past Mr. Yates' property, from Sunrise down to the C54 canal, the ranger's station just off the road there, and they drop off a youngster, and then they drive back past the Yates property to go into Deer Run to drop off the kids who live in Deer Run, so we do have a good number of kids on the school bus - I don't know what that number is, 10 or 12, but for whatever reason, the bus drives past the property and comes back up to drop off the kids in the afternoon, and then they do the same in the morning. I was also advised that trucks are paid by the load;

truck drivers are not paid by the hour, they are paid by the load. So, if I was a truck driver - and this is theoretical, admittedly so - if I was a truck driver I would try to get as many loads in as I could. You have a school bus full of kids driving directly past the driveway of the Yates property - the construction driveway of the Yates property - twice per day, and that is the one I know of; I don't know about middle schools or high schools, but for Sunrise, my son, when I have a day off, he rides that bus home; and if this permit passes - and these dump trucks are hauling full loads up and down Babcock Street all day long, six days a week, and a school bus is also occupying that same road, driving right past each other, right past the Yates property to and from, I don't know if I will allow my own son to ride home on a school bus. As I mentioned before, my wife is also a teacher, so we have the luxury of him riding home with her, as well as our four-year old daughter. So, I just want to point that out, Ms. Goggin, because I know at the last board meeting we had about a month ago, you mentioned the fact that we do have the school system, we have Sunrise. We talked a little bit about it, but I don't think we talked about it to the extent that it warrants, and that extent is not only the Yates property right next to Deer Run, but it is a couple of miles away from Sunrise and we do have an active bus route right next to the Yates property on Babcock. The last thing I would like to mention is notice. Mr. Crumpler provided us earlier today the notice by Mr. Yates of the conditional use permit request; this notice is a little larger than the piece of paper I'm holding in my hand; for the longest time I was never aware of this notice; it is tacked onto a telephone post, the closest telephone post to the construction driveway and it is as such that if you don't know it was there you would think it was some kind of lost dog advertisement. So, I just want to point that out that with regards to the notice we really had to stop and take a good look to discover the notice, so I just wanted to make that point. In the meeting we had last month we stated a notice was not present, but there was a notice present, it was just off the road, to the side, tacked to a telephone pole - and for all intents and purposes, folded in half. That is all I have.

Henry Minneboo - Thank you.

Loretta Goggin - Henry, before he speaks I'd like to comment on what you said. Unfortunately, I can't remark on the school bus transportation issue because that would be unfair of me to address that issue. If the situation were that I would think that there were a.....that that was not an appropriate place for a bus stop, then I would have to address it, but under this condition I really can't say anything because it's a public roadway, so you can kind of understand my position on that. If you see the trucks driving over the speed limit then maybe that's a thing that you would want to take up with law enforcement. In your community, if the bus stop is at a place where it shouldn't be, then it's a different story.

Noah Kugler - Greetings, board members, my name is Noah Kugler, and I'm a professional geologist in the State of Florida. I have 10 years' experience with a major consulting firm in Southwest Florida, three and a half years' experience as the water use supervisor and main groundwater model reviewer for the South Florida Water Management District in Fort Myers. For the last three and a half years I have run my own hydrogeological consulting firm in Fort Myers. I am located at 1905 SW 13th Lane. I've reviewed the agenda materials, permit applications, and consent order from St. Johns River Water Management District, and other technical materials. As a groundwater modeler I can't envision how the St. Johns River Water Management District would take a groundwater model of a mine pit, de-water to 30 feet below land surface and issue a permit saying there's no potential for harm. I can't imagine that, I really can't. So, about 600 feet from the Deer Run development, with only farm field in between the residences, this would be the closest active mine to any residences regardless of the other eight mines in the area, this is the closest at 600 feet. Mr. Agee has stated that it would not be possible for mining de-watering activities to affect nearby lakes and wells, although a number of Deer Run residents have spoken contrary to that. It has become my professional opinion that I disagree with Mr. Agee, and I will get to that in a second. The target mining material of coquina is part of a group known as Anastasia formation in the area; this is composed of intermittent sands and clay with crumbly to relatively hard coquina limestone and other lime rock, not just the coquina, but lime rock; the coquina is typically made of whole fragmented shell and matrix of sand cemented - variably cemented, hard by calcite. The top of the coquina, based on review of soil borings that were done in 2010 by Universal Engineering, the

top of the coquina on the site varies from 10 feet deep to 25 feet deep; it is very irregular, it's not just one layer of coquina. So, the top of that stuff varies from 10 to 25 feet deep, and the coquina is in the surficial aquifer system. These folks had their wells in a deeper part of the same surficial aquifer system. When you drop the water in the mine pit it is very likely that wells tapped into the same surficial aquifer system are going to see draw down effects. When saltwater contamination occurs to an aquifer it is very hard, if not impossible, in our lifetimes to get that water back to fresh. So, because we are in the same aquifer and most of the freshwater wells are tapped from 60 to 80 feet deep certainly shallower than 100 feet deep, they are really in the same hydraulic zone that the mining is occurring in. Regarding sink holes, it has been stated that sink holes can't happen in this area. I realize I've run out of time. Sink holes and subsidence is a matter of semantics. The area does show circular features all over, and these circular features are basically known as karst topography, so it's not sink holes that waits to collapse, it's a sink hole that has collapsed immediately with subsidence and the area is littered with it. It doesn't have to be sink holes, but is it possible for subsidence? Yes, subsidence is going to happen because a back yard can go like this, from being flat.

Henry Minneboo - I was hoping you weren't going to tell us we were going to start experiencing sink holes.

Noah Kugler - This is not sink hole region, no.

Henry Minneboo - We don't have them in Brevard.

Noah Kugler - The last point I want to make is that the potential for blasting, or pounding the stuff.....in review of the soil boring, most of the coquina is.....you can break it up. Some of it, though, showing up on the soil boring parts is very hard. And may even be not only coquina shell, but actually hard lime rock. It would be very hard to get around that without either pounding it or blasting it. Just to wrap up, I do believe that hydraulically the proposed de-watering, specifically the mine pit, is likely to affect surface bodies and wells - not wells tapped into the confined aquifer deeper, but any well tapped into the unconfined aquifer shallow, which that's where the good water is, has potential for being impacted. With that, I'd be happy to answer any questions.

Henry Minneboo - Thank you. Is there any questions for the gentleman? Let us.....you're going to summarize it for us? Can you give us about five minutes? Let us take a five minute break, if everybody doesn't mind, and let's be back at 5:00.

The meeting recessed at 4:53 p.m. and resumed at 5:00 p.m. Richard Charbonneau's presence was noted.

Henry Minneboo - You're going to summarize what everybody has.....

Ralf Brookes - I don't think anyone else is going to speak after me. I have different things to say, it's not a summary.

Henry Minneboo - Great, let me just get my board members here. Are you going to be okay with three or four minutes?

Ralf Brookes - Probably.

Henry Minneboo - Okay, go ahead and proceed.

Ralf Brookes - My name is Ralf Brookes, Attorney, and I'm board certified in city, county, and local government law. I was assistant county attorney for Sarasota County, and I was the land use litigation attorney for Monroe County, which is the Florida Keys. I've been City Attorney of Bradenton Beach, and the City of St. Pete Beach, and currently the small town of Yankeetown, Florida, in Levy County, on the

Withlacoochee River. I'm here today on behalf of the Deer Run Community Association, Inc., Theresa Torsiello, Hugh Crumpler, James Caton, Barbara Reese, Crystal DeJesus, Kim DeYoung, Linda Riley, Chuck Riley, Kristen Black, Jim and Doug Marlier, and Tom Jensen. With the exception of Hugh Crumpler, none of those folks spoke today, and I'm speaking on their behalf as their attorney. I would like to not that there's a new board member, Richard Charbonneau, who just walked in to the hearing and was not here for the presentations of anyone but myself. So, I don't have any problem with him hearing the next item on the agenda, but would ask that he refrain from voting on this item since he hasn't heard all the information. The request that has been filed is obscure. The applicant hasn't really prepared what I call a good application. Believe me, I've reviewed many applications, good, mediocre, bad.....and this is a poor one. I've seen better applications for a fence variance for two feet behind a house. This is for a serious thing, this is for a mine that will last many, many years. The applicant does not address the questions, the sentences are incomplete sentences, they don't make sense, a certain question is asked and the applicant writes something different. It's embarrassing to see an application like this without a report attached to it, without a narrative description of what it is that they're going to do and how they're going to do it. It's wholly inadequate. It's impossible for staff to make a credible evaluation of this application and its potential impacts based on the lack of material information that was submitted by the applicant. The staff report will tell you that the burden is on the applicant. It's not my job to design a project for the applicant, it's not County staff's job to design a mining application for an applicant. The serious problem with the lack of wetlands delineation, there is no ERP permit from the water management district. An Environmental Resource Permit delineates wetlands, they have what's called a consumptive use permit, which is about drawing water out of the ground. They are under a consent order with St. Johns about previous wetlands violations on the property. In your staff report - I believe page 18 of the package you've been given - notes that there are hydric wetland soils and that there are wetlands located on the property. That's very important because I was here a year or two ago on behalf of the Sierra Club, working with Brevard County about your wetlands policies and your comp plan, and we reached a settlement on that in which the County agreed to enforce their wetland policies. It's impossible to tell whether this application complies with the wetland policies because it's not complete and it's insufficient, and it doesn't have the wetland delineated. Throughout the staff report you'll see the staff say, 'the applicant states, the applicant states', and it also says, 'this has not been verified by staff'. Typically, the staff will take the applicant's certification from a professional engineer and they rely on that kind of information, but when addressing these conditional use criteria and the sentences that are in the applicant's report are inadequate or incorrect, or maybe wholly unbelievable, it's hard to take those as credible. For example, the trips, the applicant states he will have 20 or 30, yet in the staff report of 2006 there was 237 trips. On the first page there is a table that says there will be 914 trips and 128 trips, so I assume one is daily and one is peak hour. That's contradicted by.....staff contradicts what the applicant is saying. There is no condition that limits them to 20 or 30 trips. In fact, they will probably have many more. Citizens' testimony is allowed a competent substantial evidence if it is fact-based observations, and that can include aerials, maps, and observations like you've heard today and like you heard last time. The applicant failed to show the difference between this application and what was done in 2010. Staff really hasn't addressed that too much in the report, either, knowing this was turned down by the Board of County Commissioners in 2010, and it had a larger buffer then of 1,138 feet, or 1,188 feet, if you read the transcripts, and that's less than.....the buffer they're providing now is less than before. So, if I was a lawyer and a client came to me and said, 'I got turned down before', I'd say, 'why don't you increase the buffer?' In this case, they've decreased the buffer. It doesn't make sense. You should have bigger buffers if you lost before. Very little has changed about the application, and in 2010 there was no blasting; there's no blasting now, that hasn't changed. Dawn to dusk and six out of seven days a week, dawn to dusk is a really difficult and severe burden to the neighbors to do. I was up this morning half an hour before sunrise to get here, and that was 5:30 in the morning, and 6:00 in the morning is the sunrise now. In the summertime, the sunsets can be at 9:00 p.m. Babcock Road.....it is my understanding that it has problems, it is not adequately addressed in the staff report or by the applicant. The County engineer has now opined on any improvements that really need to be made to bring Babcock Road back up to speed and whether or not it can handle these additional trucks. Just a few more minutes. The staff report doesn't address - it should be addressed now, we should not be kicking the can further down the road. If there are

wetlands here we need to know about them now when we're designing this conditional use, so we can say, in planning, what part of this site can be used for mining and what part should not be used. The mines around the area are no longer in operation except for one sand mine that operates intermittently and has no de-watering permit. This mine would have a de-watering permit and it would operate six days a week, dawn to dusk, for the next 20 to 30 years. It's important to note that although this property is zoned agriculture, it has a future land use designation of residential. That's very important when you come to your policies about wetlands. Remember, this property is zoned ag even though it has a future land use of residential. So, it's not a bona fide agricultural activity in an agricultural land use designation. It's a mine in a future land use designation of residential.

Henry Minneboo - Summarize it.

Ralf Brookes - If you get to your code on wetlands there, it says in one of the sections - excuse me, I'll get that number for you - that you can only have wetland impacts for bona fide agriculture on land that is designated as agriculture on the future land use map. I submit to you this isn't bona fide agriculture and it's not in agriculture land use designation; it's in a residential land use designation. This is prime residential area that can be developed in the future for similar equestrian communities, and in fact, that would give the County a better tax base than to have a sand mine hole in the ground. I have more, and I can save that for the Board of County Commissioners. I urge you to go back and read the findings of fact that were made by the Board of County Commission and by this planning commission for an application that was substantially the same as this one and had even bigger buffers. This is not an improvement; this is worse than what we had in 2010. Thank you.

Henry Minneboo - Thank you. Ms. Rezanka, do you want to bring this to a conclusion?

Kim Rezanka - Thank you, Chairman Minneboo. Again, I'm Kim Rezanka, representing Roy Wayne Yates. First, this is shell in sand; it's not rock. If Mr. Yates runs into a rock, that's his problem. He's not going to be able to make noise, he's not going to be able to use a crusher, and he's not going to be blasting. Second, regarding Ms. Bohnsack's map, which I will give back, this is not a plat; that looks like what they must have did to encourage people to move there. This is a plat that was recorded with Brevard County and I will submit it, Plat Book 27, Page 11; this area that they call an equestrian trail is drainage and access, so it's not a horse trail, and it's not on record as a horse trail. I'll submit that for the record. Ms. Rutkowski talks about the settlement agreement; I don't read in this settlement agreement anywhere that it's specific to what happened back in 2006; it's the same consumptive use permit, and that consumptive use permit is still in effect, because that five acres has not been totally de-mined, so it's still in effect. My legal opinion is that it's still in effect; in Mr. Yates' opinion it's still in effect, so he's going to live by these conditions; if you want to put those conditions in a conditional use, that's fine with Mr. Yates because he believes them to be what we have to comply with. There is an environmental resource permit; it was issued in March 2006; and again, that's really beyond your jurisdiction, but Mr. Brookes brought it up, and it's ERP-009-100648-1. Regarding the buffers, our buffers are substantially higher than the code requires, and the change from 2010 to now is 30 acres of land alteration to 17 acres of land alteration, and it was in an elongated position, so this now changed based upon where the rock is. In the 2010 findings of fact - again, that was based on what was presented then 2010, not what's presented now. What you've heard is many concerns, and I agree they're valid concerns about saltwater intrusion. We can't do it; the mine will not be allowed to do it; the de-watering will not be allowed to do it; there are standards that must be met by St. Johns River Water Management, which is substantially different than the standards of the South Florida Water Management District. Mr. Yates will abide by all the codes of Brevard County, all the rules of St. Johns, the statutes of the State of Florida, the settlement agreement entered into under the DOA proceeding with the Deer Run Community Association, Inc., and any other conditions. This is not going to be a heavy mine with 100 trucks; it's 10 to 15 trucks per day; that can be a condition if necessary, but that's what the applicant has abided by and has said that's what they will abide by. We would ask that you approve this conditional use; we have met the standards; we have to abide by the noise standards, the fumes,

the fencing, the haul routes, and everything that's in your code as specified in your code. If additional conditions are necessary we can do that. Thank you.

Henry Minneboo - Thank you. There's going to be some questions here, I'm sure.

Bruce Moia - You just mentioned about the trucks. We talked about trips and we talked about trucks. So, one truck coming in and one truck coming out is two trips.

Kim Rezanka - Two trips, right. That's 10 to 15 trucks.

Bruce Moia - So, when we talk about 30 trips, are we talking about 30 trucks?

Kim Rezanka - 15 loads.

Bruce Moia - Okay, because we heard a lot of numbers thrown at us. So, we're talking 15 trucks? I heard a lot of murmuring out there when you said 15 trucks.

Kim Rezanka - That's what's in the application. The applicant is bound by the application.

Bruce Moia - I want everyone to know that 30 trips means 15 trucks.

Kim Rezanka - Correct.

Henry Minneboo - Is that what was on the original permit, 30 trucks?

Kim Rezanka - On this permit. I don't know anything about the 2010 permit, and I apologize.

Bruce Moia - But you're proposing 30 trips per day?

Kim Rezanka - Yes, for trucks. Now, there's going to be five employees, so as you all know.....

Bruce Moia - 30 truck trips.

Kim Rezanka - Yes, 30 truck trips.

Bruce Moia - Okay, then there will be additional trips for employees and things like that.

Kim Rezanka - What happens is, the way your application is done, it's the potential trips, and even the potential trips of 900 - or whatever the staff has determined - still meets level of service for Babcock.

Henry Minneboo - What are you all proposing for timeframes? I mean, when is it going to be open and when is it going to be closed? There is some concern and I can see it actually could run 16 hours a day.

Kim Rezanka - No, the pumps can only run 12 hours a day, right?

Henry Minneboo - But how much will the dumping operation.....physically, how long?

Kim Rezanka - 12 hours a day.

Henry Minneboo - Their gate will be open for 12 hours a day?

Kim Rezanka - Correct. I think it's a half hour before sunrise and a half hour after sunset, so the max could be 13 hours, but the mining could only be done during daylight hours, by your code.

Bruce Moia - And how long is the duration of the mine? How long will it take to dig start to finish?

Kim Rezanka - That I don't know. I know it's a 20-year permit, the consumptive use permit for the de-watering. Mr. Agee, do you know?

Henry Minneboo - But that's 20 years from its original start, isn't it?

Kim Rezanka - 2011, from the renewal.

David Agee - The permit is good until 2031, I think. As soon as it can be worked and done is the plan, so realistically you might be looking at three to four years.

Henry Minneboo - What happens if we put a timeframe on you?

David Agee - If it's a reasonable one and makes sense with conventional means methods.

Henry Minneboo - Cindy, does our ordinance say 12 hours?

Cindy Fox - I think that was in one of the extra conditions that was applied.

Kim Rezanka - The land alteration code requires that.

Cindy Fox - Okay, 12 hours per day.

Henry Minneboo - A maximum 12?

Kim Rezanka - Yes.

Cindy Fox - It's dusk to dawn.

Bruce Moia - But we could change that if we wanted to?

Cindy Fox - You could reduce it.

Richard Charbonneau - I have a question. You weren't here the last time, Kim, but one of the questions I had - and I'm still confused about it - are we digging sand or are we mining coquina? The permit goes for 31 feet, so after 13 feet we're no longer digging sand, we're mining coquina.

Kim Rezanka - The scientist said he looked at the Universal borings, which Mr. Agee was part of in 2010, and he said from 10 to 25 feet was sand. There's also clay in there and there's also rock. My point was we're doing shell and quartz sand; if we run into rock that's our problem, because we can't mine it. (TAPE CHANGE) We're not blasting, we're not crushing; we're just getting the sand and the shell, no rock.

Richard Charbonneau - What's coquina?

Kim Rezanka - Coquina is sand and shell and acid and all kinds of stuff.

Richard Charbonneau - Lots of times coquina can't be dug by conventional means, and you need to use some sort of backhoe with a ram on the back of it to break it up. You can't just shovel it out.

David Agee - Yes, that's true, and coquina can be pretty solid in some places.

Cindy Fox - You have to be on the mic. If he wants to submit that it needs to be part of the record.

Ralf Brookes - The soil borings were in the packet that I have, but I don't think they're in the packet you have. They show exactly where the coquina is located in all these soil borings.

Kim Rezanka - Unless there's a map that goes with those soil borings, I object to it being entered, because I don't know and this is the first time I've heard of it. Is that the map? It's not legible to me. For the record I object.

Clyde Thodey - We heard today a lot.....it's my turn.

David Agee - I was just going to comment about that.

Clyde Thodey - We heard a lot today about water, a lot about water. I'd say about 90% of this was about water today. My question is, how is Mr. Yates going to regulate the water that he's going to be taking out? You haven't said anything about how he's going to regulate that.

David Agee - We'll be using a pump to pump it, with a flow meter to control how much we can draw out, and it's going to be discharged into adjacent trenches and swales as a recharge area so the water doesn't just get pumped offsite, it gets put into settling basins so any suspended solids can drop out before it gets discharged into some of the local canals. Specifically, the canal to the north.

Clyde Thodey - How much water? How much are you going to be taking out?

David Agee - Well, the consumptive use says up to half a million a day.

Henry Minneboo - 500,000 gallons?

David Agee - Yes.

Bruce Moia - How much of that is actually going to be discharged, and how much is going to be recharged?

Henry Minneboo - He's not going to be able to discharge that. I don't think he's going to be.....as low as that place is out there.....

Bruce Moia - That's mostly going to be discharged offsite.

Henry Minneboo - As much as you're going to have to retain, I guarantee you they're going to have to retain 350,000 gallons.

David Agee - That's going to be discharged into the canals, which is going to be recharged into the surficial aquifer.

Henry Minneboo - Is there a perimeter ditch on Mr. Yates' property?

David Agee - He's got one that's created.....I mean, there's the canal north of his property, between Deer Run and his property.

Henry Minneboo - There is a canal up there?

David Agee - Yes, and it's about.....

Henry Minneboo - He's not discharging in there at all?

David Agee - Not directly, but part of the intent is to settle it onsite.....

Henry Minneboo - So, technically, you'll be recharging the area north of this pond.

David Agee - Correct.

Henry Minneboo - See, nobody said that.

Clyde Thodey - That's what I'm trying to get at.

Henry Minneboo - That's pretty important information. I mean, there's a couple of us who think we know a little bit about water here, just a couple. I'm being sarcastic.

Bruce Moia - The reason I was asking about recharge is because based on Deer Run now, they're taking about 50,000 a day out of the aquifer that never gets put back, it just gets used. And you're proposing to do about 10 times that, so I was curious how much is going to go back into the ground as opposed to what's going to be discharged, to see if it really exceeds what's really being taken out of the ground now. If there's another 323 lots available, now you're talking about 160,000 gallons a day coming out of the aquifer. So, you're talking about saltwater intrusion and that's 365 days a year for a long time. Saltwater intrusion could be an issue regardless of this pit. That's why I was curious about how much is actually being recharged as opposed to being discharged.

David Agee - Probably 350,000 or so being discharged, but again, it's going to be in a recharge area. I don't really have the number for you at this point.

Henry Minneboo - Kim, are you all going to work on Saturdays and Sundays? I mean, what's happening here?

Kim Rezanka - Can't work on Saturdays.....Sundays.. ... Sundays are out, Saturdays are not out.

Clyde Thodey - What really gets me is the last time you all were here, these people were here, and I brought it up and so did other board members, to have a meeting with these people. What I heard here today is it came Saturday, two days, and you wanted people to get together. I just don't understand how you all work, because basically, we tried to tell you back then you need to get with these people out here because they're the ones you're affecting, okay? And you didn't do it. Plain and simple, you did not do it.

David Agee - It's true we did not get it done. I did meet with Mr. Crumpler the Monday after the meeting and we had some email correspondence, and I asked him for assistance.....again, I'm not putting the onus on him or anybody else, but to assist, or facilitate, who was the HOA person to contact to move some things forward. I'm sorry, it was the Friday after the Monday meeting, because I think the Deer Run folks were having an emergency meeting on that Saturday, which also verbalized that I could be there if possible, I mean, if I was allowed, and I never got any comments back on that.

Richard Charbonneau - One of the things I listened to the last time was Mr. Crumpler, and he claimed that when they started de-watering that he has a pond on his property that's a few hundred feet across, and that the pond basically emptied because of the water sieving through the coquina, going from his pond into there. I

figured that he's either a liar or he's crazy, or he's telling the truth. I think he's telling the truth. I'm ready to call for a vote on this, and I'd like to make a motion to.....

Cindy Fox - Mr. Charbonneau, I'm sorry, you're not allowed to vote.

Richard Charbonneau - I can't vote?

Cindy Fox - No.

Henry Minneboo - Okay, we're going to take a vote. What's the board want to do?

Clyde Thodey - I'd like to make a motion that we deny this application.

Peter Aydelotte - I second.

Henry Minneboo requested a roll call vote.

Henry Minneboo - I'm going to say no to denying it.

Peter Aydelotte - Yes to deny.

Clyde Thodey - Yes to deny.

John Stone - Yes to deny.

Bruce Moia - Yes to deny because I don't think we have enough information.

Robert LaMarr - Citing Section 62-1901(c)(2)(e), Impact on Potable Water and Waste Levels of Service, and not enough information, yes to deny.

Loretta Goggin - Yes to deny.

Ron Bartcher - Yes to deny.

The vote was 7:1 to deny, with Henry Minneboo voting nay.

Upon consensus, the meeting was adjourned at 5:31 p.m.