

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, December 12, 2024

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:00 PM

Present: Commissioner District 1 Katie Delaney , Commissioner District 2 Tom Goodson, Commissioner District 3 Kim Adkinson, Commissioner District 4 Rob Feltner, and Commissioner District 5 Thad Altman

C. PLEDGE OF ALLEGIANCE

Commissioner Goodson led the assembly in the Pledge of Allegiance.

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

H.1. RHR Construction & Development LLC requests a Small Scale Comprehensive Plan Amendment (24.012), to change the Future Land Use designation from PI to RES 4. (24SS00012) (Tax Account 2320049) (District 1)

Jeffrey Ball, Planning and Zoning Manager, stated Items H.1. and H.2. are companion applications; the applicant was not present and did not attend the Planning and Zoning Board meeting; therefore, these two Items have to be continued; and they need to be re-advertised for a future date.

Chairman Feltner commented he thinks there are three cards; and before the Board takes a motion, how does the County Attorney advise that it handle that.

Morris Richardson, County Attorney, advised in this case because the applicant failed to appear at the Planning and Zoning Board public hearing, and a continuance has been requested, staff generally recommends that the Board take up the issue of whether to continue it before opening the public hearing and calling the speakers, unless it has a card for the applicant; and the applicant may want to explain the reason for the continuance if the Board has any questions about that for the limited purpose of the continuance.

Chairman Feltner stated the applicant is here; and he asked him to explain to the Board why this is being asked to be continued.

Robert "Tray" Robinson commented they are continuing because they missed the previous

meeting due to a death in the family, so that is why they are asking it to be continued.

The Board continued a request by RHR Construction and Development LLC for a Small Scale Plan Amendment (24.012), to change the Future Land Use designation from PI to RES 4 to a future meeting.

Result: CONTINUED

Mover: Tom Goodson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

Attorney Richardson asked if Mr. Ball stated the time and date for the meeting.

Mr. Ball stated he did not; they are going to have to re-advertise for it because the P&Z Board was not sure when the applicant was going to be ready, so they will re-advertise both.

Attorney Richardson noted this is not continued to a time certain, it is going to be re-advertised.

Mr. Ball stated right.

Attorney Richardson stated anyone who submitted speaker cards who is interested in this Item, sorry they came out tonight, but it has unavoidably been continued; and it will be re-advertised and notice will go out again, notice will be posted again before it comes back to a hearing before the Board of County Commissioners and the Planning and Zoning Board.

Commissioner Delaney mentioned anybody who is out in the audience, he or she can get with her or her staff; she asked Kristin Lortie to raise her hand; she asked them to bring them her email address; and she will make sure to reach out to let them know when this is brought back up.

H.2. RHR Construction & Development LCC requests a change of zoning classification from GU and RU-1-11 to RU-1-11. (24Z00042) (Tax Account 2320049) (District 1)

The Board continued a request for a change of zoning classification from GU and RU-1-11 to RU-1-11 to a future meeting.

Result: CONTINUED

Mover: Tom Goodson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.4. Christopher Espanet (Kimberly Rezanka) requests a Comprehensive Plan Amendment to change the Future Land Use designation from RES 1 to RES 2. (24SS00013) (Tax Account 2963382) (District 3)

Jeffrey Ball, Planning and Zoning Manager, commented the applicant has asked for a continuance to the February 6, 2025, Zoning meeting for other options for this property.

Chairman Feltner asked the applicant to explain the reason for the continuance of this Item.

Kim Rezanka, Lacy Lyons Rezanka, on behalf of Christopher Espanet, stated because of the switchover of Commissioners, she was just able to meet with many of the Commissioners this

week; in a staff meeting yesterday with Chairman Feltner and Morris Richardson, County Attorney, some issues were brought up that had not been explored yet, so they think there may be the opportunity that they do not have to go forward with the Comprehensive Plan Amendment; they are asking for time to explore those options; this is their first request for a continuance; and they ask that it be continued until February 6, 2025.

Commissioner Adkinson advised she is happy with a continuance.

Commissioner Altman stated when he was here before he never worked under the ex parte communication rule; he pretty much decided to live by that by the spirit as the Board has a requirement to disclose; he has chosen to handle that issue the way it used to be handled where he will not have any ex parte communication; he has listened religiously through the entire Planning and Zoning Board meetings, sometimes two and three times over; he will take any input on these zonings in writing; and this issue he is not going to have any ex parte communications, and let the applicant know where he is coming from and the Commissioner. He went on to say he is very committed to keeping densities low on the south beaches; he was here when the Board did the south beaches small area plan; he was involved with the area of state concern; but he does feel like this applicant does have a legitimate concern; it is .7 acres, nearly an acre of land; and they have a lot that is just unbuildable. He noted the County is not going to buy their land, it seems to be unfair to deprive their use of that land; most of those properties down there, the use is even higher than one unit per .7 acre; he felt in the sense of fairness the Board ought to hear the applicant and try to give them the best, and to listen to the community as a whole, so that is where he is learning; there is a property rights element to the County's Comp Plan; he thinks depriving this person of the use of their land violates that component of the Comp Plan; but he wanted the public to know where he was coming from, as well as the applicant; he will be watching closely; he will watch the entire Planning and Zoning meeting if it comes back; and he is welcome to written input.

The Board continued the request for a Comprehensive Plan Amendment to change the Future Land Use designation from RES 1 to RES 2 on property located on the west side of Highway A1A, north of Casseekee Trail, to the February 6, 2025, Zoning meeting.

Result: CONTINUED

Mover: Kim Adkinson

Secunder: Tom Goodson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

Chairman Feltner explained he is sorry about this as some of these things are unavoidable; that will be on the February 6, 2025, meeting; and the Board will consider all of the public's testimony then.

Commissioner Adkinson expressed her appreciation to everyone from District 3 who came to the meeting.

Mark Shantzis spoke from the audience.

Chairman Feltner advised Mr. Shantzis that he was very sympathetic to that; and the dilemma that there is tonight is that a person gets one time to speak on this issue, so it would be better if he spoke on the issue when the Board is actually considering it.

Mr. Shantzis continued to speak from the audience.

Chairman Feltner asked everyone to take a pause; and he asked the County Attorney to weigh in on this.

Morris Richardson, County Attorney, stated the Board has continued the Item; the Board is not opening the public hearing, so there is not going to be public input at this time; it will be taken at the February meeting; it is unfortunate; he expressed his appreciation to everyone for coming out; he noted unfortunately that happens sometimes; but Mr. Shantzis' input will be taken; and if for some reason he is not able to make the February meeting, to please feel free to submit his comments in writing, or contact his Commissioner.

Commissioner Delaney asked if the speakers are able to speak during Public Comment, Item G.

Attorney Richardson explained this is a quasi-judicial item, and the record is very important; all of the comments that are going to be received have to be made during the Item, during the open public hearing, which is not going to take place today; Public Comments are for items that are not on the Agenda; and this is an Agenda Item, so the appropriate time for them to discuss the Item is going to be when they come back in February.

Commissioner Delaney stated she would like to put on the record that she is a very staunch supporter of the First Amendment; she thinks that people drove all the way out here; and they deserve to have their voices heard.

Chairman Feltner pointed out he thinks the entire Board shares that view; he again expressed his apologies that came here tonight; he stated this is not the preferred way, but it is the proper way; and the Board wants to get it right to make sure that the public is heard.

Someone spoke from the audience.

Chairman Feltner noted he believes the applicant explained that; and he asked Ms. Rezanka to clarify why this is necessary.

Ms. Rezanka commented as there are new County Commissioners, she was not able to meet with any of them until this week; at the meeting with Chairman Feltner, Attorney Richardson and staff was there, and they brought up a couple of other options so they did not have to change the Comprehensive Plan Amendment; they need time to explore that; these just came up yesterday; and staff has not been able to come up with any other ideas, that is why they went through with the Comp Plan Amendment application, so this is not my fourth time here; this is here first time actually trying to do something with this property in front of the Commission.

Chairman Feltner stated he wants to clarify one last thing; he asked Attorney Richardson to correct him if he is wrong; it has been the case in the past that the Board allows one continuance, so this will be settled at the February 6, 2025, Board meeting; that is the motion of the Board; and he asked if that is correct.

Attorney Richardson replied right, that is correct; generally, almost as a matter of right, the Board has granted one continuance if anyone requests it; and beyond that, it depends on the circumstances and the facts related to the request.

H.5. Mahasu Associates, LLC requests a change of zoning classification from AU to RU-1-9. (24Z00009) (Tax Account 2419409) (District 2)

Chairman Feltner called for a public hearing to consider a request by Mahasu Associates, LLC for a change of zoning classification from AU to RU-1-9.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.5. is Mahasu Associates, LLC requests a change of zoning classification from AU to RU-1-9; the application number is 24Z00009; the Tax Account number is 2419409; and it is located in District 2.

Sam Sebaali, Florida Engineering Group, commented he is here on behalf of the applicant; they agree with the staff recommendations; he will be glad to address any comments the Board may have; in a brief summary, what they are doing is there is a small strip of land which serves to provide access for the property behind it; and they are changing the zoning for that strip of land to be consistent with the property behind it. He went on to say the requested zoning is consistent with the Comprehensive Plan, and meets all of the requirements; they did have to go through a variance request because the strip of land is only 50-foot wide, and for the zoning there has to be a minimum of 60-foot width; that was granted by the Board of Zoning Adjustment; and they are working with the surrounding owners, who were not opposed to the request.

Commissioner Delaney explained this one is a really tough one for her, because the matter at hand she is not too worried about, but as far as what the County is looking at down-the-pike with the approving of this, pretty much the whole property is wetlands that this is connecting to; she is really concerned about adding density to North Merritt Island; and the flooding issues the County is already dealing with is pretty difficult, so she is very aware and concerned about it.

Mr. Sebaali stated the property does look like it is all wetlands, but it is not; they have had an environmental review of the site; they do not have any intention to impact any of the wetlands; they do not have any intention of impacting any flood storage; if they do, they will have to mitigate for it consistent with the County's requirements and the Water Management District requirements; but he reiterated they did have an environmental review of the site; when they came in with the preliminary subdivision plans, the Board will have an opportunity to address any concerns with that; but at this point, they do have a conceptual plan which does not impact any wetlands. He pointed out they do have one area they are going to put a park around it; in the other wetland area, they are going to put a retention pond around it; but that is the plan.

There being no further comments or objections, the Board approved a request from Mahasu Associates, LLC for a change of zoning classification from AU to RU-1-9, on property located on the south side of Bevis Road, south of Lucas Road.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.6. Ross and Dawn Buck request a conditional use permit for a private residential boat dock. (24Z00044) (Tax Accounts 2953085, 2953257) (District 3)

Chairman Feltner called for a public hearing to consider a request from Ross and Dawn Buck for a Conditional Use Permit (CUP) for a boat dock.

Jeffrey Ball, Planning and Zoning Manager, commented Item H.6. is a request from Ross and Dawn Buck for a CUP for a private boat dock; the application number is 24Z00044; the Tax Account numbers are 2953085 and 2953257; and it is located in District 3.

Steve DeFillips, East Coast Docks, stated he is representing Ross Buck; they have been hired by the folks who own the property to build a dock; these properties are unique as they are small and non-buildable; it gives people who are not on the water to have water access; a person has to have a property that is deeded in the same subdivision to use it; this is kind of a formality getting this approved; and with that being said, they would just like approval to have a CUP for a dock.

Commissioner Adkinson stated for people who do not know, this community has access to their docks not actually attached to their property, so this is a formality; and as she understands it, just associates that small parcel of land for the dock to the new owners property.

Mr. DeFillips advised one has to live in the same subdivision to be able to own and build a dock.

There being no comments or objections, the Board approved the request of Ross and Dawn Buck for a CUP for a boat dock on property located on the north side of Ross Avenue, west of Seiler Street.

Result: APPROVED

Mover: Kim Adkinson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.7. 3101 Gannett Plaza Ave, LLC. is requesting a conditional use permit (CUP) for Alcoholic Beverages for On-Premises consumption. (24Z00045) (Tax Accounts 2602423 & 2602422) (District 4)

Chairman Feltner called for a public hearing to consider a request by 3101 Gannett Plaza Ave, LLC for a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption.

Jeffrey Ball, Planning and Zoning Manager, remarked Item H.7. is for 3101 Gannett Plaza Ave, LLC, which is requesting a CUP for alcoholic beverages for on-premises consumption; the application number is 24Z00045; the Tax Account numbers are 2602423 and 2602422; and it is located in District 4.

Kevin Saltsman stated they are looking to increase their 2COP to a 4COP license on this premises.

Commissioner Goodson asked where the location is this going to be at.

Mr. Saltsman replied 3101 Gannett Avenue, the old Florida TODAY building.

Commissioner Adkinson stated she knows there was issues with utility and easements; and she asked if someone could talk to that for her.

Edward Fontanin, Utility Services Director, stated staff has fulfilled, and they have had ongoing communications; they have shared information; there are no guarantees; but he is optimistic it is going in a positive direction.

Chairman Feltner stated approving this tonight, he will continue to talk with staff; he thinks there are four things staff wanted to talk to him about; the Board is not asking him to commit to that

tonight; but it is just a conversation with staff on lift station utility easement; and he asked if he will continue that conversation with Utility Services staff.

Mr. Saltsman advised he has bridged that conversation back with the owner of the property.

There being no further comments or objections, the Board approved the request of 3101 Gannett Plaza Ave, LLC for a CUP for alcoholic beverages for on-premises consumption on property located on the southwest corner of Gannett Plaza Avenue and US Highway 1.

Result: APPROVED

Mover: Katie Delaney

Second: Thad Altman

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.8. William M. Braselton, III requests a change of zoning classification from RU-1-7 to RU-1-11. (24Z00050) (Tax Account 2800475) (District 5)

Chairman Feltner called for a public hearing to consider a request by William M. Braselton, III for a change of zoning classification from RU-1-7 to RU-1-11.

Jeffrey Ball, Planning and Zoning Manager, commented Item H.8. is William M. Braselton, III, requests a change of zoning classification from RU-1-7 to RU-1-11; the application number is 24Z00050; the Tax Account number is 2800475; and it is located in District 5.

William Braselton stated they went in for a building permit, and during that process, development came back with a comment that their current zoning was inconsistent with their Future Land Use for this property; and they are just requesting a rezoning to RU-1-11 requiring a larger lot size, larger setbacks, and larger home, so that they are consistent with their underlying Future Land Use in that area of West Melbourne.

There being no further comments or objections, the Board approved the request of William M. Braselton, III for a change of zoning classification from RU-1-7 to RU-1-11 on property located on the north side of Miami Avenue, east of Wood Street.

Result: APPROVED

Mover: Thad Altman

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.9. Jorge & Olga Carolina Tabush (Clayton A. Bennett) request a change of zoning classification from GU to EU. (24Z00054) (Tax Account 2605989) (District 2)

Chairman Feltner called for a public hearing to consider a request of Jorge and Olga Carolina Tabush for a change of zoning classification from GU to EU.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Jorge and Olga Carolina Tabush requesting a change of zoning classification from GU to EU; the application number is 24Z00054; the Tax Account number is 2605989; and it is located in District 2.

Jayson Clayton stated their civil engineer asked him to attend tonight; essentially, he is just echoing staff's comments from the Planning and Zoning meeting; and they are basically lowering density and going from three rental properties on one piece of property to one single-family residence.

There being no further comments or objections, the Board approved the request of Jorge and Olga Carolina Tabush for a change in zoning classification from GU to EU on property located on the east side of North Highway US 1, north of Portofino Lane.

Result: APPROVED

Mover: Tom Goodson

Second: Thad Altman

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.10. Keleon Watkins requests a change of zoning classification from RU-1-7 to RU-1-11. (24Z00048) (Tax Account 2110707) (District 1)

Chairman Feltner called for a public hearing to consider a request of Keleon Watkins for a change of zoning classification from RU-1-7 to RU-1-11.

Jeffrey Ball, Planning and Zoning Manager, commented this is Item H.10. for Keleon Watkins that is requesting a change of zoning classification from RU-1-7 to RU-1-11; the application number is 24Z00048; the Tax Account number is 2110707; and it is located in District 1.

Keleon Watkins advised he is trying to change his property from RU-1-7 to RU-1-11 for land use matters, or whatever, so he was trying to see if he can get a change.

Commissioner Delaney stated she hopes Mr. Watkins builds something beautiful.

There being no further comments or objections, the Board approved the request of Keleon Watkins for a change in zoning classification from RU-1-7 to RU-1-11 on property located on the west side of Orange Avenue, north of Cypress Avenue.

Result: APPROVED AS AMENDED

Mover: Katie Delaney

Second: Thad Altman

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.11. KVK Management & Remodeling Services LLC (Keleon Watkins) requests a change of zoning classification from RU-1-7 to RU-1-11. (24Z00049) (Tax Account 2103672) (District 1)

Chairman Feltner called for a public hearing to consider a request by KVK Management and Remodeling Services LLC for a change of zoning classification from RU-1-7 to RU-1-11.

Jeffrey Ball, Planning and Zoning Manager, stated this is KVK Management & Remodeling Services LLC requesting a change of zoning classification from RU-1-7 to RU-1-11; the application number is 24Z00049; the Tax Account number is 2103672; and it is located in District 1.

There being no further comments or objections, the Board approved a request by KVK Management and Remodeling Services LLC for a change of zoning classification from RU-1-7 to RU-1-11 on property located on the west side of Orange Avenue, north of Cypress Avenue.

Result: APPROVED

Mover: Katie Delaney

Seconders: Kim Adkinson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.12. The Viera Company (Jose Pazmino) requests a CUP for Commercial Entertainment and Amusement Enterprises. (24Z00047) (Tax Account 2631510, portion of) (District 4)

Chairman Feltner called for a public hearing to consider a request of The Viera Company for a Conditional Use Permit (CUP) for Commercial Entertainment and Amusement Enterprises.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.12. is requesting a CUP for commercial entertainment and amusement enterprises; the application number is 24Z00047; the Tax Account number is 2631510, a portion of; and it is located in District 4.

Jose Pazmino commented he is here on behalf of Top Golf as the applicant for Agenda Items 11 and 12; they had a short presentation prepared; but admittedly, he does not see it on the screen; it is for a state of the art golf entertainment center; they are proposing west of I-95 and east of The Avenues Viera; a conditional use is required because of the amusement use; and a few variances are also required due to the use. He went on to add there is a driving range with golf balls that will require containment; they are asking for a variance for signage due to the weird, unique shape of the building; and lastly, they are asking for a variance for range lighting due to unique fixtures needed for the technology.

Chairman Feltner stated to see what the pleasure of the Board is; he only has cards for the applicants; this is in his District; and he is fine with it.

There being no further comments or objections, the Board approved the request of The Viera Company for a CUP for Commercial Entertainment and Amusement Enterprises on property located on the north end of Bromley Drive; approved the applicant will provide signed and sealed documents by a Professional Engineer (P.E.) demonstrating that the lighting configuration does not adversely affect conditions for traffic traveling along I-95 during the site plan process; and approved the applicant shall meet all local, State, and Federal regulations regarding lighting, unless expressly waived.

Result: APPROVED

Mover: Katie Delaney

Seconders: Thad Altman

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.13. The Viera Company (Hassan Kamal) requests ADS for the Central Viera PUD, Parcel 3A. (24PUD00005) (Tax Account 2631510, portion of) (District 4)

Chairman Feltner called for a public hearing to consider a request of The Viera Company for ADS for the Central Viera PUD, Parcel 3A.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.13. is a companion application for the ADS; The Viera Company is requesting an ADS for the Central Viera PUD, Parcel 3A; the application number is 24PUD00005; the Tax Account number is 2631510, portion of; and it is located in District 4.

There being no further comments or objections, the Board approved the request of The Viera Company for ADS for the Central Viera PUD, Parcel 3A; approved the applicant will provide

signed and sealed documents by a Professional Engineer (P.E.) demonstrating that the lighting configuration does not adversely affect conditions for traffic traveling along I-95 during the site plan process; and approved the applicant shall meet all local, State, and Federal regulations regarding lighting, unless expressly waived.

Result: APPROVED

Mover: Katie Delaney

Seconder: Kim Adkinson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.3. Schwa Inc. (Kimberly Rezanka) requests a change in zoning classification from BU-1 to RA-2-4. (24Z00051) (District 2)

Meeting went into Recess

Meeting Reconvened

Chairman Feltner called for a public hearing to consider a request from Schwa Inc. for a change of zoning classification from BU-1 to RA-2-4.

Jeffrey Ball, Planning and Zoning Manager, stated Schwa Inc. is requesting a change in zoning classification from BU-1 to RA-2-4; the application number is 24Z00051; and it is located in District 2.

Kim Rezanka, Lacey Lyons Rezanka, commented she is present on behalf of Schwa Inc.; she is requesting a rezoning from BU-1 to RA-2-4; with her is Dan Dvorak, the representative, who will speak during her 15 minutes of time; as the Board is aware, the RA-2-4 zoning would allow townhomes; because this is Community Commercial next to a Residential 2 Future Land Use, density is already four units to the acre, so what they are asking is to define how those four units to an acre will be done and how it will be developed; and if there are concerns about the setbacks, then that can be addressed in a Binding Development Plan (BDP) if that is something the Commission would like to do, but they have not proposed it. She went on by saying they are two-story townhomes; if the Board wants more specifics in the BDP, they are happy to consider that, and Mr. Dvorak can make those decisions; this is a commercial area, but it is all residential; if one knows the area, there are very little commercial there; there is nothing to support the commercial there; she did a rezoning not too long ago to the south of the commercial center that had an ice cream shop, a billiards hall, and a fitness center; those all went out of business; and it is now a park and ride for cruise ships. She explained the 3,000 commercial building, which has small units and a diner, there are many vacant units in there as well; Mr. Dvorak will explain why he bought this in 2005, and what he hoped to do with it; it just has not been able to work, so he would like to do nine townhomes on this project; the packet she provided to the Board is a little bit different than the one that was presented to Planning and Zoning; and part of that is because she learned new information talking to staff recently. She noted on page one is the property; the Board will see to the east is Egrets Landing; to the south is the manufactured homes, Island Lakes; to the northwest of Courtenay are the townhomes that recently had been purchased; they are single-family platted; her understanding is they are indeed being used for rental, but are brand new and single-family; she did not look up the rent; but she presumes they are not cheap. She mentioned they are certainly not affordable housing by any stretch; the residents are concerned about having rental property, but any of these residents could also rent their houses, as it is not prohibited by law; page two is the concept plan; it has not been engineered, it has not been reviewed by staff; it is just an idea of what her client could do; when he came to me, she told him to talk to an engineer to see what he could do to make sure it even makes sense to try for this rezoning, and that is what he

did; and Jim Trotter has drafted something that her client likes and would like to build. She pointed out page three is Island Lakes; as the Board knows from the zoning map, it is a TR-3, but it also says it is Residential 2; it is actually four units to the acre; there are over 300 units in this 71-acre parcel; page four is the Zoning Code for EU-2, which is Egrets Landing; she just provided that to the Board because they are 9,000-square foot lots, and their structures are allowed to be 35 feet, just as this BU-1 property would be allowed to be; she is not saying it would be, it is going to be two-story townhomes; but the BU-1 does allow 35 feet height as well. She stated page six is a little strip owned by the Homeowners Association (HOA) that the Board will hear some people call a spite strip; it is an HOA property that is allowed to be done that way as they wanted to buffer it from any other uses she presumes; she actually knows as she zoned that property; and they did not want anyone accessing the road, so that is why that strip of land is there. She went on to say page seven, the Future Land Use Policy 2-10, which she stated was in the staff report; this states residential development is permissible in commercial land uses as a density of up to one category higher than the closest residentially-designed area on the FLUM at the same side of the street; that is RES 2; that makes this RES 4, four units to the acre; and they are just trying to define what is in and how it is going to be developed at four units to the acre, because commercial is not something Mr. Dvorak's is interest in doing. She remarked on page eight, this is often forgotten and rarely used, if ever; Mr. Ball cannot remember it ever being used since he has been here; it is Section 62-2106, Mixed-Use Commercial and Residential use; this allowed residential uses in commercial at a higher density; in theory, this could be done if there is a commercial 300-square foot building on the property; then there would be commercial uses next to residential, which is less practical, less friendly, and less transitional than single-family homes next to single-family homes; and because it does say the total residential flare area of each residence shall adhere to the minimum plural area requirements of the RU-2-10, so 62-1372 is RU-2-10, just to give the Board an idea how these Codes play together. She explained this is a request for four units to the acre, RA-2-4 zoning; otherwise, with BU-1, there could be a litany of things that are not as compatible with single-family homes; there could be a bed and breakfast, a coin laundry mat, a funeral home, or it could be a hospital; it does indeed allow single-family residences; it allows tobacco stores, dry cleaning plants, tourist efficiencies and motels, and a treatment facility; and one may or may not like that, but it is something that could go there. She stated the rear setbacks for BU-1 shall be 15 feet from the rear lot line; there is a perimeter setback of 25 feet from the property line; the interior setbacks and spacing between the buildings are to be not less than 20 feet, so there is going to be much more of a distance of separation from a setback to the rear with RA-2-4 than there would be with motels or residences in a BU-1 zoning; as stated in the staff report, a single-family attached dwelling residence can be used as a traditional buffer from higher intensity impacts to the lower intensity of the 9,000-square foot units; and the predominant Future Land Use is commercial in this area. She noted this request is consistent and compatible with the existing and emerging development in the surrounding area, as stated in the staff report; the staff report supports this rezoning based upon all of the analysis of the Comprehensive Plan and Zoning Code; this will generate less traffic; Mr. Dvorak did indeed have a commercial site plan developed with 17,000 square feet; it required 88 parking spaces, which is not feasible; it is not usable there; that would be much more intense than nine single-family homes; with that, she would ask Mr. Dvorak to speak; she is happy to take any questions; but she does not want to eat into her time with questions, so Mr. Dvorak will speak, and then they can take questions.

Dan Dvorak stated he is the owner of the property on North Courtenay, and the applicant for the rezoning; in 2005, as a young father of three and an Engineer at Kennedy Space Center (KSC), he was driving home from work one day and thought of stopping somewhere to buy a bottle of wine for dinner; the only problem was that there were very few retail stores north of the Barge Canal, and none were in the wine business; it seemed like a great opportunity to create

a retail plaza and attract businesses, so he and his wife bought this lot; and it had already been mostly cleared of trees and was being used to store commercial trailers and industrial tools. He went on to say by looking at the picture closely, one can see a series of light colored rectangles near the center part of the lot; those are actually concrete slabs over a foot-thick each put there by a previous owner to make a good working surface for his construction business; it really was an industrial site; the first thing they did was pay to have the industrial trailers and tools hauled away, then they started working on designing and permitting; they ended up taking out a second mortgage on their home to pay for the surveying, engineering, design, and permitting and had a completely approved site plan and permits needed for construction; but during that permitting process, they watched the Commerce Plaza get built just south of them and sit mostly empty for a long time. He pointed out the same thing happened with the Go Port plaza, which is now a cruise parking lot; it turns out there just is not enough traffic on State Route (SR) 3 north, the residents north of the Barge Canal, to support a healthy retail environment there; fortunately, they did not build the commercial plaza because it would have bankrupted them; they have put out a lot of money onto that lot from the purchase price, hauling off junk, permitting and for the commercial plaza, and almost \$48,000 in property tax over the 20 years; they intend to develop something on it; and their intent is to build nine homes. He explained their intent is to build nine homes; the thought is that 1,200 people moving to Brevard County, or Florida every day need places to live; building nine homes provides more of a solution than building fewer; there is opposition to their plan, and some of it coming from people that live in brand new homes on what used to be the orange grove right behind their lot; he thinks that is ironic; some of the opposition believes the choice is rezoning or leaving it as it is; but they are mistaken, they will develop something. He stated they could pursue a wide variety of uses, including a hotel, but he believes that single-family housing is the most compatible with the neighborhood, and the best option; other opponents believe they should put detached homes on the site; he has studied that option and his calculations show that they would lose an awful lot of money doing that; and he appreciates the Board's consideration for their rezoning request with an eye towards their property rights.

Chairman Feltner asked if there are any questions for the applicant.

Commissioner Delaney stated she is not sure who can answer this for her, but she asked how wide the property is from that line Ms. Rezanka had mentioned to the other side of the property, on page six.

Ms. Rezanka replied about 15 feet.

Commissioner Delaney advised the rest of the property, like the buildable area.

Ms. Rezanka responded that property is about 155 feet.

Commissioner Goodson asked if it is 155 feet, and the driveway is 75 feet from the spite strip headed north, had she thought about getting a Florida Department of Transportation (FDOT) permit to access SR 3, because usually they do not like driveways right beside each other.

Mr. Dvorak replied they have considered that; and he thinks the engineer that drew that feels that they could get that.

Commissioner Goodson inquired if Mr. Dvorak wants to build nine units.

Mr. Dvorak responded affirmatively.

Commissioner Goodson pointed out the Comp Plan is one per acre, which would be four, at least that is his understanding.

Mr. Dvorak noted he thinks the Comp Plan is four per unit.

Commissioner Goodson stated the North Merritt Island Homeowners Association would agree to four, but Mr. Dvorak wanted nine; and he asked if that is correct.

Mr. Dvorak advised the economy dictates that with the price they paid for the lot, the engineering it would take to do it, and everything else.

Commissioner Goodson mentioned that was in place when Mr. Dvorak bought it; and he asked if he were aware of that then.

Mr. Dvorak replied they were intending to build a commercial plaza when they bought it.

Commissioner Goodson asked if Mr. Dvorak then switched it totally 180 degrees to residential.

Mr. Dvorak responded right, but the reason for that is because the commercial . . .

Commissioner Goodson stated he hears him.

Mr. Dvorak remarked commercial goes to die north of the Barge Canal.

Commissioner Goodson asked if the Planning and Zoning staff voted unanimously for this.

Commissioner Delaney stated no.

Chairman Feltner noted it was 5:5.

Commissioner Goodson asked if they had two votes.

Mr. Ball explained yes, but the final vote was 5:5; and there was no motion for approval or denial of the application.

Chairman Feltner advised there are about 10 cards; and when one says homes, he or she is talking about townhomes just to clarify.

Mr. Dvorak stated yes.

Chairman Feltner asked if Mr. Dvorak would be the owner of those and rent them out, or who will hold the title to those.

Mr. Dvorak replied his intent is to sell most of them to homeowners; he believes in home ownership; and it is part of the American dream to own a home.

Chairman Feltner inquired if Mr. Dvorak would maybe sell five with five separate titles, and then he will hold on to four, or something like that.

Mr. Dvorak replied it is more like seven and two; and he does not have the money to float this

for the rest of his life.

Chairman Feltner stated he understands.

Commissioner Goodson asked if everyone understands that selling something does not necessarily mean that it will not be a rental.

Mr. Dvorak responded that is correct, like any home; and he does not want to be a landlord for the rest of his life.

Chairman Feltner mentioned he does not aspire to be one either; and he asked would this zoning change allow for short-term rental of those.

Mr. Ball replied yes, sir, it would.

Commissioner Goodson asked if it would.

Chairman Feltner responded it would; the rest of Ms. Rezanka's time will be reserved; and he will go to the cards.

Jack Ratterman commented when he got ready to come to the Commission meeting he looked in the mirror and thought, man, there is the big, fat guy in the mirror; he wanted the Board to know he did not always look like this; he went to a university on a cross country and track scholarship, he ran for four years; at one time had enough athletic ability to run a half-mile in one minute and 58.8 seconds, so at one time, he was thin and did not look like this; but over time, age makes a difference. He continued by saying the townhomes they are proposing, they always reference the ones just north of this, the 88 units; those 88 townhomes were unanimously voted against by the HOA and the Special District Board; they did not want them; when they were first told about them, they were not for sale, they were all for rent; and he has been told that only two of them had been rented so far, so the idea of renting them and letting them go that way is not the way. He pointed out the applicant has talked about property rights; it is like anybody's rights, one has as much rights as long as they do not infringe on his; it goes back to a person cannot say he or she has freedom of speech and then jump up in a theatre and yell fire; he has his property rights, but there are other people already around him; Island Lakes are an example right there next to him; Egret's landing moved in; and now all of those folks in Island Lakes are looking at the bottom of the house pads of Egret's Landing, so every time it rains just a little bit, they flood, and the people are going to do the same thing. He stated Mr. Dvorak suggested nine units; he wants to make a killing on this; if he makes a bad decision on the commercial, it is not the community's fault; maybe his decision on what he does with his property was not the right thing; but he is not going to punish the community; and he can get four units and be compatible with the neighborhood, but he does not think he really wants to do that. He noted whether he makes good or bad decisions financially, it is not up to the Board to make the bad turn into good.

Spryos Alvonellos stated he believes the Board has the exhibits; their house is right there; this lake right there, or pond, that is where they live; he does not begrudge anybody for trying to take their property and make it better; the only problem with that is they are already flooded; Mr. Ratterman talked about that; his wife will come up later and talk about the flooding; and she has some pictures to show the Board. He remarked the reality is all of that Egret's Landing building, before they had no flooding, especially not like that; they had to pump it out; they currently pump it out every single time it rains; if there is a hurricane, and they do not pump out that pond, then they are going to flood; the flooding comes nearly 15 yards to the pool and their

home, so all of the water from Egret's is coming down here; and what overflows goes into the pond and onto their property. He explained he understands this is a difficult decision for the Board, but they live there; he hopes the residents' presence makes a difference today, because they have to live with whatever the Board's decision is, Mr. Dvorak's plans are, and whatever happens after he leaves; they do not think it is fair to the residents; he served 24 years in the Air Force; this is their forever home; they are not leaving; they are going to carry him out of there; and he is not going to sell, he is staying here. He advised he lives there, so he would like the Board to consider what they are talking about; there are plenty of people here that will talk to the Board about their feelings; his feelings is if anything else is built there, no problem, as long as it does not have raised homes that will allow rainwater to come towards them; this will aggravate it even more because there are two retention ponds put there; one has to wonder where all of that water is going to go; it is going to come to them, except it will not come from this side, it will come literally from this side; and they will not be able to walk out of their garage door by the time this is over. He concluded by saying they do not know if they can survive the elevation; that is what he wanted to talk to the Board about; he appreciates its time and consideration with its decision; and it is going to impact the residents.

Commissioner Goodson stated Mr. Alvonellos made a comment that he did not care what they built there as long as it is not nine townhouses; and he asked if that is correct.

Mr. Alvonellos replied he is concerned more about whatever is built there not causing flooding.

Commissioner Goodson asked if Mr. Alvonellos would agree that if townhomes or a strip center is built that they are going to raise the elevation of the land.

Mr. Alvonellos responded then that will cause flooding, and that will be a problem for them.

Commissioner Goodson asked if Mr. Alvonellos would also agree that they have a plan that shows where the water's going, and it cannot adamantly just be all funneled to him.

Mr. Alvonellos replied he would agree to that.

Commissioner Goodson remarked he would, too.

Mr. Alvonellos mentioned he would like to have some help pumping out the water.

Commissioner Goodson advised he understands Mr. Alvonellos' concerns, he hears him, but at the same token, he wanted to make sure he understood that there are civil site plans that have to be done whether it is an out-house or a home.

Mr. Alvonellos replied yes.

Commissioner Goodson inquired if Mr. Alvonellos would agree to four units; he stated the Comp Plan is one acre; he asked Ms. Rezanka if she would like to come up and answer that; and he stated he does not want her to come up as she is distracting his good thoughts about her.

Mr. Alvonellos stated he is not sure, he has not seen the plans.

Commissioner Goodson noted nobody has seen the plans, because it is all conceptual.

Mr. Alvonellos advised he would say no, he would not agree to that.

Commissioner Goodson asked if he knew the North Merritt Island Homeowners Association agreed to that.

Mr. Alvonellos stated they may have, but he lives where he lives, and they do not live where he lives.

Commissioner Goodson mentioned he understands.

Mr. Alvonellos pointed out he lives with flooding.

Commissioner Delaney asked staff if Egret's Landing has a civil plan to make sure that water stayed on their property and all that good stuff.

Tad Calkins, Planning and Development Director, replied yes, Egret's Landing was done with a subdivision plan just as all developments would be.

Commissioner Goodson asked during a hurricane everyone suffers flooding because the ponds fill up and overflow, and then the water finds the lowest point to go to; and he asked if Mr. Calkins agreed to that.

Mr. Calkins responded yes, water gets collected; and he is not sure if there has been water in any particular homes out there.

Commissioner Goodson stated he hears Mr. Calkins, and he agreed with him.

Mary Hillberg stated she is speaking for the North Merritt Island special advisory board, which is an elected, zoning advisory board specific for the North Merritt Island area concerning its rezoning request by Schwa Inc; their board was first to hear this Item and several residents spoke; all of them were concerned that an increased residential density on 2.45 or 2.47, whichever it is, acres would negatively impact them in terms of stormwater flood, traffic congestion, and in their main entrance and reduction of their property values; and Administrative Policy 7 states that proposed uses shall not cause or substantially aggravate any substantial drainage problem for surrounding properties, or significant adverse effects on natural wetlands, water bodies, or habitat for listed species; and this proposed development would likely violate Policy on both counts. She remarked the property was rezoned from AU to BU-1 in 1990 when the commercial corridor was established; the FLU is Community Commercial in a designated commercial corridor; this BU-1 classification does not allow warehousing or wholesaling; the North Merritt Island advisory board unanimously recommended denial of this request suggesting four units total, which is two units per acre as most of the surrounding area reflects, and would be an acceptable density increase; and they did that not asking the residents whether they approved or not. She went on to say they did that because the property owner has a right to develop his property efficiently and competently, and so forth; they respect all of the property owners whether they develop or not, so they would try to find a compromise that is adequate and that will cause the least amount of problems; the Planning and Zoning board weighed in all aspects and voted 5:5, which is a tie, which it means no; keeping the property's family values and safety of the residents is their primary goal; and they are not about keeping property owners from fully-utilizing their property, but it cannot happen at the detriment of the people who already live there. She asked the Board if it was aware of the latter study that was done in 2008 or 2009 after Tropical Storm Fay, because they used to be all X, which is designated X, and is a non-flood zone, one never gets a flood; obviously, that was an incorrect designation for North Merritt Island, so they did a study; the

light green is a trough that goes through the middle; they do not want to call it a trough, they like to call it a bowl, and it goes all the way down there; this property is on the edge of that; that is why everybody there is going to flood; and if it is overdeveloped, it will flood. She stated it does not mean that nothing can be built; but it does mean that the properties that are already there should not be hurt; and she asked if the Board has any questions.

Mark Burns advised he and his wife, Olive, live in the property located at 206 Norwood Street, which borders the proposed rezoning; they are the house on that map that is to the east; he is a retired, disabled veteran; he served 28 years in the Air Force with Mr. Alvonellos; and he moved 15 times before finally settling in Merritt island. He continued by saying he cares for his granddaughter, Rosie, and his 101 year old Aunt Judy; an issue came up just prior to the meeting, which took priority, so he is glad he was able to make it here on time, because his dear Aunt needed him to buy her some Klondike Bars and some Devil Dogs; she gets whatever she wants, so the Board almost missed him, but he is here and he is blessed; the last two meetings he argued how the rezoning and proposed development would affect him and his neighbors; this included flooding, traffic, and wildlife to name a few; and he realizes that all of these issues are important, especially the increased water damage that will affect him and his neighbors to the north. He noted he is going to be a little greedy now and focus on comments that affect he and his family; his primary concern can be spelled out in the following questions; he asked what the exact setback is for the proposed stormwater treatment pond; will the hole be far enough from him where it will not propose a danger to his granddaughter or his family; will there be a fence constructed along the property line he continues to have, or will there be a natural barrier with shrubs and trees like there are now; and what kind of material would be used if they did construct the fence. He inquired would it be a chain-link fence; would it be white, picket, or a black picket fence; how many trees would be removed; what will be his new view from the east; will he still have some semblance of privacy, or will he be able to look straight out to Courtenay and watch the traffic go by; and finally, will the proposed development change the overall look of the community in Egret's Landing. He stated some guidelines that the HOA enforces on him are unbelievable; the irony would be getting cited by his HOA for a weed growing through his

Present: Commissioner District 1 Katie Delaney , Commissioner District 2 Tom Goodson, Commissioner District 3 Kim Adkinson, Commissioner District 4 Rob Feltner, and Commissioner District 5 Thad Altman

sidewalk, and 20 feet to his right there will be no enforceable restrictions; his hope is that the Board will make its decision today contingent with answering some of the questions that he does not think have been brought up; a couple of them have setbacks; this pond troubles him; when the pond fills up and then goes away, the vegetation dies and it starts to stink; his wife and he have a bunch of apple trees back there; she is from the Philippines, and she enjoys her gardening; and they have seen the water come in. He pointed out they have seen the water dissipate, and all of the shrubbery and everything dies; it stinks, and it is not enjoyable; he is very concerned about all of the other issues that Mr. Alvonellos brought up, especially the water runoff and the potential flooding; but at the end of the day he just wants to be happy, safe, and reside in a community that his family and he can be proud of.

Wendy Alvonellos stated she has nothing against this man who bought this property; everyone at times in life set out to have endeavors to better his or her quality of life; she feels for him in her heart, she really does; but her problem is not with him as much as it is with the building commissioners in Brevard County; obviously, he had never seen any of the houses flood; and they are paying right at \$6,000 a year in taxes. She went on to say they bought an over \$500,000 house, and they worked hard; her husband sacrificed his family for 24 years to serve

the country; they finally got to the opus, their retirement; this is where they are going to go; they looked, searched, and checked out those stats of where a hurricane would hit right there; and they had no idea as normal citizens to go to the building department and find out how high they were going to build these houses on this other street, because they are right there in the center of that. She noted they have the pond and the two houses on the piece of property; his property connects to theirs; those are pictures of her yard when it rains hard; that is not a hurricane; they first come in with Egret's Landing; they finished that last L going across the back side; that is what it looked like when it rains; if they have a hard rain, that is what it looks like; her husband is in his 60s; and she is closely approaching behind him, but every time there is a hard rain, they have to watch that pond, along with her neighbors. She advised there is a five-acre tract there; all of them have to get out there and haul this heavy pump down to the lake, hook up fireman hoses to a ditch that runs up their side all the way to the road to that ditch, and they have to pump this pond down in order to have it not flood their house; they had alligators no further from her to the Board, big alligators; they had a 13-foot alligator out there, because the water came that far to their door; as Mr. Burns said, when the water goes away, it stinks; she is allergic to leaf mold, so she stays stopped up all of the time because it floods and it takes so long to go down; and it is just a rotten, stinky mess. She concluded by saying to think that they have put their entire life savings in their property, this is where they live, not invest in; this is not an investment property, this is where their home is, and because the Planning Department is building so much higher, they did not know they were going to do that; that is all she wanted to say; she reiterated she is not against the property owner or what he is doing; but she is against the fact that nobody is paying attention to those who are already there.

Commissioner Goodson asked when her home was built.

Ms. Alvonellos replied in 1995.

Commissioner Goodson asked if they built the home from new.

Mr. Alvonellos responded no, they bought it.

Commissioner Goodson pointed out a lot of times Florida people do not want to spend money for dirt to raise their house, but as things change, laws change, and other developments have to

raise up by law, it creates problems for everybody; and he expressed his apologies to Ms. Alvonellos.

Marie Volland stated she and her husband reside on North Courtenay Parkway, where they have lived for the past 20 years; they live next door to Mr. and Mrs. Alvonellos who previously spoke; she is here this evening to voice her opposition to the building of the townhome complex, which would be located on the front, left side of their residence; she would like to make some key points; and they have talked about the flooding quite a bit, but the opening of Egret's Landing was the first issue that significantly flooded the residents nearby. She continued by saying Hurricane Irma in 2022 was when they incurred the worst once that development was fully-completed; the pictures that she has shown the Board will show her backyard on a normal day, and it will show what it looked like post-Irma; those are not even the worst of the pictures that she could be bringing; most residential properties in this vicinity sit lower; their property is lower than Egret's Landing, thereby causing a lot of issues with water placement; many senior citizens in the area are on a fixed income; they cannot afford reengineering their landscape with fill dirt or other modifications to try to build up their land to protect it from the flooding; fill dirt is very expensive, as she happens to know; and it could be

\$50,000 to \$60,000 if a person wants to build up two acres. She explained the ditches in their area is another issue that she would like to speak about; in 2004 when they went through the four hurricanes, she recalls the County coming and clearing many of the ditches; they dredged, they did a wonderful job, all down North Courtenay, north of Hall Road; it has not been done since; now, the past two years, her husband and she observed the County doing a beautiful job clearing ditches north and south on Courtenay up to Hall Road and down Hall road; and they stopped there and no activity has ever been done north of Hall Road on Courtenay. She pointed out overgrown and clogged ditches prevent water flow, retention ponds are overflowing, and additional building is just placing more strain; the other topic she wanted to talk about is infrastructure; at the last meeting that she attended where this topic was presented, they stated that there was a traffic study done in 2021; it is almost 2025 and she can attest, the traffic flow is significantly increased; this is not due to just the residents that lived in this area; there are new properties; the townhomes across from her are not fully-occupied yet; there are other developments down Crisafulli that are not fully-occupied, so they are not even at full-capacity of the residential properties; and it is not just residential traffic, there are commuters on Courtenay for the space programs. She added, it is significantly busier; she knows people that commute from Orlando, so there is other traffic on the road; the other thing is all the U-turns are becoming very dangerous; the townhomes across from them where they have to come out, they have to go out and then do a U-turn; the U-turns on the Parkway is also becoming dangerous and causing more accidents; she understands and appreciates that the individual who owns this land desires to utilize it; however, a townhome complex is not a fit or appropriate for this small lot, which is embedded in primarily single-family; she believes a townhome dwelling such as this would potentially cause more flooding to their home, traffic congestion, disruption in privacy, noise levels, visual obstruction, and potentially a devaluation of their property value; and therefore, she opposes it.

Sandra Sullivan commented first and foremost, in the County Ordinances one cannot put fill on properties and raise it if it floods their neighbors; she asked the Board to check its Ordinances; she pointed out she is at a loss on Egret's; the other thing she wanted to talk about is North Merritt Island Special District formed by referendum, by the people; they are elected officials; when reading that Ordinance that replaces the P&Z board, the board that meets, that is in place of; and she asked the County Attorney to review that Ordinance, because it should not have gone from North Merritt Island Special District Board zoning board, then to P&Z board, and then to the Board of County Commissioners. She went on by saying the North Merritt Island board was a no vote, the P&Z board was a tie vote, which is a no vote, and that should have been stated by the Planning and Zoning Department to clear up that ambiguity; there has been a number of small area studies and studies done in North Merritt Island; the studies that talked about the zoning was one unit per one acre; the issue with that zoning was it was causing more flooding as the properties were getting developed, so when former Commissioner Lober was in office, he did an additional study in 2018, and the recommendation was made to change the zoning in North Merritt Island from one unit to two and a half acres; this room was filled more times than any other issue by the people of North Merritt Island, because of the increased flooding; and in response to that study changing it from one unit to two and one half acres, Mr. Crisafulli hired Ms. Rezanks'a firm to push back on that, and successfully stopped it. She stated what the Board has before it is an even further density, as the problem with North Merritt Island is former Commissioner Lober did a study, a half a million dollar study, that found that it is in the 10-year flood plain, and there are huge flooding issues; the response to that was this Commission recently, not the new people, passed a Comprehensive Plan change to remove the density cap on the flood plain; now, she does not know about the Board, but the State has an insurance crisis, and if they do not protect the flood plain, they are never going to be able to get insurance under control; not to mention people who have existing property have property rights as well; and their property rights is that their

homes should not flood because of irresponsible development. She noted the bottom line is that North Merritt Island is a giant bowl that floods; in the fall the river is high, which just happens to coincide with hurricane time; with a high river and storm events, there is no place to pump the water, so there is a problem; the County has a problem and it should really take a look at this, or start with this; she asked again for the Board to review its Ordinances that it has and to at least follow the law; she advised when it says North Merritt Island Special District does the zoning for North Merritt Island, it should not then send it to the P&Z board; she asked the Board to start respecting its Ordinances; she stated it spend a lot of money with this flooding problem in North Merritt Island; and she asked the Board to make the responsible decision today.

Commissioner Goodson asked the County Attorney to elaborate on all of that.

Attorney Richardson stated the North Merritt Island Dependent Special District has the power and duty to review and provide the Planning and Zoning board with an advisory recommendation upon rezoning application made for property located within the District; with such an application, if approved, it would increase residential density on the property that is the subject of the application, so Section 98-145, the Ordinance specifically provides for North Merritt Island recommendations to go to the Planning and Zoning board, and to come to the County Commission when there is an application that would increase such density, such as is the one before it; the County does have an Ordinance; and the Board has to read the Ordinance.

Commissioner Goodson asked the County Attorney to explain to him the Community Commercial Comp Plan in reference to this piece of property.

Attorney Richardson replied with the Community Commercial under the same Comp Plan designation, the maximum they can get is RES 4, which is four units to the acre, but the density in a Community Commercial is going to be driven by the zoning that they have, so currently, they have BU-1, which would only allow one single-family residential if they did the residential use; the proposed use would allow up to four units per acre; and the Board could determine something in between as more appropriate.

Commissioner Goodson inquired if staff could tell him how many units per acre south of Egret's Landing.

Mr. Calkins responded their Future Land Use is RES 2, but he does not know what the yield would be on their development; he would have to look at that and see; and he would have to look at their plans.

Michaela Murphy remarked she is a resident of Egret's Landing, so she certainly does not want to come here as a hypocrite; she understands that Egret's Landing may have been the cause of some of these issues that these residents are facing; she is like a lot of the young families that built a house in that neighborhood looking for a safe place to raise their kids; and she is primarily concerned about the traffic. She went on to say right now one can only turn north to go to the Space Center which is where her kids go to daycare; they drive them every single day; they are a little concerned about the crashes; there has been a lot of crashes on Courtenay recently, some deadly, and it is really scary; she is sorry for getting choked up, but she was rocked by the crash on I-95 that happened a couple of days ago that killed someone; and she is worried about additional people living there, and it is not just for them, but for the potential people who may live in those condos. She noted if there is not a study done on the traffic, especially how one would enter and exit that property, that she does not think they could possibly in good conscience move forward; it is not safe for the folks that are exiting from their

neighborhood; a lot of folks have to turn north and then do a U-turn, which is incredibly dangerous; there are thousands of folks that use Courtenay to get to Kennedy Space Center every single day; frankly, they are just trying to work and get back home every day; and unfortunately, some of them seem to treat it like a racetrack, and it is really scary knowing that is right outside a person's neighborhood. She pointed out she does not think in good conscience, the Board can add more people driving right there; if the driveway is right next to theirs, she is worried about visibility and cars pulling out right in front of a person; with the U-turns, they would look to have to redo the intersection or create a stop light, or something; but from what she can see, that has not been part of the plan, or it has not been studied; she does not know what the requirements are, but she thinks that is something that has to be looked at; additionally, hearing that the Board has said that there is a potential with this new zoning that it could be utilized as short-term rentals; and a lot of North Merritt Island has been turned into short-term parking for the cruise lines. She explained she would be very concerned that if this is allowed to be short-term rentals; folks would use that who are rowdy, people they do not want right next to a single-family or single-home community utilizing that right next to long-term cruise parking; it would not make sense if they did that; again, she does not want to sound like a hypocrite, but truly the flooding is a problem, even for the folks in Egret's Landing; she has two kids; she is scared that during a hurricane or even during a bad rain storm that they could have significant flooding; and that is really scary.

Nancy Minerva stated she agreed with just about everything that was said, so she will not repeat that; she wanted to say that she believes that the Board Members took office to help the residents of this community; she knows he or she does not all represent District 2, but the entire Board does represent the community; she asked that the Commission would think about the good of the people who are living in the community, not only in this decision but in all decisions, because past Commissioners did not pay attention to the residents and all of the things that people said; there is so much history of flooding there; they have had tours of the flooding areas, of how the water flows; they have had people from Public Works come up and work with them; and she has been there since 2012, so she has seen how it has changed. She advised the Commission is welcome to come; she is sure the residents would show him or her all of the flooding that has happened; they have collected photos, and done all kinds of stuff; she asked the Board to please make a good decision; she is looking for a Policy, that says the proposed use shall not cause or substantially aggravate any substantial drainage problems; she is sympathetic of Mr. Dvorak; she asked the Board to think about the people who live in North Merritt Island, their property rights, and do not make them leave and then have property they cannot sell because a person is not going to be able to sell flooded property to someone else; and she asked the Board to make a good decision for everybody.

Chris Minerva commented he represents the North Merritt Island Homeowners Association; the Board has heard everything already, but he will just say that the North Merritt Island Homeowners position on this rezoning is to object to the request, because under Brevard County Administrative Policies, this rezoning would diminish the enjoyment of the quality of life in the surrounding existing neighborhoods; he asked the Board to picture putting apartments next to his or her home; and why should future buyers pay the same amount of property taxes next to an apartment complex. He went on to say it is just common sense; Section 3C is inconsistent with the local land use patterns; Section 4, it is inconsistent with decades of rural character of the surrounding areas; Section 5G, generally it causes more traffic impacting road safety and road services; inside North Merritt Island commercial corridor and areas for commercial buildings and development is designated to not have residential development, especially not high-density residential; and there have been several successful commercial developments over the past two years on North Merritt Island, so commercial is possible if reasonably priced. He noted they see that commercial development has overall less impact on

surrounding properties than high-density housing; Merritt Island is low; it is already flood prone; it is much more environmentally-sensitive and not the place for apartments and townhouses; they keep hearing the argument from developers that their stormwater will be, by law, held on their property more and more when they experience the typical summer and fall rains, and then big storms come in; and all of those promises go out of the retention areas and flood the street and properties while new development sit up higher and runs more water onto them. He stated this property is currently zoned so that it could have four residences built on it to lower their harmful impact on the surrounding residents, people who have invested their life and savings into their homes; they request that the applicants honor the current zoning and put their commercial, or four residences, on that property; and he expressed his appreciation to the Board for its time and consideration.

Commissioner Goodson inquired if Mr. Minerva would agree to four.

Mr. Minerva responded yes, that is what was agreed to.

Commissioner Goodson asked of the Homeowners Association.

Mr. Minerva replied correct, four on the property. He pointed out before it was North Merritt Island it was Mosquito Island.

Chairman Feltner asked if there is anyone else who wants to speak on this Item; and he asked about the short-term rentals, so he is going to assume that the nearby neighborhood, their HOA, would not allow that, but their zoning, would it allow that for Egret's Landing.

Mr. Calkins advised Egret's Landing is residentially-zoned; the zoning classification for that is EU-2 he believes; it is does not allow for short-term rentals as a permitted use.

Chairman Feltner asked if this parcel would allow for that through that which the Board is considering.

Mr. Calkins replied both the proposed zoning and the current zoning would allow for short-term rentals; he stated he would like to speak to Commissioner Goodson's question; and it appears that Egret's Landing is about 1.5 units to the acre development.

Ms. Rezanka stated again, she wants to clarify it is not Residential 1, it is Residential 2, but it is in the area; everything yellow is Residential 2; the Small Area Study did want to change everything that was undeveloped to Residential 1; she was indeed hired by about 15 property owners to keep their properties out of the Small Area Study, not to fight the Small Area Study; and there is a distinction there. She went on to add they just wanted to be kept out as has been done in prior Small Area Studies, so this is 2.47 acres seeking nine townhomes under RA-2-4; because it is Community Commercial, Future Land Use Policy 2.10 allows for one density bump, so it is technically four units to the acre; looking at the staff report, it states that clearly on page three, four units to the acre potential; the other issue in the staff report, on page five, is that there is no material violation of relevant policies have been identified; that is all the Administrative Policies that the Board heard in conclusory fashion that this project will violate. She stated there is no evidence that any of these will be violated; and in fact, they do meet, by staff's report, there is no adversity to those Policies. She explained regarding traffic on page seven of the staff report, she is not sure where the 2021 traffic study information came from but this does say that the maximum acceptable volume is 41,790; this currently operates at 36.83

percent, so it is not even at 40 percent of capacity, and this would only increase the utilization by .21 percent, so there are only nine units, which usually townhomes have about seven trips per day; this is not going to be a substantial impact; and they cannot help the traffic design with the U-turns. She noted the lady who is concerned about the U-turns says they have to, but that is not something this development is necessarily going to cure nor would it warrant a traffic study with only nine units; it may be an issue for Brevard Traffic to look at in the future; this is nine units; according to the Future Land Use, it is permissible; and they are not apartments, they are townhomes. She stated BU-1 zoning currently allows for resort rentals; BU-2 zoning currently allows hotels and motels; by the mixed-use Ordinance that she cited to the Board earlier, they believe that it can be more, because it says residence is plural; it is something that has not been used, but if this is denied, they will certainly look at doing that and having a mixed-use facility there with townhomes; that is not what he wants to do, because then BU-1 setbacks would apply; BU-1 setbacks are only 15 feet; and if one has the RA-2-4 zoning, they have setbacks of a perimeter of 25 feet, and they are willing to agree to a BDP to increase the buffers to leave natural buffers, if possible, to prevent the proximity to the residence in egress. She mentioned the flooding comes up every time a new development comes in; North Merritt Island is actually very special because of flooding; about three or four years ago, there was that massive study; there is now additional compensatory storage required in North Merritt Island; she does not know that it has been used yet, because it is a model that all of this data has to go into, so it ensures that there is not going to be flooding from a new development; and an engineer has to certify, basically, based upon his license, this is not going to impact, and there have been engineers that have been very concerned about that. She added, there are stricter requirements in the past four years for North Merritt Island than there have been in the past; this is single-family townhomes to single-family townhomes, as they are not apartments; regarding the current setback from Egret's Landing, the person closest to this property, his side setback is only 10 feet; then there is that 10 to 15-foot strip of HOA property, then there would be a perimeter setback of 25 feet, so one would be looking at 45 feet from that person's property; and again, the perimeter setback for RA-2-4 is greater than BU-1. She pointed out circumstances change; Mr. Dvorak bought this in 2005; the space shuttle was up and running; the space shuttle closed down in 2011; she reiterated that things change; that traffic has diminished from the space shuttle traffic; property that one built, he or she may not be able to build what they wanted to; he should not be faulted for wanting to do something, then not being able to do it because of change of circumstances; and the property has not been developed. She stated she is not aware of any successful commercial area in North Merritt Island other than the Dollar General; Mr. Minerva did not give any indications of what that was; but the commercial that is there is not thriving; in fact, it has been repurposed; again, they were not faulted for that, and they had a lot of people come out against the rezoning for cruise parking; there are four units to the acre already at Island Lakes, as she has mentioned, the mobile home community; and she did briefly want to discuss the Administrative Policies, because the Administrative Policies do indeed support this rezoning. She continued by saying Policy 3 talks about the use of single-family; 3C talks about emerging or existing patterns of development; actual development over the preceding three years is the townhomes to the north; adopted levels of service will not be compromised; the County staff report has said that; this is consistent with the written Land Development Policies and the Future Land Use Element; and it will not cause substantial drainage problems. She noted it is not allowed to by the County's Code; it is not going to have an adverse impact on wetlands, natural bodies, or habitats; the character of the land use surround is single-family, and this is single-family; the change of conditions of the land use being considered, it is not being developed as commercial because it is not feasible to do so; and there would be more vacant land, more vacant buildings, as they are already vacant in commercial buildings up there. She stated with that, they believe that this is compatible with the area; it is a transition from the substantial parkway, so there is residential, then there is more residential further to the east, and it does meet the County's

Comp Plan and the conditions of the Code; and most of those issues raised are site plan issues that County staff will address as well as FDOT.

Commissioner Altman asked if the applicant has looked at the size of the lots in Herring's Landing.

Ms. Rezanka asked Egret's Landing.

Commissioner Altman replied yes, Egret, wrong bird.

Ms. Rezanka replied right, it is single-family plotted.

Commissioner Altman asked but, the size of the lots.

Ms. Rezanka advised they can be 9,000 square feet; but she does not know what they all are.

Commissioner Altman stated he was just looking and the first one he looked at was .23 of an acre, which is greater than four units per acre; and if Ms. Rezanka does the math on her client's proposal, the total acres divided by the number of units is 3.6 acres.

Ms. Rezanka stated yes, sir.

Commissioner Altman stated it is less dense than the subdivision to the back; he was wondering if she had looked at that; and he asked how she got that number of lots at the lower density than Egret's Landing; and is it because of the buffer areas that she is providing.

Ms. Rezanka responded it is just the way that the subdivisions have to work; and one takes a third of a subdivision, which is generally used for drainage, infrastructure, and things like that.

Commissioner Altman advised when looking at the drainage and infrastructure, Egret's Landing density is lower; it is interesting when looking at the actual size of the lots of how comparable they are; he asked how that was, and if she is willing to agree to the site plan she submitted in terms of the number of units.

Ms. Rezanka responded to the number of units, yes, and her client is willing to agree to additional buffers on the east side if that is a requirement or a request of the Commission.

Commissioner Goodson mentioned if the applicant would agree to a Binding Development Plan of four units, he would be all for it; they have heard that the homeowners of North Merritt Island would accept four; if that is the case, he will vote for it; and if it is not, he is a no.

Chairman Feltner asked if Ms. Rezanka would like to take five minutes.

Ms. Rezanka replied no.

Commissioner Goodson stated if that is the case he will make a motion to deny it, because he does not hear an offering on the BDP.

Ms. Rezanka explained no, he cannot do that feasibility.

Chairman Feltner stated for the record, he thinks the owner said no.

Ms. Rezanka advised yes.

Commissioner Delaney stated she would like to second the motion.

Chairman Feltner stated the Board has a motion for denial by Commissioner Goodson, and a second by Commissioner Delaney.

Commissioner Altman explained he is going to vote against that motion, and he wanted to state why; he appreciated the neighbors concern, but he is not a fan of strip commercial, and when looking at this corridor going up to the Cape, he would hate to see it just become another corridor like is seen throughout the County that are tic tacky strip commercial; the Board has not even talked about the impacts that BU zoning could have on the neighborhood in terms of the lighting at night, not to mention some of the heavy uses the applicant's attorney has brought to its attention; he thinks it is reasonable, and thinks what the Board is hearing is economical, it is going to be developed at BU-1 eventually, because the four units for the total site, the size of the site is not feasible; and the actual impact of the proposal is very similar to Egret's Landing in terms of the land that is used and the number of lots on the land, because those lots in Egret's Landing are less than a quarter of an acre. He pointed out it is a good request; he thinks it is better for the community; he thinks that housing is always single-family housing, always is much more compatible with the existing housing; it can provide a nice buffer between the housing and Egret's Landing; and he is going to vote against it because he supports the applicant's request.

Commissioner Goodson commented that is great.

Commissioner Delaney stated her biggest concern is that Egret's Landing that the engineers had to certify that there would be no flooding; regardless, they had to basically give the County plans that said that there would be no flooding, which is seen time-and-time again; it is part of the reason why she is on the Commission, because developers get to come in and do whatever they please on their property, because of their own property rights, and it does not matter what

happens to the existing homeowners; the County cannot continue to do this; he heart breaks for the applicant's situation, she is sorry; but she reiterated the County cannot continue to do this.

Attorney Richardson asked Commissioner Goodson is he can ask that in the event his motion passes, it can be included that he directs the County Attorney to develop a resolution setting forth proposed findings of fact, conclusions of law, and the action taken to be returned to the Board at a future regular Board meeting as a Consent Agenda Item.

Commissioner Goodson replied yes, by all means.

Chairman Feltner asked Commissioner Delaney if she is still a second on the amended motion.

Commissioner Delaney replied affirmatively.

Chairman Feltner called for a vote on the motion.

There being no further comments or objections, the Board denied the request for a change of zoning classification from BU-1 to RA-2-4 on property located on the northeast corner of North Courtenay Parkway and Norwich Street; and directed the County Attorney to develop a

resolution setting forth the proposed findings of fact, conclusions of law, and actions taken to be returned to the Board on a future regular meeting as a regular Consent Agenda Item.

*The Board adjourned at 6:51 p.m. and reconvened at 6:58 p.m.

Result: DENIED

Mover: Tom Goodson

Seconded: Katie Delaney

Ayes: Delaney, Goodson, and Feltner

Nay: Adkinson, and Altman

J.1. Request for Executive Session re: Labor Negotiations

Commissioner Adkinson stated this is a request to waive the County's normal Policy, and to request to schedule a closed executive session of the Board to discuss collective bargaining negotiations; and Policy BCC-97 limits actions at Board zoning meetings to land use items, unless the Board finds, by a supermajority vote, that it is in the public's interest for the Board to consider a non-land use item.

Chairman Feltner commented he wants to clarify; he thinks the Board needs four votes to consider the Item; and he asked if that is correct.

Morris Richardson, County Attorney, replied that is correct.

Chairman Feltner asked if the Board needs a motion and a second.

Commissioner Adkinson stated the purpose of this executive session would be to discuss with staff, related to the negotiations with the International Association of Firefighters Local 2969; the executive session is related to bargaining negotiations that are permitted by Florida Statutes; the prior Board had the benefit of an executive session regarding the same contract negotiations in May of this year; this Board has not; and she believes it is prudent and reasonable that the current Board receive the same opportunity, particularly with three new Board Members. She went on by saying the request is that the executive session occur immediately after the regular Board meeting scheduled for December 17, 2024; the importance of this issue necessitates making the request at a zoning meeting; and postponing the executive session into the New Year would delay any new direction to staff, and potentially delay the conclusions of negotiations.

Sandra Sullivan expressed her appreciation to the Board for bringing this forward, because there has been a loss according to the news, 108 personnel; she commented the concern is the County is moving towards a critical service failure; the County had a critical service failure in 1997; there was a report done with recommendations; there were two recommendations in that; and as the Board goes into this executive session, she would like it to consider a couple of things. She went on to say the recommendations from that study, which is on the Federal Emergency Management Agency (FEMA) page by the way, recommended that the impact fees be increased to the surrounding counties; as the Board knows, impact fees have not been updated in nearly 35 years; with massive increases in costs of some things, some of the vehicles have doubled in cost; the second recommendation they made was an Emergency Medical Services (EMS) assessment; and she read the assessment that the County Manager wrote up, and it is not consistent with facts. She advised the study that was done recommended an EMS assessment; what the County did back then was did a Multiple Service

Taxable Unit (MSTU); of course, it was sued by the City of Palm Bay; and as a consequence of that, the findings of that one cannot have an ad valorem tax for EMS assessment, because it is not related to the property. She stated by the Attorney General (AG) legal opinions, and by that case, which she has sent all of the Board Members a screenshot from that, that clearly states this out, that this has to be an EMS assessment, so as the County goes into the negotiations, it has to find money to pay the firefighters; the couple of things she would like the Board to consider is one, taking the money it just got from the Constitutional Offices and dedicating that; two, addressing impact fees; three, looking at the County's billing system; the County wrote-off \$13 million in write-offs; and that number is skyrocketing. She pointed out she is not talking about Medicare, because nothing can be done with that; she is talking about writing off people who do not pay for transport; in looking at other counties and what other counties do, one for example, does its billing in-house, so a person goes to the county website, put in the billing and insurance information, and it processes it; she asked if the Board is aware that Brevard County does not, through the Contract that they have with the company in Orlando, does not process insurance payments; if an analysis was done of other surrounding counties and how much they bring in more as a percentage, because they process that, so there is multiple ways to bring in additional revenues to solve this; and also to please evaluate whether a fire district, an independent fire district, would be helpful.

Chairman Feltner advised the Board voted to introduce the Item; the Board did not have any questions; it listened to the comment card; and now he is going to entertain a motion on the Item to have the executive session after the Commission meeting on Tuesday.

Commissioner Delaney expressed her appreciation to Commissioner Adkinson for bringing this forward.

The Board approved the scheduling of an execute session to occur immediately following the December 17, 2024, Regular Board Meeting, for the purpose of discussing negotiations with the Firefighter's Union.

Result: APPROVED

Mover: Kim Adkinson

Second: Katie Delaney

Ayes: Delaney, Adkinson, Feltner, and Altman

Nay: Goodson

K. PUBLIC COMMENTS

Sandra Sullivan stated she wants to say citizens demand to fire Abbate now; the reason for this is this public service crisis being faced in Brevard County has been largely created by Frank Abbate, County Manager; a motion was made to extend his Contract until this new Board came on; and in fact, the suggestion was made by Chairman Feltner. She continued by saying the trust is lost; while there is a new Board of County Commissioners, she read this report yesterday, she frankly, could not believe it as Mr. Abbate is being paid \$275,000; that report that was put out yesterday is garbage; there is no way to sugarcoat it; it says to restore the Emergency Medical Services (EMS) assessment Countywide; apparently, Mr. Abbate does not understand that the City of Palm Bay lawsuit against the County in 2004 determined that ad valorem taxes for EMS were not legal, so hiding the tax under the General Fund is still an ad valorem tax; EMS assessment was under non-ad valorem tax prior to 1998, and should be Countywide; and that is what the referendum in 1998 was, to vote for a Countywide EMS service because of the critical service failure at that time. She noted it was very extensively

studied, so the fact that 2004 the County got sued, as it cannot be an valorem tax, it has to be a non-ad valorem tax; by reading the Attorney General legal opinions, the most recent done in 2012, it says it has to be non-ad valorem assessment; just like where the County has its fire assessment, it has an EMS assessment; then it is pulling it out of General Fund, which is an ad valorem tax; and the amount that is in ad valorem tax is not enough to cover the 47 percent of the County's Fire/EMS budget that is EMS. She advised it is not enough to cover the percentage, so the cities are not paying their fair share; this needs to be fixed; those things cannot be fixed until next year, so money has to be found in the meantime fix this; she asked why Mr. Abbate did not address other issues, like to do a report on fire assessment that is not going to bring in any money for a year; does the Board know how long it takes to maybe an EMS and fire impact fee study, probably six weeks to two months; and she asked the Board to get some money in to address fire.

Stephanie Maduskuie stated she realizes the Board already took a vote on this, so she hates to beat a dead horse, but she just wanted to say her piece about that zoning request; she expressed her appreciation to those who voted against the zoning; she stated she lives in Egret's Landing, and this proposed rezoning is . . .

Morris Richardson, County Attorney, advised those Items have to be considered at a public hearing and their due process consideration, so other parties have to be present so they can hear and respond to what is said; the Board has already denied the requested action; and if Ms. Maduskuie does this now, it will complicate the record and potentially create an error in the record.

Ms. Maduskuie asked so she should not speak during the Public Comment.

Attorney Richardson replied not on a public hearing, quasi-judicial Item.

Commissioner Goodson asked if that applies if he asked Ms. Maduskuie about her drainage in Egret's Landing.

Attorney Richardson explained Commissioner Goodson is welcome to ask Ms. Maduskuie about her drainage in Egret's Landing, just not about the specific zoning request heard earlier.

Commissioner Goodson asked if Ms. Maduskuie is familiar with her drainage of Egret's Landing.

Ms. Maduskuie replied she is not an expert in that area.

Commissioner Goodson noted he knows her and thought she was an expert in everything; and he asked if it drains to the front of the lot, back of her lot, or both.

Ms. Maduskuie responded both.

Commissioner Goodson inquired if she has one or two ponds.

Ms. Maduskuie replied they have two.

Commissioner Goodson asked if she ever noticed even with the worst, like a hurricane, do they overflow.

Ms. Maduskuie advised they get very high, yes.

Commissioner Goodson asked but as far as overflowing.

Ms. Maduskuie replied she honestly stays in doors; when it is that bad, she does not go out inspecting for her safety.

Commissioner Goodson asked if the outflow of those two ponds is Hall Road maybe.

Ms. Maduskuie responded affirmatively.

L.1. Frank Abbate, County Manager

Frank Abbate, County Manager, stated he just wants to just respond a little bit to some of the comments the Board heard tonight as it relates to the fire assessment report; staff is going to be presenting to the Board next week; he is very proud of the document they put together; it is a very accurate document; it is very comprehensive; and he reiterated the Board will hear it next week when it is presented. He went on to add it was put together by five senior staff members who all wrote separate parts, including the County Attorney and the Budget Director; he is very confident that what they put together is an accurate representation; and he looks forward to presenting it to the Board.

L.2. Morris Richardson, County Attorney

Morris Richardson, County Attorney, stated he would echo Mr. Abbate and encourage the Board to forget everything it just heard about the validity of Emergency Medical Services (EMS) ad valorem and non-ad valorem assessments, because it is exactly reversed of what the cases say; but that is in the Board's report; and going forward, he has no other report.

L.3. Katie Delaney, Commissioner District 1

Commissioner Delaney commented she just wanted to bring a couple of things forward; she does not know if she is allowed to do this; but for the record, she just wanted to state that she did meet with Ms. Rezanka; she did bring forward the public disclosure; for everybody listening, she thinks it is fair to meet with everybody; and she did meet with her. She went on to say the other thing she wanted to talk about this thing regarding the wastewater treatment plant; she is very concerned that this issue is dealing with District 1 and District 2; she feels very passionate that both District Commissioners deserve a seat at the table when speaking to these people; and she just kind of wanted to see if this could be opened for discussion to see if there are any options to have maybe a rotating Commissioner, or if Commissioner Goodson wanted to kind of a do a back and forth.

Commissioner Goodson advised the Chairman has been going.

Commissioner Delaney stated right.

Commissioner Goodson asked if Commissioner Delaney wants someone else to go other than the Chairman.

Commissioner Delaney advised she just feels like this is really affecting her District.

Commissioner Goodson asked how it could be affecting her District.

Commissioner Delaney replied because the long-term plans are dealing with the regional . . .

Commissioner Goodson stated right, and that will probably be 10 years, and unless she extends the term limits, she will not be here.

Commissioner Delaney pointed out the plans leading up to that will greatly affect her people.

Chairman Feltner noted he is certainly very sensitive to that; he will tell her that while each Commissioner advocates for his or her District, he is very mindful of everything in this County, so he can commit to her today that he is looking out for the rate payers in this arrangement and what is being looked at in terms of infrastructure, so he thinks there may be a Sunshine challenge; but at this stage in where the County is in talking with Space Florida and others, nothing will be agreed to until it comes back to the Board; and he promises Commissioner Delaney will have ample opportunity. He went on to say at this point it is a question and answer period; he wishes he could come back to her and say there are three definite things that will be seen in the very near future; but it is not there yet.

Commissioner Delaney advised she is concerned about the question and answer piece of it though; she is concerned because her District elected her to work on behalf of their interests, and in this situation, she is not able to do that; she feels like the planning of the Q&A, that is what brings forward the plan to come back to the whole Board; maybe Commissioner Goodson does not feel this way, she does not know; but she is concerned.

Commissioner Goodson explained he is very concerned about everything Commissioner Delaney said, but he is not getting in the middle of it sitting at the table with her when he gets charged with a Sunshine violation; if she cannot trust her staff, and in the preliminary stages the Board instructed staff to go back to them and then come back to the Board; he asked does Commissioner Delaney want to be there every time they meet; he stated he just thinks the Commission should trust its staff; and he asked if not, why does it have staff.

Commissioner Delaney stated she is not asking for all of the Commissioners to be there at the same time; she does not know if it still violates the Sunshine Law if there is a rotating Commissioner; and as far as trusting staff, and she says this with all due respect, her people did not elect staff, they elected her.

Commissioner Goodson noted that is good, and he agrees; but one does have to trust staff.

Chairman Feltner stated if the Board rotates Commissioners, he thinks that eliminates the Sunshine issue.

Commissioner Altman stated he definitely understands where Commissioner Delaney is coming from; historically, a Chairman is elected for the purpose to represent the Board as a whole; he is convinced the Commission has a good Chairman; he knows Chairman Feltner will look after her interests, his interests, and he will play the balancing act; that is one of the duties of a Chairman; and the Chairman is there to present the Board as a whole when the rest of the Board is not able to be there. He continued by saying secondly, he thinks there are certain issues that transcend District boundaries; for example, beaches; regarding beach access, re-nourishment, and parking, that each Commissioner deserves a seat at the table; Space affects all of the Districts, the State, and the country; he will fight for Titusville as much as he fights for Melbourne; the Commission is all in there together; this is a huge issue for them all; and he reiterated he knows the Chairman is going to represent the other Commissioners well.

Chairman Feltner explained he will continue on it now; when some substance is gotten, he will yield to Commissioner Delaney; he does not see any problem with that; right now it is conceptual but nothing is concrete, it is just not there yet; and he asked if she will agree to that when they get to some kind of conversation with them; he thinks he knows the level she is

looking for; and he is happy to step aside when it gets to that point.

Commissioner Delaney pointed out she did not mean any disrespect.

Commissioner Altman advised Commissioner Delaney can meet and engage with staff or Space Florida at any time; and her impact is really important.

Commissioner Delaney stated she thinks everybody can understand, when all parties are at the table, it is a much different conversation than the one-on-ones; at the end of the day, she has the residents of District 1 to face; and she has to do what she believes is right.

Chairman Feltner commented the entire Board votes on Items; tonight it voted on every zoning item whether it is in his or her District or not, so that is never lost on him; and he suggested to her that she has been well-represented so far. He went on to add he thought it was quite something that there were four Commissioners at Transportation Planning Organization (TPO); he does not know if that has ever happened before; and he wished his Chief of Staff, Carol Mascellino, a Happy Birthday today.

Upon consensus of the Board, the meeting adjourned at 7:23 p.m.

ATTEST:

RACHEL SADOFF, CLERK

ROB FELTNER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA