

Minutes Planning and Zoning Board / Local Planning Agency

3:00 PM

Call To Order

Approval of Minutes - May 17, 2021

This agenda item was approved.

Result: APPROVED

Mover: William Capote

H. Public Hearings

- H.1.** CBH Properties Melbourne, LLC (Bruce Moia) requests a change of zoning classification from BU-1, with an existing BDP, to BU-2 and an amendment to the existing BDP. (21Z00012) (Tax Account 3022324) (District 4)

Bruce Moia, MBV Engineering, stated the subject property is on Wickham Road, next to the new apartment complexes beside Fresh Market, and it is an automotive store called, "Christian Brothers Automotive". It has been in business for 40 years in 30 states, with 242 stores nationwide. He said the store is already open and they are conducting business; however, part of the work they do is replace motors and transmissions, and when a client orders a motor or transmission they replace it the same day it arrives. He stated under the BU-1 zoning they cannot do that work. He added the along with the request for BU-2, his clients are presenting a BDP (Binding Development Plan) to allow them to do that work; they will not be re-building transmissions or motors onsite, they just want the ability to replace motors and transmissions.

Ben Glover asked if the applicant held a dealer license they would be able to do these automotive repairs. Mr. Moia replied, no, the zoning is what prevents them from doing the work, regardless of the type of license. Mr. Glover stated they did a good job on the building, and it's something he would be in favor of.

Peter Filiberto asked if any motors or transmissions be stored on the property. Mr. Moia replied, no.

No public comment.

Motion by Ben Glover, seconded by William Capote, to approve the change of zoning classification from BU-1 with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial) and an amendment to the existing BDP. The motion passed unanimously.

1. CBH Properties Melbourne, LLC (Bruce Moia)

A change of zoning classification from BU-1 (General Retail Commercial) with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial) and an amendment to the existing BDP. The property is 1.15 acres, located on the east side of N. Wickham Rd., approx. 0.13 mile south of Jordan Blass Dr. (6315 N. Wickham Rd., Melbourne) (21Z00012) (Tax Account 3022324) (District 4)

This item was tabled from the 07/12/21 P&Z meeting.

Bruce Moia, MBV Engineering, stated the subject property is on Wickham Road, next to the new apartment complexes beside Fresh Market, and it is an automotive store called, "Christian Brothers Automotive". It has been in business for 40 years in 30 states, with 242 stores nationwide. He said the store is already open and they are conducting business; however, part of the work they do is replace motors and transmissions, and when a client orders a motor or transmission they replace it the same day it arrives. He stated under the BU-1 zoning they cannot do that work. He added the along with the request for BU-2, his clients are presenting a BDP (Binding Development Plan) to allow them to do that work; they will not be re-building transmissions or motors onsite, they just want the ability to replace motors and transmissions.

Ben Glover asked if the applicant held a dealer license they would be able to do these automotive repairs. Mr. Moia replied, no, the zoning is what prevents them from doing the work, regardless of the type of license. Mr. Glover stated they did a good job on the building, and it's something he would be in favor of.

Peter Filiberto asked if any motors or transmissions be stored on the property. Mr. Moia replied, no.

No public comment.

Motion by Ben Glover, seconded by William Capote, to approve the change of zoning classification from BU-1 with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial) and an amendment to the existing BDP. The motion passed unanimously.

Result: APPROVED

Mover: Ben Glover

Seconded: William Capote

- H.2.** 4090 Aurora Pines, LLC (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. (21PZ00030) (Tax Account 2702879) (District 5)

Bruce Moia, MBV Engineering, stated there is an existing trailer park on the subject property and approximately 2.6 acres that is vacant and the owns would like to put some single-family homes on the property that would be compatible with the area. The land use is compatible with the surrounding land uses as well as the zoning. He said in order to get the lot size and density they need, they are asking for more than that they think they need. He said he has done a preliminary concept plan and believes 10 lots can be placed on the property. He advised that water and sewer would be brought to the property and an internal roadway system would be constructed, as well as maintaining the mobile home park that has been in existence since the 1950's or 1960's.

Brian Rodgers asked if they will be single-family homes. Mr. Moia replied yes, they will be single-family detached homes. He noted manufactured or mobile homes would be allowed in the zoning classification, but that is not what is being proposed. He added, there are already quite a few mobile home parks in the area, so it wouldn't be out of character, but that is not the intention.

Ben Glover asked if the new lots would be on the eastern part of the property. Mr. Moia replied yes, they would be on the eastern half of the lot. Mr. Glover asked if Mr. Moia will have to put in another accessway. Mr. Moia replied they would be building a road out to Aurora Road and brining in water and sewer.

Peter Filiberto asked if the manufactured homes that are there now are already on sewer and water. Mr. Moia replied he does not believe they are.

No public comment.

Motion by Ben Glover, seconded by Joe Buchanan to approve the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. The motion passed unanimously.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of classification from TR-3 to TR-1-A. The motion passed unanimously.

2. 4090 Aurora Pines, LLC (Bruce Moia)

A Small Scale Comprehensive Plan Amendment (21S.04) to change the Future Land Use designation from RES 4 (Residential 4) to RES 6 (Residential 6). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) (21PZ00030) (Tax Account 2702879) (District 5) This item was tabled from the 07/12/21 P&Z meeting.

3. 4090 Aurora Pines, LLC (Bruce Moia)

A change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) (21Z00016) (Tax Account 2702879) (District 5). This item was tabled from the 07/12/21 P&Z meeting.

Bruce Moia, MBV Engineering, stated there is an existing trailer park on the subject property and approximately 2.6 acres that is vacant and the owns would like to put some single-family homes on the property that would be compatible with the area. The land use is compatible with

the surrounding land uses as well as the zoning. He said in order to get the lot size and density they need, they are asking for more than that they think they need. He said he has done a preliminary concept plan and believes 10 lots can be placed on the property. He advised that water and sewer would be brought to the property and an internal roadway system would be constructed, as well as maintaining the mobile home park that has been in existence since the 1950's or 1960's.

Brian Hodggers asked if they will be single-family homes. Mr. Moia replied yes, they will be single-family detached homes. He noted manufactured or mobile homes would be allowed in the zoning classification, but that is not what is being proposed. He added, there are already quite a few mobile home parks in the area, so it wouldn't be out of character, but that is not the intention.

Ben Glover asked if the new lots would be on the eastern part of the property. Mr. Moia replied yes, they would be on the eastern half of the lot. Mr. Glover asked if Mr. Moia will have to put in another accessway. Mr. Moia replied they would be building a road out to Aurora Road and brining in water and sewer.

Peter Filiberto asked if the manufactured homes that are there now are already on sewer and water. Mr. Moia replied he does not believe they are.

No public comment.

Motion by Ben Glover, seconded by Joe Buchanan to approve the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. The motion passed unanimously.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of classification from TR-3 to TR-1-A. The motion passed unanimously.

Result: APPROVED

Mover: Ben Glover

- H.3.** 4090 Aurora Pines, LLC (Bruce Moia) requests a change of zoning classification from TR-3 to TR-1-A. (21Z00016) (Tax Account 2702879) (District 5)

Bruce Moia, MBV Engineering, stated there is an existing trailer park on the subject property and approximately 2.6 acres that is vacant and the owns would like to put some single-family homes on the property that would be compatible with the area. The land use is compatible with the surrounding land uses as well as the zoning. He said in order to get the lot size and density they need, they are asking for more than that they think they need. He said he has done a preliminary concept plan and believes 10 lots can be placed on the property. He advised that water and sewer would be brought to the property and an internal roadway system would be constructed, as well as maintaining the mobile home park that has been in existence since the 1950's or 1960's.

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Peter Filiberto asked if the manufactured homes that are there now are already on sewer and water. Mr. Moia replied he does not believe they are.

No public comment.

Motion by Ben Glover, seconded by Joe Buchanan to approve the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. The motion passed unanimously.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of classification from TR-3 to TR-1-A. The motion passed unanimously.

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A Small Scale Comprehensive Plan Amendment (21S.04) to change the Future Land Use designation from RES 4 (Residential 4) to RES 6 (Residential 6). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) (21PZ00030) (Tax Account 2702879) (District 5) This item was tabled from the 07/12/21 P&Z meeting.

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No public comment.

Motion by Ben Glover, seconded by Joe Buchanan to approve the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. The motion passed unanimously.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of classification from TR-3 to TR-1-A. The motion passed unanimously.

Mover: Ben Glover

- H.4.** Code Revision to Chapter 98, Article IV, Port St. John Dependent Special District Board, Section 98-105.

Jeffrey Ball stated what the proposed ordinance does is allow rezoning applications to move forward to the P&Z (Planning & Zoning) Board or LPA (Local Planning Agency) if the PSJ (Port St. John) board is not able to meet due to a lack of a quorum. He said the applications would move along in the process without delay.

Peter Filiberto asked how often has the PSJ board not had a quorum. Mr. Ball replied four times in the past seven years, with the most recent being in February.

Mr. Filiberto stated he has some concerns even though residents can come to this board to voice their opinion.

Ben Glover stated if the PSJ board doesn't have a quorum the items come to this board, and asked, if they do have a quorum, do the items go directly to the County Commission.

Jeffrey Ball replied no, under the current ordinance, if they do not have a quorum the items are tabled until the next meeting. The proposed ordinance states that for any reason they are not able to meet, the items would move to either the P&Z board or the LPA, depending on the schedule. In the past, there were some delays in hearing those applications and getting them to the County Commission for the final decision.

Ron Bartcher stated there are two issues involved in this change. One is that it makes all of the special board recommendations come to this board rather than some of them coming to this board and some going directly to the County Commission. Some board members think that is a reduction in the power of the local board. The other thing it does is that it allows some items to skip the local board if the local board doesn't have a quorum. Since these local board meetings provide an opportunity for public input, that's really what this board's job is and that's what their job is. He said he would hate to see at some time in the future language like this added to the Planning and Zoning Board's rules. He stated as a representative of the public, the board should be more concerned with allowing public input than sticking to a schedule.

Mr. Glover asked if an item comes to the P&Z Board, does staff notify them, or are they already notified as far as the 500 feet radius of the subject property. Mr. Ball replied all of the meeting notices would be included on the courtesy cards that are mailed to property owners within 500 feet of a subject property.

William Capote asked if the proposed ordinance is being created because there is an issue with those boards meeting. Mr. Ball replied yes, and on March 23, 2021, the Board of County Commissioners gave staff legislative intent to make the changes.

Mr. Bartcher stated the second change about quorums appears to be primarily aimed at the PSJ board, as they seem to have more meetings without quorums than the NMI board. He said it has been his experience that the NMI board is very active and very dedicated. According to one of their board members, they have only had one meeting in the last 10 years that did not have a quorum. He noted the NMI board said they would like to have a second chance rather than just being skipped if there is no quorum, and if they don't have a quorum a second time, the items can be moved forward without their recommendation. He stated the Port St. John Board had a

comment that he believes was worthwhile, and that is that their board doesn't have alternates. He noted the P&Z board has five alternates, but their board has none. He stated the PSJ board recommended that they be allowed two alternates, and he believes that could solve the problem of no quorums.

Motion by Ron Bartcher, seconded by Ben Glover, to approve the proposed ordinance with an additional change to Section 98-104 to add the appointments of two alternates to the Port St. John Dependent Special District Board.

Mr. Ball clarified that the motion is for the Port St. John board item, not the North Merritt Island board item, which is the next item on the agenda.

William Capote asked, with alternates, if there is a meeting and the person doesn't show up, is the alternate supposed to sit in the audience waiting to see whether the person shows up or not. He said being on standby means that person would have to come to the meetings accordingly and wait to see if someone shows up or not in order to meet the quorum.

Mr. Ball stated alternates would have to show up at the meetings just in case, because although staff makes sure there will be a quorum, there is no way to make sure that everyone who said they would show up, shows up. If that's the outcome of what happens at the meeting, those alternates would have to attend the meeting in case there was a lack of a quorum.

Mr. Capote stated that's what makes it difficult because the board members are not paid, and for them to come and then not even participate, after a while they are probably not going to show up at all and then you don't have a quorum.

Ron McLellan stated what they will have to do is what this board has done for many years, and that is that the alternates can attend the meeting and participate, but they cannot vote. The only time they are able to vote is when someone is out. He said perhaps instead of having five alternates they could have three that could go anywhere and be chosen at any time. They can participate in all of the discussions, but they can't vote. They have to have a voice or they are not going to show up.

Mr. Bartcher stated he agrees, because he attended these meetings as an alternate for three years and participated in the discussions, but the only time he voted was when there wasn't enough other members.

Mr. Capote stated if that wording gets added, then it's a different story, but that wasn't the wording that was added.

Mr. Glover stated alternates can participate in every meeting.

Mr. Bartcher stated the way the P&Z Board works and the way alternates work, is in the rules for this board, and he would expect that they would need to take that same kind of language from the P&Z Board's rules and put it into the rules for the other boards.

Mr. Capote stated that will be the motion at hand, that the board wants to have an

alternate, that the alternate then participate with the PSJ board. He said if they are going to make changes, it should be a uniform change.

Brian Hodgers asked if there is a staff member for PSJ that does the same thing for the P&Z board.

Jennifer Jones replied yes, she coordinates both boards. Mr. Hodgers asked if she makes sure the Port St. John Board has a quorum. Ms. Jones replied yes. Mr. Hodgers asked if the PSJ board had alternates, would she be able to get them to the meeting.

Ms. Jones replied yes, she would attempt to get them to the meetings.

Mr. Filiberto asked if the alternates are included in the emails Ms. Jones sends to the P&Z board for a quorum. Ms. Jones replied yes, they are.

Mr. Hodgers stated if staff is already doing that, and the board adds alternates, he doesn't see where there is going to be a big issue. Mr. Capote state it is not a problem as long as the wording is in there.

Mr. Filiberto asked if the P&Z rules of the alternates participating but not voting unless a regular member is not present, carries on to the PSJ board.

Abby Jorandby stated if the board makes that change to the alternate language, that can be a proposal. She said her concern is that the legislative intent staff received is for Section 98-105, which does not pertain to alternates, so there may be an advertising issue. She said the board may make this recommendation to the County Commission and staff may have to re-advertise to actually make the changes to Section 98-104. She said this board can vote to recommend approval of the proposed ordinance as it is, recommend denial, or recommend approval with a modification. She cautioned the board that if it does have the modification there may have to be another hearing because of the fact that Section 98-104 was not advertised.

Mr. Bartcher said he feels it's important that the board and make that recommendation and if the County Commission chooses to ignore it and ignore the Port St. John Board recommendation as well, then so be it.

Peter Filiberto called for a vote on the motion as stated, and it passed unanimously.

4. Code Revision to Chapter 98, Article IV, Port St. John (PSJ) Dependent Special District Board, Section 98-105.

Jeffrey Ball stated what the proposed ordinance does is allow rezoning applications to move forward to the P&Z (Planning & Zoning) Board or LPA (Local Planning Agency) if the PSJ (Port St. John) board is not able to meet due to a lack of a quorum. He said the applications would move along in the process without delay.

Peter Filiberto asked how often has the PSJ board not had a quorum. Mr. Ball replied four times in the past seven years, with the most recent being in February.

Mr. Filiberto stated he has some concerns even though residents can come to this board to voice their opinion.

Ben Glover stated if the PSJ board doesn't have a quorum the items come to this board, and

asked, if they do have a quorum, do the items go directly to the County Commission.

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Ron Bartcher stated there are two issues involved in this change. One is that it makes all of the special board recommendations come to this board rather than some of them coming to this board and some going directly to the County Commission. Some board members think that is a reduction in the power of the local board. The other thing it does is that it allows some items to skip the local board if the local board doesn't have a quorum. Since these local board meetings provide an opportunity for public input, that's really what this board's job is and that's what their job is. He said he would hate to see at some time in the future language like this added to the Planning and Zoning Board's rules. He stated as a representative of the public, the board should be more concerned with allowing public input than sticking to a schedule.

Mr. Glover asked if an item comes to the P&Z Board, does staff notify them, or are they already notified as far as the 500 feet radius of the subject property. Mr. Ball replied all of the meeting notices would be included on the courtesy cards that are mailed to property owners within 500 feet of a subject property.

William Capote asked if the proposed ordinance is being created because there is an issue with those boards meeting. Mr. Ball replied yes, and on March 23, 2021, the Board of County Commissioners gave staff legislative intent to make the changes.

Mr. Bartcher stated the second change about quorums appears to be primarily aimed at the PSJ board, as they seem to have more meetings without quorums than the NMI board. He said it has been his experience that the NMI board is very active and very dedicated. According to one of their board members, they have only had one meeting in the last 10 years that did not have a quorum. He noted the NMI board said they would like to have a second chance rather than just being skipped if there is no quorum, and if they don't have a quorum a second time, the items can be moved forward without their recommendation. He stated the Port St. John Board had a comment that he believes was worthwhile, and that is that their board doesn't have alternates. He noted the P&Z board has five alternates, but their board has none. He stated the PSJ board recommended that they be allowed two alternates, and he believes that could solve the problem of no quorums.

Motion by Ron Bartcher, seconded by Ben Glover, to approve the proposed ordinance with an additional change to Section 98-104 to add the appointments of two alternates to the Port St. John Dependent Special District Board.

Mr. Ball clarified that the motion is for the Port St. John board item, not the North Merritt Island board item, which is the next item on the agenda.

William Capote asked, with alternates, if there is a meeting and the person doesn't show up, is the alternate supposed to sit in the audience waiting to see whether the person shows up or not. He said being on standby means that person would have to come to the meetings accordingly and wait to see if someone shows up or not in order to meet the quorum.

Mr. Ball stated alternates would have to show up at the meetings just in case, because

although staff makes sure there will be a quorum, there is no way to make sure that everyone who said they would show up, shows up. If that's the outcome of what happens at the meeting, those alternates would have to attend the meeting in case there was a lack of a quorum.

Mr. Capote stated that's what makes it difficult because the board members are not paid, and for them to come and then not even participate, after a while they are probably not going to show up at all and then you don't have a quorum.

Ron McLellan stated what they will have to do is what this board has done for many years, and that is that the alternates can attend the meeting and participate, but they cannot vote. The only time they are able to vote is when someone is out. He said perhaps instead of having five alternates they could have three that could go anywhere and be chosen at any time. They can participate in all of the discussions, but they can't vote. They have to have a voice or they are not going to show up.

Mr. Bartcher stated he agrees, because he attended these meetings as an alternate for three years and participated in the discussions, but the only time he voted was when there wasn't enough other members.

Mr. Capote stated if that wording gets added, then it's a different story, but that wasn't the wording that was added.

Mr. Glover stated alternates can participate in every meeting.

Mr. Bartcher stated the way the P&Z Board works and the way alternates work, is in the rules for this board, and he would expect that they would need to take that same kind of language from the P&Z Board's rules and put it into the rules for the other boards.

Mr. Capote stated that will be the motion at hand, that the board wants to have an alternate, that the alternate then participate with the PSJ board. He said if they are going to make changes, it should be a uniform change.

Brian Hodgers asked if there is a staff member for PSJ that does the same thing for the P&Z board.

Jennifer Jones replied yes, she coordinates both boards. Mr. Hodgers asked if she makes sure the Port St. John Board has a quorum. Ms. Jones replied yes. Mr. Hodgers asked if the PSJ board had alternates, would she be able to get them to the meeting. Ms. Jones replied yes, she would attempt to get them to the meetings.

Mr. Filiberto asked if the alternates are included in the emails Ms. Jones sends to the P&Z board for a quorum. Ms. Jones replied yes, they are.

Mr. Hodgers stated if staff is already doing that, and the board adds alternates, he doesn't see where there is going to be a big issue. Mr. Capote state it is not a problem as long as the wording is in there.

Mr. Filiberto asked if the P&Z rules of the alternates participating but not voting unless a regular member is not present, carries on to the PSJ board.

Abby Jorandby stated if the board makes that change to the alternate language, that can be a proposal. She said her concern is that the legislative intent staff received is for Section 98-105, which does not pertain to alternates, so there may be an advertising issue. She said the board may make this recommendation to the County Commission and staff may have to re-advertise to actually make the changes to Section 98-104. She said this board can vote to recommend

approval of the proposed ordinance as it is, recommend denial, or recommend approval with a modification. She cautioned the board that if it does have the modification there may have to be another hearing because of the fact that Section 98-104 was not advertised.

Mr. Bartcher said he feels it's important that the board and make that recommendation and if the County Commission chooses to ignore it and ignore the Port St. John Board recommendation as well, then so be it.

Peter Filiberto called for a vote on the motion as stated, and it passed unanimously.

Result: APPROVED WITH CONDITIONS

Mover: Ron Bartcher

Second: Ben Glover

- H.5.** Code Revision to Chapter 98, Article V, North Merritt Island Dependent Special District Board, Section 98-145.

Jeffrey Ball stated this is a similar ordinance pertaining to the North Merritt Island Dependent Special District Board, that in the event there is a lack of quorum, items that were scheduled for that meeting can move forward without the recommendation of that advisory board and go straight to either the P&Z board or the Local Planning Agency.

Ben Glover asked if this is the same situation as the PSJ board. Mr. Ball replied it is the same situation regarding the quorum.

Mr. Glover asked if the NMI board asked for alternates.

Ron Bartcher stated in reading the minutes, they did not ask for alternates; however, alternates would help with the problem. He said the NMI Board were concerned about not having their voice heard because there wasn't a quorum, and that's why they wanted to have a second opportunity, but they've only had one meeting in 10 years that didn't have a quorum. If there are alternates, then that is most likely going to resolve the problem.

Tad Calkins, Planning and Development Director, clarified that while the PSJ board is appointed by the Board of County Commissioners, the NMI board is elected by the citizens of North Merritt Island, so while it could be helpful, he is not sure how to bridge that gap being that they are elected.

William Capote stated an elected body is an elected body, and that would be hard to do.

Brian Hodgers asked if staff can recommend that additional people are elected at the next election as alternates. Mr. Ball stated staff doesn't have that ability to do that, it would be up to the Board of County Commissioners.

Mr. Capote asked if it would have to be done by referendum.

Mr. Calkins stated the challenge is that the Board of County Commissioners asked staff to make a very specific change to an ordinance that has multiple sections. He noted there may be a problem with the advertisement, as it was too specific in just advertising only one section of the code. If the board's recommendation is that staff broaden that and look at adding members, that could be something staff could take forward, but he would have to see what section of code that would be in and then see if it could be done as part of this code change, or if staff would have to tell the Board of County Commissioners that they have to re-advertise and then this board's recommendation would be to expand that, which may be the case.

Mr. Capote stated since they are an elected body by the citizens, then that means that change would have to go to the residents.

Ms. Jorandby advised the board was created by ordinance, but she would have to check to see if that ordinance actually went to referendum originally, or if it was something that the Board of County Commissioners did in their authority. If it was the Board of County Commissioners, then ideally, if the section was advertised correctly,

they could add alternates and have the elections to get the alternates elected.

Mr. Filiberto asked if the board can table this item in order to have some of those questions answered. He stated with the NMI board being an elected board, even though they may only give recommendations, because they are elected he wants them to have their say in what they are doing. He said he would feel uncomfortable having them skipped since they are an elected board. He stated if the board were to approve it right now, he would be opposed, which is why he would prefer to table it and see if staff can get some answers.

Mr. Capote stated the ordinances are scheduled to be heard on August 5th by the County Commission, and asked if there would be an issue if it were tabled. Mr. Ball stated the board can make a recommendation for staff to do research and let the County Commission decide whether they want staff to do the research or not.

Ms. Jorandby stated it seems like the consensus is that staff received direction from the Board of County Commissioners to prepare the ordinance as it is prepared, so obviously this board can make those recommendations, like it did with Port St. John, and keep this moving forward. She said if the recommendations are amenable to the Board of County Commissioners, staff will probably have to re-advertise for that particular section.

Motion by William Capote, seconded by Ben Glover, to approve the proposed ordinance with additional language of adding two alternates and the ability for staff to research any other implications as far as elected versus appointed bodies. The motion passed unanimously.

5. Code Revision to Chapter 98, Article V, North Merritt Island (NMI) Dependent Special District Board, Section 98-145.

Jeffrey Ball stated this is a similar ordinance pertaining to the North Merritt Island Dependent Special District Board, that in the event there is a lack of quorum, items that were scheduled for that meeting can move forward without the recommendation of that advisory board and go straight to either the P&Z board or the Local Planning Agency.

Ben Glover asked if this is the same situation as the PSJ board. Mr. Ball replied it is the same situation regarding the quorum.

Mr. Glover asked if the NMI board asked for alternates.

Ron Bartcher stated in reading the minutes, they did not ask for alternates; however, alternates would help with the problem. He said the NMI Board were concerned about not having their voice heard because there wasn't a quorum, and that's why they wanted to have a second opportunity, but they've only had one meeting in 10 years that didn't have a quorum. If there are alternates, then that is most likely going to resolve the problem.

Tad Calkins, Planning and Development Director, clarified that while the PSJ board is appointed by the Board of County Commissioners, the NMI board is elected by the citizens of North Merritt Island, so while it could be helpful, he is not sure how to bridge that gap being that they are elected.

William Capote stated an elected body is an elected body, and that would be hard to do.

Brian Hodgers asked if staff can recommend that additional people are elected at the next election as alternates. Mr. Ball stated staff doesn't have that ability to do that, it would be up to the Board of County Commissioners.

Mr. Capote asked if it would have to be done by referendum.

Mr. Calkins stated the challenge is that the Board of County Commissioners asked staff to make a very specific change to an ordinance that has multiple sections. He noted there may be a problem with the advertisement, as it was too specific in just advertising only one section of the code. If the board's recommendation is that staff broaden that and look at adding members, that could be something staff could take forward, but he would have to see what section of code that would be in and then see if it could be done as part of this code change, or if staff would have to tell the Board of County Commissioners that they have to re-advertise and then this board's recommendation would be to expand that, which may be the case.

Mr. Capote stated since they are an elected body by the citizens, then that means that change would have to go to the residents.

Ms. Jorandby advised the board was created by ordinance, but she would have to check to see if that ordinance actually went to referendum originally, or if it was something that the Board of County Commissioners did in their authority. If it was the Board of County Commissioners, then ideally, if the section was advertised correctly, they could add alternates and have the elections to get the alternates elected.

Mr. Filiberto asked if the board can table this item in order to have some of those questions answered. He stated with the NMI board being an elected board, even though they may only give recommendations, because they are elected he wants them to have their say in what they are doing. He said he would feel uncomfortable having them skipped since they are an elected board. He stated if the board were to approve it right now, he would be opposed, which is why he would prefer to table it and see if staff can get some answers.

Mr. Capote stated the ordinances are scheduled to be heard on August 5th by the County Commission, and asked if there would be an issue if it were tabled. Mr. Ball stated the board can make a recommendation for staff to do research and let the County Commission decide whether they want staff to do the research or not.

Ms. Jorandby stated it seems like the consensus is that staff received direction from the Board of County Commissioners to prepare the ordinance as it is prepared, so obviously this board can make those recommendations, like it did with Port St. John, and keep this moving forward. She said if the recommendations are amenable to the Board of County Commissioners, staff will probably have to re-advertise for that particular section.

Motion by William Capote, seconded by Ben Glover, to approve the proposed ordinance with additional language of adding two alternates and the ability for staff to research any other implications as far as elected versus appointed bodies. The motion passed unanimously.

Result: APPROVED

Mover: William Capote

Second: Ben Glover

H.6. Code Revision to allow a maximum 1.75 FAR in conjunction with PUD zoning.

Jeffrey Ball stated a couple of months ago staff brought forward the comprehensive plan amendment to allow for the increase in FAR, and the proposed ordinance is the request to update the Code to reflect that change.

No public comment.

Ron Bartcher stated when this came up before, one thing the proposed ordinance does is it actually allows for higher buildings on smaller lots, and in today's real estate environment, that is probably a good thing.

Motion by Ron Bartcher, seconded by Joe Buchanan, to approve the Code Revision to allow a maximum 1.75 FAR (Floor Area Ratio) in conjunction with PUD (Planned Unit Development) zoning. The motion passed unanimously.

6. Code Revision to allow a maximum 1.75 FAR (Floor Area Ratio) in conjunction with PUD (Planned Unit Development) zoning.

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Motion by Ron Bartcher, seconded by Joe Buchanan, to approve the Code Revision to allow a maximum 1.75 FAR (Floor Area Ratio) in conjunction with PUD (Planned Unit Development) zoning. The motion passed unanimously.

Result: APPROVED

Mover: Ron Bartcher

- H.7.** Public Hearing Re: Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County.

Virginia Barker, Natural Resources Management Director, stated new biosolids rules were ratified by the legislature in the 2021 sessions and signed by the Governor on June 30th. They do increase water quality protections and reduce the negative impacts, but they still allow more phosphorous to be applied to land and agricultural operations than what the crop removed from the ag lands is expected to use. Therefore, staff put together an ordinance to extend the moratorium another 180 days.

No public comment.

Peter Filiberto stated this is actually the third time the board has seen this extension. He asked if the State has made its decision on what to do.

Ms. Barker replied the State has ratified a rule based on data that is available; it also allocated funding to the Water Management District. The majority of the biosolids in the state come to the upper basin of the St. Johns River. They allocated funds for St. Johns River Water Management District to conduct four different types of studies during this fiscal year that are currently underway, and depending on the results of those they will re-visit those rules again. It is a step forward, but the State recognizes it is probably not everything that needs to be done.

Motion by Ben Glover, seconded by William Capote, to approve the Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County. The motion passed unanimously.

7. Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County.

Virginia Barker, Natural Resources Management Director, stated new biosolids rules were ratified by the legislature in the 2021 sessions and signed by the Governor on June 30th. They do increase water quality protections and reduce the negative impacts, but they still allow more phosphorous to be applied to land and agricultural operations than what the crop removed from the ag lands is expected to use. Therefore, staff put together an ordinance to extend the moratorium another 180 days.

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Motion by Ben Glover, seconded by William Capote, to approve the Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County. The motion passed unanimously.

Result: APPROVED

Mover: Ben Glover

Seconded: William Capote

Public Comment

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>