

## LOCAL PLANNING AGENCY MINUTES

February 28, 2011

The Chair, Henry Minneboo, called the meeting to order at 3:04 p.m.

Board members present were: Henry Minneboo, Chair; Bill Cannon; Linda Wise; Laura Ward; Jerry Jagrowski; Robert Ludwiczak; and Loretta Goggin.

Staff members present were: Morris Richardson, Asst. County Attorney; Stuart Buchanan, Planner II; Ernie Brown, Director, Natural Resources Management Office; and Candy Hanselman, Zoning Support Manager.

There were five regular members, and two alternates, present. All members present voted throughout the hearing.

Motion by Jerry Jagrowski, seconded by Robert Ludwiczak, to approve the minutes from the meeting on January 24, 2011. The vote was unanimous to approve the minutes, as submitted.

### **1. An ordinance amending Article III, Chapter 62, entitled "The Comprehensive Plan"; a remedial ordinance to Plan Amendment 2009-2.1 Ear-Based Amendments Ordinance 09-36; as part of a stipulated settlement agreement with the Department of Community Affairs.**

Stuart Buchanan – Good afternoon. The first item on your agenda is remedial amendments for your 2009-2.1 amendment that was adopted and submitted to Department of Community Affairs, December 15<sup>th</sup> of 2009. As you know, we were found in noncompliance. We entered into administrative hearing proceedings. We then asked for an abeyance to go back and negotiate with the Department of Community Affairs. And DCA did enter into a stipulated agreement with us that has been executed by both parties. As part of that stipulated agreement, there were remedial amendments that both parties agreed to. That's what you have before you on this agenda. Because they're remedial amendments, we can adopt them through what's called a single-hearing process. As long as no changes are made to them, and they get sent to Department of Community Affairs, they are found in compliance in 30 days. I will be happy to answer any questions that you have.

Henry Minneboo – Is there any questions?

Jerry Jagrowski – I have a question that really doesn't apply directly. But, with the change in governors, is there gonna be any change in DCA? Because we're hearing all kinds of rumors.

Stuart Buchanan – I will be happy to forward to you, sir, a copy of the current proposed legislation, the current bill. It is only a bill. It hasn't been adopted by either of the houses. But I can forward that to you, if you'd like.

Jerry Jagrowski – Please.

Stuart Buchanan – No problem.

Henry Minneboo – Is there anybody out in the audience would like to speak for, or against, this item? (no response) Seeing none, I bring it back to the board.

Laura Ward – I have questions. Hold it. There's – one of these things here, on page – well, it's 9.2.

Stuart Buchanan – Yes, ma'am.

Laura Ward – It's a policy, and it has no criteria.

Stuart Buchanan – Yes. Ernie Brown is here, but I'll be happy to take the first stab at answering that question. When that policy was originally written, the County was going to prepare its own crucial habitat study. And that

never happened. However, in the meantime, the State did undertake that, and it did, in fact, prepare what's called the Florida Natural Inventory. And that's what our staff uses currently, Ernie's staff, to be exact, as a guide to look at where habitats are to steer development away from them. So, since we are following – since the State already did the study for us, and the map has already been adopted by the State, we simply apply that. The original criteria was all written when we were going to write it ourselves.

Laura Ward – O.K. So that takes into account the Florida Game & Freshwater Fish Commission stuff? All of that's included, already?

Stuart Buchanan – That's in the following policies, yes, ma'am.

Laura Ward – O.K.

Stuart Buchanan – And then what we did was, just to make sure it was really clear, you'll see on 9.13, we added at the very end, a reference. We tied them all back in together – 9.2, 9.7, 9.12.

Laura Ward – O.K. Just – I'm just gonna get my questions out there. We have a few minutes. I'm gonna do it. I drove all the way down here.

Stuart Buchanan – Sure.

Laura Ward – There's a policy here on the roadway network. I'm going backwards. This is an objective.

Stuart Buchanan – No problem.

Laura Ward – Does this actually say that – was it the case, previously, that you would not continue to develop, if the development would cause a level of service to drop below the adopted standard? Was that the case, previously?

Stuart Buchanan – Yes. We have always had a concurrency management system in effect. And the developer does have certain options, one of which is to enter into a mitigation agreement, and the other is to enter into what's called a cost share agreement.

Laura Ward – Does this change that in any way? Because it sounds like, well, we're just gonna try to keep the levels of service up, but if it – if they're not, we don't care.

Stuart Buchanan – All of that – those existing policies that you're referring to are all still in effect. They're in the Concurrency Management Objectives, which is in the Capital Improvements Element. This is simply in addition to those.

Laura Ward – O.K. So that's really not what it sounded like, then. Hang on. How about working waterfronts? That's on – you don't have the pages numbered, so it's (unintelligible) 2, and it deals with working waterfronts, and you're amending the Future Land Use Element.

Stuart Buchanan – Yes.

Laura Ward – Can you just explain what the County is trying to do here in regard to the working waterfronts? You're gonna give bonuses and incentives to create – you're trying to discourage use of those kind of properties for residential?

Stuart Buchanan – Correct.

Laura Ward – O.K. But, at the same time, under Policy 18.1, you're going to allow mixed-use developments that include residential? So are you – have a limit on it? What are you gonna do?

Stuart Buchanan – I'll let Ernie field that one, since he put that part of the text together.

Ernie Brown – The big thing on 18.1, it talks specifically about providing bonuses to the nonresidential portions of the development. You may remember, in 2005, 2006, the State required coastal communities to incorporate working waterfronts and incentives, which included bonuses, as part of the process to ensure that we're not losing working waterfronts, public access, all that kind of stuff. So the push on 18.1 is to actually provide those land use bonuses to the nonresidential portions of it. We recognize that mixed use is a tool that is used frequently in today's development scheme. And you don't – it would be unrealistic for us to prohibit mixed use because, to give an example, St. Joe's Marina has residential over top of commercial working waterfront type - West Marine, that kind of stuff, things that are water-dependent and water-related uses, underneath it. But only the mixed use nonresidential portions would actually enjoy the bonuses associated...

Laura Ward – The bonuses. But do you have like a limitation on the percentage of residential that a mixed use can be? Does that come in some other place? 'Cause you can have like they were doing...

Ernie Brown – No more than 30 percent, or no less, those things. There are other elements that reference mixed use and the portions associated with that. We didn't address it here, because it's addressed in – actually ad nauseam – in other elements. And we had actually addressed it in the wetlands portion, which we'll talk about later on.

Laura Ward – O.K. So it's not all left for LDR addressment...

Ernie Brown – Correct.

Laura Ward - ...being addressed. It's – there's some in the Comp Plan...

Ernie Brown – Yes.

Laura Ward - ...that says you can't have it total residential and...

Ernie Brown – You can't have...

Laura Ward - ...one little...

Ernie Brown - ...one residential, you know, or one commercial and 5,000 residential...

Laura Ward – Exactly.

Ernie Brown - ...and call it mixed use.

Laura Ward – O.K.

Ernie Brown – And Stu knows that, probably better than he wants to.

Laura Ward – O.K. And then – let's see. Hang on. Let's see. The maps in the back, where you're showing the actual maps, and you're identifying the future land uses - there were a lot of neighborhood plans that resulted in some land use changes, and my neighborhood was one of them. And I know some in Sharpes, and

Merritt Island, and so forth. Are those all accurately reflected on this now? 'Cause some of them are little small parts of the County.

Stuart Buchanan – I understand. Which map are you looking at, ma'am?

Laura Ward – Well, I can't read it. But I just want you to tell me that...

Stuart Buchanan – Yes. The – all of these maps were developed concurrently, and all of which were developed after our last small area study, which was the East Merritt Island Small Area Study. So to answer your question, yes, it shows the existing land uses as they are today.

Laura Ward – The reason I ask that is my neighborhood looks like, based on this map – and it doesn't have colors on it – it looks like it's still an industrial land use there. And that was changed. It was one of the first small areas that was changed.

Stuart Buchanan – Sure. I understand.

Laura Ward – So how do we know – how can we be sure you changed it?

Stuart Buchanan – Sure. The master copy of this is maintained, actually in our department, of course. And that is – Joanne is in charge of that section. And any time you like, come on in, and we'll pull it up. We actually keep that – it's write-protected. There's only two employees that have the ability to get to it.

Laura Ward – O.K. 'Cause I had come in one other time, and nobody knew about that. You know, it just hadn't gotten taken care of. So...

Stuart Buchanan – Yeah. We keep that in a – not only that, but also the master copy of the text. We actually keep that on a system where the only people that can get to it is one individual and our Director, Ms. Sobrino.

Laura Ward – O.K. I guess that's pretty much...

Henry Minneboo – Was that - you know, talking about the East Merritt Island, did that scrivener's error ever clean itself up?

Stuart Buchanan – Yes.

Henry Minneboo – It did?

Stuart Buchanan – Yes.

Henry Minneboo – I wasn't sure. Any other questions? (no response) Seeing none, what's the pleasure of the board? Motion by Robert (Mr. Ludwiczak's motion was made without a microphone; therefore, it is not audible on the record), seconded by Jerry (Mr. Jagrowski's second was made without a microphone; therefore, it is not audible on the record).

Henry Minneboo called the question, and the board recommended approval of the ordinance. The vote was unanimous.

**2. An ordinance amending Article III, Chapter 62, entitled “The Comprehensive Plan”; a remedial ordinance to Plan Amendment 10-1, Ordinance 10-14; as part of a stipulated settlement agreement with the Department of Community Affairs**

Stuart Buchanan – The second item on your agenda is our second set of remedial comprehensive plan amendments, similar to the first one. These are part of a stipulated agreement with the Department of Community Affairs. This was your 2010-1, which is your spring cycle, last year. And this refers to the Platt Ranch mixed use. And, also there was a B – the B portion of it. The A portion of it, which was our South Mainland Small Area Study, there was no noncompliance issues with that with Department of Community Affairs. Their changes that they requested us to do as part of this stipulated agreement were very minor. And if you look at Exhibit A, you’ll see that it’s only two pages. In the first part, Policy 18.2, they asked us to be very specific as far as what the maximum development program was. You’ll see the differences that – it says, “Maximum improvements, as follows”, and the language where it talks about putting a cap on the trips that can’t be exceeded. The second part, which is under Policy 18.4, you’ll see that this has to do with the homesteading. And this is for the actual members of the Platt Ranch family that choose to stay on that portion of the property which remains agriculture. They wanted to make sure that when they have children and grandchildren that they would be able to build single-family homes for their future generations. There is a statute that talks about that, the Right to Farm Act, and it does provide, with the individual farming families, to continue to build houses for their own personal needs. And so what we did was, there were changes made that made this consistent with that statute. The language is almost verbatim.

Henry Minneboo – Any questions?

Robert Ludwiczak – I have one, Mr. Chairman. In regards to what you’ve talked about regarding the Platt family, where it makes reference to homestead, do they get homestead exemption just on the land, or do they have to have a home which they’re living in?

Stuart Buchanan – The homestead exemption, sir, applies to the dwelling. And then the land itself, there’s a different set of criteria that each Property Appraiser uses to give them what’s called an agricultural exemption. But homestead exemption, sir, is for the dwelling itself.

Henry Minneboo – Any other questions?

Robert Ludwiczak – The way that was written, I was a little confused.

Stuart Buchanan – We actually copied that from the statute so the – to satisfy the State of Florida. We’ve made ours read just like theirs.

Robert Ludwiczak – Thank you.

Henry Minneboo – So it’s the State’s fault.

Stuart Buchanan – It’s their wording.

Henry Minneboo – O.K. Is there anybody out in the audience would like to speak for, or against, that? (no response) Seeing none...

Laura Ward – Hold it. I have a question.

Henry Minneboo – I bring it back for some more questions.

Laura Ward – O.K. Can you just go back and refresh us on the Platt thing? What was the objection to their development max? What was that?

Stuart Buchanan – Sure. I can help you with that. When you look at what was – the area that's the portion that's struck out, and if you read the sentence just above that, it says – in other words, the part that isn't underlined, the new language, "Development for Platt Ranch will be limited to a development program maximum of 2,701 peak hour peak direction trips." O.K...

Laura Ward – That was what they had.

Stuart Buchanan – That's what they had. And so what that meant was that if, for example, they chose to do more light industrial and less office, or more – less shopping center and more office – they had the ability to move square footages, as long as they didn't exceed the 27 – the same number of trips. State of Florida didn't like that. They said, "Give us maximum development potential for each of those categories, and we're not gonna let you move them around later." The State asked us to take the flexibility out.

Laura Ward – All right. So – and everybody agreed to that?

Stuart Buchanan – Yes, they did.

Laura Ward – O.K. Thank you.

Stuart Buchanan – You're welcome.

Henry Minneboo – Any other questions? (no response) What's the pleasure of the board?

Linda Wise – Move to approve.

Henry Minneboo – Motion by Linda to approve.

Jerry Jagrowski – Second.

Henry Minneboo called the question, and the board recommended approval of the ordinance. The vote was unanimous.

### **3. An ordinance amending Chapter 62, Article X, Division 4, Code of Ordinances of Brevard County, Florida, relating to Wetland Protection.**

Ernie Brown – We have the wetlands ordinance before you today, which is codifying in the LDR's the comprehensive plan changes that you previously saw on several occasions. Actually, you've seen it on many occasions since 2007. This is specific to the Viera comp plan changes to allow their mixed-use development to occur. As you can imagine, our historic comprehensive plan did not address the issue of mixed use as a development form. So you all have already seen an approved, and adopted into law, the comprehensive plan. The language is almost verbatim because of the complexity and the detail that is in that comp plan. But what you have before you is the codification of that. I provided a matrix in here. I believe it's Attachment C. It kind of helps you walk through the big nuggets, 'cause there were two other elements that were not specific to them, and I wanted to just make sure that everybody has it on the record. Does everybody have Attachment C, the matrix? Yes, ma'am. Darcie puts these together. She just does a great job, keeps me in line. O.K., so one of the changes that we did - this is just a cleanup. Because the current code didn't adequately address what State law referenced, it was ensuring that agricultural uses that were bona fide and exempt under State law from local regulatory oversight - it properly reflected that, that if they were, in fact, pursuant to the Florida

Agricultural Lands and Practices Act as a bona fide agricultural activity, then they're exempt from this. It just made it real clear, real clean, no bones about it. O.K.? Let's go to the second page. What this particular one does is, it addresses the 1:5, the one unit per five-acre issue, and allows for actually a de minimis criteria. And that's where that 1.8 comes in. If you look down there, you'll see a – it says, "The preceding limitation of 1.5 within wetlands may be applied as a maximum percentage limiting wetland impacts to no more than 1.8 of the total noncommercial, nonindustrial, acreage on a cumulative basis, as set forth in," these other sections, "for subdivisions, multi-family parcels, greater than five acres in area." So this particular section deals specifically with PUD's, new town overlays, larger developments. And the 1.8 – I can't remember if we've had this conversation before – is actually a ratio of about 4,000 square feet per five acres. That's a – Florida Administrative Code addresses that as a footprint for the average single-family home. So to get consistency, we've used that percentage. And so it'd be on a sliding scale. If you've got a five-acre lot, if you've got a 200-acre or, in this case, an 11,000-acre PUD, or a new town overlay, you just take that 1.8 percent, and that's an allowable impact, cumulative across the whole project. Viera – this was a two-year process, and was a two and a half-year process. That's what everybody came to agreement on. They were happy with it. All this does is take the comp plan language and drop it into the LDR's. On the second part of that, you talk about for the metes and bounds. Same basic principle. If it's a metes and bounds lot, you still get the 1.8. So if, for example, if it's 4,000 square feet on a five-acre lot, that's your metes and bounds criteria. And it's prorated down. Going to the next page, and this is where it talks about the – in order to qualify this for mixed use – it talks about the 30 percent in there, Ms. Ward, where it says that, "The residential component of the land development activity is an integrated part of the project and comprises not less than 30 percent of the gross square footage." This is – and it references Chapter 11, Policy 9.9.2. That's where the mixed use is housed in memoriam, as it relates to the comp plan.

Laura Ward spoke without a microphone.

Ernie Brown - As it relates to wetland impacts. Remember that commercial/industrial wetland impacts have been – are prohibited. So what they – in this scenario, it's kind of backwards from what we're talking about in the working waterfront. So they wanted to make sure that they weren't calling it mixed use where it's 95 percent industrial and five percent commercial, and getting the ticket to impact...

Laura Ward again spoke without a microphone.

Ernie Brown – That's right.

Laura Ward – Somewhere, there's a working waterfront one that's...

Ernie Brown – Yes.

Laura Ward - ...the other way.

Ernie Brown – Right. Actually, the working waterfront defaults to the standard language for mixed use. This is a variation on it. That's why it's called out in this particular segment. And the last number six there is just a reiteration of what we talked about. It's just in a different section. And we did move around some language on 62-3695, and just cleaned things up, talked about the applying and storage of pesticides. Herbicides shall be prohibited in wetlands. So that's a nutshell. I can go into any detail that you want me to, but I wanted to kind of skim highlights, and then we can get into nitty-gritty, if you're so inclined.

Laura Ward – The 1.8, just one more time.

Ernie Brown – Yes.

Laura Ward – Now, I missed some meetings. Maybe everybody else gets it. But what's the overall effect of insertion of this 1.8 percent into these...

Ernie Brown – An enormous amount of conversation was held during that two and a half-year period about how do you quantify what a de minimis, or minimal, impact would be that correlated to the one unit per five acres.

Laura Ward – I'm not quite getting that yet.

Ernie Brown – O.K. Current comp plan and stipulated settlement agreement that the County entered into with the seven interveners and DCA – six interveners and DCA – they landed on this one unit per five acres as the allowable densities in wetlands.

Laura Ward – Right.

Ernie Brown – So if you had a four-acre lot, can't play.

Laura Ward – O.K.

Ernie Brown – Prior to – after a certain date. So, in order to – everybody agreed that they wanted to maintain the spirit of that to avoid major conflict down the road. So they said, "O.K., how do we come up with a ratio beyond 1.5 that we can more easily apply?"

Laura Ward – In other words, a way to account for the fact that someone may have slightly less than five acres.

Ernie Brown – Yep. And...

Laura Ward – What if they have one acre?

Ernie Brown – Then they get the 1.8 percent. It's not a lot.

Laura Ward – And how does it translate out?

Morris Richardson – And, likewise, I think, more significantly – I'm sorry - but I think, more significantly, with regard to this, the idea that someone has much more than five acres, and trying to quantify it in a way to apply it over the whole so that rather than treating each – you know, trying to break out each five acres and make it...

Laura Ward spoke without a microphone.

Morris Richardson – Exactly. That you can treat it as a whole, and just finding out what that ratio of what is one unit per five acres. So they came up with the average footprint of a single-family residence, and they used 4,000 square feet for that. Four thousand square feet into five acres is 1.8 percent of the five acres, is where that math is coming from.

Laura Ward – O.K. So the spirit of it doesn't change.

Ernie Brown – Correct.

Laura Ward – Just the...

Ernie Brown – It's just being able to apply it.

Laura Ward – Makes it more applicable to all different things.

Ernie Brown – Just trying to do some of the subdivisions and the walkable communities, and that kind of stuff. You've got very small clusters of homes, better site design, conservation, subdivisions. You're not gonna have that five-acre world that you're playing in. So you look at it whole scale, it's a 1.8 percent. So, for example, if you've got...

Laura Ward – O.K.

Ernie Brown – You know. So it works out better for planning, promotes better planning. This was actually an impediment, our existing comp plan, to good sound environmental planning. It really was – it was a real challenge.

Laura Ward – And, Ernie, does this say that commercial and industrial are flat not allowed?

Ernie Brown – That is currently the case right now, yes. Now, the Board...

Laura Ward – That hasn't changed?

Ernie Brown – Yes. The Board has convened the working group for that to address commercial and industrial. So we'll be picking that up in late March, I believe, the working group for that.

Laura Ward – 'Cause we're talking about in wetlands, not on uplands next to wetlands.

Ernie Brown – Correct. What is before you today...

Laura Ward – In wetlands.

Ernie Brown – What is before you today is strictly the residential and mixed use language, and it does not change the industrial or a commercial, except as it relates to mixed use. But the traditional language still applies to commercial and industrial. And that will be coming to you probably next cycle.

Laura Ward – All right. Thank you.

Ernie Brown – You're welcome.

Robert Ludwiczak – Mr. Chair. Can I follow up on that, Mr. Brown?

Ernie Brown – Yes.

Robert Ludwiczak – Just on what you've said there. On page 16 of our handout, regarding commercial and industrial land in wetlands, it says that any property designated on a future land use map as commercial or industrial, prior to February 23, 1996, is exempt here.

Ernie Brown – That's correct.

Robert Ludwiczak – And then it says if there is a reason where they don't get exempt, they can file an appeal under the Bert Harris Property Rights Act. I don't know what that is. But that's two steps. And then the third step, going back, which you made reference to in terms of Attachment C, it says, "Industrial land use shall be

prohibited in mixed use land development activities within wetlands.” Is that also for those prior to February 23, 1996?

Ernie Brown – No. If you’re prior to 1996, and you designated, the section there, which is 4, A, B and C, that prevails. If you’re a mixed use, in a mixed use environment, then if you’re trying to claim the mixed use clause – and I’ll go back to that reference there – this would apply, the language that you just read.

Morris Richardson – It’s really three separate things, sir, if I may. The first that you cited there in paragraph 4 deals with the exemption to preexisting, prior to 1996 uses, and how you go about getting those endorsed, essentially, as preexisting uses so that can be permitted in the wetlands. Paragraph 5 then goes to the denial of a permit for commercial or industrial development. And that could relate to someone trying to get an old one grandfathered, or someone trying to permit a new one. And what it’s saying is, if – essentially, if the denial results in what the statute, the Bert Harris Property Rights Act, calls an inordinate burden, which could result, potentially, in some compensation being necessary, in such a case, that affected property owner could appeal the denial of the development permit to the County Commission. And then 6 is another separate and independent clause dealing with future-looking mixed use land developments that can be permitted in a wetland, sir.

Robert Ludwiczak – I understood what you just read there, and I read it just as you read it. But I was concerned that on Attachment C, you had new proposed language there, which says, “Industrial land use shall be prohibited in mixed use land (unintelligible) activities within wetlands. And I want to know if that would negate what was there.

Laura Ward – Robert, where are you reading those paragraphs?

Robert Ludwiczak – All right. Page 16, initially, and then 16 and 17, and 4 and 5. And then you go back to page 3 for Attachment C.

Ernie Brown – To go straight to the point, what the language, the new language, about mixed use is saying is industrial shall not be considered as part of the mixed use. O.K.? The industrial discussion in 4 and 5, in the actual document, is how industrial would operate, which is basically a prohibition, unless. But what the language that you read about in the matrix – and I’ll go to that in just a second...

Morris Richardson – The language in the matrix is all forward-looking; whereas, the language on page 16 is looking to those, what you might casually call grandfathered preexisting uses. So what the matrix is saying is, you know, no new industrial uses, unless that changes at some point in the future.

Robert Ludwiczak – Well, the language doesn’t say new. It just says industrial land use shall be prohibited. And so what I was trying to get, as a clarification, is could someone challenge this old rule where you have exempted industrial and commercial, which were exempt prior to February of whatever year it was with that language? Does one language negate the other, in other words.

Morris Richardson – No, I don’t believe so. I think it’s clear enough, sir, that the prohibition against industrial use – there’s a reference to, I think, at the very beginning of that section, beginning on January 2, 2010, unless I’m looking at the wrong place.

Ernie Brown – You’re in the right place.

Morris Richardson – I am in the wrong place?

Ernie Brown – No, you’re in the right place.

Morris Richardson – I'm in the right place. O.K. I think it makes clear that it's forward-looking. In other words, I don't think those provisions conflict. I think they're harmonious. I think anyone can challenge anything. I think someone could come forward and say, "Why can't I permit it now, if it's permitted in the past?" But, as a matter of course, we have – that's happened since the beginning of time. It happens every day. We have all kinds of sites now that have been grandfathered and have existed forever. We have an industrial recycling treatment kind of site that's in a residential future land use, surrounded by residential. It would never be permitted today, but since it's been in operation since the '60's, it's allowed to continue. So it's a common occurrence. Those things have been upheld to challenges. So, if I'm understanding you right, no one could challenge the exemption and say they're exempt because they started doing it before 1996, "Why can't I do it now?" And I don't think there's a conflict. I think it's clear enough that...

Robert Ludwiczak – I wasn't concerned about no one else being able to do it. I was concerned about those who were exempt, who had done it prior to 19...

Ernie Brown - O.K. But you have to understand that this says beginning 2010, no industrial land uses can be part of a mixed use development in wetlands. So, O.K., you've already framed it. It says you can't be part of a mixed use development – all right – in wetlands, as part of this. If you're pre-1996, already zoned and built around them - the criteria allows that you have to be substantially surrounded, all that kind of stuff – it's not gonna apply to a mixed used phenomena, because they've already got the rights associated with that particular development scheme. So they're good. It will not negate that. But if you're coming in for a new mixed use criteria, which industrial was never even intended to operate in that capacity - this just clarifies that if you're coming in for mixed use under these wetland rules, industrial will not be considered as part of that mixed use.

Robert Ludwiczak – I understand what you all are saying. All I was trying to do was get a clarification that...

Ernie Brown – No, it's a good point.

Robert Ludwiczak - ...you didn't inadvertently negate those folks.

Ernie Brown – Right. They still retain all the rights and privileges for the preexisting, so they should be good. How much industrial property do you have prior to 1996? I'm just kidding.

Henry Minneboo – He's just got his car. He's gonna be fine. Yes, sir, Jerry.

Jerry Jagrowski – I got one question. We got these things for wetlands, and stuff like that. Do they also apply to Farnton, especially in the Volusia part?

Ernie Brown – We have no influence, affect or impact to the Volusia side.

Jerry Jagrowski – But you could have - if you're this side into Brevard, you have to follow across the street – you'd have to follow Volusia?

Ernie Brown – Correct.

Jerry Jagrowski – How is that a good way to approach it?

Ernie Brown – Well, that's the argument for regional planning.

Jerry Jagrowski – Do you have any idea how Volusia feels on some of this?

Ernie Brown – Nope. I have a hard enough time figuring ours out.

Laura Ward – Ernie.

Ernie Brown – Yes, ma'am.

Laura Ward – What's in here about uplands?

Ernie Brown – Not much.

Laura Ward – I mean, is that – did it previously have, or did it previously address, uplands? Has that been removed from all this?

Ernie Brown – The only – again, this is specific – this particular one is specific to wetlands. The previous conversation about the Conservation Element does address upland issues, specific classification codes of uplands, scrub, things of that nature. This only addresses, as it relates to wetlands, the buffers, the native vegetative buffers, around wetlands. O.K.?

Laura Ward – O.K., so how is that handled?

Ernie Brown – They...

Laura Ward – How are the – how is it buffered?

Ernie Brown – Again, that is language that did not change. We have a 50-foot buffer around certain FLUC codes. O.K.?

Laura Ward – Certain what?

Ernie Brown – Florida Land Use Codes. The Florida Land Use Cover and Forms Classification System of 1995.

Laura Ward – What is that? Has that always been that way?

Ernie Brown – Yes.

Laura Ward – O.K. So that tells you if it's a particular type of...

Ernie Brown – Yes.

Laura Ward - ...wetland?

Ernie Brown – Yes. If, for example, if you are a wetland mixed forest, or wet prairie, you know, there's a 15-foot native vegetation buffer. If you're other FLUC codes, then there's a 50-foot vegetative buffer. And that's on page 16, carried on to 17. That hasn't changed. There's no change.

Laura Ward – So that's the way you've always done it?

Ernie Brown – Yes.

Laura Ward – So there's been no diminishment of protection for upland vegetated communities?

Ernie Brown – As it relates to buffers. There was a lot of discussion about buffers. Some people contend that this is a – not an adequate buffering setup. This is actually fairly consistent with – it's actually a little more restrictive than St. Johns. St. Johns requires, at a minimum, 15, average of 15.

Laura Ward – But it's not going backwards on the buffers?

Ernie Brown – No ma'am, no change.

Laura Ward – It just didn't make some people happy it didn't go forward.

Ernie Brown – That there was no change.

Laura Ward – O.K. Thank you.

Henry Minneboo – Any other questions? (no response) What's the pleasure of the board?

Robert Ludwiczak – Mr. Chair, can I ask one more question?

Henry Minneboo – Yes, sir.

Robert Ludwiczak – Mr. Brown, on page 18, relative to Policy 5.3 and 5.4, can you, in just pretty layman language, explain what those two mean? 'Cause it appears to me that, "Wetlands artificially created for wastewater treatment or disposal, or for wetland stock nurseries shall not be subject to these regulations and shall not be used to fulfill the requirements of this objective" – I don't know what a stock nursery is, but could it provide for degradation?

Ernie Brown – Well, wetland stock nurseries are when they're growing wetland plants for other people to plant. There's a suite of nurseries around the county that actually grow wetland plants. What this says is, if you're doing that, you've actually created a wetland in order to grow them. You're exempt from these regulations, if that's what you've done. So if you go to fill those ponds in, you're not held accountable to this, because you created the wetlands for those purposes. The Viera wetlands is another example, out here behind us. If, for some reason, operational needs warranted them filling in those ponds, they would be exempt from our regulations. Did I get that right? I like to keep Morris on his toes, too. It says, "Wetlands artificially created for wastewater treatment or disposal, or for wetland stock nurseries, shall not be subject to these regulations."

Morris Richardson – I think you're right, except that I can't speak specifically to the Viera Company wetlands, because I'm not sure exactly why those were created.

Ernie Brown – Oh, no, our wastewater treatment...

Morris Richardson – On, our wastewater. Yes, that.

Henry Minneboo – Anybody else?

Laura Ward – I have one more for Ernie. Can you just summarize what was the major change to this? I understand the 1.8. Was that the major change?

Ernie Brown – That's it. It's – the whole driving principle behind this was to make sure that our wetland regulations did not stop good design. And so protecting an isolated wetland of low functional value, protecting it, and causing people to go to traditional, less beneficial, development forms...

Morris Richardson – This allows for more compactness.

Ernie Brown – Absolutely.

Laura Ward – It still does recognize the isolated wetlands, though, right?

Ernie Brown – Yes. There's still mitigation. But it allows them to impact the 1.8 to facilitate these mixed use forms.

Laura Ward – O.K. Thank you.

Henry Minneboo – Seeing no other further questions, what's the pleasure of the board?

Linda Wise – Move to approve.

Henry Minneboo – Motion by Linda, and second...

Laura Ward – Second.

Henry Minneboo called the question, and the board recommended approval of the ordinance. The vote was unanimous.

After conclusion of the regular agenda, discussion took place as follows:

Henry Minneboo – I just want to thank everybody for showing up today. It was real, real important that everybody got here today. So that's great.

Laura Ward – Henry, do we want to try again on this policy where it's creating the situation where we might not have a quorum?

Henry Minneboo – Well, let me tell you what I have in my mind, Laura, because that's an excellent statement. But we talked about two or three things last year, and we really haven't done much about it. So maybe the next meeting, when we have more participants here on the board, we can maybe hash two or three of these items out, and then, you know, let me go to the Board with them.

Laura Ward – Are you thinking about meeting frequency and the policy of voting?

Henry Minneboo – I think, Robert, you had some issues. You know, we – I think we talked about condensing the meetings, of course. But I think we also discussed time, didn't we, when we should start these?

Robert Ludwiczak – Yeah, I brought that up because several of the board members travel a great distance. And we're finding out that when you have an agenda that's very light, they're not gonna come all that way for an agenda that's very light. And then we have what we have today as a possible failure to have a quorum. We're very fortunate that we have...

Henry Minneboo – We're lucky.

Robert Ludwiczak - ...the number we have.

Henry Minneboo – Yes. So, you know, I'd like to maybe discuss that. Candy, can we make that sort of an agenda item, or something?

There was discussion among the board members, without microphones.

Henry Minneboo – I think let's do it next – can we do it next Monday?

There was further discussion among the board members, without microphones.

Robert Ludwiczak – Mr. Chair, just in addition to that, as I recall, one of the things I had asked for was for the staff to provide the feasibility of doing that. And, as I recall, they came back, and they did not have a very good report to be able to do that. And I dropped my motion to proceed on that basis. So I think we need to go back, if we're gonna do anything again, and have staff just regurgitate what they've told us. 'Cause let's not put a burden on them, either in terms of time or overtime.

Henry Minneboo – Since we're just discussing this on a minor basis, I've had some people question me, that I didn't even know, and say, "Hey, how come you guys are not televised? Are you doing anything unique and dynamic behind the scenes?" I said, "No." I said, "We don't do anything unique and dynamic, anyway." So, you know, that might be something for discussion. I mean, I certainly...

Morris Richardson – I can tell you why we're not televised, after listening to this.

Henry Minneboo – That's why we're allowed to talk freely.

Laura Ward – So what are we going to – we're gonna discuss the frequency of the meetings, trying again to maybe consolidate to once a month?

Henry Minneboo – Yeah, I think so.

Laura Ward – Was it because the – oh, you probably – the staff isn't really here now. But it was because applicants had to wait too long to have their things processed? Was that it?

Morris Richardson – That was one concern Robin and Cindy had expressed. They also expressed that sometimes, when we combine meetings – right now, our meetings have been shorter than they have. But, historically, you'll recall we've had some marathons. And, once in a while, we still do. And if you were to combine them, if they go late, there could be staff overtime. It wouldn't affect me, but I understand that the Zoning shop, they're on a very tight budget. Their folks are hourly folks, so it could result in overtime. And, also, the applicant issues, certainly, that it could take longer to get things. And, sometimes, you know, things come up on an almost emergency basis, trying to get it to the Board of County Commissioners re things that are in your LPA capacity. And if you only have that option once a month, it makes it a little more difficult. But I think there's a lot of merits of what you're asking to do, as far as combing them, certainly. And maybe – my recollection is that – I'm bad at remembering this, but I think last time you had this discussion – I alternate meetings with Christine, so I'm not sure if there's an update between now and then. I thought that last time you had asked for an update with some more specificity from staff on the impacts. And I'm not sure if that ever came about, or not. But that was kind of my recollection. I know you requested something from Zoning/Planning staff, at one point.

Robert Ludwiczak – That did come about. That's why I said I withdrew my...

Henry Minneboo – Linda.

Linda Wise – You guys, they – my recollection was Cindy and Robin were saying the Board of County Commissioners takes essentially December off, and that they felt our schedule could mirror that, very easily, the two different months that they take off, maybe one in the summer and one in December, to at least help.

Henry Minneboo – Morris, do they still take off in, I think it's June, or something?

Morris Richardson – Yes, sir. The Board takes off that month.

Henry Minneboo – And then do they still take off – they don't take off in December, though, do they? Oh, December, as well?

Morris Richardson – Yes, but – I mean, they – the last few years, they've had meetings in December. But I don't think they've had their zoning meeting.

Linda Wise – Mr. Chairman, I'd like to recommend that we hold this discussion until there's more board members here.

Henry Minneboo – Oh, yeah. We're just sort of chit-chatting.

Linda Wise – And then we don't have to rehash it again.

Henry Minneboo – Yeah. We get to talk about it again.

Linda Wise – Draw this out again.

Henry Minneboo – Yeah. Good.

Morris Richardson – You know, historically – I'm sorry to chime in after the motion was made here. But, historically, this board had June and December off. And then, a few years ago, I think during the peak development time, you decided that you wanted to meet in June in December because of the volume. Obviously, we don't have that volume issue anymore, so that would be one thing to consider. It would cut down at least a number of the meetings. You'd still, the rest of the year, be going twice a month. But it would take out four meetings, or at least two of the P&Z meetings, for June and December. P&Z didn't meet then. So that's something staff could explore.

Henry Minneboo – Yeah, let's – you know, give us that kind of input, I guess, when we discuss it next week, see what we got.

Laura Ward – We're gonna discuss the voting policy, as well.

Henry Minneboo – Yeah. O.K.

Linda Wise spoke without a microphone.

Henry Minneboo – Yeah, LPA, do we have – Candy, do you know anything? LPA, next month, is when?

Candy Hanselman spoke without a microphone.

Henry Minneboo - For March, yes, ma'am.

Candy Hanselman – March 21<sup>st</sup>.

Henry Minneboo – March 21<sup>st</sup>. Do we have anything on there yet?

Candy Hanselman – Yes.

The meeting was adjourned at 3:46 p.m.