

**MINUTES
LAKE COUNTY ZONING BOARD
APRIL 1, 2009**

The Lake County Zoning Board met on Wednesday, April 1, 2009 in the Commission Chambers on the second floor of the County Administration Building to consider petitions for rezonings, conditional use permits, and mining site plans.

The recommendations of the Lake County Zoning Board will be transmitted to the Board of County Commissioners for their public hearing to be held on Tuesday, April 28, 2009 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
Egor Emery	District 4
Paul Bryan, Chairman	District 5
Larry Metz	School Board Representative

Members Not Present:

James Gardner, Secretary	District 3
Mark Wells	At-Large Representative

Staff Present:

Brian Sheahan, AICP, Planning Director, Planning and Community Design Division
Steve Greene, AICP, Chief Planner, Planning and Community Design Division
Walter Wood, Senior Hydrogeologist, Lake County Water Quality Services
Karen Block, Senior Planner, Planning and Community Design Division
Melving Isaac-Jimenez, Planner, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Ann Corson, Office Associate IV, Planning and Community Design Division
Erin Hartigan, Assistant County Attorney

Chairman Bryan called the meeting to order at 9 a.m. He led in the Pledge of Allegiance and gave the invocation. Chairman Bryan noted that a quorum was present. He confirmed the Proof of Publication for each case as shown on the monitor and that this meeting had been noticed pursuant to the Sunshine Statute. He explained the procedures to be used when hearing cases on the consent and regular agendas.

Chairman Bryan stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case. These exhibits will be on file in the Planning and Community Design Division. Anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room. He added that this Board is a recommending board only, and the Board of County Commissioners (BCC) will be hearing these cases later this month when a final determination will be made.

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Minutes

MOTION by Tim Morris, SECONDED by Scott Blankenship to approve the March 4, 2009 Lake County Zoning Board Public Hearing minutes, as submitted.

FOR: Morris, Blankenship, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells, Gardner

MOTION CARRIED: 5-0

Discussion of Agenda

Chairman Bryan stated there were no speaker cards submitted for the consent agenda cases. Therefore, there would be no discussion concerning those cases, and they would be voted on as one vote.

He explained that the two (2) cases on the regular agenda would be heard as one case but will be voted on as two (2) separate votes.

Brian Sheahan stated there are no changes to the agenda.

Consent Agenda

CASE NO.: PH#01-09-3 **AGENDA NO.:** 1
OWNER: Richard H. Langley
APPLICANT: Richard H. Langley
PROJECT NAME: Minneola Oaks Development

CASE NO.: PH#58-08-5 **AGENDA NO.:** 2
OWNER: Steven F. Bruce & Vickie L. Sweigart-Bruce
APPLICANT: Steven F. Bruce & Vickie L. Sweigart-Bruce
PROJECT NAME: Sweigart Property

MOTION by Tim Morris, SECONDED by Scott Blankenship to recommend approval of the above consent agenda.

FOR: Morris, Blankenship, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells, Gardner

MOTION CARRIED: 5-0

CASE NO.: PH#56-08-2
OWNER: Orange County & City of Orlando
APPLICANT: Douglas Pickell, P.E., PB Americas, Inc.
PROJECT NAME: Water Conserv II (RIB Site #10)

AGENDA NO.: 3

CASE NO.: PH#57-08-2
OWNER: Orange County & City of Orlando
APPLICANT: Douglas Pickell, P.E., PB Americas, Inc.
PROJECT NAME: Org. Co. & City of Orlando (RIB Site #1)

AGENDA NO.: 4

Steve Greene, AICP, Chief Planner, presented PH#56-08-2 and PH#57-08-2 and explained that both cases are rezonings of approximately 2,000 acres total. The applicant in PH#56-08-2 is requesting to rezone approximately 175.61 acres from Agriculture (A) to Community Facility District (CFD). Using the aerial from the case, Mr. Greene pointed out the area involved and submitted the aerial as County Exhibit A. He then explained that the applicant in PH#57-08-2 is requesting to rezone approximately 1,515.53 acres from Community Facility District (CFD), Urban Residential District (R-6), Agriculture (A) zoning districts with CUP #859-3 to CFD zoning and revoke CUP #859-3 for the purpose of constructing Rapid Infiltration Basins (RIBs) for the Orange County/City of Orlando Water Conserv II project.

Mr. Greene explained that these cases were brought before the Zoning Board in January 2009; in the booklets there are minutes from that public hearing. At that public hearing, a concerned property owner raised the issue that additional data was needed to support staff’s recommendation for approval. Staff agreed to obtain additional information, and the Zoning Board approved a motion for a 90-day continuance to allow adequate time to gather the additional information. The data is very extensive and quite voluminous. We did receive a concept plan, a graphic depicting construction of the RIB sites, a permit for the project from FDEP, rules from the Florida Administrative Code regarding setbacks, and a graphic explaining the purpose, intent, and operation of such an activity. Staff reviewed this information and determined that the request for both cases, PH#56-08-2 and PH#57-08-2, are consistent with the Lake County Comprehensive Plan and the Land Development Regulations (LDRs).

Mr. Greene added that staff received a request yesterday from the applicant asking that one of the paragraphs in both Ordinances be revised. He explained that the revision is to Section 3, paragraph C; that entire paragraph will be rewritten to read “The use of reclaimed water shall not cause a violation of FDC, CH62-302 Surface Water Quality Standards or CH62-777 Contaminated Clean Up Target Levels in Groundwater.” In addition, staff will change the spelling from “Conserve II” to “Conserv II” on the first page of both Ordinances; in Section 2, Item C, the word “permit” will be changed to read “ordinance,” and in that same section, Item E, the word “permit” will be changed to read “ordinance”.

Mr. Greene stated that staff has no further changes and recommends approval of both public hearing cases, PH#56-08-2 and PH#57-08-2.

Mr. Greene then said he would be glad to answer any questions anyone might have. There were no questions at this time.

Chairman Bryan opened the hearing to the Applicant to give their presentation. He explained if anyone wishes to come forward and speak, they must submit a speaker card, come forward, and print their name on the clipboard at the podium. He added that they must turn in any exhibits they may have to the Public Hearing Coordinator after their presentation.

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CASE NO.: PH#57-08-2 **AGENDA NO.:** 4
OWNER: Orange County & City of Orlando
APPLICANT: Douglas Pickell, P.E., PB Americas, Inc.
PROJECT NAME: Org. Co. & City of Orlando (RIB Site #1) **PAGE:** 2

Alan Oyler, Public Works Director for the City of Orlando, here on behalf of the Applicant/Owner, came forward to give his PowerPoint presentation and submitted a copy of the presentation as Applicant Exhibit A. Copies were also given to the Zoning Board members for their review. At his request, Mr. Steve Richey was given a copy. Mr. Oyler explained that he would be summarizing the information provided to the staff as well as providing some history on the project and what they are proposing to do.

Mr. Oyler explained that the Conserv II project is jointly owned and operated by the City of Orlando and Orange County; it has been in existence since 1986 and has operated in Lake County and west Orange County since that time. If you are in the wastewater business, Water Conserv II is known worldwide. It is one of the largest agricultural reclaimed water projects in the world and has received several national and international awards for excellence in engineering and several Department of Environmental Protection awards for excellence in the use of reclaimed water. It is a very well known project. There are two (2) project components to Conserv II: the first component is irrigation which covers primarily citrus irrigation but also is used for landscape nurseries, pasture irrigation and residential irrigation; the second component is Rapid Infiltration Basins, which are the subject of today’s action.

Mr. Oyler explained that the Conserv II project presently serves over 2,000 acres of citrus in Lake County that are currently being provided reclaimed water for irrigation. There are also 867 acres of citrus in Orange County, which is also receiving water from Conserv II. We have 3,000 acres of RIB sites already in existence, 850 acres of that is currently in Lake County and the balance is in Orange County. An important point to note is that although we have a considerable amount of property, the actual area that is covered by RIBs is a small fraction of that. Of the 850 acres currently in Lake County, only 35 acres are actually constructed as RIBs. The balance of the property is left undisturbed.

He went on to say that Conserv II has been involved since the inception of the project with research on citrus. We fund a group of scientists from the University of Florida with the Institute of Food and Agricultural Sciences to research the effects of reclaimed water and also to determine better ways to grow fruit with reclaimed water. At the request of Lake County staff, we are providing water to the Tarmac Sand Mine; Mr. Oyler said he would talk about that project in more detail later. We have also started residential irrigation, and we serve Horizons West and the City of Ocoee with reclaimed water and several of their residential developments.

Mr. Oyler then began his PowerPoint presentation showing the existing facilities in Lake County and explaining the different colors represented in the pictures and their meaning. He explained that you can see the present RIB sites and mentioned again that they are currently providing service to the Tarmac Sand Mine for their operations. We have a long standing relationship with Lake County which extends back to 1986. We have an agreement in place with Lake County that was entered into back in 1986 when we were first bringing reclaimed water for irrigation to the citrus groves. There have been two iterations of that agreement since that time with the last one being signed in 2003. We have been sharing data about the project with Lake County’s environmental staff since 1987, and annually we transmit a packet of information to staff for monitoring and evaluation of the Conserv II project.

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CASE NO.:	PH#57-08-2	AGENDA NO.: 4
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Mr. Oyler went on to say that in 2001 we approached Lake County about the opportunity to construct a RIB site on property that the City and the County owned in Lake County. He said “I am sure you will remember back in 1999 the tremendous drought we experienced followed by an incredibly wet year”. That incredibly wet year pointed out to us the absolute need to provide additional backup to our irrigation. Our RIBs serve as wet weather backup when we have too much rain and folks are not using water for irrigation. Therefore, we need to have an alternate use. That alternate use is a Rapid Infiltration Basin. It is not a disposal system; aquifer recharge is a result of that system. In 2001 in an effort to increase the number of RIBs that we have for wet weather disposal and for daily use, we contacted Lake County; they requested that we go through the P & Z and County Commission approval process, and RIB site 2 zoning was approved in November of 2001. Tarmac came in at about the same time to expand their sand mine operations, and County staff directed Tarmac to get in touch with Conserv II. They have a very water intensive operation. Staff felt it was important to preserve that water for other use and directed Tarmac to come see us about using Conserv II water for that purpose. We worked with Tarmac and Lake County and started flowing there since June 2006 and have provided their water needs for the process.

Mr. Oyler, also mentioned that a couple years ago Jim Stivender contacted his office and asked if we would be interested in working with Lake County on helping to site some county facilities on property owned by the City and Orange County. Jim was talking about building a South Lake Annex Complex south of Clermont. This was during the time when there was considerable growth in south Lake County. They were looking for school sites, park sites and another location potentially for an Annex facility for permitting and inspection services. We have offered to sell property at the edge of RIB site 2, which fronts onto US 27 to Lake County. As companion governments, we do not have the ability to donate property; our rate payers insist that we obtain fair market value for our property since we had to purchase it. Otherwise, we would work with Lake County to be able to donate this property, but unfortunately that is not a reality. We have not yet consummated the deal with Jim. However, if there is still interest in these sites, we would be glad to discuss it with the Lake County School Board as well for potential school sites, should they be needed in this area.

Mr. Oyler felt it was important when talking about Conserv II that we talk about the water resource picture in general. He then went on to explain water resources and the demands on the upper Florida aquifer and the surficial aquifer and that what they found was not good. Based on the projected demands by the various entities that will be drawing water from the aquifer, they were projecting draw downs in the upper Florida and the surficial aquifer. It becomes critically important in the surficial because that is what is providing water to the lakes, the wetlands & the spring flows in those areas. Any draw down in surface level is reflected in those bodies of water. The potential impacts were fairly significant in portions of South Lake County, and he presented a graphic which demonstrates that. As a result, the three water management districts that have jurisdiction in Lake County have essentially drawn a line in the sand and said we are going to restrict the amount of water that is going to be able to be taken from the aquifer in the future because we are predicting significant impacts.

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Mr. Oyler then presented a graphic prepared by the Water Management District showing declines in the surficial aquifer levels shown in colors red and pink as being down by 2 feet as a result of the withdrawals. Imagine wetlands and lakes going down by 2 feet. To meet our water demands in this area, we are going to have to look significantly at water conservation as well as look at alternative water supplies, what are they and what is available to Lake County. The 2 sources of water that are predominately being looked at by the Water Management District for this area are the St. John’s River and the Ocklawaha River, neither of which is close to Lake County and neither of which are going to be permitted without a fight. The third source of alternative water supply available is reclaim water. He then noted that he likes to pull articles from professional journals and in this case the article he presented was from the Florida Specifier and noted that most of the time this information is not printed in your newspapers. This is information that is presented to the individuals in the profession. He then explained some of the information he had highlighted from the article. The folks down stream are already taking steps to limit what can happen for alternative water supplies up stream. He pointed out that Conserv II is important because they provide that third alternative water supply. We are the largest supplier of reclaimed water in this area. Recall that we have 2,000 acres of citrus groves in Lake County that are already receiving irrigation water from Conserv II. If we were not providing that water those groves would likely be using ground water for irrigation and be in direct competition with the local governments for water supply. Third, our RIBs serve to increase the level of the aquifer. We are actually off setting some of the impacts to the aquifer, as a result of those draw downs, by putting water back into the aquifer.

I always find this number staggering, since inception with irrigation and reflows we have imported 79.5 billion gallons of water into Lake County as part of the Conserv II project. That is a huge influx of a water resource that is in short supply here. Mr. Oyler then presented another graphic showing the increase in water levels where Conserv II is located. As a result of our efforts at Conserv II we are seeing an increase in water levels in portions of south Lake County in place of increased draw downs.

Mr. Oyler explained he would like to talk about their use of the RIB sites and the function of RIBs and answer Egor Emery’s question concerning hydrology under the RIBs and hopefully answer some of the questions that were left in the minds of committee members after the last session. He began by showing a map and pointing out the location of RIB Site II, representative of what we will construct on the sites that are before you today. The RIB Site II land area consists of 850 acres, going from HWY 27 over to beyond the east side of the RIB sites. On that 850 acres we have 35 acres of RIBs. Our project has been characterized as 1,500 acres of storm water ponds. Nothing could be farther from the truth. We have 850 acres of which 35 are being developed as RIBs, the balance is left undisturbed.

Mr. Oyler then addressed Egor Emery’s question concerning hydrology showing a graphic of a cross section of the RIBs and describing the different levels of soils and explaining how the RIB site functions. He also described the reclaim water quality which is presently being used to irrigate the Metro West Golf Course, the Mall of the Millenia and Universal Studios. He explained it is very regulated by the Department of Environmental Protection. It is public access, high quality reclaimed water that is safe for human contact. You will not develop any kind of disease if you get sprayed by a sprinkler. It would only take a few more steps to make it suitable as drinking water.

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Mr. Oyler went onto explain, we are required to do daily monitoring at our treatment plants to ensure we are meeting the water quality standards set by DEP. We also do quarterly sampling of the ground water around our RIB sites. We have 51 monitoring wells which we use to monitor both ground water level and water quality in those areas. As part of the facilities we are talking about constructing today we will be building an additional 12 wells to monitor the impacts on local ground water. He then described the parameters established by DEP for this water. We meet primary and secondary drinking water standards. We do a very good job with the exception of color and odor issues.

We talked about having an agreement with Lake County. In 2003 we had the 3rd iteration of our agreement with Lake County with regards to the use of our properties in Lake County. There is a monitoring program that is set out in that document. It indicates that Lake County recognizes that DEP has jurisdiction with regard to the setting of water quality standards and the establishment of a monitoring plan. Lake County if they so choose can ask us to do additional monitoring over and above what we are doing for DEP. In the event we have a violation, Lake County has the ability to direct us to immediately cease our operations, no more water to the RIBs, no more water to irrigation and we cannot operate until Lake County clears the site for use.

To make sure that Lake County has sufficient resources to be able to monitor Conserv II they designated their Water Resources group to be the primary contact in this regard and the City of Orlando and Orange County are contributing \$100,000.00 to Lake County’s budget for the express purpose of funding the evaluation of the impacts and the monitoring in Lake County from our facilities. We are assuring that you have staff on board that can monitor those impacts, seek the data and review the data and if there are questions or issues they pull the trigger and shut us down. We provide the data, we provide the funding necessary for the positions and so far it has been a very good relationship.

We are here today because we have an interest in expanding our RIB sites to give us more opportunities for wet weather back up and more opportunities for ground water recharge. We believe it is important for that area. We are seeking a rezoning from Agriculture to Community Facilities District on a couple of parcels. There are two parcels that are being considered, Site #1 and Site #10. The agenda items Public Hearing #56-08-2 is RIB Site #10 that is 176 acres of land on which we will construct 10 acres of RIBs, Public Hearing #57-08-2 is RIB Site #1 that is 1,500 acres of land roughly on which we will construct 58 acres of RIBs.

Mr. Oyler then showed the site lay out which shows the properties in question as designated as Site #1 and Site #10 outlined in yellow and the orange-yellow on top are the locations we intend for the RIB sites. Those are roughly to size and scale and location where they will be constructed. You can see there is a considerable amount of property that is left vacant and respecting the buffers that are required by DEP. We are required to have ecological studies completed prior to development of the properties and we have to obtain an Environmental Resource Permit from the DEP in order to work on these sites. The firm of E-Sciences conducted an ecological study of both properties and their summary and this information is included in the information provided to staff. In summary there are no wetlands or surface water impacts as a result of Conserv II. Our storm water management systems are designed in accordance with best management practices called forth by the St. John’s River Management District. There are four listed species on site, Alligator, Sherman’s Fox Squirrel, Gopher Tortoise and the American Kestrel. Some of our property has already been set aside as a gopher tortoise habitat area and that area will not be developed.

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Mr. Oyler continued his presentation, by saying, "In the spirit of full disclosure I will tell you that the City of Orlando and Orange County are currently negotiating with an adjoining property area". He then showed a map on the overhead and pointed out the purple area on the map as being a former citrus property which used to served by our system. We are in active negotiations with the property owner to purchase that property and it is our intent at sometime in the future to come back to the Board and back to the County Commission and request approval to construct these last few series of RIBs on this property. We will be coming back to discuss the use of that property in the future.

He then referred back to the recharge map that shows what impact the existing facilities have had. You can see a considerable extent of the influence on groundwater as a result of the contribution. We are having a significant positive impact on groundwater levels in south Lake County and extending out into the Groveland area. We are helping to prevent some of the draw downs that were predicted by the Water Management District as a result of the pumping of the aquifer.

Hopefully, I have been able to provide sufficient information for you to be able to support the action that we have requested. Our requested action today is the approval of the rezoning of these properties from Agriculture to Community Facility District. I would like to open it up for any questions that the Board may have. I have with me today staff who can answer just about anything that you would like to ask.

Mr. Paul Bryan, Chairman, thanked Mr. Oyler for his presentation and opened the hearing to questions from the Board.

Egor Emery, requested a copy of the last slide that Mr. Oyler presented showing the ground water effects. He asked the question, when you are saying ground water can you identify which aquifer you are modeling for, is this for all of them together?

Mr. Oyler replied, we modeled the upper Floridian.

Mr. Emery asked what is the capacity on RIB site II?

Mr. Oyler called Mr. Doug Pickell with PB Americas, Inc., Project Manager, forward to answer Mr. Emery's question concerning capacity of RIB site II.

Mr. Pickell replied that our current capacity is 8.5 mgd for RIB site #2 and the new RIBs, Site #1 is permitted for a capacity of 6 mgd and Site #10 is permitted for a capacity of either 3 1/2 or 4 mgd.

Mr. Emery then asked why the letter from DEP talks about going from 29 mgd to 41 mgd?

Mr. Pickell replied, that is the total capacity that we are permitted for the entire project.

Mr. Emery asked for more clarification concerning the mgd figures. He asked if those numbers are your typical operation or your peak flow figures.

Mr. Pickell replied that those figures are the annual average daily flow.

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Mr. Emery asked, in the case of a storm event what would you anticipate your peak flow might do? How much can you put through these things and keep them operating?

Mr. Pickell said that is the perfect capacity on an average basis and it can be exceeded dramatically on any given day or month, but that is the amount on an annual average daily basis multiplied by 365 days and that is the total volume that we could put on the site.

Mr. Emery stated that he has some training in waste water and the Mt. Dora plant is about a million gallon a day plant and you see some fluctuation with the time of year, holidays that sort of thing where it will go up to nearly two million. I am trying to get an idea of what kind of flows we could get out there during the peak times. I am trying to get a concept of what those numbers are.

Mr. Pickell called David McIntyre, Hydrogeologist with PB Americas, Inc., to answer that question. Mr. McIntyre said, we typically operate these RIBs routinely a one week on two weeks off rotation cycle so if we were running at full capacity, which we seldom do we would typically be running at about 3 times the annual average daily flow rate. That would mean you were getting your 3 weeks worth in 1 week. For design purposes and peak flow capacity it varies a little bit from infiltration basin to infiltration basin according to what we think the ability of that basin to handle a temporary peak loading. Characteristically we design around peaking factor for about 9 so that on any given day we could probably deliver about 9 times the annual average daily flow.

Mr. Morris asked if they sell water.

Mr. Oyler answered yes.

Mr. Morris asked if the citrus growers are purchasing water from you. Are they required to purchase from you?

Mr. Oyler said that depending on the term of their contract, the contracts are 20 year contracts and the first contracts were executed in 1986 and 1987 and those have expired and as a result those citrus growers are now paying, I think it is 11 or 12 cents a thousand for the reclaimed water. Typically, are other customers for example in the City of Orlando, this is marketed the same way as drinking water for irrigation. We are charging 81 cents a thousand to our residential customers and 64 cents a thousand to our commercial customers in the City of Orlando. If you are a grower that has a contract that is extended beyond 2007 – 2008 your contract indicates that you get the water for free for the duration of your contract, those growers are not paying.

Mr. Morris stated that concerning the existing facilities you stated that the light pink area was Agriculture that you were supplying and that you are not supplying now.

Mr. Oyler said it is his understanding that those properties are going to be designated for development in the future and I am not sure if they are currently active groves.

Mr. Oyler asked Mr. Phil Cross to answer that question.

Phil Cros explained that they are not currently being supplied with water. They are former contracted

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properties.

Mr. Morris stated that on your reclaimed water quality Section 5 you mentioned that you paid Lake County \$100,000.00 so they could fund staffing to monitor this. If this goes through increasing the amount of RIBs will you be increasing this dollar amount?

Mr. Oyler stated that Lake County has the ability to negotiate an increase, at this point in time they have chosen not to do so.

Mr. Paul Bryan, to clarify, you are currently still paying a \$100,000.00 per year for the monitoring.

Mr. Oyler, that is correct.

Mr. Scott Blankenship asked that on the radius map where you had the increase in surface level, what is the relief system for John’s Lake and Lake Apopka? You know we had a flooding problem on John’s Lake.

Mr. Oyler said he was not familiar with the hydrology down there. I am assuming you are going to have some type of culvert connection that could cross State Road 50 to relieve John’s Lake and Apopka.

Mr. Larry Metz said he was assuming the water comes from Orange County.

Mr. Oyler replied that that was correct. The 2 treatment facilities that are providing reclaimed water for Conserv II, one of them is the City’s McCloud Road facility which is on McCloud Road by Universal Studios about the intersection of McCloud and Kirkland. The other is the County’s Sand Lake Road facility, which is on Sand Lake Road.

Mr. Metz asked the useful life of a RIB?

Mr. Oyler replied that the useful life on most wastewater facilities if you look at the mechanical components is about 25 years, if you look at the physical components, the concrete and steel type components typically the useful life is 40 to 50 years. Useful life on a RIB site if it is maintained properly would be indefinite. The real question is, in 30 to 40 years what is the water supply issue going to be and will this water be designated for some higher or better purpose.

Mr. Metz said he was trying to understand from the concept of the water being put into the aquifer ultimately through the surficial and then bouncing off of the hawthorne and trickling into the Floridian and you mentioned the water is polished along the way. That implies to me that layer of sediment that it is traveling through first is a sandy portion, then a clay area and into the Floridians with that sort of being the filter and I wonder over time what the cumulative effect of that filtering process is on that ultimate location of the water, which is the Floridian. Has anyone ever studied that?

Mr. Oyler said filtering is not exactly the right analogy in this instance. If you recall my water quality the filtering normally implies that you are removing solid material. My suspended solids are practically not measureable. What is happening is you have natural bacteria that live in those ground zones and as our water passes through that area we are seeing the nitrates being consumed by those bacteria so we are

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actually reducing the level of nitrogen in water as a result of bacterial consumption by the bacteria that measureable live in those zones. I am not aware of any concerns.

Mr. Metz said he was talking about the inability of the layers to eventually continue doing what they are doing.

Mr. Oyler called Mr. David McIntyre, forward again to answer this question.

Mr. McIntyre said Alan has described that this is essentially a non-filtering process, it is a biochemical process. Phosphorus is removed predominately in the surficial by process of absorption onto the clay particles and soils. He went onto explain the biochemical process. There have been studies conducted; the U.S. Geological Survey has also been doing some very advanced work on the east side of Lake Apopka looking at denitratetification in the Florida aquifer underneath one of Orange County’s infiltration basin sites.

Tim Morris asked what will you do if this rezoning application is denied?

Mr. Oyler said if this is denied we will go to the County Commissioners and appeal.

Tim Morris confirmed that what you are saying is you have to have this.

Mr. Oyler acknowledged that he was saying that I have to have this facility.

Tim Morris questioned whether there is any other place to put this in Orange County.

Mr. Oyler said not that has the geological ability that this area has, No. We have already constructed on the available sites in Orange County.

Egor Emery asked if the reason you are locating these things in Lake County is because that’s where your ground water flow comes from, isn’t it, towards your well sites?

Mr Oyler said it is not that simple to answer. I have seen models that show that the Orlando Utility Commission wells which are drawing water down by the Orlando International Airport can have impacts up in the area of Lake Apopka. How the aquifer transincivity occurs is very complex. Does some of this water indeed flow in the direction of Orange County, yes it does.

Mr. McIntyre said infiltration basins as a method of recharging the Florida aquifer require an area in which the hawthorne confining layer is relatively leaky. If you look at a map of Orange County looking down on it from above you would recognize very rapidly that as you move to an area that is north and west around the chain of lakes you see a very different set of topographies, you see rolling hills, commonly sink hole lakes, and isolated lakes that do not have a discharge stream. He went onto explain the vulnerability of such sites.

Paul Bryan stated that concerning the useful life of an RIB, what would you anticipate based on the technology that this system would be utilized? Do you have any feel for that, if it is 20 years or 50 years ?

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Mr. Oyler said that if he had to look into a crystal ball and look at the condition of the water supply 20 to 25 years from now my guess would be that the Water Management District as part of the overall modeling of the impact of withdrawals would be requesting that we continue use of these RIBs to minimize the surficial impacts in this area. That is what my gut tells me. We will probably not be doing this so much as a means of handling our aquifer but more as a means of supporting our water resources in the future. I have been with the City of Orlando for 27 years and I was one of the project managers that worked on the original Conserv project. At that point in time you could barely give the water away, the world has changed dramatically in the last 25 years in regard to water resources. We are beginning to understand that the aquifer is not an infinite source of water and that we need to take steps and measures to protect it. Because it is not only our primary water supply, it is also critical to the levels in our wetlands and lakes. My gut tells me that we are probably going to decide collectively that we are going to continue to put water in these areas. It may be that changes in technology 20 to 25 years from now people will think that this water is too valuable to put in the ground and that is treated through a membrane system and goes directly into the water supply. In that circumstance a Rapid Infiltration Basin is no longer necessary. That would depend entirely on the mentality of the general public.

Paul Bryan asked that of the 1,800 acres of land how much of that land would actually be developed into actual RIBs?

Mr. Oyler replied that that would be about 68 acres total.

Mr. Bryan stated that you mentioned that you talked to Jim Stivender and the School Board about the possibility of selling some excess land. What kind of price were you all talking about. I am just curious.

Mr. Oyler said we have to go by appraised value when we purchase property and we have to go by appraised value when we sell property. We conducted appraisals and they conducted appraisals and I would be willing to bet if they reappraised it today it would be a whole lot better than 2 years ago. They have the same difficulty we do and that is available funding.

Mr. Bryan asked if Site #1 that extended out to Hwy 27 would have any RIBs being placed on that portion of that property?

Mr. Oyler said there are no RIBs envisioned for that area.

Mr. Bryan asked the purpose of that property and if it serves any purpose?

Mr. Oyler said there was a single property owner that sold us the entire tract as opposed to parceling it off.

Mr. Bryan said that concludes the questions from the Board at this time and I thank you for your presentation.

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Steve Richey said he has a couple questions for Mr. Oyler. I represent a couple farmers in the area. I am a little confused because in the staff report and in the presentation that was made last month the gentleman from the City of Orlando got up and basically said that these RIBs were for conditions when Agriculture couldn't take this water, meaning during rainy times. What you said in your presentation was they were for wet water and for daily use and you were talking about the November 2001 RIBs. So as I understand your testimony and correct me if I am wrong. We are doing all the RIBs that are in this application for purposes of daily disposal, weekly or however that is and in addition to that there will be a backup for wet weather.

Mr. Oyler said he believed Mr. Richey characterized that correctly. Let me explain the operation of Conserv II. Irrigation is the primary use of the water and irrigation as you well know from your own uses there are certain times of the year when certain climatic events will cause you to irrigate more or less. For example, the time period we are in now irrigation will consume almost all the reclaim water we have available. Through the majority of the year it is about a 50% - 50% split, about half of the water is used for irrigation and about half of the water goes to the RIB sites. The important thing to remember is we abide by the average daily flow requirements that DEP has established for these sites. During full cycle of the year we are not exceeding the capacity that we permitted for these sites.

Mr. Richey asked if the 60 acres of RIBs will be utilized for disposal, farmers will use part of it for disposal obviously for irrigation, part of it will go to the mine and part of it will be used in Orange County for those subdivisions you have mentioned. Is that accurate?

Mr. Oyler said the if he could change the word disposal to reuse, he would characterize it as conserving or in this instance replacing use of potable water for those purposes, yes.

Mr. Richey said he liked the old word conservation because he is hung up on the idea of conserving water and that is what you are talking about.

Mr. Oyler said yes.

Mr. Richey asked if there is some mechanism in place that prioritizes where that water goes in relation to the other uses versus the RIBs?

Mr. Oyler said the primary use would be for irrigation. We have contracts with those users, anyone who has a contract essentially will have the first opportunity for the water. What is not used then for irrigation will be going to the RIBs.

Mr. Richey asked if there is any incentive in any of these permits for you to procure additional users of that kind of water for that kind of use? If this permit were granted the DEP permit already gives you the right to dispose of what I understood to be all of your water in the RIBs. Would you have any incentive to go out and get more farmers or more nurseries or get more hay farmers and those kind of things in lieu of just simply using the RIBs for reclaiming?

Mr. Oyler said they are in the process of doing the next configuration of the Master Planning of the use of the Conserv II areas, and I think you probably represent a number of clients that have property in this area. Agriculture will probably over the next several years transition to some other use.

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We certainly have the ability with the piping infrastructure that is in place to provide reclaimed water to those areas and in fact the Carlton project approached us a few years ago about the potential of receiving reclaimed water. We have to make sure that we don't over subscribe the system. What I mean by that is traditionally you look at irrigation patterns in reclaim water systems, during dry periods of time people tend to irrigate considerably more in fact 2 or 3 times more than they would irrigate during wet periods. We need a water system that basically would have an infinite reservoir. Over subscription on a reclaim water system occurs when you book more than about 50% or 60% of your flows for irrigation. What we have seen during dry periods is that you will use almost every bit of reclaim water available. We do have supplemental water wells as part of the Conserv II system, it takes water from the aquifer. Those were primarily installed to provide freeze protection for the growers and they would be very limited in use. In recent years we have had to use them as supplemental water during extreme drought periods when the growers needed more water than we had available. So to characterize our ability to use every drop of our water for reclaim water, we can't, that is not a very efficient service strategy, there would be periods of time when if we over subscribed our system when all of our customers would suffer, we wouldn't have sufficient pressure or water to provide for their needs. A balance system that uses both irrigation and Rapid Infiltration Basins is the best approach to providing the maximum amount of reclaimed water for the area.

Mr. Richey stated that his question is since you put it in those terms, the balance. Is there anything in any of your permits or any of this documentation and conditions that the county has imposed on you that requires that balance in lieu of just recharging 100% of it to the RIBs?

Mr. Oyler said I am not aware of anything in our permits to that effect. It is required as our operational practice and our contractual obligation at this point for the customers that are already on the system.

Mr. Richey asked that if these RIBs are only to be used in times of inclement weather when the agriculture and other uses couldn't take it, how many acres of RIBs would we need to meet the requirements of the DEP or other governmental agencies to have a backup to the irrigation.

Mr. Oyler said it would probably be about the same.

Mr. Richey asked about a condition of this zoning that said you could utilize these RIBs for only wet weather as defined by some empirical per inch or some kind of thing other than just somebody arbitrarily deciding that would still require basically the same kind of a region and the same amount of RIBs. Is that an accurate statement?

Mr. Oyler said that is an accurate statement.

Mr. Richey asked if the cities of South Lake County that have utilities that provide water would get any benefit in the form of credit off of their consumptive use permit with the St. John's Water Management District for the Conserv II water that goes into these RIBs in Lake County? Or, is that exclusively used by the municipalities that own them, Orlando and Orange County?

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Mr. Oyler said he was not involved in the negotiations of these permits so he cannot give intelligent answers as to what they are claiming or using or taking credit for on the applications.

Mr. Richey asked if Mr. Oyler was talking about in Lake County or in both Lake County and Orange and Orlando?

Mr. Oyler said it was in the cities that you have referenced.

Mr. Richey said OK, that is alright, thank you. Mr. Chairman, I think that is all I have right now.

Mr. Bryan thanked Mr. Oyler for his presentation and answering the questions. We will allow those that have concerns to come forward and then we will give you an opportunity for rebuttal.

Mr. Jim Hitt, Planning and Zoning Director for the City of Clermont said the City Council has not had the opportunity yet to do a review on these two cases; it is going before the City Council on April 14th. In the mean time staff did send a letter to county staff in regards to just essentially any potential coordination of possible use of this reclaimed water for the City of Clermont. The reclaim market has increased 10 fold over the last 6 or 7 years. We will get our comments back to the county staff in time for the BCC Hearing.

Scott Blankenship asked if they had any contractual relationship for allowable use of that water right now?

Jim Hitt said no sir.

Scott asked if this is in the JPA?

Mr. Hitt noted that there is a large portion that is in the JPA.

Tim Morris commented on your statement is that you would take all the water that they could pump to you.

Mr. Hitt stated that he did not know if they could, but he did know that they could use some of it. We have a lot of new developments over the last 10 years. You are looking at about 5,000 homes and quite a few businesses.

Mr. Morris commented that it sounds like they could sell it to you and you could resell it for more money and it would be a money making proposition for everybody.

Mr. Morris asked Alan if he had addressed any of the cities around there for this?

Alan Oyler said that they have. We have talked to Clermont a couple times. The difficulty that we have in providing additional irrigation water is that cycle use and peak usage. One of things we are looking at now is Master Planning the expansion or ultimate use of the Conserv II facilities. It then becomes an issue of finance. We would certainly be open to discussions with Clermont again and if they can provide the financing to extend the pipe line up to the Hancock Road facility and there are other issues we have to agree on. I have a contractual relationship with the growers and my other customers. That contract requires me to essentially deliver that water to them first.

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Even though Clermont would more than likely be a good paying customer I have to satisfy the demands of my existing contract holders and then what is left I could divert to Clermont. During certain times of the year I could probably satisfy their demand, during other times of the year because of the excess demand for agricultural irrigation they would get a fraction, so they would be responsible for providing a backup supply, a supplemental water source when the reclaim water is not available.

Tim Morris said it sounded like a good fix to me.

Alan Oyler said that adding irrigation customers to the system does not eliminate the need for Rapid Infiltration Basins. They are a complimentary use.

Tim Morri asked if this is a revenue generator for the city and the county.

Mr. Oyler said it is at this point.

Tim Morris asked if it makes money above its' expenses.

Mr. Oyler said it does not. There is some revenue coming in, primarily from the Horizon's West customers and a small amount from the citrus growers. It is not nearly enough to offset the cost of operations.

Mr. Morris asked what their yearly budget is.

Mr. Oyler asked Phil Cross to answer that question and Mr. Cross responded \$4.5 million annually.

Mr. Bryan called Mr. Steve Richey up for his presentation. He also stated that there are others that have concerns as well and that we will get to them.

Mr. Steve Richey came forward for his presentation. Mr. Chairman, you will remember 3 months ago I came up and expressed that I felt I did not have enough information. We have now killed at least half a forest providing me with information and you have gotten it as well. A lack of information is not where we are at right now. Today, what was said last month has been altered to a significant degree from my perspective and it happened at this meeting. So I am a little ill prepared to present everything today in response to what I have heard. I had no idea based on the staff report and based on testimony from last month that we were talking anything other than utilization of these RIBs in wet weather.

That is not in fact what is being proposed. My concerns have been magnified. Now we are running the risk of having the RIBs used for 100% use of disposal even though that is not what their intention is, the fact of the matter is the permits they have from DEP and this staff's Conditional Use Permit you have in front of you would allow that. That is a major concern. There is no prioritizing with regard to contractually or conditionally in any of these permits that puts a priority on why this use was allowed in South Lake County, starting in 1986 through the permit process. I represented people during that process and was assured that this was in fact for agriculture uses. It is shocking that it is not a priority today and that was the only reason this is in Lake County. We were a vibrant, vital citrus area and this was to help us maintain that citrus. God chose that we don't grow citrus at the magnitude that we used to, but maintaining a viable agriculture, citrus industry in Lake County is still a priority, in fact it is more important to try and preserve the citrus we have now.

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There has to be an incentive for those farmers to keep farming. The Comp Plan that has been provided to the Board of County Commissioners has this area set aside until 2025 for agriculture. This particular kind of water resource would be a very major incentive to have folks have the ability to utilize it for agriculture, if in fact there was a mechanism in place for it to be a priority, which is not in any of these permits and is not available right now. It seems to me we have an opportunity to make it available. I would like to call two folks up to testify. I would like to have Tom Odom, Professional Engineer with Mitigation Resources and have Carl J. Fabry come up who is my client and who is a farmer in this area.

Tom Odom, Professional Engineer licensed in the state of Florida and a citizen of Clermont said that he is the president of Mitigation Resources, a company that has been around for about 7.5 years now. I have my graduate degree in Civil Engineering and have been a consultant for about 22 years.

I think that the concept is a very sound concept. We are not here to try and prevent RIBs we are here to just try and make the use of the reuse water as efficient as possible. As Mr. Richey stated there is really no written recommendations for obligations on how to go through a priority process when it is available. It is important for the farmers to be able to use this reuse water to get through the freezes. We have to make sure that the commercial agricultural interest are served. Watering my grass is a good thing but it is not a business, I will not loose my livelihood if I can't water my grass.

The primary purpose, number one needs to be we set up a priority use pyramid and something that has to be written, documented, monitored and enforceable so that we can make sure that this happens. The DEP permit is vague, it says wet weather use and that is fine but does that really protect the interest in South Lake County and Clermont, I do not think so. I would love to know that 2 days a week that I get to water my lawn that some of that water is at least coming from reuse water. We need to make sure that there are some written agreements, contracts, what ever they may be, whatever we can work with Conserv II to develop that structure. There needs to be a structure, methodology that the use is protected for the most beneficial use before we get to the residuals, wet weather events for the RIBs. I call it a Priority Pyramid, that we make sure commercial agriculture, people that make a living get satisfied first, citizens next and any other uses that we can use for the best beneficial land surface use of that reuse before we get it going to the RIBs, the RIBs being the final option with the exception of wet weather which is a primary option.

I believe the 20 year agreements are about to run out and Mr. Fabry is one of them. It sure would be a nice prospect for him to see that the contract continues, I believe they started their operations and invested their money in knowing that they had a source of water that was affordable and useful for them.

Tim Morris said he was trying to read between the lines here. Is this all over a contract that has an ending date on it that your client and the City of Orlando have not negotiated a settlement to continue this or is your client getting it for free and now he is going to have to start paying for it?

Mr. Oyler said that is correct, the second part.

Steve Richey agreed that is part of it, there is no doubt about that, but I represent several people and I filed for 4 different people and 4 different people have concerns with regards to this. One of it is there is no priority, the contracts run out and there is no obligation for them to go back to us and extend our agriculture uses and they can dump it all in the RIBs and they don't have to deal with a bunch of redneck farmers.

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Tim Morris asked who is going to set the price.

Steve Richey said price is one issue; the availability and priority use is another. If you don't have some system in place that gives them an incentive to have to keep it in agriculture use, you end up having 1,500 acres of RIBs in Lake County to the exclusion of farmers.

Tim Morris said he doesn't disagree with that. I think that they would like to see it used as agricultural. Am I putting words in your mouth? Would you like to see it used as agriculturally first?

Alan Oyler said it is worse than that. The reason I say worse and I am sure Mr. Richey understands as an attorney. I have contracts, I am contracted to provide water to users like Mr. Baker. Those contracts specify a certain amount of water that I am to deliver to them during the year. If you are looking for a pyramid of use my contracted users are at the top of the pyramid. I am obligated to provide them with the water first because I have a contract that says I am going to do that.

Tim Morris said they are trying to put it in a box that says you are required to do the agricultural first.

Steve Richey stated that he was not saying to put them in a box, what I am saying is that it would be a priority which does not exist today, right now you are giving them a permit that lets them pump it all through the RIBs and the hell with the rest of us. Be it Clermont, be it anybody else. He has got some contractual obligation which may or may not last forever.

Tim Morris asked that they use the scenario that agriculture is at the top of the pyramid and then they negotiate with everybody that has a contract coming up on what the fee is going to be and that would be a contract between those two.

Mr. Richey said they set a fee, that is correct and either you accept it and sign a contract or you don't get water, from them. That is the way it is today. My concern is there is no incentive for them to get any more agriculture customers. We are trying to maintain this whole area in viable agricultural uses and we don't have any incentive in anything you are looking at today that makes them have to deal with that in a very proactive way. All it does is give them an option of telling all the farmers and alternate users, go down the road because we can put it all in the RIBs. Now a provision in there that it can only be used in wet weather defining that with some kind of inches of rain and those kind of things would at least give them some incentive initially to deal with farmers or forget about others. They have 1,800 acres, let them do a little farming and stuff like that, we would like to see that. Let Orange County do some farming. We can have a viable agriculture situation there that is part of their operation. What they do right now, as they testified to, they leave you with these industrial looking holes and they are not pretty and the rest of it they leave unattended and in its' natural state. There are all kind of fugitive plants and all kinds of stuff there. Developers are required to have opened unobstructed corridors for critters to roam and there are a lot of things that can be done in conjunction with this agriculture use, CFD use with RIBs and the rest of that property being used for agriculture use which would enhance the agriculture area of Lake County. Which, we have set aside for agriculture until 2025 under the plan. That is what we are asking to do. We are not only asking on the part of Carl that has an active grove but I represent other people in the area who do or don't have contracts or any incentive to get any contracts worked out right now.

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The comments someone said that this may become residential is erroneous because as I said the Comp Plan has it be Rural set aside on all this property to include this Conserv which goes a lot more towards agriculture uses and non residential than it does anything but we haven't done anything embodied in these documents to enhance or help that.

I am not trying to back them back into a corner on the behalf of one client who may or may not have a contract with them, what I am trying to do is give them an incentive to go out and seek active agricultural uses for an alternative to RIB disposal. Because, that is what is in the best interest of Lake County. It is far better to be using reused water on yards rather than drinking water on yards and those should be the priorities of any permit when Lake County takes a foreign governments waste water it ought to be in there. That is my bottom line concern I have, that is the only reason they are here now, that is the only reason they got their nose under the tent was to protect what was dear to Lake County, which was agriculture. I don't think we have changed from that, especially in this area. The reality is, between now and 2025 it is not going to be anything else and what you are being asked to do today will not encourage it and not assist that effort. I am going to have Carl come up now.

Carl J. Fabry said he lives in Orlando, Florida and I am a Lake County citrus grower. I do not envy your position, I served on the Orange County Board of Zoning Adjustment for 8 years and was Chairman for several of those years. He then presented an aerial map, Opposition Exhibit A, pointing out his property. I represent approximately 1,000 acres of the growers in question in Lake County, and nearly all of that 2,000 acres that we are talking about here today is represented.

In 2006 the total growers consisted of 3,679 acres, we have lost quite a few acres and the reason we lost them is because we are now forced to pay for that water. The first tier of Conserv growers signed on in 1983-1984 and they never got to enjoy Conserv II principles because the water actually only flowed, not as Mr. Oyler said in 1986-1987 and the freezes of 1989 took out most of those growers, particularly the Bradshaw Groves because they were not able to upgrade their irrigation systems so a lot of acres were lost at that time. When the first tier growers first signed on they were responsible for getting a 100 million dollar loan without which they would not have given Orlando, Mr. Oyler and Orange County the funding for building Conserv II, so it was based on agriculture.

We have a situation here where the second tier of growers who I represent bought some of that frozen land with the concept and new techniques which we developed and I am a qualified expert with Federal, State and County courses and a worldwide citrus consultant. We can now save these trees from freezes to a large degree and with various techniques, at the very worst case we can save the crops by what we call pruning back all the way back down to the stump in the worst recoveries. In 1992 when I signed my agreement and most of us signed our new agreements as second tier Conserv growers we made Conserv work, we signed 20 year agreements and they were represented by people in this room that it was a forever deal. I would have never replanted frozen Lake County ground with only a 20 year agreement for a guarantee of water. In 2006 they cancelled our agreements, I was only 13 years into my agreement, Mr. Oyler was responsible for causing the growers to sue Orange County and the City of Orlando. They said take it or leave it, they were going to charge us an exorbitant amount which we could not afford to pay. We had Affidavits from the Mayor of Orlando, the County Chairman of the Commission, and Mr. Richey said that Lake County clearly understood that that water was to be free forever. The difference between the 3,679 acres and the 2,000 left now is that those growers were contracts that ran out in 20 years. We cannot afford with canker and Brazil and all these other things to be now paying for water that was promised to us forever.

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That is the first complaint, secondly we know we have to live with RIBs and I believe that it is a fantasy to think that RIBs don't pollute the ground water. By their own report, which we growers get, they are showing 20 parts per million nitrogen in the ground water and as high as 10 and 12 nitrates, that is bologna, 3 and 4 parts per million. The only more efficient way to get nitrates and phosphates down to ground water is with ejection wells, which we know is a real tragedy for our environment.

I would like to say that an integrated approach should be taken. I think that that land should have not only RIBs but we should get our free water forever back in Lake County for agriculture, irrigate those pine trees with some of that water. They should be forced to have agricultural lease back stuff on the acres they are not going to use for RIBs and that will reinforce some of that and plant pine trees. They should bring back the natural to the natural occurrence the way the forest used to look back there. I am upset with Orange County particularly Mr. Oyler for saying that if we didn't like having to pay for the water now that was promised forever, sue us! That is the kind of person we are dealing with here.

Mr. Richey asked if there are any questions for Carl, that is brief and to the point.

Mr. Bryan asked if there are any questions?

Mr. Richey summarized where we are. As I indicated to you, the change in how this has been presented to you today versus what was presented in your staff report that talks in terms of wet weather and what was represented by the City of Orlando's representative last month about this be utilized for wet weather is significantly different. In fact the concerns we had last month with regard to utilization of this for continued agriculture uses and expansion of agriculture in this area are greatly diminished based on the permits that they have and the lack of conditions with regard to this piece of property.

I went through the staff report and I have an obligation to point out some things to you that you may want to talk about and think about as part of your deliberation. First of all, the fact that the county has an Interlocal Agreement with Orange County doesn't give it the teeth necessarily that having a zoning condition encompassing some of those conditions that are in that agreement. It is interesting that in the proposed agreement that the CUP from the staff talks about that Lake County can do some things if the other agency permits are voided in Section 2, Paragraph B. That is interesting language, voided, not violated. It seems that Lake County should have the ability to take action if the DEP or any other permits are violated or found to be not in compliance. I assume that means they are required to comply with all the rules and regulations that Lake County has but it does not say that. Also, refer to Paragraph H of the Ordinance concerning construction operations, it does not say "and Lake County". Regarding Paragraph B in Section 3, as I understood the changes, Section C was changed to add some other standards, but Section B stayed the same but there is no definition to prevent degradation of existing ground waters and surface water quality, there isn't anywhere in here where that defines that.

Regarding setbacks, I have described this to you as a Quasi-industrial use. If you look at the map that is up there and if you look real close you can see some red ovals which are the proposed RIBs. Then if you look around that property Mr. Fabry's property is here and we talked in terms of 100 ft setbacks from structures that aren't utilized as part of this and we talk about DEP setbacks but every other time I have ever had anything to do with something in Lake County that has to do with something this intense next door to uses we put our own setbacks in.

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A lot of times we have required plantings, pine trees and all kinds of stuff. My property, my 40 acres that I have a farm on so I don't have to look over into intrusion RIB ponds. I don't want to see that and I want to have a buffer there between uses, if that is pine forest, if that is a 7 ft berm with pines planted on top of it, that is what you made me do when I do an excavation operation. There is none of that in here. There is provision that we have to setback 500 ft from wetlands but we don't have a provision for setback from neighbors and that we buffer neighbors. We got neighbors and we don't have any significant buffering, the buffering that is talked about is 500 ft and 100 ft but that is significantly less than anything you have ever required between uses. Conflicting uses, I have to tell you these ponds, RIBs are conflicting in relation to even bare agriculture uses.

There is nothing in this that talks in terms of corridors for animals and other things that we require of others. Just to the south of this is a native Florida wood system that the State has been trying to buy to set aside one of the last Hammock Oak left in Florida. We have no protection of that in here. We have nothing in here that defines that this is wet weather use only and we don't have anything if it is anything other than wet weather use establishing a priority for purposes of other uses be that Clermont reuse, be that farming or be that other uses that may come along.

What I would ask you respectfully to do, if you are going to pass this as a way for them to have their wet weather alternative to land irrigating, do that, but condition it with appropriate buffers and do it with appropriate conditions to limit that. If you are going to open it up for them to put all their water in Lake County through RIBs then put some conditions in there that says we give credit off of our consumptive use permits and our use permits for purposes of St. John's for purposes of utilizing our land for their reuse. Right now there is nothing, we don't get credit for nothing. They get 100% credit for all their magnificent reuse that they are doing in Lake County and they get their consumptive use permits for their water on their side of the line. I have looked at their permits and that is what they are proposing, that is what they sell to St. John's. It is in Lake County and we do not even have a guarantee that we can do and sustain an industry that is the very reason why we let them in here to begin with.

Staff has revised the original CUP and added terms and conditions and I accept that, but we are not there yet. We still have these major holes and today a major hole. If you are going to pass this I would respectfully ask you to recommend to the County Commissioners that these kind of conditions be developed before passing this. It needs to be known to everybody that this is still a problem and we need to fix it before we give them an open ended use. It is never unusual for us to put in a Conditional Use Permit or a Community Facility District, evaluation conditions, so you can look at it again in 3 years, staff can look at it annually, all those conditions, none of that is in here. They are required to send us their permits and their DEP but Lake County doesn't get to look at again and say we don't like the way it has been done over the last 5 years and we want to revoke it. This rezones it and leaves it forever zoned for this use! That I find to be inappropriate under the circumstances. In a changing world Lake County should not be the one that has no control over what happens. We need to have an opportunity to be able to review that, I don't care if it is every 3 years, 5 years or whatever, at least there should be a review every time a DEP permit is renewed for purposes of making sure Lake County is getting the benefit of the bargain.

Mr. Bryan asked if there were any questions of Mr. Richey?

Egor said he had several.

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Mr. Fabry came back up. He stated, I forgot to mention that of the 75 million gallons per day design capacity of Conserv, the growers left only need 5 million gallons a day based on concurrency, rapid infiltration rate and irrigation schedules, that is just a pittance, so it does not make any sense that there is no benefit for Lake County to take this water and at the same time charge us growers.

Mr. Bryan called Mr. Richey for several questions from the Board.

Egor Emery noted that he did not have the 1986 document in front of him. I would like for you to testify about that 1986 agreement.

Mr. Richey said the agreements were 1982 when the farmers were contacted and it was represented that those were 20 year renewable contracts which meant they would be perpetuated and they were zero. In fact the Affidavits that Carl referred to by the Commissions and Chairmans that were there then, that is what they opined to in their Affidavits and which we will file with the Board of County Commissioners. I reviewed them and that is what they say.

We are getting a rate lower than what residential reuse gets but it is extremely difficult under the circumstances of the volume and the nature of the tree protection for a farmer to have viability going through a process of replanting and waiting for a period of time for good production to make money if he is paying for the water at the rates that are set forth now in those contracts as they renew.

We are going to discourage citrus. Talk about trying to box somebody in a corner, we can't go out and get a consumptive use permit from St. John's because there is reuse available. That is the problem we have.

Scott Blankenship asked that, just so he is clear on the credit information, you said St. John's gets credit for reuse.

Mr. Richey pointed out that if you will remember, St. John's is required and mandated that all the cities put in reuse lines and that all the cities do these kinds of things as part of their overall conditions of their consumptive use permits. Orange County and Orlando are able to show millions of gallons of reuse to St. John's, water being put back in the aquifer through reclamation based on the water they are disposing of here in Lake County.

Scott Blankenship asked if the credit is based on who owns the land, not where it is?

Mr. Richey said it is based on whose water it is. I am not begrudging that except that it is frustrating that we got all this water for legitimate purposes being reused in Lake County but we don't get any benefit of it for purposes of water for industry or anything else, it goes to the other side of the line where all the roof tops are being built and 4 million sq ft of commercial at Horizon's West. They get the industry, they get the commerce, they get all that stuff and we get the reuse water and that is fine, except we don't get credit for the reuse water for purposes of our consumption of water.

Scott said we don't get credit, this is non taxable land so the citizens of Lake County don't get any tax dollars for this.

Mr. Richey said we get \$100,000.

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Scott said that is to pay for a resource that they need to monitor.

Mr. Richey said that is to pay for Walter to go out there.

Mr. Bryan asked if there were any other questions for Mr. Richey.

Carol Johnson said she was here as part of the homeowner’s association and basically here as a citizen. I just have a few comments. I was here in 1982 and 1983 when all of this started and the contracts were supposed to be perpetuity and they did renege on their contracts. They also reneged on their contracts to the homeowners in the area who were looking forward to getting water for their pastures.

The homeowners all had 5 acres each and it meant a lot more water with these contracts and we were willing to pay for it, but it hasn’t worked out that way. Now, since we have our own wells there is no reason for us to use Conserv II water and pay for it, when we can get it out of the ground.

The original citrus growers with Mr. Fabry in mind especially, they did take a chance when no body wanted this water, our homeowners association came about due to the fight to keep Conserv II out of there. We did not know if we would have tainted waters or odors to deal with. As it turns out Conserv II has been a good neighbor and we have no problems with Conserv II. They have received a lot of awards and they have been keeping us up to date on what is happening. We have RIBs all around us and I think some type of buffer would be appropriate at some point in time. In regards to Mr. Fabry, his is not a short term investment, it is a long term investment. I saw the original contracts and it did say the water was free, they should be given some sort of benefit.

Mr. Bryan said they would take a 10 minute recess.

Mr. Bryan called the meeting is back to order and we are now at the time of the meeting where we allow the Applicant a brief amount of time for rebuttal. We ask that you concentrate on the issues that have been raised in your response.

Alan Oyler noted that in the absence of any other document between the City and Lake County I would understand the desire of the Commission and this Board to include conditions. We have an agreement, an Interlocal Agreement with many conditions regarding the use of this land and the provisions allowing Lake County the ability to monitor and indeed shut down the operations of the Conserv II facilities in Lake County are contained within that Interlocal Agreement. Putting those conditions in this document would be repetitive, redundant and probably as unnecessary as you putting Land Development Code provisions in documents on housing. We have an existing set of rules & agreements and we have to abide by those. They are legal documents and contracts between us and we are bound by them.

Secondly, with regard to the characterization of what occurred with the growers. That actually was the subject of a court discussion and indeed arbitration. That did not occur in a vacuum, 2 years prior to the expiration of the grower’s agreements we met with the Grower Executive Committee. A group of representatives from the grower community to discuss the expiration of the grower agreements that were about to occur in 2006. We started meeting in 2004 for the express purpose of discussing the next generation agreement for providing water to the citrus growers. We also discussed the formation of the rate and we agreed upon a method of doing that.

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We in fact got some of the information from the Grower Executive Committee to formulate that rate. That was what it would cost the grower to pump water, the electric cost, the maintenance cost, all of those things and that is how we arrived at the 11 cents. The residential customers of Orange County are being charged 80 cents a thousand gallons. The grower rate of 11 cents per thousand gallons is comparable to the cost of the operation and maintenance of a pumping system withdrawing water from the aquifer for irrigating these groves.

It is not our intention to put the growers out of business but it is our intention to recognize that the world has changed and this is no longer a disposal project where people are taking this water at risk. We have 20 years of history, 20 years of water quality data, and we have research data from the University of Florida.

What you are hearing is the struggle on the part of the growers in the community to continue to accept the water for free. Those agreements expired at the end of 20 years. Some of the growers have agreements that were signed in the early 1990s and because of protest that we received from the Grower’s Executive Committee at that point in time we have all the agreements set to expire on the same date in 2006. That is why folks that signed up in the first couple of years in the 90s had agreements that were not 20 year agreements, they specifically stated they expired in 2006. Mr. Fabry is one of those individuals. As part of an administrative hearing the City and County agreed to extend the period of time for those growers that fell in that category, that I will call the in betweeners whose contracts expired in 2006 but did not receive the full benefit of the 20 years we agreed through arbitration to extend that out to the full 20 year period at no cost under the current conditions. At the end of the period of time their treated just as any other contract holder. We renegotiate the agreement and we include the rate.

I cannot commit 100% of my water to irrigation, I will oversubscribe and I will not be able to satisfy all of my customer’s needs during a dry period of time. I have got to have a balance in there. I am trying to remember if there were any other items mischaracterized. If there are specific questions in regards to the testimony received I would be more than happy to answer those for the board.

Mr. Bryan asked if there were any questions of Mr. Oyler? We will now close the discussion to the board and staff and if we need some additional information we may call you back. Thank you for your information.

Tim Morris questioned Brian Sheahan concerning the consumptive use permits statement that was made stating that we have no credits. He asked if there was anyway that we could get the consumptive use permits based on using their reuse in our county?

Brian Sheahan, Director of Planning & Community Design responded, the consumptive use of water is regulated by the Water Management District and the authority as far as the regulation of the consumptive use of water is reserved to those agencies by statute. I am not sure it would be within our authority to interfere with those contractual and regulatory agencies.

Tim Morris said we do not have a copy of the Interlocal Agreement which I feel uncomfortable now with what we have before us. Do you think we might want to take a look at the Interlocal Agreement and make some recommendations on that as a board? Apparently, of both parties involved one is happy and one is not happy and apparently the Interlocal Agreement is the only teeth that is in this on this ordinance.

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Brian Sheahan said the Interlocal Agreement is between the Board of County Commissioners, the City of Orlando and Orange County typically it would not be appropriate for an advisory board to participate in the drafting of that document. But I will defer that to the County Attorney.

Erin Hartigan, Assistant County Attorney, totally agreed with that and also it is a signed existing document.

Brian Sheahan said you may consider making a recommendation to the board to amend that document for a particular purpose.

Scott Blankenship stated that on the CFD under code there are certain requirements for a CFD that staff has under the LDRs. It states under substantial community interest, uses, activities that are necessary and desirable, to promote general welfare and secure economic and coordinate land use. My question with this is, I am seeing a whole lot of value for the Applicant, they get somewhere to put their water and the testimony is they have to have it, they got to have it. My question is on community interest, which community? I do not see any appreciative value for the citizens of Lake County, we don't get any tax dollars for this, we don't get any revenue from this, we loose a lot of land for this. It seems that all the value goes back to the Applicant. My question is when we write the CFD language and say to secure the general welfare are we talking about anybody? I know it is not for Lake County. So general welfare is for anybody?

Brian Sheahan explained that general welfare is for the residents of Lake County and the greater residents of the State of Florida. In this case, this project not only has a benefit to Lake County as far as the Hydrological issues that Mr. Oyler explained, maintaining our lakes, maintaining our wetlands, but that benefit is not only to Lake County, that is also a regional benefit beyond the boundaries of Lake County.

Scott said one reason being that the Florida aquifer is not restricted to Lake County, I assume it is a little broader than that. So we are really recharging the aquifer that is used by how many counties?

Brian Sheahan replied for at least ten counties.

Scott said it is not only charging our aquifer but it is recharging the aquifer for many counties to utilize that water for development. My whole issue with this is with the CFD language itself and the rest is just comments. I am not sure the community interest are being met for Lake County, other than recharging an aquifer that is going to serve a lot of other counties. I would also ask does an agriculture use have the ability for a recharge system? Is CFD the only way we can get recharge? If this remained agriculture could this property still be used for some type of recharge system other than CFD?

Brian said that he believed that is more of a question for Walter our Hydrogeologist. Because, that goes to volumes of water versus percolation rates that depend on the soil characteristics for the particular property. We have had some cases where agriculture properties do some recharge, they actually reuse the water on the site and they actually do some percolation on site. So in that case, yes.

Scott stated that as a planner you could build recharge systems into some type of other use besides CFD.

Brian said that is correct. However, when you consider the volumes, the amount of water from a county, it is difficult to deposit on one small property, that has to be submitted out and that has to have certain soil

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characteristics otherwise you end up with potential flooding or surface storm water issue.

Scott said he really has an issue of whether or not this really benefits anyone in Lake County other than some recharge that we could get from another way. Secondly, on that 1,800 acres or close to 2,000 acres if in fact only 20% of the land is used for the actual RIB system, do you have to rezone the entire 2,000 acres CFD, can you zone the part of the land that the RIB system is on CFD and leave the other Agriculture?

Brian answered yes.

Scott stated that they do not know what options might occur in the future and they might decide that their not getting full benefit of the agriculture use and that they are not using it anyway. It might have some value to somebody else to purchase it and it won't be tied up forever in a CFD. This is forever, this will affect our grandchildren, this is 2,000 acres locked up forever! The supplies are never going to go away and that takes that whole area out of the economic picture and I am uncomfortable with that. Especially not getting any benefits for the citizens of Lake County.

Brian said he had one point I need to clarify that was brought up during the testimony. I would not normally bring this up since it is not an effective document but the proposed 2030 Comprehensive Plan, the FLUE Map proposes all the property owned by Orange County and the City of Orlando jointly as Public Facilities. That change is proposed but has not gone to the first hearing, but the testimony was that it was proposed for Agriculture and it actually is proposed as Public Facilities.

Egor asked if there is anything in the CFD that precludes Orange County and Orlando from leasing some of that land for agriculture purposes?

Brian said that is an excellent question; the current answer is, yes. Agriculture uses are not allowed within the CFD at this time, however, staff has initiated a zoning amendment that has passed through the LPA and is going to the Board probably next month that will specifically allow agricultural uses in the Community Facility District.

Scott said he lives in South Lake County and is involved with a lot of trying to put some vitality in our economy with something other than residential.

The definition of this Community Facility District, I understand that when municipalities own land from one another they do not pay each other and if that is the rule that is the rule. This is a couple 1,000 acres that might have some future potential for economic growth for South Lake County which we desperately need, we don't have enough dirt for commerce. One thing a planner will tell you is that you shouldn't have Urban Sprawl, no one likes Urban Sprawl. It takes away from the cost of public services, structure of utilities, etc. If there is any opportunity to attract a tax base it might be on this parcel or it might be part of this parcel. They need this RIB system to develop parcels that will generate high dollar tax revenue for Orange County, but it does nothing for the tax base for the citizens of Lake County. It is a revenue stream for them and they actually make money off of us and now they are charging us and if the City of Clermont wants it they will work out an agreement with them and I still see zero benefits for the citizens of Lake County. My whole issue is from a CFD standpoint, locking this land up forever for no benefit to the citizens of Lake County. This is 2,000 acres of non-taxable land we are giving up forever for nothing!

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Larry Metz said he had a number of comments. What I have analyzed here today is this is a very unusual set of applications compared to what we normally get here. It has something underlying that we do not have in front of us as Mr. Morris pointed out, the Interlocal Agreement. Typically, our applicants for rezoning do not have an Interlocal Agreement as part of the overall picture and we are missing that component here to get the fullest understanding of what this arrangement is between Lake County, the City of Orlando and Orange County. It seems to me that this particular set of petitions is probably better analyzed from a broader perspective by the County Commission as part of our overall water policy and our overall land use policy for that region of the county. The issues that are raised by this are far too complicated. Personally I support denial of these petitions and state the reasons why in the minutes for the benefit of the BCC review. This board cannot address all the issues. It is not a philosophical or ideological position it is a pragmatic position that we can't really address all these things that need to be addressed. As Alan said, the world has changed since these agreements in 1986 when the agreement was first put in place. Well, if the world has changed then maybe the agreement needs to change too.

I think the real threshold question for the BCC, and this is again above our pay grade, I am trying to spot the issues and put them out there for the minutes. The relationship that exist now, there is already RIBs out there from the aerial, the real question is whether the whole Conserv project should be expanded or not. That is the real issue, we are postured in terms of a zoning request here but the bigger issue is whether we want to take what is already there and make it a whole lot bigger.

What are the policy implications and where are the benefits for Lake County, environmentally, economically and so forth. A denial would send a message that these questions need to be asked and answered before it is approved.

I am concerned that we have on Tab 3, 175 acres that is not contiguous at all to the current operation and that the plan reflected on the presentation is that they are in negotiations to buy another piece of property that would make the property identified in Tab 3 contiguous to the other property and make this thing even bigger. I would certainly deny the one in Tab 3 that is PH# 56-08-2 on the grounds that it is expanding to a non-contiguous parcel that is adjacent to existing occupied residential properties. With the proposed ordinance there has no real detail for the site plan, the buffering or any of the considerations that typically apply when putting something new in next to a residential area. That would be unique to 3, 3 and 4 combined are the matters that I mentioned before, if the county is under water restrictions for lawn watering maybe we need to look how this reuse water plays into that, that is a policy implication for the county to look at.

All of this suggest that this should not go forward with a stamp of approval from this board. What we should strongly suggest in our comments is that the need is for the Interlocal Agreement to be reviewed and revisited from the standpoint of whether this whole thing should be expanded and if so under what conditions so that the benefits to Lake County are well stated and enforceable.

Egor said he agreed with Larry and I have a couple of additional things that concern me. I have heard a lot of stuff presented by our testimony today that I agree with, I especially want to do everything I can to take care of Mr. Fabry and all the others that engage in agriculture in this area. My emphasis is towards making sure that we have viable agriculture down there and that we do not do anything to preclude that in any way. I understand Orange County's position that this is now a valuable resource and that they cannot afford to give this away, but at the same time it did get started in Lake County because of agriculture.

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A lot of the stuff in front of me is still incomplete in terms of what I am supposed to do. I understand that staff has a lot of documents and we have had good presentations today. Without the Interlocal Agreement some of these other things I feel less comfortable passing it on since I do not know everything.

A lot of these issues are important to our community and I want to see these issues resolved. Some of these issues should have been ironed out before this hearing. I have no problem with redundant language in law, there is redundant language all over our books, I have no problem with putting language that Alan says is redundant into the Ordinance. It is too easy to see this reuse water as a revenue source rather than a resource for the community, that water needs to get back into the ground above where you guys drain your wells so that it keeps our wells from being drained. I want the agriculture to get it first and our yards and I hate the idea of it going into the RIBs unnecessarily.

I would like to pass it on to the Commission with some recommendations on our part in terms of being uncomfortable with some of the stuff that is missing here.

Mr. Bryan thanked the board for their comments and stated that he agrees with almost everything that has been said, I also agree without that Interlocal Agreement in front of us and without the ability to amend it I think we need to allow the BCC to take this on. I agree with what Larry proposed that the recommendation for denial is not that we are philosophically opposed to the RIBs but to provide incentives for the BCC to take this on. I think that is an excellent recommendation and one that I will support.

I was here in the early 80s as well and come from a citrus background. As I recall it, it was really the citrus farmers that made this all possible and there needs to be incentives to continue working with those citrus growers because that is what brought this on. Lake County needs to continue to see a viable agricultural endeavors in that area and just a little bit of economic incentives to me is not enough to continue and I think we need some written incentives in that Interlocal Agreement.

MOTION by Larry Metz, SECONDED by Scott Blankenship to recommend denial of PH#56-08-2 with the explanation that the Board is not philosophically or ideologically opposed to the request but rather finds particular problems exist with regard to the information provided and or the lack of information provided and comments of the board members that have been made after we closed the discussion to the Board would illuminate those reasons, so rather than restating them here again.

FOR: Morris, Blankenship, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Gardner, Wells

MOTION CARRIED: 5-0

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Mr. Bryan said that brings us to PH#57-08-2.

MOTION by Larry Metz, **SECONDED** by Scott Blankenship to recommend denial of PH#57-08-2 again stating that the recommendation is not based on philosophical or ideological objection but rather, based on the collective comments of the Board members which needs to be addressed in terms of the information or lack of information. The policy considerations that we have stated and I will not repeat them here, but that is the basis for the denial.

FOR: Morris, Blankenship, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Gardner, Wells

MOTION CARRIED: 5-0

Election of Officers

Mr. Bryan asked about the feeling of the Board on the election of officers?

Scott Blankenship said his comment is, if it is not broke don't fix it.

Mr. Bryan said he is happy too.

MOTION by Scott Blankenship, SECONDED by Larry Metz to maintain the current Lake County Zoning Board, with Chairman Paul Bryan, Vice Chairman Timothy Morris and Secretary Jim Gardner.

FOR: Morris, Blankenship, Bryan, Metz, Emery

AGAINST: None

NOT PRESENT: Gardner, Wells

MOTION CARRIED: 5-0

Discussion

Egor said the contrast between what some of the stuff we do is striking to some extent and I want the County Attorney to comment on this. We look at the case we handled today, the second half, the requested action was to rezone 1.21 acres and the staff interpreted it to be too dense for what was appropriate out there. They were looking for 2 units but they could get 1. They had a Variance, so as I am reading the case and studying it, it takes it out of our purview, it has already been approved. I want some help on the deliberations there to understand really what we do in a situation like that where someone has already gotten a variance and that part of it is outside the rules and that is really a substantial objection and yet we dealt with it previously. I do not know how to look at that.

Erin Hartigan, Assistant County Attorney said that is a separate case in study and you are not here to approve or oppose the Board of Adjustment's approval of the Variance.

Egor said he understood that but at the same time, my compelling reason for not approving the zoning is gone is why it stayed on the consent agenda, but I don't really understand how to deliberate on somebody else's deliberation.

Erin said she assumed that the reason they went through the variance process first was because that was more appropriate that they get the variance before getting the rezoning.

Brian Sheahan said the main objection from staff on that particular case (Sweigart-Bruce/PH#58-08-5/Agenda #2) was they did not meet the point criteria necessary to achieve the density they were after. It was consistent with the Comprehensive Plan Future Land Use category, it was consistent with the community character in the area, the adjacent densities were similar to what they were asking for however, we had this very black and white requirement in the Land Development Regulations that said if you don't meet these points you can't achieve that density. We had a variance procedure as well as all jurisdictions have a variance procedure to their Land Development Regulations. Typically, that is because these are very black and white standards, you have to meet these thresholds, if you demonstrate that you have a hardship by unique circumstances only unique to your particular piece property you can request a variance. That board is made up of individuals such as yourselves that weigh the reasonableness of that request based on the criteria they use. They determined in this case that it was a reasonable case, it was reflective of a hardship on that particular piece of property and it was unique to those homeowners. They chose to grant that variance which took away the main criteria that prevented this rezoning from receiving a positive staff recommendation.

Egor said he understood all of that to be true is why it stayed on the consent agenda.

Paul Bryan pointed out that if based on them obtaining that variance you were uncomfortable you could have pulled it off of the consent agenda and voted against it.

Egor said he understood all of that, but on this particular case it was appropriate to leave it on the consent agenda. But in the terms of the stuff coming forward I am trying to understand what my role is. Most of the stuff today was out of our purview. The water issues of Lake County are beyond zoning.

Erin, concerning rezoning criteria on the staff report, on any case regardless whether a variance is an issue, if you feel one of the reasonable criteria has not been met you can always issue a different decision than the Board of Adjustment.

Paul said that if there are no further comments I would like to thank everyone for being here and your comments. Each one of you had some great comments, I really appreciate it.

Tim Morris commented that was a tough case.

Scott felt this board is really very dynamic and did a great job today. All of the different comments I heard

showed that we really thought about these issues considerably and I think the minutes will help the BCC sort through that whole situation.

Adjournment

There being no further business, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Ann Corson
Office Associate IV

Paul Bryan
Chairman