

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on December 5, 2013 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**CALL TO ORDER**

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Robin Fisher	Vice Chairman/Commissioner District 1	Present	
Chuck Nelson	Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Chairman/Commissioner District 4	Present	
Andy Anderson	Commissioner District 5	Present	

**INVOCATION**

The invocation was given by Pastor Ken Hitte, Discover Life Church, Melbourne.

**PLEDGE OF ALLEGIANCE**

Commissioner Andy Anderson led the assembly in the Pledge of Allegiance.

**ITEM I.A., RESOLUTION, RE: RECOGNIZING ANTHONY BARANISHYN FOR EARNING HIS EAGLE SCOUT AWARD**

Commissioner Anderson read aloud, and the Board adopted, Resolution No. 13-224, recognizing and commending Anthony Baranishyn for his outstanding efforts in obtaining his Boy Scout Eagle Scout Award, and offered congratulations and best wishes for a successful future.

**ITEM II.G., REPORT, RE: COMMISSIONER MARY BOLIN LEWIS**

Chairman Bolin Lewis stated she attended the Bass Pro Shop opening, and it was tremendous; and it was a tribute showing how private industry and government entities all worked together to get this company here in Palm Bay.

Commissioner Anderson stated his wife saw Chairman Bolin Lewis at the opening of Bass Pro Shop; and he inquired what his wife got him for Christmas.

**PLANNING AND ZONING BOARD RECOMMENDATIONS OF NOVEMBER 4, 2013**

Chairman Bolin Lewis called for a public hearing on Planning and Zoning Board recommendations of November 4, 2013.

**ITEM V.B.1., (13PZ-00086) - DEER PARK RANCH, LTD - (JON SHEPHERD AND ANDY KIRBACH) - REQUESTS A CUP FOR LAND ALTERATION IN AN AGR ZONING CLASSIFICATION ON 1,280 ACRES, LOCATED APPROXIMATELY .38 MILE EAST OF THE WEST COUNTY LINE, APPROXIMATELY 3.47 MILES SOUTH OF HIGHWAY 192 (IN THE MELBOURNE AREA)**

Cynthia Fox, Planning and Zoning Enforcement Manager, stated this is a follow up rezoning; staff did the AGR Zoning before; and this is the follow up Conditional Use Permit (CUP) for the borrow pit.

There being no comments or objections, the Board approved Deer Park Ranch, Ltd's request for a CUP for Land Alteration in an AGR zoning classification on 1,280 acres, located east of the West County line, south of Highway 192.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Andy Anderson, Commissioner District 5
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM V.B.2., (13PZ-00082) - JO R. SCOTT - REQUESTS A CHANGE OF CLASSIFICATION FROM AU TO RR-1 ON 4.24 ACRES, LOCATED ON THE NORTH SIDE OF SUNSET AVENUE, APPROXIMATELY 0.31 MILE EAST OF HIGHWAY U.S.1. (3540 SUNSET AVENUE, MIMS)**

Cynthia Fox, Planning and Zoning Enforcement Manager, stated this is a request to sub-divide the property into two lots, rezoning from AU to RR-1. She went on to say the applicant is in agreement that they are only going to build one additional lot.

There being no comments or objections, the Board approved Jo. R. Scott's request for a change of classification from AU to RR-1 on 4.25 acres, located on the north side of Sunset Avenue, east of Highway U.S. 1.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Chuck Nelson, Commissioner District 2
<b>SECONDER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM V.B.3., (13PZ-00084) - CARMINE FERRARO, TRUSTEE - REQUESTS REMOVAL OF AN EXISTING BDP IN A BU-1-A ZONING CLASSIFICATION, ON 2.59 ACRES, LOCATED ON THE SOUTHEAST CORNER OF FAY BOULEVARD AND ADAMS PI. (4735 FAY BOULEVARD, PORT ST. JOHN)**

Cynthia Fox, Planning and Zoning Enforcement Manager, stated the applicant representing this item would like to table the item; he would like to have the opportunity to go back to the Port St. John Special District Board and meet with the citizens of the community; and staff requests the Board table the item to the February 6, 2014, Board meeting.

There being no further comments, the Board tabled Carmine Ferro, Trustee's request for removal of an existing Binding Development Plan (BDP) in a BU-1-A zoning classification, on

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2.59 acres, located on the southeast corner of Fay Boulevard and Adams Place, to the February 6, 2014, Board meeting.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Andy Anderson, Commissioner District 5  
**SECONDER:** Trudie Infantini, Commissioner District 3  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM V.B.4., (13PZ-00085) - SCHOOL BOARD OF BREVARD COUNTY - (DANE THEODORE) - REQUESTS A CHANGE OF CLASSIFICATION FROM RU-2-15 TO GML(I) ON 16.25 ACRES, LOCATED ON THE SOUTH SIDE OF GROVE BOULEVARD, APPROXIMATELY 580 FT. WEST OF NORTH COURTENAY PARKWAY. (301 GROVE BOULEVARD, MERRITT ISLAND)**

There being no comments or objections, the Board approved the School Board of Brevard County's request to change classification from RU-2-15 to GML(I) on 16.25 acres, located on the south side of Grove Boulevard, west of North Courtenay Parkway.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Chuck Nelson, Commissioner District 2  
**SECONDER:** Andy Anderson, Commissioner District 5  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM V.B.5., (13PZ-00080) MICHELE LEONE - REQUESTS A CHANGE OF CLASSIFICATION FROM RR-1 TO AU ON 2.61 ACRES, LOCATED ON THE NORTHWEST CORNER OF WASHINGTONIA DRIVE, MELBOURNE)**

Commissioner Nelson stated the Board recently passed AU-(L) zoning classification; this is actually that kind of project; the applicant is trying to protect their horse, but they cannot get any higher than four feet in their front yard; and that is why they are having to go through the rezoning. He recommended to the Board that it use that zoning category instead of AU, which opens up all the uses AU(L) to allow for the higher fencing height.

There being no further comments, the Board approved Michele Leone's request for a change of classification from RR-1 to AU(L) on 2.61 acres, located on the northwest corner of Washingtonia Drive and Fauna Drive.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Chuck Nelson, Commissioner District 2  
**SECONDER:** Andy Anderson, Commissioner District 5  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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**ITEM V.C., ORDINANCE, RE: SMALL SCALE COMPREHENSIVE PLAN AMENDMENT 13S.05**

Chairman Bolin Lewis called for a public hearing to consider an Ordinance adopting Small Scale Comprehensive Plan Amendment 13S.05.

Stuart Buchanan, Planning and Development Department, stated staff is returning with this item incorporating all of the changes the Board requested at its previous meeting.

There being no further comments or objections, the Board adopted Ordinance No. 13-041, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Fourth Small Scale Plan Amendment of 2013, 13S.05, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-502, Part XVI(E), entitled the Future land Use Map Appendix; and provision which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM V.D., ORDINANCES, RE: ADOPTION OF COMPREHENSIVE PLAN PACKAGE 2013 - 2 PLAN AMENDMENTS**

Chairman Bolin Lewis called for a public hearing to consider adoption of the Comprehensive Plan Package 2013 - 2 Plan Amendments.

There being no further comments, the Board adopted Ordinance No. 13-042, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan"; setting forth Plan Amendment 2013-2.1; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future land Use Element and Future land Use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

There being no further comments, the Board adopted Ordinance no. 13-043, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan"; setting forth Plan Amendment 2013-2.2; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing and effective date.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

There being no further comments, the Board adopted Ordinance No. 13-044, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2013-2.3; amending Section 62-501, entitled "Contents of the Plan"; specifically amendment Section 62-501, Part XIII, entitled Capital Improvements Element and Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM VII.B., NORTH BREVARD DEVELOPMENT DISTRICT ECONOMIC INCENTIVE AGREEMENT WITH NORTH BREVARD ECONOMIC DEVELOPMENT ZONE (NBEDZ), CITY OF TITUSVILLE, AND EXXCEL PROJECT MANAGEMENT, AND CONSENT OF DEVELOPER'S AGREEMENT BETWEEN CITY OF TITUSVILLE AND EXXCEL PROJECT MANAGEMENT, RE: MIRACLE CITY MALL REDEVELOPMENT PROJECT**

Commissioner Fisher stated a couple of weeks ago some accusations were made about him possibly having a conflict of interest because he owns a piece of property across the street from the mall in the name of Cole Fish Investments; he has owned that property since 2004, prior to him becoming a Commissioner; his major tenant in the building is Pizza Hut, who has been in there since 1991; they have a lease that expires in 2020; and the other tenants have been in that building for at least 10 to 12 years prior to him owning it. He went on to say he also owns property on almost every major thoroughfare in the City of Titusville; he owns property on I-95, Highway 50, several on Hopkins Avenue, and Garden Street; a lot of those properties were purchased prior to him becoming a County Commissioner; and stated he forgot to mention the property he owns on SR 407. He stated he takes his reputation very seriously; the accusations has been made, and he wants the County Attorney to step in, because he always asks him when anything may appear to be a conflict for his legal opinion and advice; and reiterated his reputation is more important to him than his job as Commissioner.

Scott Knox, County Attorney, stated the two items that are on the Agenda today that will be considered is an open exchange that does not impact Commissioner Fisher one way or the other; there is a developer's agreement, which is within the jurisdiction of the City of Titusville, not the County Commission; Commissioner Fisher does not have a vote that will sway how that ends up; and as far as the economic incentive agreement goes, there is no financial stake involved for Commissioner Fisher personally, because he has no dog in that fight. He went on to say Commissioner Fisher's property is one of 50 properties surrounding the mall site, and he will not get any benefit from anything that goes on tonight.

Commissioner Fisher stated the CRA and the redevelopment of that property started prior to him being a Commissioner; he asked his attorney to be in the audience tonight because he is starting to defend himself and protect his reputation; and according to the County Attorney, he

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does not have a conflict of interest. He pointed out he files a Form 6 with the State of Florida every year, and he attaches a 320 something page tax return; it discloses what he owns, what his investments are, and what corporations they are; and he started those investments at a young age and has been very successful as a business owner.

County Manager Howard Tipton inquired if the Board wants staff to set the table as to what is being talked about today before getting into public comment.

Troy Post, Executive Director for North Brevard Economic Development Zone (NBEDZ), stated they are present tonight to do two things, to approve essentially two agreements that relate to this redevelopment project the Miracle City Mall; the three agreements that are part of this project, one of which has already been approved by the County, are the already approved Interlocal Agreement, and the two documents tonight the developer agreement and the incentive agreement; and the incentive agreement lists the reasons why they are providing this assistance as a means to try to induce a private investment to lead to the redevelopment of a commercial site in the City of Titusville. He went on to say one of the questions raised, was exactly how much property tax is being generated by the building as it currently sits; the County General Fund currently generates \$19,000; if the project goes forward and there is a private capital investment that allows this valuation to increase to \$50 million, the total ad valorem taxes coming back to the County and all the special districts would be \$245,000; and the County General Fund would be 10 percent, or \$24,000. He pointed out by doing this project, the amount of money that comes to the County, outside of the money that would flow to the NBEDZ, would be more than what it is getting now in its current state. He noted this is consistent with the plan that was approved by the County and City of Titusville, which allows the NBEDZ to go in and do these kinds of projects; it facilitates job creation; there is significant capital investment; and it will create something that is standard in the economic development world that is public/private partnerships. He stated this is a time tested model; this is an attempt to vitalize a blighted corridor; and according to that plan they can do this through incentives and a planned approval process. He advised the Board he wanted to address some of the questions that came up at the October 8, 2013, Board meeting; and he has a written response that could be provided if the Board would like more detail. He stated initially when this project was being discussed and negotiated, they thought there may be a process in which the developer would do certain phases of this project and then seek a reimbursement of funds as certain phases were done, such as maybe the demolition and removing of some materials, and as other phases were completed to continue with that process; the document before the Board is a different type of formula wherein the first phase of the project is going to be the acquisition of the site, the demolition of the existing structure, improvements to the infrastructure that are there, lighting, parking, actual erection of vertical structures coming out of the ground, and getting to the points where the anchor structures would get to the point where they get a Certificate of Occupancy (CO) issued by the City; this developer is estimating and putting into the document \$34 million of capital to get to this point; and this will be done before the first dollar of public assistance is allowed to be reimbursed on the project. He stated because of this, it does not appear a lien will be necessary; they will have evidence of the developer's commitment to do the project and the infrastructure elements being completed before that first dollar of public money is issued. He inquired why public records are being held confidential; stated this is consistent with Florida State Law, in which some records can be held confidential if they are so requested by the developer; the County Attorney weighed in and that is what they were told; some records have been made public by the developer can be released to the public; but other information they have requested to be held confidential. He pointed out this is not a County project, it is a private transaction between a private sector developer and an owner of the building; they are involved to induce the project to go forward; and it is the developer that will have to hire the contractors that will be responsible for paying those contractors and making sure the project is completed per the City of Titusville Code. He advised the NBEDZ did a study where it examined if funds were warranted for use for a project like this; it determined they were;

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and a copy can be provided to the Board. He stated because the Zone has a short financial history, they have to depend on a third party for this project, which is the City of Titusville; they will incur a debt instrument to be used in this process; it is up to the City when it goes through its procedures, to seek out proposals for financing this project; and the City is able to negotiate if there are any pre-payments on the penalties and what type of debt interest it is able to negotiate. He stated they are relying on an Attorney General Opinion regarding the confidentiality of records, and Attorney Knox can be deferred to for further clarification if necessary. He stated there is a question of why there was no site plan submitted; this is a site plan that is submitted, it is considered a proposed site plan; last night before the City of Titusville, they had approval for the preliminary master plan; and this is consistent with what is required under the ILA and is also consistent with the process the City of Titusville has for approving such projects. He went on to say they have had financial information provided to them by the developer; they have also gone through an analysis to determine the developer's capacity to do the project; the plan calls for the submission of financial information that can demonstrate that capacity; and to that regard, they have gotten different pieces of information that have allowed them to make that conclusion. He pointed out they prepared a report, which was shared with the NBEDZ; he has copies of that if the Board would like; it goes through several different factors that allow them to come to this conclusion; and they look not only at the credit history and finances of the company, but they also look at banking references, development history, project performance. He noted this is a proposed project; the current developer has not purchased the site, they are strictly an option holder; the deadline he was informed of is December 16th for the current length of the option; they will have decisions to make as of that time; and they are talking to prospective tenants. He stated this project is within the City of Titusville and must conform to the City's codes and regulations. He stated the developer has a track record of borrowing; one of the things that are unique about this project is the funding formula in which he mentioned earlier; and certain activities will have to be put in place at the site before any public dollars are put into the project. He stated he does not know if the developer has done any surveys or polls to see what the people in the northern part of the County want; he knows a lot of different groups have been vocal and advocating the need to do something with this property; and the Greater Titusville Renaissance is involved in some activities, including an assembly at the mall site. He stated Florida Statute 163.353, relates to the authority to be able to collect tax revenue to enhance the tax base; this will be the case with this project; and they intend for the project to see realization of increased value with the project, hopefully a valuation that could approach \$50 million. Florida Statute 200.065, is the authority of the North Brevard Special District to be able to collect and use the revenue for economic development purposes; they were told by legal counsel that is correct; and it does fit and is appropriate. He noted the City of Titusville has certain code regulations that it works with; there have been discussions with the current owner about the condition of the property; it is the right of the City to decide how best to proceed with that; since they have a pending project that would require the demolition of the mall, the issue could be alleviated if the project goes forward; and in all likelihood they will see what the outcome is with that before proceeding. He advised the Board the Zone Board of Directors had a meeting on Monday in which it considered the incentive agreement he mentioned earlier; there was a question about asbestos in the building; and the developer was able to lower the cost of that. He went on to say there were plans before the economic downturn to have housing as a component, but right now the market is not feasible to consider that. He went on to say he hopes this project can correct some of the deficiencies relating to drainage to the Indian River Lagoon, particularly at the intersection of U.S. 1 and Harrison Avenue where there is already flooding that takes place after heavy downpours. He stated there are estimates provided by the developer on jobs to be created by this project; they took those in good faith; they believe in what they are able to see in other kinds of projects that the numbers do not seem to be too rosy; but they are consistent with what is seen with projects of this scope and magnitude. He stated he hopes this project will have a positive effect; it will hopefully shore up the retail base in Titusville and make it better for all retail businesses there.

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Richard Greco presented a sight plan that was displayed at the NBEDZ meeting on Monday, and also at the sight plan approval meeting yesterday with the sight plan commission; he stated it was approved three to two; and he pointed out an illustration of what happens when the development agreement with the developer not being paid the \$6.5 million dollars until three buildings are completed. He added, the design itself is a similar to the original design, which was a large internal mall surrounded by asphalt. He asked about legal entities on the financing agreement and the developer's agreement; stated in the interlocal agreement it is EXXCEL Project Management LLC, that is the developer; and in the grant application it is EXXCEL Project Management, and that entity is an Ohio LLC. He stated the grant agreement is with EXXCEL Project Management Inc., a Florida Corporation; in the application for developer's agreement, another legal entity poses up, and that is the Miracle City Town Center LLC, a Florida LLC. He went on to say there are three legal entities, and he is not sure how they are bound together, either cross guaranteed; he sees inconsistency's in one document to another, with one being applied with one legal add and another legal entity being in the final agreement; and stated he would like someone to address that this evening and explain how it works. He stated Mr. Post mentioned that financial statements were not received by the applicant for the financial grant; this is opposite the requirements that are in NBEDZ policies; the requirements in Section 2.2B, says the last three years of review financial statements of Federal Corporate Tax returns, plus the most recent financial statements from the fiscal year; and he did not know of any change, and would like to know if those financial statements would be submitted later. He added, in the qualifications of a developer there is no question that EXXCEL Project Management, LLC seems to have a sterling record in building warehouses and offices in Ohio and other places; he did not see anywhere in the background that EXXCEL Project Management, LLC actually owned and operated a shopping area; and it is now up the Board to decide whether that is an important qualification or not. He talked about how the public for years has developed this urban village concept and in the Planning and Zoning meeting last night there was an exhausted analysis showing about 33 inconsistencies of the site plan to the Comprehensive Plan, but nevertheless it was approved by Planning and Zoning Board.

Sharon James stated over the past 17 years, \$51 million dollars has been distributed Countywide on redevelopment; Titusville was fortunate to get \$3.4 million of the money; just because one lives somewhere does not mean he or she should get the money; and in March a storm was coming in, and the citizens were asked if they wanted a mall and will shop there and then he or she come and show the developer their support. She added, actions speak louder than words; and she displayed a picture of hundreds of people at the mall in support even as a bad storm was coming in.

Rich Chanbonneau stated his support in the Miracle City Mall; he supports Commissioner Fisher in his efforts; and he suggested not giving any money to the developer until the anchor store was signed up. He added, no one has mentioned a payment performance bond and he thinks there should be one; and for people to go forward and stop name calling one Commissioner who is championing something for his town like he is supposed to do.

Peter Fusscas stated the issue before the Board is not whether something should be done or should not be done by a private investor; the issue is, is it wise for Brevard County to spend \$6.5 million of taxpayer money in the mixed use shopping mall in Titusville to replace the shopping mall that failed; and when one gives something, he or she should get something in return. He asked what the taxpayers get for \$6.5 million dollars, jobs, and how many; what it the net new jobs created and at what cost; he suggested to the Board that is either unknown or unstated; and most of the jobs have substitutions, not newly created. He stated jobs are robbed from one area and go into another area, the mall; and he inquired how many jobs will they lose in surrounding commercial developments by using the taxpayers public money to fund their competition. He stated for \$1.5 million it can demolish the sight and mitigate the environmental

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hazards; inquired why pay \$6.5 million dollars for the same job \$1.5 million can do; and where does the \$1.5 million go. He went on to say it goes into the pockets of the developer, that is business; once the developer builds three buildings, and that is all he has to do, he gets the \$6.5 million; the developer spends \$34 million on phase one; if he gets a modest 20 percent on labor and materials, that is roughly a \$6.5 million grant; and combined that is a gross profit \$13.1 million on a \$34 million project.

Drake Austin stated he left his position of Chairperson of the Youth Committee for Greater Titusville Renaissance because while doing a survey of interest for the young adults ages 15-35, they wanted to see what people his age bracket wanted to see in Titusville; a majority of people cried out for social activities and programs, places to go at night that encourage social activity; they wanted roller rinks, ice skating rinks, sports events, new equipment, new parks, new development, and they wanted things that got them out of their houses so they could enjoy those activities; and a mall is not one of those things. He went on to say it is supposed to have a community area; it has been reduced to a walkway, a standing room only, no seating walkway, in the City where the majority of the population is elderly; he understands the hardship of getting around Titusville; and no one who is disabled will go to an event that is standing room only. He stated if this project has to be built, the materials should be purchased from Brevard County; Titusville's approved resolution was 3:2; and they talked about fixing things later. He pointed out the Board did not see this plan until two days ago. He inquired if the building is dangerous, why the City does not take it and not charge the taxpayers. He stated the City of Titusville does not need a mall in the heart of the City.

Ray Davis stated he is speaking on behalf and in favor of the North Brevard Incentive Agreement, not to speak on the construction or financing of the building, but rather the growth of the City; when he retired he went to Polk County and worked for a developer developing a community in the northeast section of Polk and Osceola Counties; when he got there, there was no grocery store for the citizens to be able to shop; and they had to drive to Kissimmee or Haynes City. He went on to say development began January 2002 simultaneously with the development of Champions Gate; within six or seven months there was a Publix Shopping Center, growth, and new neighborhoods being built; and now that property supports about \$2 billion of property and infrastructure. He stated all of that came because someone saw the value of developing an orange grove and cattle field and turning it into a community. He stated when he moved there it was about 5,000 people and now there are about 45,000 people. He noted the Board needs to care about the City of Titusville; he moved back to Titusville because his children and grandchildren live in Titusville; he wants them to be able to stay in Titusville and have opportunities; and it is up to the Board to understand that Titusville is as much a part of Brevard County as Palm Bay.

Chairman Bolin Lewis requested the audience to keep the applause down.

Steve Aberman stated he works for the company who owns the Searstown Mall; they bought that in 2004 for a fair market value of \$4 million; it was blighted; Publix left 15-20 years ago before that; and the Bealls they brought in was a 50,000 square foot empty hole. He went on to say they went into their pocket, did not ask for any public, County, or City money; they wanted to invest in Titusville; they own properties throughout the southeast, approximately 40 properties in small towns; they are familiar with the small towns and like that; and they like to see business. He noted they would like an even playing field; they just redid the movie theatre spending \$1 million with their new tenant; they are here to fill their mall and to help Titusville grow; he is not against the new development as long as they have their own money; and they have not had a private/public partnership offered to them at all. He pointed out they open the mall to any community organization that needs space; they also own a Winn Dixie shopping center in Cocoa that is very successful; and they own another piece by the marina called Sands Point. He stated the property had a blighted building on it; the City asked them to get rid of it; they said

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no problem; and they did not have their hand out or were not offered anything. He advised the Board they are trying to build a hotel or convention center there; they are very proud of that; but they are not asking for anything. He reiterated there should be a nice, even playing field for everyone; and stated if the County is giving it to one, it should give it to both.

Commissioner Infantini inquired if there is a movie theatre at the Searstown Mall. Mr. Aberman replied affirmatively. Commissioner Infantini stated they are proposing to put in a new movie theatre at the new mall; and she inquired how far is his mall from the Miracle City Mall. Mr. Aberman replied he thinks 2.2 miles away. He stated this city cannot support two movie theatres. Commissioner Infantini stated they will lose jobs at Mr. Aberman's facility because they will have less individuals going to his movie's and thus going to the newer movie theatre. Mr. Aberman stated there will be new jobs created, but there will be execution of other jobs from his mall. He stated Titusville cannot even get a national restaurant chain as the demographics do not support it. He stated when competing with private/public money, it is a different situation. Commissioner Infantini stated often times the Board does not see the perspective of how it affects the existing business owner, it go forward and help the new business owner; but inquired what about the one who used all of their own blood, sweat, and tears to create it.

Commissioner Fisher stated he appreciates Mr. Aberman being in Titusville and his investment. He stated he did not know if Mr. Aberman is aware but in the North Brevard Economic Development Plan there is a grant application, and he can apply for a grant through that zone; the way it works is if he is helping to create jobs and makes an investment that will bring a 5:1 investment to the property, he is eligible for a grant; and if he wants to do that, he is eligible to apply. He suggested he get with Mr. Post to see if they could possibly apply for a grant through the economic development zone.

George Mikitarian, President and CEO of Parrish Medical Center, and Chair of the North Brevard Economic Development Zone, stated in the past couple of months he has had the honor of chairing meetings for the NBEDZ; and the public's input has made the plan better, and the agreements that will be voted on tonight. He stated recently there have been individuals who with no fact of pure subjectivity and opinion have taken this as an opportunity to take free shots at people; he does not appreciate that; and he does not think the Board should either. He went on to say he does not know how the Board does what it does every day; he suggested putting people under oath before coming up to the podium; and maybe the Board will get more fact and less opinion. He stated it is easy to criticize, offer personal opinions, crack jokes, quote people, be sarcastic, and attack people personally; these people want to throw out acquisitions out about conflicts of interest, people being unethical, and so on; and he will give them the answer to their questions that they did not answer themselves. He advised the Board he charged the law firm of Gray, Robinson; the law firm has offered legal opinion relative to this supposed conflict of interest; and he read aloud the answers from Gray, Robinson. "Can an individual simultaneously serve on the Board of Directors of the North Brevard County Hospital District, which is Parrish Medical Center, and also on the North Brevard Development District Board? Yes, the dual office holding prohibition does not apply to the officers of an independent special district, which is Parrish Medical Center. The North Brevard County Hospital District is an independent special district created by special acts of the Florida Legislature. The NEBDZ is a dependent special district. Can individuals that simultaneously serve on the Board of Directors of the North Brevard County Hospital District, which is Parrish Medical Center, can the North Brevard Development District consider and vote on issues coming before the Hospital concerning the developer in the Miracle City Mall? Yes, no prohibited conflict of interest will be created under Subsections 112.313, 112.313(7) of the Florida Statutes. Can individuals that simultaneously serve on the Board of Directors of the North Brevard County Hospital District and the Development Zone consider and vote on issues coming before the District board concerning the developer of Miracle City Mall? Yes, no prohibited conflict of interest would be created under any sections of Florida Statutes. Can he as the President and CEO of PMC vote

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on issues coming before the North Brevard Development District regarding the development of the Miracle City Mall? Yes, no prohibited conflict of interest will be created under subsection 112.313, 112.313(7) of Florida Statutes." He stated individuals will come up after him and poo poo what he just read, state it is wrong; and if they want to do that, they will be doing the following: they will be disagreeing with the Constitution of the State of Florida, the Florida Code of Ethics for public officers and employees, research conducted by the Florida Attorney General, research conducted by the Commission on Ethics, Florida Case law, and verbal discussions with the Florida Commission on Ethics. He went on to say very few people have the opportunity to make very important decisions, and some people have never had that opportunity; they go through life saying no; Parrish Medical Center is so excited about this project, it has engaged in discussions with the Mayo Clinic; the Mayo Clinic will be coming to Titusville, Florida; and they have put not only an agreement down with the developer, but also an option for additional land in their anticipation of future growth as a result of their affiliation with Mayo Clinic. He pointed out if people want to see new jobs, as the project takes off Parrish Medical Center is successful, it will grow that communities healthcare service as a result of this project.

Brenda Fettrow stated lives in Port St. John and serves as the Vice Chair of the NBEDZ board. She stated she is in favor of this project; as a former city manager, she thinks North Brevard County either thrives or dies; this economic development project would critically change the face of North Brevard and really revitalize it; and it would be huge for those who live in the Northern half of the County. She went on to say as a citizen in this area, she shops in Orlando; she would love to see her funds stay in Brevard County; and she believes there are a lot of people in the audience who drive 50 miles west who would love to see their money stay in the County as well. She noted everyone knows at least one person who is still unemployed; more jobs are needed, particularly in Northern Brevard County; and the Board has a huge opportunity to revitalize Northern Brevard County and fundamentally change the face of the northern half of the County.

John Pilley stated he thinks they need to stay with the facts and not go with emotion, and make sure they are looking at this document, dotting the i's and crossing the t's; and this is business. He discussed with the Board portions of the incentive agreement. He advised the agreement used to say there would be three anchor tenants; somehow it has been changed and it says three buildings; and one of which is an anchor tenant, but the other two are not. He noted he got a copy of the documents 24 hours ago; it is not the proper way to do this; there needs to be time so people can go through it; he wants the development to go through; but the details and who pays for it matters. He inquired if this is the development agreement that was put in the packet yesterday to be voted on today; and if there have been any changes since yesterday.

Commissioner Infantini stated she started receiving new documents today and finally this afternoon she was presented with her notebook; and she inquired how she is to know what documents to go by.

Mr. Pilley stated the document the public has on page one, three, seven, nine, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 25, 26, etc. All have errors on them; some are minor, but this should be conducted like a business; and this is not a professional document with the type of errors on there. He stated the County Attorney, County Manager, and Legislative Aid should have found the errors; and he is surprised and shocked that this is how County Government is being run. He stated he has been in Titusville many times lately; he ate at *Chef Larry's*; and it was the best lunch he has had since he can remember. He stated those are the types of businesses that should be celebrated; the City of Titusville Mayor said they need to celebrate its history and stay true to what Titusville is; and this development could be placed anywhere. He went on to say the City has final approval on a master development plan; he inquired why the City is being allowed to be the sole judge of the final master development plan; and should the Board not get a say at that.

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Courtney Barker stated since she no longer works for the City of Titusville, but North Brevard is always near and dear to her heart; she thinks this is a very important project for the City of Titusville and will be the catalyst to future projects; it is important to know that malls like this are called grey fields; and most of them when they get redeveloped get some public funding to do so because the costs greatly exceed the profit. She stated when talking about a project like this, instead of being sarcastic and negative, it is more important to look at the actual issues; the mall failed because of the condition of the property, it got out of the property owners hands and he could not keep up with the maintenance; she remembers when Searstown Mall was bought, and all the tenants from Miracle City Mall flocked to the Searstown Mall; and then the Miracle City Mall closed. She stated when projects are investments that are the market. She stated the cost for the City of Titusville to take the property as eminent domain would be almost the same as the investment being discussed tonight; what is gotten in the end is a vacant piece of property; and in this case, there will be a mall at the end. She went on to say the Searstown Mall has an entirely different retail component than what is being talked about with this mall. She noted the most unfortunate she has heard is to hear people say they are not going to support this because it does not have exactly what they want; this mall will have restaurants, retail, movie theatre, which are all entertainment factors; it is a catalyst project; and when this happens, other investors will look at the Titusville area and see it is growing. She stated she has never seen citizens work so hard to make this happen; and hats off to Parrish Medical Center for investing in its own community.

Robert Jordan stated as it was announced before, Mr. Fisher is my next door neighbor; and after 22 years of being my neighbor, it took someone new coming to the community to let this County know that it is bad to have a County Commissioner as a neighbor. He went on to say for over 34 years he has been in this community; he has never tried to condemn any individual for loving his community and giving back as much as possible to it; he is proud to say he and his wife annually give more than 20 percent of the disposable income to try to make other lives better and productive; as a proud chairman of the area charter school that emphasizes math and science, board member of United Way that emphasizes giving to those less fortunate a helping hand, vice chairman of Parrish Medical Center Board of Directors, that promotes and emphasizes healing families and communities, former Chairman of Brevard County School Board that emphasizes in serving every student with excellence as a standard, board member of Brevard Workforce, Space Coast EDC, and Circles of Care, and he has a day job as President and CEO of Genesis Seven, he would suggest to the Board when someone comes before it to dispirit another human, especially when they do not know them, the first reaction should be to question their motives; and he suggests to him it will not be honorable. He stated on Monday, December 2nd, the NBEDZ board met in special session to consider an economic incentive agreement with EXXCEL Project Management; they were continuing the task the Board asked them to do; and they performed these tasks professionally and with good faith. He pointed out as with all open meetings, the public was given an opportunity and time to speak about what they did like and dislike, or did not understand in the agreement; most of the questions centered on how it can be stopped instead of being constructive; they will of course have claimed they want the project to go forward; but they just want it to be perfect. He stated until they give up their Earthly body, there will never be perfection, especially with decisions being made as a group; as long as there is more than one person making the decision, there will always be a compromise; this agreement is fair, it is protection to the special zone and to the County; and this company commits to taking on the demolition and redevelopment of the abandoned Miracle City Mall into a mixed-use facility. He went on to say it is taking an eye sore to a hub of positive energy for not only North Brevard, but all communities surrounding the Titusville area. He noted some may complain there was not sufficient time to consider the red line changes that the developer made and presented at the NBEDZ meeting; he would suggest to the Board, with the vote and the understanding that was read and explained to the NBEDZ board by the County Attorney, they unanimously agreed this is an acceptable agreement for the

community; as they allow citizens to question the moves and processes that this investor has graciously decided to utilize in the community, the very thought of someone wanting to spend their dollars here is just a slap in the face of these honorable men; and he personally wants to apologize to them for the lack of foresight and rudeness when they need desperately for those who support them as they move forward for a richer community. He advised the Board the NBEDZ has set before it a bonafide agreement that is in sync with the economic development plan; remember one of the components of the approved plan is Item 2, redevelopment of commercial, industrial sites, which the Board approves; this zone was put together with a principal goal of facilitating job growth and economic development in the northern portion of Brevard County; arguing about whether it should be in existence is a moot point; and they are here and will continue to do what the Board asks them to do. He stated the preamble to the Constitution states, '*We the people*'; all men dream but not equally; those who dream by night in the dusty recesses of their minds wake in the day to find that it was vanity; but dreamers of the day are dangerous men for they may act their dream with open eyes to make it possible.

Michael Hartman stated he thinks the citizens tax dollars are not being adequately protected by the documents before the Board; when he does his developments, in many cases he has to get money to fill a gap from the State; what the State does is makes him give it a second mortgage; and what it does is ensure that he as a developer cannot turn around and put money in his pocket. He stated what could happen, the mall gets built, the first phase, \$34.2 million; say it is worth \$34.2 million, the developer comes to the NEBDZ and the City of Titusville and gets back its \$6.5 million; and now they have \$27.7 million invested in the project. He went on to say they could go to selling properties the day after they get that money, sell the mall for \$34.2 million, and pocket the citizens \$6.5 million; if there is a second mortgage on the property, they cannot do that because if they sell the mall, not only does the bank get paid off but the citizens get paid back their money; the first mortgage lender wants two things, to be repaid and to be the one that controls if a foreclosure occurs; what can be done is to structure the \$6.5 million as a second mortgage, as a forgivable loan; and have it be zero percent interest, no payments during the entire term, and make the mortgage maturity date be co-terminus with the first mortgage. He pointed out typically when he gets his second mortgages, he has to have final plans that are signed off and approved before the lenders, including the State, will sign any documents; it is a little early to be doing the agreements; the Board can say we can do this subject to the approval of the final documents and structure of the transaction; and that is what the State agency he deals with does. He stated nowhere in the documents are there any personal guarantees; during construction, typically the principals of the company will give personal guarantees; and he thinks the Board should ask for those. He stated he noticed in the development district agreement, if there is a dispute between the parties, the winner gets reimbursed their legal fees; and in this documents, unlike any other he has signed in the last 20 years, each party agrees just to pay their own fees. He went on to say a lot of people talk about payment and performance bonds, and there is one in the developer agreement, but it is hard to collect on one of those; it takes years, he has been through the process; instead have the general contractor put up a letter of credit equal to 25 percent of their total contract; that is cash that is readily available; and if you have a dispute, it can be accessed within 60 to 90 days as opposed to the two and one-half years it would take to collect on a payment and performance bond.

Walt Johnson stated the gentleman who talked about the document was only one anchor on it, he has a document that says the site plan shows Phase I only; if a person turns the page, it says site plan for Phase II, and that has five anchors on it; and he does not think it is a big issue. He stated he was Economic Development Coordinator for the City of Titusville and President of the Space Coast Economic Development Commission in Titusville for eight years; this project is far greater economic development benefits than the jobs that are being created; for many years he brought in companies to North Brevard; for various reasons, they did not stay; and one of the biggest reasons was they looked at the community, and one of the comments that came back was because there were no shopping malls worth anything. He

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pointed out in order to get the value added jobs in, businesses need to be attracted; in order to get visitors here, it needs to look better; and he inquired where to start. He stated right now they have the perfect place to start; it is something that is attractive, one that will bring people in either for business or just to live. He noted both malls are draining right into the river; they are grandfathered in and allowed to do that; and this would be a start in stopping that situation. He stated the \$6.5 million is going into infrastructure; it will take every penny to do the infrastructure. He stated Searstown is not a state-of-the art facility, it is not even current; they have done some improvements but it has not been brought up to the current situation; the developer is putting \$35 million into it; in taxes alone, it will create a lot more money than that.

Donn Mount stated he is on the NEBDZ board. He stated this would be a tremendous asset, it will help businesses, and will be a catalyst to improve the community; from his experience and review of what this will do for the community, he believes it will be a big asset; and he requested the Board approve the request.

Jay Joseph stated he belongs to a number of homeowners association, community groups, community organizations, and interestingly enough, tonight is the first time he heard people speak negatively about this project; he thinks this is an exemplary project going on; government giving money to private businesses has been going on for years in this country; and it is not something unique. He encouraged the Board to support this item.

Laurilee Thompson stated she lived in Titusville all her life and watched it grow from a community of 4,000 people to what it is today; she has a business in Titusville; the last five years have been brutal; but this mall project is a quality of life issue. She went on to say for years now people of Titusville have had to shop out of town; her parents needed a TV last week, and she had to drive to Daytona to get a television; she needed new bed sheets, so on her night off this week she drove to the Shops of Viera to buy bed sheets; but at least that money stayed in the County. She pointed out convenience means a lot; the government center used to be in Titusville; to make it convenient for the citizens of the whole County, it was decided the best things for the community was to move it to Viera; and when that happened, it hurt a lot of businesses in Titusville. She noted she talks to people every day in her restaurant and the part of the community that resides in the north end of it is very excited about this project; it will be a catalyst for growth. She stated there is not a lot for kids to do in the community, but there will not be the parks and social places the youth needs if something is not done to get the economy going. She stated the Board is leaders of the community; Titusville is part of the whole community in Brevard County; and people are suffering there. She advised the Board she does not understand the intricacies of how this deal has been put together because she does not, but she knows it is a good project for the community; if the Board does not like the complexities of the way the deals been drawn up, then be a leader and do something to help the citizens; but this project is needed in the north end of the County.

Kathy MacMahon stated she is a resident of Titusville and owns a couple of small businesses; for the last two or three years she has committed probably over 100 hours of her own time to the Greater Titusville Renaissance, and the SEDC, Rotary Club, because she is all about service in the community; and she cannot think of a better project than the Miracle City Mall. She went on to say there was one developer surface early on that was interested, but he bailed; quite frankly, this is the only developer willing to put his money forward to make this deal happen; as leaders in the community, the Board needs to support what the citizens want. She stated one vocal person who was here tonight does not own property in North Brevard; he does not pay taxes; she wants to see her tax money to go to work improving the community she lives in so she will spend more money here than going elsewhere; and there are such limited shopping opportunities in Titusville it is terrible. She pointed out there is a brand new bridge, new Sand Point Park happening, but it takes time. She advised any further delay will kill the

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project and what would be left is a big, dead piece of property. She urged the Board to approve the documents.

John Edginton stated he is a resident of Titusville and has lived there since 2005; he moved to Titusville when things were going pretty well; things are not the same as 2005; she has been up and down the County; and when he hears people from the south of the County talk about the north of the County he understands they do not understand what it is like to live in North Brevard. He advised he went to Bass Pro today; he drove one hour; he could have just as easily driven an hour to I-Drive; but he chose to stay in Brevard County. He stated the shopping centers are all the same distance from him; it is an opportunity to keep more funds in town; and it will mean more money will stay in the County, which will benefit all. He noted there is a phenomenon called 'learned helplessness', it was identified in prison camps in Germany; if a person lives in a State where he or she has no hope long enough, they start to believe there will never be hope; and he requested the Board let this project happen.

Commissioner Infantini stated she heard many speakers talk about the distance for he or she to get to a mall; it takes her 35 minutes to get to the closest mall; she understands what people are saying; but where she lives is a choice she made. She stated she is having a hard time making the connection between building another mall.

Commissioner Nelson stated he would ask the Board not to weigh in at this time, because he has refrained from questioning; he thinks the Board should listen to the speakers, and then the Board can have the conversion; and during the break, he is going to pass out maps on how to get to the Merritt Square Mall.

The Board recessed at 6:55 p.m. and reconvened at 7:03 p.m.

Tara Edginton stated when people first moved to Titusville, there was a vibrant space industry, a lot more businesses, and a lot more places to shop; that all went away; she thinks that 3,000 people spoke when they showed up at the mall to say, "If you build it we will shop"; and those people all want that center to be there. She stated unless it has changed a lot, the green space at the mall is not the size of a sidewalk; there are a lot of things for the young people to do, as well as the older people; and the movie theatre at Searstown is not done renovating, she was there today. She stated a lot has been said tonight that is not the truth; the City and the people in the downtown area have all rallied for this project; the downtown merchants are happy about the project; and many things downtown have been renovated. She advised the Board that Titusville Renaissance is not about one part of Titusville, it is about all of Titusville; she moved from Atlanta, Georgia, to Titusville, Florida; but she has joined so many projects and volunteered in so many areas to try to make the community better; and there need to be more people who care and voice opinions, and not to make snide comments about those who really do care. She stated there are more parks in Brevard County than almost any other county in the State. She stated the mall is the right fit for Titusville. She requested the Board support the project.

Stan Retz stated it was recently alleged that he may have done something wrong and violated ethics by voting on the mall project because he sits on the NEBDZ board and the Hospital Board; in 2008 he was appointed to the Value Adjustment Board as a citizen member of the School Board; he served with Commissioner Bolin Lewis and Nelson; after his term was up, he was contacted by the Clerk of the Court asking if he would again volunteer his time as a County Commissioner appointee; and he did without compensation or mileage imbursement, servicing with Commissioners Infantini and Anderson. He went on to say during that time there was a controversial issue that came up regarding homestead and valuation issues; when the issues were voted on, the vote was 4:1, with him being the one who voted against it; and he listened to the facts, made a judgment, and he voted. He went on to say it is strange saying the Parrish

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Board thing now that he would not make a sound judgment call when he is on another board. He noted he was appointed to the NEBDZ by the Board of County Commissioners and later by the City of Titusville City Council; he was appointed to the Parrish Board unanimously by all Commissioners and again approved by the City of Titusville; he could say the Commissioners are controlling the vote as much as anyone else does; and he is serving the community. He stated he is a certified public accountant, he is a financial advisor, and he volunteers hundreds of hours of time. He stated he would appreciate that the Board, particularly Commissioner Infantini, to realize he takes in the information, reviews it, researches it on his own time, and he makes a sound judgment; and rather than criticize him, he would rather be thanked for his service.

Mike Werner stated he was transferred by the Navy to the area; he sent his wife to look for a place to live because he was overseas at the time; he retired from the Navy and stayed in Titusville; and now he is the Vice President of Operations for Knights Armory Company, President of the SEDC, and Chairman of the Citizens Budget Advisory Committee. He stated this project is very important; when he first moved to Titusville, the Miracle City Mall was okay at best; then many of the stores began to move out; and he asked the Board to have the leadership to approve this so Titusville does not die.

Ashley Byrne stated she wanted to address a few of the previous comments; the gentleman who said young people do not shop, she is 28 and she shops frequently; and that is not an accurate statement. She stated another statement made was that everyone needs to be given the same; people who need help are helped by the government continuously. She stated the new business development committee has had a big focus on the down town part of Titusville, so the mall is not all that is being focused on. She stated everyone is saying the \$6.5 million is taxpayer dollars; her understanding was this is coming from revenue from corporations that are not the people's tax dollars, but a corporations. She noted her goal would be for the community of Titusville is that her children would want to come back to Titusville; this mall will be a catalyst for change in the community; and she asked the Board to vote for it today.

Jack Gould expressed his appreciation to the Board for giving people the venue to discuss this issue. He stated he is a long time banker; he is elated to know there is a developer that wants to invest their time, money, and effort in this particular project; he does a lot of commercial financing; he trusts the NBEDZ, Board of County Commissioners, and the City of Titusville officials; and the Board should seriously consider this opportunity.

Pam Avery stated her and her husband own and operate their own business; she loves the City of Titusville; she loves to shop; and she shops out of Brevard County. She went on to say it is not fair to North Brevard County that it is always drawing the short straw; it is still part of Brevard County; bringing in the mall is what the City of Titusville needs; and it is what the County needs as well. She inquired why the Board would not support part of its extended community; stated it is a great place to live and raise a family; and she is asking the Board to give North Brevard County as much consideration as their own areas of the County.

Matt Barringer stated he has faith in the County Attorney, Commissioners, and others involved in this issue. He advised the Board of some of the things he does to help the community. He stated he works with Hospice. He expressed his appreciation to the Board for scheduling this issue for an evening meeting. He stated he believes in the project, it is fiscally sound, and many people attended tonight when there are other things they could be doing.

Marcia Gaedcke stated she appreciates all of the investment that has been made not only at the Searstown Mall, but small businesses; what she hates to hear, especially as President of the Chamber of Commerce, is to hear her friends and fellow citizens of Titusville talking about how they do not shop in Titusville; and she is guilty as well. She stated she believes this situation

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will rise everyone up with it; by creating more opportunity for recreation, shopping, dining, and entertainment, people will look at a unity of where they can get those types of things; it is not a competition; and encouraged the Board to approve this project.

Dan Aton stated he is a member of the NBEDZ. He stated he is very much for the project; no money will be transferred to the developer until that investment has been made; and that is a critical point.

Pastor Jody Wells, First Pentecostal Church, stated about seven years ago he stood in this room NASA's legislative liaison to report on the closure of the space shuttle program that was looming three years out. He stated he is a pastor of a multicultural and age diverse congregation and as a 41-year resident of Titusville the reference to diversity; his congregation are excited about the mall project; there are still doubts about their ability to really attract business and jobs to Titusville; and he is interested in generating tax revenue for the County. He went on to say it is projected to produce over 600 jobs. He advised the Board he is praying for this project.

Louis Sanders stated he is a member of the NBEDZ board; more people seem to be in favor of the project than against; the people who are against it, appear to him to have a disconnect with the amount of money going to be spent if the project gets to the point it should; he is a taxpayer; and this Zone was set up to help North Brevard County. He pointed out North Brevard County is worth the expense; the old mall needs to be knocked down so it can be brought back to life in a new concept; and he hopes that any of the complaints or things that need to be checked will be done. He stated if this project is not done, Titusville is dead.

Kyle Sanders stated he is fortunate to be from a community who have eloquent speakers who have said everything the community needed them to say in support of the project; and he hopes the decision goes the right way and they have a chance to revive the community.

Bobby Mutter stated everyone has spoken from their heart, and Titusville needs this mall.

Gene Loyd stated when he first moved to Titusville there were two malls close to his home; now there is one empty mall; he was always taught to give back to the community; and he tries to give back to the community. He has children that work in his businesses and will be taking over his businesses; he would like a mall; this is a great opportunity; and the community needs the Board's support. He stated he has seen many businesses that have left; growth produces growth; and as this comes about, it will bring hope to the community. He asked the Board for its support for the project.

Micah Loyd stated his family a invested a lot of time and effort into the community; he is on the NBEDZ and has been part of the project; the grant document has gone through a high level of scrutiny; and Mr. Post and County staff has prepared something that protect public dollars and ensure the community gets what it deserves. He went on to say the developer and the bank are putting their money into the project and the public dollars do not even enter the picture until everyone knows what is there; there is a certain level of security for the citizens and tax dollars; and there are people who are against this project who have lived in Titusville for one year. He pointed out the people who have spoken today are Titusville; and they want this mall project to happen. He stated there was a quote in the *Florida TODAY* that said, "North Brevard's struggles today are from a lack of leadership in the past." He stated he could not agree more; the question today is what to do about it right now to change its direction; people cannot sit on their hands and expect things to change on their own; doing the same thing over and over just is not working; and people are here today, are here to change it, and they need the Board's help to do that.

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William Chivers stated he is not present as a minion for anyone or a mouth piece for a politician, but he is speaking as a resident of North Brevard County; he is not a naysayer who opposes everything remotely positive that may happen in the community just to draw attention to himself or to get their five minutes of fame; and he would much rather be home with his wife. He is an active businessman, husband, father, grandfather, and community volunteer who instead of opposing everything puts his time and money where others only put their mouths; over many years he has donated significant time and hours to try to make his community a better place to live; instead of speaking out against aggressive development in the area, he stays busy by running a productive business, volunteering, and serving on boards; he would like to see the prospects for his children and grandchildren to continue to improve in the community; Miracle City would be the tipping point for all future development that would make that possible; and the vast majority of North Brevard County citizens he sees socially and in business circles are overwhelmingly in favor of this project. He stated for far too many years North Brevard has continually been slighted in regards to funding for redevelopment projects; and it is now time for a change. He stated of the 9,000 lost jobs due to the end of the shuttle program, North Brevard took the majority of the brunt of those lost jobs. He stated the issue was raised what the project would cause in terms of lost jobs for small mom and pop businesses, but it is only fair to ask how many lost jobs there will be in Palm Bay in mom and pop organizations due to the Bass Pro Shop; and it is time the City of Titusville receives the support of the entire Commission and not just its representative. He noted it is a win/win for everyone, and he appreciates the Board's support.

J. B. Kump stated he is present to speak in favor of the project, in favor of Titusville and North Brevard, and of Brevard County. He stated he left Los Angeles in the Air Force and came to work at the Space Center. He stated he helped open an office for an elected official in 1995 and they could not find a place to eat; it is amazing cooperation between government and private; and he assures the Board the businesses in North Brevard are excited for the mall project. He stated this is money set aside to do just this sort of thing to get inertia going in the community where needed; it has good checks and balances; competition is good for a community; and the Board has the opportunity to get the ball rolling.

Kristen Lutter, Coordinator of Greater Titusville Renaissance, provided the Board with some documentation of the Miracle City Mall. She stated the timeline clearly demonstrates almost a full decade of commitment and perseverance from the City of Titusville, Brevard County, and the community to improve and redevelop the Miracle City Mall site through a public/private partnership; and now with the continued leadership of Commissioner Fisher and the Board, Mayor Tulley, and the City Council, it is almost there. She talked to the Board about how the Greater Titusville Renaissance came about. She stated people have been participating in the redevelopment effort all along; the new town center will be a central feature in both the business development and beautification efforts; it will help attract new business; and it will be an economic engine that creates hundreds of jobs. She stated on behalf of the Greater Titusville Renaissance, she expressed her appreciation to the Board for recognizing the importance of the project and what it means to the community.

Reverend Glenn Dames stated in Titusville and North Brevard people believe in miracles and the Miracle City Mall can be redeveloped; there are a lot of things he does not understand, but he believes; he believes it is possible; and even though life in the area has changed, there is now a glimmer of hope.

Cliff Aiken, EXXCEL Project Management, stated they are the developer of Miracle City Mall; they came to Titusville a year and one-half ago to look at property across from Parrish Medical Center; and George Mikitarian told him about the opportunity at the Miracle City Mall site. He stated they have talked to numerous retailers; there are a few commitments now; and they need the Board's support to go further. He advised they are here to invest into the community; and

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they are overwhelmed with the responsibility they feel to the residents to make sure something is done they can be proud of in the community.

Ted Brown, Attorney with Holland & Knight, stated his experience with the City of Titusville staff and the County Attorney has been extraordinary; they have been working very hard passing documents back and forth; and he assures the Board whatever cleanup needs to be done that reflects the agreements that have been made. He went on to say the negotiations are polite. He encouraged the Board to do the Board to support the project; stated the project is significant opportunity to transform the attitude about North Brevard County; he has never seen this many people stand in support of a project; and they will get it right on the legal side.

Commissioner Fisher stated he is very proud of his Town and his community; they showed up tonight to express their feelings to this Board; and he has stacks of documents that he has with him that shows doing development projects in this County is not unusual. He went on to say his staff ran numbers on since the Zone was created in 2011; there has been about \$13 million in different tax abatements that have been granted; there is another \$6.5 million that will be granted if the individuals come through with building their property and making their investments; there has been \$55 million in CRA's over the last 15 or so years; and as the Board knows, not every redevelopment looks alike. He pointed out this one may be a little different than when Commissioner Anderson and he were working to save Harris Corporation; at one time his recommendation was to purchase the property; and to take it off the tax rolls, not having a developer in hand, was way too risky; and he decided if the Board was going to do something, to find someone who wants to redevelopment before this body ever saw it. He advised the Board he is prepared to fight for North Brevard County and this project as hard as he needs to; he wants to apologize to very respected people in the community because of their association with him people started questioning them; they are good citizens and good community leaders; and they represented the Board in the utmost way. He noted the North Brevard Economic Development Zone, whether a person likes it or not, it is a Zone that has been created by the Board that is in place, that an economic development plan was put together; the funding of this project is in line with that plan that the Board and the City of Titusville has approved; the Board can see the community outcry and support; it is something the community and taxpayers in North Brevard County would like to see happen; and there is not a project that has been important in the other Commissioners Districts dealing with economic development that if he did not make the motion on it, he was there for it. He requested the Board give his community the hope and ability to try to reform, transform, and redevelop a community that has been hurting.

Commissioner Anderson stated there is some misinformation, and he does not know if it is intentional or if people do not understand, about the \$6.5 million; the \$6.5 million is for public infrastructure; it is not being handed to the developer to put new tile in the hallways of a store there; it is for the public good, public infrastructure; and quite frankly, many have mentioned it would be a great help for that infrastructure to be in place to reduce the runoff into the Indian River Lagoon, which is near to every Commissioner. He went on to say he is glad Commissioner Fisher mentioned Harris Corporation; Harris Corporation is a good example where public/private partnership went in and moved a whole road with all the infrastructure, all the utilities to make that happen in South Brevard County to ensure it has a good future; and that high tech company stayed there. He pointed out Hammock Landings is another one he is familiar with, even though it is in West Melbourne, on the boarder of City of Palm Bay; they received transportation infrastructure tax credits to build the infrastructure to build the mall; and on top of that, they collected taxes every time he Kohl's, because it goes directly to the developer. He noted that was \$24 million between the City of Palm Bay and City of West Melbourne, and they basically handed the developer tax credits. He stated he has faith in the residents of North Brevard County and the business leaders, and he is supporting the project.

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Commissioner Infantini stated she has not seen such a tremendous outpouring of support; she is incredibly impressed with the turnout; North Brevard County has shown support for the City of Titusville and the community; and she completely applauds them. She went on to say she did make the choice to live in South Brevard County absent of malls, knowing full well the closest mall would have been 35 miles either direction; and she reiterated that was her choice. She advised in the end, someone purchased Searstown Mall; they purchased it with their hard earned dollars; it was not government subsidized; and if there was a mall there, there is an expectation it will have another one there. She noted she does not think it is proper for government to help finance that; and then it creates an unfair level playing field for people who have already put their hard earned money there. She pointed out if a person had a restaurant and he or she used their hard earned sweat and tears to put in a restaurant, and she as the government said they were going to give someone money to put a restaurant right next door; and it would make it difficult for people to compete. She advised she is not against North Brevard County having a mall; even though they may have a mall, it does not mean a person will do all of their shopping in Titusville; she cannot get everything she needs from the Melbourne Square Mall; and she shops in Hammock Landings. She stated she was disappointed in one of the speakers when they attacked the individual who invested in Searstown Mall, and then said it really was not up to standards; she has never seen such an awful display of someone who professes to do economic development; and to the owner of Searstown Mall, she is sorry of how he was treated. She explained she is only against the mall because it is government money; she wishes everyone the success; and clearly there is a lot of support for it.

Commissioner Nelson stated one of the interesting things in spending the public's money is the same gentleman with the Searstown Mall will benefit because he owns the property across from Sand Point Park; so much public money has been spent in improving Marina Park, Sand Point Park, and Parrish Park; the biggest recreation improvement has been the Max Brewer Bridge; and the day it was opened, it was swarming with people who were walking. He stated he supported the Zone initially, and continues to support the Zone, because Brevard County is not a one size fits all; each part of the County is different; Merritt Square Mall is making improvements and will be a competition; and the Board has supported him to continue to improve and make that better. He stated Brevard County has taken some real body shots with the economy; ironically, it could have rolled over, but it did not; the Board has done a number of things to attract economic development; and he sees this as being worthwhile. He stated he is going to support this project; not because of shopping; it has to be brought up to standards from a stormwater perspective; and that will improve the water going into the Lagoon. He pointed out it needs special public space; and it talks about having seating associated with this public space. He stated one great project that could not have been done without the Zone is the road improvements on I-95; because of the support the Board gave to that project, they are going to be six laning all the way into Volusia County; and this is another opportunity for the Board to start the kind of improvements that are needed in North Brevard County.

Chairman Bolin Lewis stated she is strong in economic development; she believes in competition; she owns with her husband a boat parts repair supply store; it is very strong that Bass Pro Shop would put them out of business; but she voted for it because it was good for the community. She stated the Miracle City Mall is for the good of the cause; and she is supportive of this project.

Commissioner Fisher stated he would make the motion to approve, and allowing the attorney's to make any minor changes in the language.

The Board approved the Economic Incentive Agreement with North Brevard Economic Development Zone (NBEDZ), City of Titusville, and EXXCEL Project Management in connection with the redevelopment of the former Miracle City Mall site in Titusville; and consented to the

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Developer's Agreement that will be executed between the City of Titusville and EXXCEL Project Manager.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>SECONDER:</b>	Andy Anderson, Commissioner District 5
<b>AYES:</b>	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
<b>NAYS:</b>	Trudie Infantini

The Board recessed at 8:32 p.m. and reconvened at 8:42 p.m.

**ITEM V.E., ORDINANCES, RE: AMENDING TAX INCREMENT ORDINANCE AND THE NORTH BREVARD DEVELOPMENT ZONE DISTRICT ORDINANCE (SECTION 98-242)**

Chairman Bolin Lewis called for a public hearing to consider an ordinance amending Tax Increment Ordinance and the North Brevard Development Zone District Ordinance (Section 98-242).

John Pilley stated they are talking about the Tax Increment Ordinance; a brief history of a CRA in general; a city would say they had a blighted area; the government comes in and helps the CRA; and any improvements generated thereafter, the tax revenue on those improvements will keep in that district and will fund projects. He stated the only problem with NBEDZ is it is not a CRA; and everyone here knows that; CRA's have special rules that are very strict. He pointed out NBEDZ is the only special district in the County that is funded that way; the majority of the funding is coming from the new power plant in Port St. John; 90 percent of that increment value, the revenue generated, goes into NBEDZ; and Titusville will also kick in 90 percent of any increment funds it gets into NBEDZ for the first five years. He stated the Board voted for the County to do 90 percent and Titusville will do 40 percent. He inquired if it is fair as a taxpayer in unincorporated Brevard County that 90 percent of that money from the power plant continues to go to Titusville. He stated that Board should reduce the 2016 tiff to 40 percent the same as Titusville to be fair.

Commissioner Nelson stated the only reason the City of Titusville is only taking 40 percent is it is providing all of the services for that, the County does not; it is not just Titusville, it is North Brevard County; they are looking at other industrial initiatives not just that project; and it is not an apples to apples discussion.

Commissioner Anderson inquired how much the project will generate over the next few years. Troy Post, NBEDZ Director, stated approximately \$1.3 million per year; and that is quite a deal.

There being no further comments, the Board adopted Ordinance No. 13-045, amending the Tax Increment Ordinance relating to the North Brevard Economic Development Zone originally enacted as Ordinance 2012-14 which is now codified as Sections 98-265 through 98-272 of the Code of Ordinances of Brevard County, Florida; amending certain definitions in Section 98-267 of the Code; amending 98-268 of the Code to distinguish between a tax year and a fiscal year as it relates to the tax increment for the North Brevard Economic Development Zone; amending Section 11, the effective date provision of the Ordinance 2012-14 to correct the expiration date of that Ordinance; providing conflict and severability provisions; including in the Code of Ordinances of Brevard County, Florida; providing for an effective date and ratification; and adopted Ordinance No. 13-046, amending Section 98-242 of the Code of Ordinances of Brevard County, Florida, by incorporating any amendment to the Tax Increment Ordinance Brevard

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County as codified in Sections 98-265 through 98-272 of the Code of Ordinances of Brevard County, Florida; providing for conflict and severability; providing for inclusion in the Code of Ordinances; and providing for an effective date.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Robin Fisher, Vice Chairman/Commissioner District 1
<b>SECONDER:</b>	Andy Anderson, Commissioner District 5
<b>AYES:</b>	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
<b>NAYS:</b>	Trudie Infantini

**ITEM VII.A., CITIZEN REQUEST BY MAT LIGHTHILL, PROPERTY MANAGER, BEACH WOODS PROPERTY OWNERS ASSOCIATION, RE: LICENSING AND PERMIT REQUIREMENT ON PRIVATE PROPERTY**

John Lynch, President of the Board of Directors, Melbourne Beach Association, stated they have 393 units, about 600-plus people, and their development has existed for at least 30 years; for 30 years there have been no problems with the County; and they are not building a new project only trying to maintain what they have. He advised the Board approximately a year ago he was with the Manager, and an enforcement officer from the Planning and Development Licensing Regulation asked where Matthew Lighthill was; he then served him with a Notice of Violation of unlicensed work; he accepted the violation; and they wanted to see what they could do about it. He stated they tried to contact the Planning and Development Department unsuccessfully; that was one year ago; they have still not heard from that Department Manager in all this time; and the only thing they received was more notices and fines. He inquired what was considered maintenance; what is considered construction; what do they need a permit for; and what work do they have to have a license for. He pointed out the enforcement officer told them he would not be there if it was not for a complaint. He stated County staff will not sit down and discuss it with them; it is impacting the community; it is costing them a great deal more money; and they just want to get this issue resolved.

Matthew Lighthill stated the whole property is insured and zoned residential; he was given a flyer showing the different types of requirements for licenses he needs; and he does not feel that pertains to him. He went on to say he works directly for the Association; any maintenance on the property requires a license by a contractor other than janitorial services; and he does not understand how paving or repairing a sprinkler system would endanger the health, safety, and welfare of anyone. He requested the Board's assistance on this issue.

Joseph Columbo, Attorney for Beach Woods, stated over a year they have been attempting to have some contact with someone with the County; they have requested several meetings; no one from the County wants to respond with regard to what activities this community association manager and his staff can undertake on this community as far as maintenance; and the community is basically at a standstill because one household is calling the County pretty much on a daily basis. He requested assistance from the County to help figure out what is legal and what is not; they are not sure who to turn to at this point; this is a community of almost 7,800 people that are literally at a standstill; and he would like input from the County Manager or County Attorney. He stated he does not want anyone to get arrested; many of the homeowners are concerned about their day-to-day living on the premises where everything is at a standstill; and they are just asking for some help from the County at this point.

Commissioner Anderson stated a lot of associations and commercial buildings are using general maintenance workers to do minor pointing and change light bulbs; if this is the case, the

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County has a big problem; and he wants to know where Morris Richardson, Assistant County Attorney, stands on this.

Mr. Richardson stated that is not really the case.

Commissioner Infantini stated what happened at another incident at Beach Woods, they had an individual who was chronically calling the Code Enforcement Department just over and over; this Board agreed to just close the case because he would respond and it was one of the Code Enforcement Officers that is no longer with the County. She advised the officer would respond and there were no violations; while the applicant admitted one of the things he did was electrical, but this is a little over regulatory; she is asking for guidance as to what specifically can be done in the interest of maintenance; and she does not feel these are things any prudent person would find to be a violation of Code.

Mr. Richardson stated it is not just minor painting or changing light bulbs; there was electrical work done; there were pool installations; and the Contractors' Licensing Board just discussed this exact same issue. He went on to say contractors complain about managers of homeowners associations doing work that requires a license to perform anywhere else; the Contractor's Licensing Board asked for clarification as to what staff is pursuing; and again, this is not minor painting or changing light bulbs. He stated this is electrical work, structural work, and things of that nature; and this is an unlicensed individual working for an unlicensed contractor performing work that clearly under State Law requires a license.

Robin Sobrino, Planning and Development Director, stated a lot of this is State mandated; the Florida Building Code mandates the requirement for permits, which the local departments are mandated to enforce; staff is enforcing State Regulations; and failure to do so, would make staff derelict in their duty.

Commissioner Infantini stated she believes that virtually every HOA that has a manager who is operating under the same premises as this HOA is doing; this HOA has operated for 20 years just fine; no one has gotten electrocuted from the changing of pool lights; and they have not gotten killed from the irrigation they put in. She stated she should monitor what all HOA managers are doing because she thinks this is being overzealous. She thinks the Board should change it, otherwise it is just wrong; most of what is being done she does at her home; and it is far reaching and gives government a bad name.

Commissioner Anderson stated he understands the State Law issue; the County does not go out and look at the associations; if neighbors are not calling, they do not care; unfortunately, there is a resident in their neighborhood and the County had to respond.

Commissioner Nelson inquired if Commissioner Infantini has looked at the violations already.

Commissioner Infantini stated yes, she actually discussed the violations with the individual from Code Enforcement; he told her they were painting door jams; and she inquired if it will every stop.

Commissioner Nelson stated they just need to sit down and go over what is permitted and what is not permitted, and to have an attorney involved; the Code is the Code; he is not a Commissioner who is going to say to ignore State Law; the Board can make sure whatever it is enforcing is indeed by the Code and seek determination of what those are. He pointed out this is being done on the fly; and there is a simple solution, which is to sit down and have that discussion.

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Commissioner Infantini stated it is based upon interpretation of the Code, not based on the Code; and she does not think it was violating State Law. She went on to say she would like to see an enumerated list of items that specifically can be done and present it to the HOA so they will know what they can do or not do.

Commissioner Anderson stated what is in his packet is not a light bulb but a light fixture; even when he did remodeling, with electrical stuff he had to have a licensed electrical person to do it; and that is Palm Bay's rule, and may be State Law.

Commissioner Nelson stated the homeowners association is endangering people; it is different when a person does it for their own home; and the Board needs to make sure it is not crossing over the line.

Commissioner Fisher stated Commissioner Infantini should meet with her constituents, staff, and the County Attorney, and then to work it out; and that is what leadership does.

Upon consensus of the Board, the meeting adjourned at 9:10 p.m.

ATTEST:

\_\_\_\_\_  
MARY BOLIN LEWIS, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
SCOTT ELLIS, CLERK