

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

9:00 AM

The Board of County Commissioners of Brevard County, Florida, met in regular session on March 20, 2018 at 9:00 AM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Rita Pritchett	Chair/Commissioner District 1	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Kristine Isnardi	Vice Chair/Commissioner District 5	Present	

INVOCATION

Chair Pritchett asked for a moment of silence.

PLEDGE OF ALLEGIANCE

Commissioner Smith led the assembly in the Pledge of Allegiance.

APPROVAL OF MINUTES

The Board approved the February 20, 2018 Regular Meeting Minutes.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

PRESENTATION, RE: KEEP BREVARD BEAUTIFUL

Chair Pritchett advised the Board it has a presentation that was not on the Agenda from Keep Brevard Beautiful.

Brian Bobbitt, Deputy Director of Keep Brevard Beautiful, expressed his appreciation to the Board for its efforts to help beautify the community; to help with its efforts, he brought tools for everyone, grabbers, gloves, buckets, and t-shirts for everyone; he will leave them to be divvied up; and he urged the Board to join them for some of the Keep Brevard Beautiful events. He went on to recognize Commissioner Smith for some of his efforts; he has been hosting several cleanup sites with them; and his club, the Space Coast Jet Riders, has adopted an island. He stated they have gone out and done several cleanups, and removed a lot of trash. He presented Commissioner Smith with an official Adopt an Island sign, along with his team name on there.

The Board acknowledged the presentation by Keep Brevard Beautiful.

March 20, 2018

RESOLUTION, RE: RECOGNIZING AND HONORING SCOTT KNOX, COUNTY ATTORNEY, UPON HIS RETIREMENT AFTER 24 YEARS OF SERVICE TO BREVARD COUNTY

Chair Pritchett read aloud, and the Board adopted Resolution No. 18-028, recognizing and honoring Scott Knox, County Attorney, upon retirement after 24 years of service to Brevard County.

Scott Knox, County Attorney, expressed his appreciation to the Board for the Resolution. He stated he thinks when he came to the County the previous County Attorney who worked here was five years in the County; he expected to stay about seven years; here he is 24 and one-half years later; and it is kind of shocking he made it this far. He went on to say he thanks the Board as Commissioners because he knows how difficult it is to get to their positions; he or she works hard to get elected; when he or she gets on the Board they work hard to learn to be an effective Commissioner; and he applauds them for doing it. He pointed out it is a hard job; he or she has to deal with folks who are sometimes mad or sometimes happy with he or she; and he expressed his appreciation for all of the Commissioners he has worked for. He expressed his appreciation to staff; he stated if it was not for them, he could not do the job he does; there are two in particular, Eden Bentley and Shannon Wilson, Deputy County Attorneys; they have been here since he has been with the County Attorney's Office; and every time something took him away from the job, Eden and Shannon took over and ably ran the office while he was gone. He stated the staff he has is exquisite today; they are all good attorneys, great in some cases; and he marvels at how well they have progressed, and he looks forward to seeing how they continue to progress. He expressed his thanks to County staff, particularly Frank Abbate, County Manager; he thanks all of the County Managers he has dealt with before; and they have just as difficult job to do as the Commissioners. He noted the County Manager has to bounce 20 balls in the air at the same time, and it is amazing they are able to do it; and he appreciates the opportunity to have represented all of the County Managers and Commissioners over the years. He explained his family is present and they have stood by him for 24 years; his wife is his rock; and every time he has troubles, she calms him down and keeps him grounded. He stated his family has lived with all of the things he has lived with and never complained. He advised last but not least he is thankful to his Lord Jesus Christ who has been with him the whole way, and without him he would never had made it.

Chair Pritchett stated everyone now understands why the Commissioners love this man and will miss him.

The Board presented Attorney Knox with a presentation.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Chair
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.A., RESOLUTION, RE: RECOGNIZING AND HONORING MISS UNITED STATES, RACHAEL TODD

Commissioner Tobia read aloud, and the Board adopted Resolution No. 18-029, recognizing and honoring Miss United States, Rachael Todd, and her efforts to promote health and wellness through the United States, and for her passion to coach others in having a healthy lifestyle and nurturing themselves both physically and mentally.

March 20, 2018

Rachael Todd, Miss United States, expressed her appreciation to Commissioner Tobia for the research involved in writing the Resolution; she stated she does not feel worthy of receiving this today after hearing Scott Knox, County Attorney's, biography and the number of years he served the County; and she thanked the Board for recognizing her today. She stated it has been an honor to grow up in Brevard County; her family is all based in the County; her grandfather worked for McDonald Douglas in the 1960s and 1970s; and seeing everything happening in the County is incredible. She pointed out her platform of helping changing the way America eats, she is really addressing the overfed and undernourished epidemic with the children; as Miss United States, it enables her to really grab those children's attention; and that is essentially why she competed last year, was successful, and she has been touring the country and the State speaking at schools and events ever since. She noted she spoke in Los Angeles last week, she has to be in Tampa tomorrow, and then West Palm Beach on Thursday; she is circling the State, and she would welcome any other appearances or speaking engagements anyone would like to invite her to come to; and she again expressed her appreciation to the Board for the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.B., RESOLUTION, RE: PROCLAIMING APRIL 8-14, 2018, AS NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

Commissioner Smith read aloud, and the Board adopted Resolution No. 18-030, proclaiming April 8-14, 2018, as National Public Safety Telecommunications Week.

Deborah Sands stated this year marks the 50th Anniversary of the first 9-1-1 call that was made in Haleyville, Alabama, on February 16, 1968; for half a century, 9-1-1 has been a gateway between the public and emergency help; through the years the profession, technology, and industry has changed; however, the desire to make a difference in people's lives remains the same. She stated whether it is a fire, robbery, medical, or another personal emergency, Brevard Public Safety Telecommunicators are always there answering the call for help in people's moments of need; citizens dial 9-1-1 and they listen to a calm voice guiding them through their crisis until responders arrive; these professionals are the lifeline to the person in need, obtaining the necessary information in order to get the proper emergency personnel to their rescue; the second week of April has been set aside as National Public Safety Telecommunicators Week; it is a time to thank the Public Safety Telecommunicators for their dedication, service, and commitment to the profession; and she would like to express her appreciation to the Board for taking its time to recognize the superhuman, extraordinary, anything but average, Public Safety Telecommunicators that it has serving the citizens of Brevard County.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

March 20, 2018

ITEM I.C., RESOLUTION, RE: PROCLAIMING MARCH 18-24, 2018, AS FLORIDA SURVEYORS AND MAPPERS WEEK

Chair Pritchett read aloud, and the Board adopted Resolution No. 18-031, recognizing March 18-24, 2018, as Florida Surveyors & Mappers Week in Brevard County.

Joe Williamson stated on behalf of surveyors and mappers, he thanked the Board and accepted the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Chair
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.D., RESOLUTION, RE: DECLARING APRIL 10, 2018, AS GOPHER TORTOISE DAY

Commissioner Smith read aloud, and the Board adopted Resolution No. 18-032, declaring April 10, 2018, as Gopher Tortoise Day in Brevard County.

Megan Lee stated she is a senior at Westshore Junior/Senior High School; as part of her Girl Scout Gold Award Project, she set a goal to increase awareness and appreciation of Gopher Tortoises across the Space Coast region of Brevard County; she did this by promoting Gopher Tortoise Day; she and the board members of Hundred Acre Hollows, along with Krissa Kent, founder of Saving Florida's Gopher Tortoises, appreciate the support from the Board for granting this Resolution; and she expressed her appreciation to the Board for its efforts in promoting education and awareness.

Commissioner Smith pointed out the Gold Star Award is equivalent to an Eagle Scout.

A representative for Gopher Tortoise Day noted they worked with the Florida Wildlife Federation to create signs to put all over Florida that says, 'Don't Put Tortoises in Water'; and they put up 100 signs over the East Coast and Brevard County.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.E., RESOLUTION, RE: DECLARING APRIL 2018 AS CHILD ABUSE PREVENTION MONTH

Commissioner Smith read aloud, and the Board adopted Resolution No. 18-033, proclaiming April 2018 as Child Abuse Prevention Month in Brevard County.

A Representative speaking on behalf of Brevard Child Abuse Prevention Task Force, Brevard Cares, and Department of Children and Families, expressed her appreciation to the Board for the Resolution. She stated child abuse prevention is dear to each ones heart; in the Month of April they work hard to spread awareness; through that, one of the things they do is awareness with a pin wheel; it has become the national symbol for child abuse prevention, it represents

hope, health, and happiness for children everywhere; and it represents their effort to ensure the healthy development of all children.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.2., FINAL PLAT APPROVAL, RE: VIERA SELF STORAGE - SECURE STORE AT WICKHAM/PINEDA, LLC

The Board granted final plat approval; and authorized the Chair to sign the final plat for Viera Self Storage, subject to minor engineering changes, as applicable, and developer responsible for obtaining all other necessary jurisdictional permits.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.3., BINDING DEVELOPMENT PLAN ACCEPTANCE, RE: MARK J. FLICKINGER AND SKIDMORE TRAILER PARK AND SALES, INC.

The Board approved Binding Development Plan Agreement with Mark J. Flickinger and Skidmore Trailer Park and Sales, Inc. for property located on the east 85 feet of the west 206.6 feet of Lot 1, Block 2, and the east 85 feet of the west 206.6 feet of the north 1/2 of Lot 2, Block 2, Map of Town of Bellwood.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.4., APPROVAL, RE: POLICY BCC-48, FACILITIES CONSTRUCTION FEES

The Board approved Policy BCC-48, establishing a uniform system of fees and/or charges for Facilities Construction.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.5., RESOLUTION AND UNDERGROUND EASEMENT FROM BREVARD COUNTY AND VIERA DEVELOPMENT CORPORATION IN FAVOR OF FLORIDA POWER & LIGHT COMPANY (FPL), RE: EXPANSION OF THE SPACE COAST STADIUM - UNITED STATES SPECIALTY SPORTS ASSOCIATION (USSSA)

The Board adopted Resolution No. 18-034; and approved and authorized the Chair to execute the Underground Easement from Brevard County and Viera Development Corporation in favor of Florida Power & Light for expansion of Space Coast Stadium, USSSA.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.6., RESOLUTION AND WATERLINE AND INGRESS/EGRESS EASEMENT AGREEMENT IN FAVOR OF THE CITY OF COCOA, RE: EXPANSION OF THE SPACE COAST STADIUM - UNITED STATES SPECIALTY SPORTS ASSOCIATION (USSSA)

The Board adopted Resolution No. 18-035; and approved and authorized the Chair to execute the Waterline & Ingress/Egress Easement Agreement and sign the Bill of Sale in favor of the city of Cocoa.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.7., ACCEPTANCE OF TEMPORARY SANITARY SEWER EASEMENT FROM THE VIERA COMPANY, RE: BREVARD OAKS ASSISTED LIVING FACILITY (ALF)

The Board approved acceptance of the Temporary Sanitary Sewer Easement, future Ivanhoe Drive Extension, from The Viera Company for Brevard Oaks Assisted Living Facility (ALF).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.8., CHANGE ORDER #1 FOR QUENTIN L. HAMPTON (QLH), A MEAD & HUNT COMPANY, RE: DESIGN OF THE SOUTH CENTRAL WASTEWATER TREATMENT FACILITY EXPANSION

The Board authorized Change Order #1 for Quentin L. Hampton Associates (QLH), a Mead & Hunt Company, for engineering design at the South Central Wastewater Treatment Facility, in the amount of \$430,468.50; and authorized budget change request to appropriate Reserves to fund the Change Order.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.B.1., AGREEMENT TO EXTEND EXISTING AGREEMENT WITH THE CITY OF PALM BAY, RE: BUS/TRANSIT SHELTERS AND BENCHES

The Board approved and authorized the Chair to sign an Agreement to extend the existing Agreement between the City of Palm Bay and Space Coast Area Transit (SCAT) for the purpose of providing bus/transit shelters and benches.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.B.2., APPROVAL TO NEGOTIATE AND AWARD CONTRACT, AUTHORIZE BUDGET REQUIREMENT, AND EXECUTE NECESSARY DOCUMENTS ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS (BOCC), RE: DESIGN AND CONSTRUCTION OF NECESSARY NEW SANITARY SEWER LIFT STATION AND UF/EXTENSION SERVICES AGRICULTURE CENTER

The Board granted approval for the Interim UF/Extension Services Director to negotiate and award contracts for the design and construction of a new sanitary sewer lift station at the UF/Extension Services Agriculture Center, Cocoa, utilizing current Board approved continuing contracts for design, bid, and construction management; authorized the County Manager, or his designee, to execute all necessary documents and contract documents related to this project as needed, subject to approval by the County Attorney's Office; and authorized any budget requirements necessary to implement and complete the project.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.C.1., APPROVAL, RE: BUDGET CHANGE REQUESTS

The Board approved the Budget Change Requests, as submitted.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.D.1., RENEWAL OF EXISTING AGREEMENT WITH NABORS, GIBLIN & NICKERSON, P.A., RE: BOND COUNSEL SERVICES

The Board granted renewal of existing Agreement with Nabors, Giblin & Nickerson, P.A. for bond counsel services.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.D.2., RESOLUTION, RE: QUALIFYING PROJECT MG FOODS, INC. AS AN ELIGIBLE BUSINESS UNDER THE COUNTY'S TAX ABATEMENT PROGRAM

The Board adopted Resolution No. 18-036, qualifying Project MG Foods, Inc. as an eligible business under the County's Tax Abatement Program; and authorized a public hearing to consider adopting an exemption ordinance.

RESULT: ADOPTED [4 TO 1]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
NAYS: John Tobia

ITEM II.D.4., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS

The Board appointed/reappointed **Martin Lamb** and **David Miller** to the Transportation Planning Organization Citizens Advisory Committee, with terms expiring December 31, 2018.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Commissioner District 4
SECONDER: Kristine Isnardi, Vice Chair/Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.C., BOARD DIRECTION, RE: STATUS OF COUNTY OPERATED GOLF COURSES

Sonia Bossinger, Attorney for Savannahs Homeowners Association, stated they have provided the Board with a letter of intent; the revised portion of the letter of intent, so they do not belabor all of the points, are that over the weekend the Association, Mr. Shay's group, and herself sat down and really reviewed the numbers to try to meet the Board in the middle; what they came up with instead of the three payments of \$320,000 equaling the \$960,000 to be paid to the Association for deferred maintenance; and they are looking at two payments of \$350,000 instead. She went on to say that totals \$700,000. She stated this is after the Association crunched the numbers as much as they could; they wanted to present the Board with the bottom line, because after reviewing the estimates from the National Golf Foundation, which were \$834,000, they are hopeful that for the \$700,000 with those two payments they will be able to

March 20, 2018

make the necessary improvements to the golf course; and the other change to the letter of intent is that the Association will agree not to sell the golf course for a period of 10 years or until the line of credit is paid in full, whichever period is longer. She noted she put an asterisk there that in case there was a financial failing of the golf course, the Association would be able to get out of that; but other than that, they will agree not to sell it and to keep it as a public golf course for at least the next 10 years, possibly 15 years. She advised other than that the terms remain the same; and she is happy to answer any questions the Board may have.

Chair Pritchett stated she thinks they came back with better numbers; and she is good with this.

Commissioner Barfield stated it has been a long road; he has worked with Savannahs Homeowners Association throughout this process; and the professionalism and detail of all parties involved is to be commended. He went on to add this is the best the County will be able to get.

Commissioner Isnardi expressed her appreciation to Ms. Bossinger for all of her hard work, as well as the Homeowners Association; it is not perfect, but it is a long way from where it was; and she believes it is a good compromise. She pointed out it protects the County, which was her primary goal; and she will support this Item.

Commissioner Tobia stated this may be outside the scope of this motion, but as the County moves forward as these two \$350,000 payments will go to a golf course in Merritt Island; he hopes the Board can identify funds that come from that area to fulfill that commitment; and he would not like to see other parts of the County fulfilling this obligation. He stated while he will be voting no on this, he appreciates everyone's time and work; it is closer to where the County should be with this; and he reiterated hopefully by next week the Board can identify the funds, because \$700,000 in a tight budget is not chump change to say the least.

The Board approved Letter of Intent with Arias Bosinger, PLLC, representing Savannahs at Sykes Creek Homeowners' Association, Inc. and Brevard County, and to ask the Attorney's to work on the Community Development District, and bring it back as soon as possible; and to include a contract preparation.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

ITEM II.C.2., AMENDMENT, RE: POLICY BCC-25, PROCUREMENT

Commissioner Tobia expressed his appreciation to Commissioner Barfield for encouraging transparency, he thinks that is a good goal to set; if the Board is amending the Brevard County Procurement Policy to change the way bids are presented by elected officials, local officials needs to be included in the language; and in the spirit of fairness that each official is treated equally, to merely add the word 'local'.

The Board approved amending the Procurement Process Policy BCC-25, to include addition of language to Section III Directives, Paragraph E.9, and to add the word 'local' to the three specific areas as directed by the Board.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM III., PUBLIC COMMENTS

Charles Tovey expressed his appreciation to Scott Knox, County Attorney, for his help in the County. He stated a golf course in Titusville just sold for big money; although there has been things saying a golf course market is down and no one wants to golf anymore, yet there is a market for it in Titusville; and he wished congratulations to that company. He stated he wants to speak about prevention; he only has three minutes, cuts things short, and stop here and there, but he does have notes and he will attend to other things; flood prevention and fire prevention can be used, and the water can be utilized that is sitting there pooling stagnant and getting ready to discharge into the Lagoon; it can be used in the hot spots throughout the County; there are certain spots that are prone to fire and things; and there are big lakes next to fire departments but yet the water is not being used. He pointed out reclaimed water is being used, which is another subject about the Lagoon; he has his package, and he wants to adopt a couple of retention ponds to do as an example; and he wants to put his 'Lagoon Man' sign on all the places he cleaned up for years and years. He noted he balances the whole environment, not just this and that; and it is a conducive environment as the tortoises are part of and everyone is part of; it will help the fire department, clean up some of these areas with the water there, and save some of the runoff; and that is only just a part of it. He stated since everyone is getting credit and adopting it, these areas should be marketed that they cannot afford to fix or maintain; and these people should be approved putting a sign up. He advised he has an insight of other ways and perspective of things, and he tries to share it with people if he can be of help; it may not help the County today; but right now is the time to start on the drought and fires before May rolls around. He asked the Commissioners to give him a few minutes of his or her time at their offices; he will give them the whole package.

ITEM IV.A., RESOLUTION, RE: PETITION TO PARTIALLY VACATE A 20.0 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT ON FAY BOULEVARD IN PORT ST. JOHN UNIT ONE, COCOA - JEFFREY C. AND RUTH A. CLIFFORD

Chair Pritchett called for a public hearing to consider a resolution partially vacating a 20.0 foot wide public utility drainage easement on Fay Boulevard in Port St. John, Unit One, Cocoa.

Andrew Holmes, Public Works Director, stated this Item is a resolution partially vacating a 20.0 foot wide public utility drainage easement on Fay Boulevard, Port St. John, Unit One, Cocoa; the purpose of the vacating is to remove an auxiliary building and floor slab as encroachments to the easement; and there have been no objections to this Item.

There being no comments or objections, the Board adopted Resolution No. 18-037, partially vacating a 20.00 foot wide public utility and drainage easement on Fay Boulevard, Port St. John, Unit One, Cocoa, as petitioned by Jeffrey C. and Ruth A. Clifford.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.B., ORDINANCE, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI - BOARD OF ADJUSTMENT APPOINTMENTS

Chair Pritchett called for a public hearing to consider an ordinance revising Chapter 62, Article VI, Division 4, Board of Adjustment, Section 62-212(a), to allow at-large appointments.

Tad Calkins, Permitting and Enforcement Director, stated this is a request for the Board to approve a Code revision to Chapter 62, Article VI, of the Board of Adjustment Section to allow for at-large appointments for the Commissioners to that board.

There being no comments or objections, the Board adopted Ordinance No. 18-04, amending Chapter 62, "Land Development Regulations", Code of Ordinances of Brevard County, Florida; amending Article VI, Division 4, Board of Adjustment; specifically amending Section 62-212, Membership; appointment term and compensation of members; alternate members; to remove the requirement that Board of Adjustment Members be a resident of the District they serve; providing for severability; providing an effective date; and providing for inclusion in the Code of Ordinances of Brevard County, Florida.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.C., ORDINANCE, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI - PLANNING AND ZONING BOARD APPOINTMENTS

Chair Pritchett called for a public hearing to consider an ordinance revising Chapter 62, Article VI, Division 3, Planning and Zoning Board, Sections 62-182 and 62-183, allowing for at-large appointments.

Tad Calkins, Permitting and Enforcement Director, stated this Item is a request to amend Chapter 62, Article VI, of the Zoning Code to allow for at-large appointments to the Planning and Zoning Board and the Local Planning Agency (LPA).

There being no comments or objections, the Board adopted Ordinance No. 18-05, amending Chapter 62, "Land Development Regulations", Code of Ordinances of Brevard county, Florida; amending Article VI, Division 3, Planning and Zoning Board; specifically amending Section 62-182, and Section 62-183 Alternate Members; to remove the requirement that Planning and Zoning Members be a resident of the District they serve; providing for severability; providing an effective date; and providing for inclusion in the Code of Ordinances of Brevard County, Florida.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	John Tobia, Commissioner District 3
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.D., ORDINANCE, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI - MINIMUM HOTEL ROOM SIZE

Chair Pritchett called for a public hearing to consider an ordinance revising Code to Chapter 62, Article VI - Minimum Hotel and Motel Room Size.

Tad Calkins, Permitting and Enforcement Director, stated this Item is the second public hearing for revision of Chapter 62, Article VI, of the Tourist Commercial and Transient Tourist Uses to remove the minimum floor area for hotel and motel rooms.

There being no further comments, the board adopted Ordinance No. 18-06, amending Chapter 62, "Land Development Regulations", Code of Ordinances of Brevard County, Florida; amending Article VI, Division 4, Subdivision VII, "Tourist Commercial and Transient Tourist Use"; specifically amending Sections 62-1511, General Tourist Commercial, TU-1 and 62-1512, Transient Tourist Commercial, TU-2 Zoning Classification to remove the minimum floor area requirements for hotel units from these zoning classifications; providing for severability; providing for no minimum area encompassed; providing an effective date; and providing for inclusion in the Code of Ordinances of Brevard County, Florida.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.E., PUBLIC HEARING, RE: AMENDMENT TO DEVELOPER'S AGREEMENT WITH WEST MELBOURNE, RMC PALM BAY, LLC, AND RIVIERA DRIVE COMMERCIAL, LLC

Chair Pritchett called for the first public hearing to consider amending Developer's Agreement with West Melbourne, RMS Palm Bay, LLC, and Riviera Drive Commercial, LLC.

Tad Calkins, Permitting and Enforcement Director, stated this is the first public hearing to amend the Developer's Agreement between RMC Palm Bay, LLC, Riviera Drive Commercial, LLC, and the City of West Melbourne to increase the impact fee credits by \$43,708 for additional roadway improvements; the total impact fee disbursement would be \$771,590.20; if approved, the second public hearing for this Item would be scheduled for April 10, 2018 at 5:00 p.m.

There being no comments or objections, the Board conducted the first public hearing to consider a developer's agreement with City of West Melbourne, RMS Palm Bay, LLC, and Riviera Drive Commercial, LLC, and continued to the second public hearing on the April 10, 2018, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.G., RESOLUTION, RE: PETITION TO PARTIALLY VACATE A 7.5 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT ON CARDINAL DRIVE IN WATERWAY ESTATES THIRD ADDITION, SATELLITE BEACH - RYAN ROBERTS

Chair Pritchett called for a public hearing to consider a resolution partially vacating a 7.5 foot wide public utility and drainage easement on Cardinal Drive in Waterway Estates, Third Addition, Satellite Beach.

Andrew Holmes, Public Works Director, stated this Item is a request to partially vacate a 7.5 foot wide public utility and drainage easement; this is on Cardinal Drive in Waterway Estates, Satellite Beach; the purpose is to remove an existing pool and screen enclosure as encroachments; and there are no objections.

There being no comments or objections, the Board adopted Resolution No. 18-038, partially vacating a 7.5 foot wide public utility and drainage easement on Cardinal Drive in Waterway Estates Third Addition in Satellite Beach, as petitioned by Ryan Dean Roberts.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.A., BOARD CONSIDERATION, RE: LAW FIRMS RESPONDING TO REQUEST FOR QUALIFICATIONS (RFQ) OF REPRESENTATION IN OPIOID LITIGATION PROCEEDING

Scott Knox, County Attorney, stated this is the discussion about the County's representation in the opioid crisis litigation; the Board asked the County Attorney's Office to come back with a report; they have done that, analyzed the firms, and provided a spreadsheet that sets forth their various qualifications and strategies; they started out with three firms they thought was the best; Morgan and Morgan has since withdrawn due to conflicts; and there are two left that staff believes are the most qualified. He went on to say several of the firms are present today, has submitted cards, and would like to be heard.

Commissioner Tobia stated he rarely asks his brother questions on legal matters, but as a physician he asked if it was fair to hold manufacturers liable for the opioid crisis; and his brother could not definitively say it was not fair. He stated the Board needs to explore this. He went on to say he asked who was impacted by this, and thankfully no one in his family has dealt with this crisis; but he knows the Sheriff is the one on the front line; he called Sheriff Wayne Ivey, and he asked if the County is seeing an increase of this on the streets; and it was unfortunately a very bleak picture. He pointed out this is impacting people across social, economic status; and he thinks it is wise for the Board to move forward. He advised he took a step forward and he asked the Sheriff about the qualified firms who applied to represent the County; he asked the Sheriff's opinion; he, without a doubt, said Steve Charpentier was the individual he had the most confidence in; he dealt with Mr. Charpentier on legal matters in the past; to take that a step

March 20, 2018

further, Mr. Charpentier has dealt with the County prior in *Brevard County v. Priceline, Inc.*; and while it was not one of the top recommended firms from the County Attorney's Office, they overlooked the bases certainly he uses when making decisions. He noted Mr. Charpentier's fees were substantially higher than a few of the other firms; but his Dad gave him advice a long time ago, and he said never to go cheap on liquor or lawyers; and he believes when getting attorneys the Board cannot go exclusively on that. He stated this is all on a contingency fee basis; if the Board ends up getting 95 percent of nothing, he would rather take 70 or 75 percent of something; as the Board hears these presentations, he wants to go on the record for the reasons he has outlined here; and Mr. Charpentier's group has his complete support. He stated the Sheriff could not be here today, but he wanted him to point out to the Board the Sheriff has trust, confidence, and the endorsement of Mr. Charpentier's group.

Commissioner Smith mentioned he does not know a whole lot about opioids; he briefly has read some things in the newspaper about them; and he heard the comments made by the Board. He pointed out he understands it is a problem. He went on to say he has an appointment this afternoon with a foot doctor; with the paperwork he had to fill out, it was a full page of restrictions regarding opioids; it is an option this doctor can give him for pain; and he was astounded, he was basically signing his life away, as each one of these statements required a yes or no on his part. He noted he was stunned it was that prevalent of a problem.

Commissioner Barfield stated it hits home in the community as he knows of four families who has someone to die of an overdose of drugs related to opioids; his opinion is if the manufacturers had at some point looked at another alternative rather than opioids, and if they have where the science and research is, it seems to him there would be a replacement for opioids that are not addictive; and it bothers him there is no alternative to opioids. He advised he does hold the manufacturers responsible.

Paulina do Amaral advised the Board she is with Mark Dearman; they are partners in this litigation; she is from Lieff, Cabraser, Heimann, and Bernstein, and Mr. Dearman is from Robbins, Geller, Rudman, and Dowd; they are part of the team that originally been coupled the Morgan and Morgan team; it is unclear to her whether they are in a position to speak at this point; and she asked County Attorney Scott Knox what their status is.

Attorney Knox replied the issue is the County went out for RFQ, they came in as one group, and they now have a different group; that is not something the Board would typically listen to because they would not qualify because they came in after the deadline as a new group; however, the Board is always in a position to waive those kinds of things if it wants to hear them.

Ms. do Amaral stated Lieff, Cabraser and Robbins Geller came in together as a group prior to the deadline for the RFQ; another group that included Morgan and Morgan also came in prior to the deadline; they have, as a collective team, been hired in Broward County in the City of Fort Lauderdale; as the result they elected to inform the County Attorney they were willing to proceed as a group thinking it would strengthen them even further; and that said, when Morgan and Morgan determined they had conflicts of interest they graciously withdrew. She went on to say they are before the Board today because they believe they present a very strong team to the Board; the two firms have some of the prominent members of the Multi-District Litigation (MDL) in which all of the federal cases involving the opioid crisis have been consolidated before a single judge in Cleveland, Ohio; Judge Dan Aaron Polster held a hearing on January 9th, which was one of the most extraordinary events that any of them had ever experienced in their legal practice; he called them in for a status conference, but did not initially start speaking about the mundane tasks that one would expect; and one of the first words out of his mouth were about the 150 people who die every day in this country as a result of the opioid crisis. She went on to add the Judge tasked them at that moment to come up with solutions; he indicated to

March 20, 2018

them it was their obligation to imagine a solution that is part of why they are before the Board today; they are interested in helping Brevard County come up with a solution; this is not just about money; and it is about figuring out how to address the problem for the County's constituents. She stated in general Florida had a spike in deaths from 2015 to 2016 of 35 percent; in 2016 there were 4,000 babies that were born with Neonatal Abstinence Syndrome, or addicted to opioids; in Brevard County, the most recent 2016/2017 prescription drug monitoring report demonstrated the highest rate of prescriptions in three areas in Florida were in the Panhandle, rural Northern Florida, and in Brevard County; and Brevard County has the highest rate of combination prescriptions of opioids and benzodiazepines, which is a lethal combination that has resulted in so many deaths, including Tom Petty, Prince, and Heath Ledger. She added it is a problem; she wishes it was not; she is glad there have been so many inspiring discussions today, because this is very difficult; their team does present to the Board two members of the Plaintiff Executive Committee of the Multi-District Litigation; in addition, their leaders Elizabeth Cabraser and Paul Geller are also chosen to be on the Settlement Committee; and that puts the County in an excellent position with regard to knowing what is going on in this litigation. She explained they have also presented the Board with the lowest fee request; she agrees with Commissioner Tobia that the County should not skimp; but this is a situation where they want to ensure the most return to the constituents of the County.

Mark Dearman stated unlike typical litigation everyone talks about, and Commissioner Tobia referenced it, they are happy to work with local counsel if that is necessary, they would not exclude or preclude that; what he wants everyone to understand is this litigation is not like the typical litigation; this litigation, as a multi-district litigation, which is now in Cleveland in front of Judge Polster, has over 300 cases in front of him; and those cases are being led by a group of lawyers that Judge Polster selected which their firms are involved with that leadership. He noted in order to provide the best representation, he would think the Board would want someone who was involved in that effort, and to the extent they could work with someone locally, they would.

Barney Bishop stated he is a governmental consultant who works with the Doug Beam and John Ramano Law Firm, which is one of the teams that was reviewed by Attorney Knox; Attorney Knox did the Board a great favor that there are really five benchmarks the Board needs to look at; one, has the research been conducted; on their team is Diane Cooley from Washington, D.C.; she is widely perceived around the country of having received the largest volume of data, documents, and court proceedings with regard to opioid litigation in the entire country; and they also have a DEA Agent on their team and an economist. He went on to say second, can the lawsuit be filed quickly; they have indicated in their proposal that they are prepared to file a lawsuit within seven days; three, the Board should be looking at the MDL, but also at the State; and they pitch the State. He noted the Board heard the last presenters talk about the fact that there is an executive committee of trial lawyers that work with the judge; but the federal judge in Cleveland got tired of listening to all of the trial lawyers and the executive committee, and he decided to select three liaisons, three people he would communicate with; and between the executive committee and the judge are three liaisons. He pointed out one was a lawyer out of San Francisco, they are not competing today, one is a lawyer out of Pensacola, they are not on any of the teams competing today, and the third is a lawyer named Peter Wineberger, he is the third person on the liaison team, and he is on their team; and it gives them tremendous opportunity to understand insightfully exactly everything that has happened. He advised he thinks the Board should go to State court because there will be a jury of its peers, and the Board knows who its State judges are; they would rather see this go into State court than into federal court where someone in Cleveland, Ohio, is going to make a decision; and they would rather have their judges in Brevard County to make that decision. He added if the Board decides to go to MDL, they will fully-support whatever the Board wants to do. He stated the fourth thing is about cost; they are not the most expensive fee, they are not the lowest, and they are in the middle; and those factors are always negotiable. He stated they think it will help

March 20, 2018

return the greatest amount of money to the constituents. He stated the last thing is this should not be the first case filed, nor should it be the first client in Florida; they already have a client in Marion County; they are in final negotiations with cities; this will not be the first filed case; and it will not be the first client in Florida. He explained he has been lobbying in Tallahassee since 1979, a group called Florida Smart Justice Alliance, and he has been working for 25 years in behavioral health, which is drug abuse, substance abuse, alcohol abuse, mental health, Department of Corrections, and Department of Juvenile Justice. He noted 14 people are dying every day in Florida; the Governor just signed a bill yesterday that provides \$54 million to help provide anti-antagonist drugs, that is when people are dying of overdoses, there are drugs they can use to keep those people alive and help them to survive that overdose; and there are federal dollars that are being granted, but the Board wants a law firm that has local representation. He went on to say they have Doug Beam and Riley Beam as local lawyers, they have an outstanding team, a mass tort firm in Baltimore, Maryland, that they are connected with, and they have one of only three liaisons on their team. He stated they think they check all of the boxes; they think they have the opportunity to represent the Board and do an outstanding job; and they think it is the decision the Board needs to make.

Chair Pritchett stated there is a time certain, so the Board is going to take a pause in this Item, and come back to it.

ITEM IV.F., ORDINANCE, RE: CODE AMENDMENT TO CHAPTER 62, ARTICLE VI, ZONING REGULATIONS - OVERNIGHT COMMERCIAL PARKING

Chair Pritchett called for a public hearing to consider an ordinance amending Chapter 62, Article VI, Zoning Regulations - Overnight Commercial Parking.

Tad Calkins, Planning and Development Director, stated this Item is a request for the Board to conduct a public hearing to amend Chapter 62, Article VI, Zoning Regulations, to allow overnight commercial parking as a conditional permitted use, and non-overnight commercial parking as a permitted use within BU-1, BU-2, PBP, PIP, IU, and IU-1 Commercial and Industrial Zoning Classifications.

Commissioner Tobia stated these are just questions should this ordinance pass if it will have impact on certain pieces of property. He asked if he owns two acres in unincorporated property zoned Commercial, would he be able to develop a parking lot for overnight parking currently.

Mr. Calkins replied affirmatively.

Commissioner Tobia inquired if he would be able to do this if this ordinance passes.

Mr. Calkins responded the ordinance creates a three-acre minimum, so it would not be allowed on parcels less than three acres.

Commissioner Tobia questioned if he owned a two-acre commercial property in Cocoa Beach, will this ordinance prevent him from developing an overnight parking lot.

Mr. Calkins advised this ordinance only affects the unincorporated areas in Brevard County so it would not affect Cocoa Beach.

Commissioner Tobia asked if he owns a strip mall in Merritt Island that had a lot of extra parking spaces, would he be able to charge for overnight parking now.

Mr. Calkins replied he would if the parking is being determined to be excess is in surplus of all the uses in that site; if he had a surplus of parking, then those spaces would be allowed.

March 20, 2018

Commissioner Tobia inquired if this ordinance passes will he still be allowed to.

Mr. Calkins responded the ordinance does not anticipate secondary uses of sites for commercial overnight parking.

Commissioner Tobia inquired what the effect is of an existing commercial parking lot becoming a non-confirming use.

Mr. Calkins advised the effect would be the parcels under three acres would be the ones that would be non-confirming; the non-confirming aspect would not be allowed to expand unless they could add acreage to that to meet the minimum of three acres; with that being said, all of the ones that staff has looked at have maximized their space, so they are using every bit of their land to park cars; and there is no available land for them in their ownership to expand so they would have to obtain new area and land to expand now without the ordinance.

Commissioner Tobia inquired assuming this ordinance would not lead to fewer visitors to Port Canaveral, would this effectively concentrate parking lots into a few areas where this ordinance would not apply.

John Denninghoff, Assistant County Manager, replied assuming that the market forces would allow for the additional parking areas that would be a tendency of them to affect the market would be to concentrate in larger parking facilities; thus, there could be an increase of traffic associated with that; but it is difficult to project that.

Commissioner Tobia asked if that is the case would this increase traffic in those areas that would allow for additional parking.

Mr. Denninghoff responded that would be the tendency he would believe.

Commissioner Tobia stated that would most likely be the Cities of Cape Canaveral and Cocoa Beach due to their proximity to the Port. He noted he reached out to the local officials in those areas, he put the disclosure on the bottom stating it was from his office and only for information; and he inquired if staff has heard from the local officials that would have to deal with this increased parking should there be more lots, visitors, and traffic in those areas.

Mr. Denninghoff replied he has not heard from them.

Mr. Calkins advised he has not been contacted by any other municipality regarding this.

Tamy Dabu stated she is a North Merritt Island resident; she is here in support of this ordinance; it is a wise move for the County to make this ordinance and to implement it; the citizens need ordinances like this to protect everyone, and to encourage traffic studies, stormwater aspects of these properties to make sure there is proper landscaping, setbacks, and proper fill; and she is before the Board in support of the ordinance. She pointed out it is critical for the citizens; Port Canaveral still has land off of Sea Ray Drive; she personally has visited that in the past; and the Port is possibly going to do a substantial sized parking lot off of Sea Ray Drive. She noted it will not be the only parking lot in Brevard County; there will be stiff competition for parking in the future; and this is a way for the County to try to get a head of this curve, to be at the forefront for a change, and make sure it is done right.

Commissioner Tobia stated more than 3,000 parcels will be effectively banned from conducting an overnight parking business, so this is certainly a property rights issue; existing overnight lots will be especially impacted; they will not be able to expand or modify their businesses without coming to the Board for permission; this ordinance will not help traffic in any area, but in fact,

March 20, 2018

make it worse by artificially forcing the concentration into the areas that do not apply, Cocoa Beach and Cape Canaveral; and the Port currently has five full-service cruise terminals. He went on to say the Port's master plan states the cruise traffic, which hit 4.5 million in 2017, could top eight million passengers by 2040, so there will be more traffic; and plans for three new terminals that the Port will only increase the capacity for more travelers with larger ships already being slated to move their home to Port Canaveral in the next couple of years. He added Commissioner Smith stated it best, and he quotes, "The more parking lots we have, I would think there would be less traffic because it is less concentrated." He stated if the Board is concerned that traffic would be an issue, instead of imposing restrictions on property rights, why not ask for land owners who wish to get parking lots conduct a traffic study, which is anywhere between \$3,500 and \$10,000; what this does is concentrate traffic, and increase the costs of construction. He stated Commissioner Smith stated at the first hearing, and he quoted, "I do not think it is necessary for anyone who wants to open a parking lot that they have to come to the Board. If people want to open up parking lots, they should be allowed to do so by just going through the permitting process." He noted he agrees with Commissioner Smith 100 percent, and he thinks the Board needs to vote this down.

Commissioner Isnardi advised she thinks she stated her opinion on this, probably overstated her opinion on this, and it is similar to what Commissioner Tobia said; she does not like restricting the little guy from opening up a smaller lot, and requiring them to get a traffic study; she does not understand why this was not looked at as a conditional use and why they would still have to come before the Board; but it seems like it is catering to people who not only secured three acres of land, they also have to get the Board's permission. She noted she does not like this, she thinks it is too restrictive and corners out the little guy. She pointed out she will not be supporting this.

Commissioner Barfield stated again, this affects District 2 the most, District 1 substantially, and some in District 4, it does not affect at all District 3 or District 5; what is really important here is he brought up the public safety aspect of this; they have looked at some that are already permitted and operational; at times of the day when there are five cruise ships with over 25,000 passengers getting on and off, it spreads out the parking locations where everyone comes in at the same time and leave at the same time; there is staging on the side of the road and backups as far as SR 528 right at SR 3; and there are two traffic lights within one-half of a block in addition to a drawbridge. He pointed out State Road 3 is the only entrance in and out of Merritt Island. He stated the issue is if the Board is going to allow parking lots; all that he is saying is to give it a CUP; what concerns him the most is if the County does not have a system like that where it has a CUP, the public will not have any input into the compatibility with this within the neighborhood; and he reiterated he is just hoping to require a CUP with a traffic study and the three-acre minimum. He stated after re-looking at some of this, industrial areas work out well because it is not next to the community; he would offer it be reduced to two acres; and he thinks that would not affect anyone in the industrial two acres.

Mr. Calkins stated for the industrial areas they have a couple of parking facilities there now, which it would allow them to go forward and not create a non-conforming use for them.

Commissioner Smith stated he will stand by what he said before, but he is wondering if there is some middle ground here, because he appreciates Commissioner Barfield's concern; he drove in this area and he did see some areas that were zoned Commercial but they are empty right now, and they front communities of existing houses; he does not see why the Board could not get there by allowing these as a permitted use; and then to have the County make the final decisions on what restrictions could be imposed. He went on to say he saw one property up there that is being considered now, and he does not know if there are any plans to require a turn lane, but it desperately needs one because it is a high traffic main road; and to get on to the proposed driveway, he foresees an awful lot of rear end accidents.

March 20, 2018

Mr. Calkins stated he thinks what he heard Commissioner Smith say is he is wondering if staff could do this as a permitted use; they could have a permitted use with conditions that would eliminate it coming before the Board; but he thinks the concern has been to have the public input, and that part would be removed and would not happen if it was a permitted use with conditions.

Chair Pritchett stated since it heavily involved District 1 she spent a lot of time with Mr. Calkins, because she wanted to make sure it did not cause any harm; Mr. Calkins got her very comfortable with the ordinance that she does not think it will hurt specifically properties in District 1; and Mr. Calkins brought up some property that is under three acres, which they made sure it would not affect that. She went on to say they also talked about if All Aboard Florida wanted to put in a stop of how it would affect that; she got comfortable with that as well; she did not want it to affect car dealerships; and after going through this and spending the time with staff, she does not think it will cause any harm. She pointed out the only thing that may be extra is the conditional use permit having to pay the fee for it, but she does not know if that is reasonable if the County has heavily impacted areas to get all their ducks in a row, come together, and let the Board decide if it is a good fit for the area. She stated she thinks the traffic study is brilliant, and they would implement that as requested at the last meeting; Commissioner Isnardi helped bring that forward; she is probably comfortable with the ordinance, and if the Board can get the same thing accomplished with another tool, that is fine as well; but she does believe the Board is going to have to do something.

Commissioner Smith asked Commissioner Barfield if he would be amenable to a permitted use that the Board could establish the parameters he would feel comfortable with.

Commissioner Barfield advised he does not know if it can be done.

Commissioner Smith noted the public would not be able to approach the Board if it was a permitted use, but he thinks it would protect the public by coming up with parameters a person would have to follow.

Commissioner Barfield explained he thinks it is important when putting in a parking lot next to a neighborhood that those people have the option to come and speak to the Board concerning their problems with it, and it gives the Board an opportunity to really look at the compatibility; compatibility is also, the way it is done now, questionable if it is truly compatible based on the different zoning and everything else; he would much rather be able to discuss it here to see what options there are; and it is up to the rights of the people.

Commissioner Smith inquired if the Board required parameters, if a neighborhood took exception to the fact something was going to be put in their area that would upset them, would they still not have the right to petition the Board for an exception or to prevent something like that occurring.

Scott Knox, County Attorney, replied as he understands what the Board is trying to accomplish, it is not a conditional use, because that requires them to come to the Board period; Commissioner Smith is talking about a permitted use with conditions, which there would be an appeal right basically that would be available to someone who did not agree with it; and staff could probably add something, if the Board changes it to a permitted use with conditions, that says people will have a right to appeal and the right to notice if something is going on there.

Commissioner Smith asked Commissioner Barfield if that would work for him.

Commissioner Barfield inquired if that will accomplish what he is trying to do.

March 20, 2018

Mr. Calkins replied it would be helpful and it would provide some assurance, but the question would be through the permitted use process there is no notification, and in the conditional use process there is notification to adjacent property owners, so staff would have to incorporate or account for that in some manifest.

Commissioner Smith inquired if that is not what Attorney Knox was speaking about.

Attorney Knox advised staff could put a provision for notice so people will know they have a right to appeal it.

Commissioner Tobia stated this is some substantial differences; if this was a conditional use permit, or even it were the other one, there would be some fees involved he imagines for the County to notice; and ballpark, a CUP is about \$600.

Mr. Calkins responded a CUP is \$850.

Commissioner Tobia asked if it is fair to say it will be a new fee that would be added to business owners.

Mr. Calkins replied there is a fee required for any CUP.

Commissioner Tobia asked if this would be a fee businesses would not have to go through now, but if this was passed it would be a new \$850 fee to businesses.

Mr. Calkins responded for the commercial parking, yes.

Commissioner Tobia stated he appreciates the flexibility on Commissioner Barfield's part on this; and he asked if the Board dropped from the three acres down to two acres in the industrial area, and it was mentioned roughly 3,000 pieces of property would have restrictions placed them if this were to pass, how many property areas would have their property rights infringed upon under these conditions of dropping it to two acres in industrialized areas.

Mr. Calkins replied he would not know the answer specifically to that because staff did not break down the actual zoning of the properties; he stated they accounted for properties that have those zoning districts; but they did not look at the individual zoning districts by parcel.

Commissioner Tobia inquired if it is fair to say some would have their rights infringed upon.

Mr. Calkins replied affirmatively.

Commissioner Barfield stated he has a hard time with this because of the transparency to the public; and he inquired if something can be structured where the public is notified when there is something like this coming in.

Mr. Calkins responded it would definitely be a difference in how staff handles permitted uses now; if that is what the Board would like staff to take into consideration, they probably need time to wrap their arms around how to suggest doing that, and bring it back to the Board; they could look at creating a tiered approach or something where a certain acreage would be a conditional use over a certain acreage or vice versa; and maybe where over three acres it would be greater than under three acres or something like that.

Commissioner Isnardi stated no matter what anyone builds or what those areas are zoned for, people are going to complain, no matter if it is a sandwich shop or a park as people will not like it; she worries the Board is setting a precedence for permitted uses for other things; it is a great

March 20, 2018

idea, and it is something she has thought about herself, do a permitted use and if it is over a certain acreage be something else; but she thinks the Board is opening the door for other areas in the County's Code. She stated if the Board is that worried what it is allowing for permitted uses in areas, then the Board should re-look at how things are zoned out there.

Commissioner Smith stated the public has all of the Board Members telephone numbers and they are not bashful.

Commissioner Isnardi stated she appreciates Commissioner Barfield's comments that it is his District and it does not affect the other Commissioners, but it does because it is voted on by all Commissioners; the other Commissioners would not have a say about anything; and one Commissioner would be making decisions for his or her District. She stated she hears from Merritt Island residents just like Commissioner Barfield does.

Commissioner Barfield asked to table this Item and to sit down and talk to come up with other scenarios of how it can be done, and to bring it back to the Board.

Commissioner Smith stated that is what he was going to suggest; and he thinks there can be a compromise everyone can come up with.

Chair Pritchett stated as growth comes into the community, the Board is going to have to change the criteria regarding the Future Land Use Map to have smart growth; the growth rate in Brevard County is significant; the State of Florida is declining, but Brevard County is increasing; and the Board will have to take potential looks as things like this come up and make some changes.

Motion by Commissioner Tobia to table Item IV.F. until the next meeting on April 3, 2018.

Commissioner Barfield stated he would like to consider a moratorium until this is brought up for discussion again.

Chair Pritchett inquired if the ones that are already on, the Board is okay with. Mr. Calkins stated April 3rd puts it where everything would have to be tightened up by Friday; and he does not know if there is enough time to get that done.

Chair Pritchett asked Commissioner Tobia if that could be moved out another week.

Commissioner Tobia stated while he respects the addition to that motion, he would like to pull his motion back if a moratorium is going to be placed on business expansion and limit people's property rights for any period of time. He noted he cannot support that; and he pulled his motion back.

There being no further comments, the board continued the second public hearing to consider an ordinance amending Chapter 62, Article VI, Zoning Regulations - Overnight Commercial Parking, to the April 24, 2018, Board meeting; and approved placing a moratorium on any future projects.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

ITEM V.A., BOARD CONSIDERATION, RE: LAW FIRMS RESPONDING TO REQUEST FOR QUALIFICATIONS (RFQ) OF REPRESENTATION IN OPIOID LITIGATION PROCEEDING (CONTINUED)

Riley Beam, Douglas R. Beam P.A., stated he has some materials created by their economist that breaks out the economic damages to Brevard County that he would like to distribute to the Board. He stated he is a life-long Brevard County resident, and he is present with the Spakenburg, Skokor, Ramano, and Beam litigation group; and Mr. Bishop spoke earlier regarding some of their qualifications. He went on to say when they made their presentation a few weeks ago, the Board voted unanimously to file a lawsuit with Brevard County; it also said it wanted to do it in State court; and that is important for a lot of reasons Mr. Bishop brought up. He pointed out their firm is specifically perfect for this; their firm is in the courtroom multiple times a week; in the last five and one-half years they have had \$128.5 million verdict, a \$4.3 million verdict, and a verdict involving a multi-million car in a lawsuit; his father Doug Beam was a prosecutor in 2005, and his picture is on the wall next door and in the courthouse; and he is Brevard County Bar Association President. He stated he, his wife, and his daughter were all born at Holmes Regional Hospital; they are passionate about this, they think the Board should stay local; there needs to be trial lawyers who are local and will be willing to work with the Board; and they will be passionate advocates in the courtroom. He explained the issue with this case that may come is issue of removal to federal court; if the Board decides to file in State court, which they do believe is the right thing to do, the County will be the only plaintiff; it has a lot of negotiating power in that position; and it will be the County versus big pharma. He stated they have a lot of resources to support the cost against big pharma, as it will be expensive; and they also have the informational resources to take them on. He stated they have pin pointed where they have done wrong things and where they continue to do it, as well as the distributors who knowingly were pushing pills in the communities with red flags popping up and not stopping it. He pointed out they have multiple defendants they will be going after; if it does get moved again, they have Peter Winebarger who is co-liaison counsel, and no other firm has that member in that leadership role on their team; they are local, and love their community; and it would be a great honor if the Board chose them.

Commissioner Smith inquired how having a liaison would make their firm different than the other law firms.

Mr. Beam replied the liaison counsel, Peter Winebarger, was selected by Judge Polster to act as the in-between; there are so many firms in Ohio and the multi-district litigation; and he not only has a seat at the table, but he is kind of the host of the party. He noted he has a lot of influence with the Judge.

Commissioner Smith asked if this were tried on a State level, his firm would have access and entry if it was decided to go that route through the federal court.

Mr. Beam replied affirmatively.

March 20, 2018

Commissioner Tobia stated a point of clarification, there was no motion 5:0 for this Board to proceed with the litigation; the motion was to receive an RFQ in order to get prospectus back from these; and that is a very important difference.

Stephen Charpentier introduced Eric Barton; and he stated they are another team that has already presented. He advised their fee is not the highest, it is a contingency fee of 30 percent, but it includes all costs; generally speaking with contingency fees, lawyers charge a percentage, plus costs; the costs in this case will be prohibitive, he cannot tell them the number, but it can easily be millions; and it will certainly be shared in the MDL litigation. He went on to say if it is at a State level, it may not be shared; and they are willing to advance all of those costs, and take the risks. He stated looking strictly at the 30 percent versus a 25 percent, plus cost, which is what one of the firms have suggested, it is a totally different comparison. He advised they are willing to talk to anyone because they want to do the right thing on behalf of the County. He noted he has been in the County since 1965; at one time four generations of his family lived here; and his picture is on the wall across the street with Mr. Beam's. He stated he has served on the Board of Trustees for the college for a number of years, and he knows how difficult the Board's job is. He asked what distinguishes them from the other groups. He stated he knows the other law firms, and they are all talented firms, both on a federal and State level; they have represented the County in the bed tax matter, 2009 through 2011; they had a prompt, efficient, effective, and confidential recovery for the County; and he has served as the County's lawyer on a prior occasion with success, and with Attorney Knox helping on the matter. He stated Attorney Knox would verify both on the fee issue and prior resolution issue.

Attorney Knox commented yes, sir.

Mr. Charpentier stated thirdly is the local relationship; he has represented the Brevard County Sheriff's Office when the Sheriff took over the Port; they have good relationships, good ability, prior record, a fair fee, and they are willing to talk about it.

Eric Barton stated their firm, as a part of this team, which has very strong local connections and regional Florida connections, and they bring the national pharmaceutical litigation experience; they are one of a handful of firms in the country that consistently leads national litigation against the pharmaceutical companies, including the companies that are being sued in this case; they have not been appointed the co-lead or the executive committee, and frankly they chose not to apply for that; they went to the meetings and supported the slates that were applying for that, because they have a good relationship with those firms; and they are very much a part of the national litigation here and they will be. He went on to add they are in constant communication with them, and they are actively litigating this case; they have filed on behalf of one county in Missouri; they are talking to a number of counties; and they are a firm that deeply believes in this litigation, will be a part of it, and they do not think this is the forum to engage in the specific considerations the County may be thinking about in terms of where to file or when to file. He noted those are good conversations to have between the County Attorney's Office and the Board; they welcome those discussions; and they are of the national presence, muscle, and experience, as a part of this team.

Amy Garrett, Simmons, Hanly, and Conroy, stated she wants to kind of touch on a couple of the things she took away from the summary that she wanted to clarify; Paul Hanly is her co-lead with the MDL in this litigation; she is here with Tara Couture, which is the local attorney; another firm they are presenting with is a mass torte firm who handles large numbers of clients in specific areas of litigation; and the other firm is out of Minnesota that focuses on representation of governmental entities, primarily counties. She stated they realized early on since most of their personal injury clients are individuals that having a firm that understands the mechanisms of county government better than they do is an important role on the team. She went on to say in addition to Paul Hanly being co-lead, while liaison counsel certainly play a role in the MDL,

March 20, 2018

the co-leads are the ones the Judge is going to call to actually make decisions and move the litigation forward in whatever direction he deems appropriate; Paul Hanly is the only attorney involved in this litigation who has ever sued these companies before on this particular subject from 2003 to 2007; and he lead and settled about 5,000 individual claims against manufacturers of the opioid medications. She noted as far as the State versus the local court, this MBL is being compared across the board to tobacco litigation, so she only tells the Board so it will understand the scope of what she thinks the legal issues will be here; to think that one individual county is going to file in State court, keep that case in State court, and go to trial before any resolution is done in the MDL is simply unrealistic at this stage of the game; but they are filing some claims in State court; and if they talk to the Commissioners and believe it is in the County's best interest to file in Florida, they will file in Florida. She stated what they have found up to this point is that most of the states that do not have a local defendant, it makes more sense to be in the MDL. She stated their fee structure, they represent over 200 counties across the country; ethically they think they have to offer the same fee structure because she does not know how they could negotiate for different counties with a different fee schedule; they are offering a 25 percent fee across the board; but they also have a sliding fee scale that they have been offering as a contingent option to most of their clients; and if that is something the Board feels is worth more conversation, they would be happy to have that conversation. She stated one of the subjects discussed by Attorney Knox was if they had experience in Florida; they do have attorneys in their other areas of litigation who are licensed and practice in Florida; they have had two asbestos trials in Broward County in the last few years; and they have another one coming up probably in the next six months in Broward County. She pointed out while they may not be main members of the team their firm is well-versed in Florida law and Florida State cases. She concluded by saying the expenses in this litigation will be substantial; being a part of the group who will benefit from the group efforts will allow the costs and those expenses to be spread out over the larger number of counties rather than Brevard County trying to shoulder them themselves.

Commissioner Tobia asked if it is 25 percent plus costs.

Ms. Garrett replied affirmatively.

Commissioner Tobia inquired if the cost is split by all of their clients.

Ms. Garrett responded generally speaking, yes, unless the litigation very far down the road ends up having to be tried individually, which is always a possibility.

Commissioner Tobia asked what her estimate is of costs associated with pursuing this.

Ms. Garrett replied she believes it is much too early in the litigation to even take a guess at what that would be; most of the law firms who are on leadership on the MBL are being asked to commit to at least six figure sums to put in front to pay for the expenses; and to say she expects the expenses in the litigation being in the millions is a statement she is comfortable making.

Commissioner Tobia inquired if those millions of dollars, should there be a victory, are passed along to their clients.

Ms. Garrett replied generally speaking the expenses and how they are being reimbursed are being decided by the MDL judge if the cases are decided at that level; while they enter into these individuals with their clients, at the end of the day the MDL judge will have the authority to set what he believes the expense reimbursement should be based upon who did the work and how relevant it was to the resolution of the case.

March 20, 2018

Kendall Moore stated he thinks what he has to say may surprise the Board; his firm is a member of one of the firms that has submitted; he agrees with many of the things brought forward by his peers today; and this is a very specialized area of litigation, which certainly requires a firm with experience in the area, in particularly opioid litigation. He pointed out his firm certainly checks that box. He went on to say the Board wants someone with not only a State but a national footprint associated with this issue, having represented either cities, counties, or in their particular case the Motley Rice firm has represented other states related to this litigation; and Motley Rice has collected and reviewed over 12 million pages of documents associated with this specific litigation. He advised there was someone who brought up the importance of local counsel; there are several teams who have local counsel; and there certainly will be a good amount of research that takes place here on the ground in the County to help access the value of the damages or impact of this claim takes place. He stated what he may say that is a little bit different, there was a person who handed out more information today; all of those things ask the Board to say one thing, it is a very complicated issue; the County Attorney's Office has done a wonderful job in summarizing; but it necessitates the Board spending additional time reviewing the information and proposals it has been provided. He stated his procedural request to the Board today, particularly because millions of dollars of potential revenue to the County is at stake, is that the Board will take additional time to review this issue; he would like the Board to table this issue to spend additional time reviewing the analysis of all of the firms that have submitted to better understand the specifics of the firm that may serve it best; and he would like the Board to make a selection, hopefully at a time certain, at its next meeting.

Chair Pritchett asked if the Board has time to table this Item and to come back at the next meeting with a decision.

Attorney Knox replied the Board can table it and come back; his recommendation when the Board first discussed this was to get into litigation as fast as it can, because generally the first in line tend to do better; and it is up to the Board what it wants to do.

Chair Pritchett stated the Board kind of got that pack of paper on Thursday, but then received other emails Friday and Monday; there were a couple of things that were given to the Board at the last minute; and since this is an important decision, she would ask if this could be tabled to the next Board meeting. She stated she has four firms she is willing to have conversations about.

Commissioner Isnardi stated she agrees with Chair Pritchett; she does not mind getting additional information; but this is so important; and she wants to make sure the Board gets it right. She went on to add every company has something just a little different; and even though they are all similar, sometimes it is the small differences that make all of the difference. She pointed out she is looking at about five organizations that have peaked her interest, and she would like to have some additional time.

Commissioner Smith stated he agrees, and he wants to table this issue; at this point his head is swimming, because he does not remember which one is which; and he would like to sit down with all of his notes, what he has heard today, and come back with some firmer ideas of where he thinks the Board should go.

The Board tabled consideration of the law firms responding to the RFQ relating to possible representation in opioid litigation proceeding to a future Board meeting.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

*The Board recessed at 11:11 a.m. and reconvened at 11:21 a.m.

ITEM V.B., PLAYING FIELDS COMPLEX USE AND MAINTENANCE AGREEMENT, RE: UNITED STATES SPECIALTY SPORTS ASSOCIATION, INC. (USSSA)

Scott Knox, County Attorney, stated this is the United States Specialty Sports Association, Inc. (USSSA) playing fields agreement, which involves the regional park; staff has prepared an agreement for the Board with USSSA and The Viera Company since it involves deed restrictions on the property; and what is being presented to the Board is not in exactly, completely final form, but it is 99 percent there. He asked the Board to approve the agreement subject to the County Attorney and County Manager approving the minor changes.

Wendy Anderson, representing USSSA, stated she had raised the question if they could get the bond requirement waived; other than that they have agreed to everything.

Attorney Knox advised the Board he does not see this as being particularly relevant to this particular set of circumstances since the County is purposing the material itself and having it installed; and if the Board wants to do that, it is fine.

Ben Wilson, Associate Corporate Counsel with The Viera Company, stated he is present to answer any questions the Board may have; they joined into the agreement because when they conveyed the land to the County as part of their DRI, the park contribution, they had a deed restriction that it be used as a public regional park; and Attorney Knox approached them, because he wanted to make sure they preserve that public aspect of the park.

Motion by Commissioner Smith, seconded by Commissioner Barfield, to approve Playing Fields Complex Use and Maintenance Agreement with USSSA, subject to any non-substantial changes approved by the County Attorney and County Manager, and the bond requirement being waived.

Commissioner Tobia stated he just received this 25-page legal document at 11:30 yesterday; he has had 23 hours and 55 minutes, subject to the three hours he has been at the Board meeting. He went on to say clearly there are questions that need to be answered; they potentially have alternative uses for these resources; and now the Board would be contractually obliged to use them one way when it has another way to help potentially clean up the Lagoon. He asked the Board to hit pause on this, let the folks work it out, and to bring it back to it in two weeks. He pointed out voting on a 25-page document that the Commissioners have had for hours, with \$5 million of County resources, this is substantial to make a whiplash decision on.

Commissioner Isnardi stated her problem with this is slightly different than Commissioner Tobia; when the Board had this item before it she expressed her dissent on this had more to do with the actual expenditure of \$5 million and how the County rushed about taking the Brevard County Policy of going out to RFP and completely waiving it, and agreeing to pay a vendor directly; that she takes issue with; the Board has to be responsible and do its due diligence; she heard the arguments it is a great price; and she inquired how someone would know that without

March 20, 2018

going out to RFP. She went on to add that was mistake number one. She advised she does not like to get something at the last minute and have to vote on it as well; but she would probably vote it down anyway.

Commissioner Smith stated while the paperwork did come in recently, this is something that has been coming down for quite a long time; maybe the other Commissioners have not been paying attention to it as much as he has because it is in his District; but none of the things he has seen are anything new; the playing fields not going out for bid did concern him; he did see other numbers of other vendors and what was typically charged, and this was less; and that was largely due to the fact that USSSA does an awful lot of purchasing from this company, and they get what a lot of companies get, a discount for quantity.

Commissioner Isnardi followed up by saying there is no way to verify that; she believes what Commissioner Smith is saying, and she is sure he believes what he was told, but there was no way to verify that without going out to RFP; and that is why she does not feel comfortable.

Commissioner Smith asked if the Board were to go out to RFP on this, what additional time it would take.

Attorney Knox replied Frank Abbate, County Manager, could probably answer that better than he can, but he thinks at least 30 days and maybe more; one of the issues the Board is dealing with is USSSA is trying to have these fields available by September 1; the two things they are working on first are the football fields; and football season for them starts around that time.

Commissioner Smith stated one of the meetings he attended, the people involved with this made the point that the football teams that represent the recreation partners want to be able to use their fields; and there is a time problem. He commented if they get started now they can get those done and not inhibit in any way the playing of football come fall.

Chair Pritchett stated she is staying on top of this agreement; she is pro-USSSA; she thinks they are the real deal; they are doing everything they said they would do; they just got the Women's World Cup coming through; and she is excited about this type of tourism. She went on to say it is family tourism, and it is probably the best tourism that could be asked for. She stated she loves this project, and she loves the fact the County still owns it when the investment is done; and she is comfortable with it herself.

Commissioner Tobia stated it is his understanding that a few days ago Governor Rick Scott signed the legislation which would add that tool in the tool box to use these resources to help with infrastructure critical to tourism, such as the Lagoon; and he inquired if the Board would have the flexibility to adopt an ordinance or resolution if it wanted to, to re-appropriate \$5 million, which in this agreement would put the County with AstroTurf, instead Indian River Lagoon projects, oyster reefs, de-mucking, and the long list of items that would help heal the Lagoon.

Attorney Knox replied the Board has not gotten a contract yet, so the answer is yes.

Commissioner Smith stated he does not think there is anyone here that could say the Lagoon is more near and dear to their heart than he, and that is one of the reasons he serves on the Indian River Lagoon Council; he served as the Chairman last year; they are doing an awful lot; they have the direction of Virginia Barker, Natural Resources Management Director, who he considers to be one of the smartest people he has ever met; she and her team have put together a terrific plan using the \$40 million they have this year, and they anticipate getting \$40 million each year thereafter towards the Lagoon; he stated they could always use more money; and at the same time he does not see using the money on that one subject such as the Lagoon. He stated it is not like the Lagoon is being ignored or that the Board is turning its back on that; it

March 20, 2018

is not like there is nothing being done for the Lagoon; and USSSA have come in and made themselves part of the community. He noted USSSA has put in \$20 million of their own funds into upgrading the fields; and these folks are stepping up and being part of the community. He stated while he appreciates the concerns, it is time to move forward with this.

Chair Pritchett stated she was asked that question recently after the vote went through about using all of the Lagoon funds; the Lagoon is very important, so it made her pause for a moment; with the money coming in, the County has almost a half a billion dollars over the next year; she said to herself if government cannot fix it for that, maybe it should just quit trying; the money is coming in faster than it can be spent on projects right now; and staff is working on hard on a system of how to clean the Lagoon up. She noted she has complete confidence in Ms. Barker and her team. She stated these dollars are arbitrary sometimes because people do not see the affect it will bring in later, but it brings in tourism; if all these families come in spending money it will create more funds for the Indian River Lagoon fund, the economy, the hotels, jobs, putting food on the table, and it is a good thing; and she is always in on the tourism things if they are good projects, and she thinks it is a grand slam.

Commissioner Barfield stated just before he and Commissioner Smith were elected to the Board, which seems like a long time ago, this Commission voted to put \$134 million towards infrastructure for sewage for the lines replacing a whole lot of other things in infrastructure that is faulty; there have been issues based upon 20 years of neglect; the County will be receiving a little over \$30 million for the Lagoon; from what he understands with the new law was there also has to be a study done to show that the significance relates to tourism; and he does not know what the criteria is going to be for what that is. He pointed out the Board already voted on this before the law came into place; what needs to be done now are any other things and go through the process, whatever that is, and let this Board make that decision; but not on something the Board has already committed to and funded; and he will support the Item.

Commissioner Tobia stated he is happy Commissioner Barfield mentioned the economic impact of the Lagoon, because up here the Board passed a Resolution, and it said through the study of Natural Resources Management Department that the Lagoon had an economic impact of tourism of over \$997 million; while he is sure USSSA has a large impact, he knows it is nowhere near a billion dollars; the Board is ready to make a vote, and he wants to make it clear, it can choose to put \$5 million on AstroTurf or it can choose to put the money towards projects that will help the Lagoon; he inquired if the Lagoon is being helped right now; and he stated to just look at it. He explained the Board put in place at the last meeting that a fish kill is being expected; the next time, should this pass, a person drives by Viera and he or she sees millions of dollars out there on AstroTurf, to ask if these folks could play on regular grass; and he wants people to remember the Board made the decision to prioritize AstroTurf ahead of the health and well-being of the Lagoon, which is going to bring in again, \$997 million. He stated he understands prior to this law coming through, the Board did not have that flexibility, but it does now; the reason this happened so quickly is the Board is authorizing the \$5 million instead of going through the due diligence and trying to prioritize the Lagoon; he is not an environmentalist, he has not sat on a lagoon board, but he knows the resources the County has should focus in on the number one concerns; he knocked on a lot of doors; and not one person asked him to bring in more AstroTurf. He stated if that is a Commissioner's priority, by all means vote for the AstroTurf; and that is what this vote comes down to prioritizing the Lagoon or prioritizing AstroTurf. He noted it is an easy question, and he will vote this one down.

Commissioner Smith stated that was nice grandstanding and he understands the political implications, and that is all this is; he is running for re-election and this gentleman does not want him to win so it is easy pot shots going forward from now on that he voted against fish; the number on the sewage project was \$139 million; that \$139 million was established by the Board before he got here back in 2013; they put that money aside in a bond issue that would repair

March 20, 2018

and replace the PVC sewage pipes put in Satellite Beach back in the 1990s; and the politicians at the time succumbed to cheaper is better and they used PVC instead of ductile iron. He went on to say he thought they it would last 30 to 50 years and would be out of office at that time, and who cares; and it is on the Board's lap. He pointed out they are putting ductile iron in place; ductile iron with a liner is supposed to last 100 years; with the liner, it can be replaced, and it can last even longer; and like Commissioner Tobia was saying do not go cheap when looking for liquor, do not go cheap when looking for sewer replacement pipes. He stated that is \$139 million, which is not chump change; when the previous Board brought the issue of the one-half cent sales tax before the people, it was estimate it would yield approximately \$30 to \$33 million a year; the first 12 months was just finished; and the County has \$42 million. He explained that is an extra \$9 million the County did not even anticipate last year; it is not like the Board is trying to destroy fish in the Indian River Lagoon or turn its back on the Lagoon; there is a plan in place and there is a public advisory board that looks at the projects; it is not a situation where the Board is turning its back on the Lagoon; and it is looking at the entire community, which is its job. He noted more money can be put in different areas, but with the budget cap the Board deals with, it is always robbing Peter to pay Paul in this County; there is an opportunity here to reach out and do something for the kids in the County; and it has a corporate partner that is willing to do that in a big, big way, and he finds it to be a logical decision.

Chair Pritchett stated it is about the Indian River Lagoon; she is all in; the Board has almost one-half a billion dollars over the next nine years going into the Lagoon; they have a strategic plan, they were not planning on that much money coming through, but the economy is recovering; and she imagines next year it will be \$44 or \$46 million. She stated she hopes that will help with the recovery of the Lagoon faster and faster; she knew when the Board went into the one-half cent sales tax that it would not be an overnight fix; and she was told four or five years before the County would start seeing results on the Lagoon. She advised they are working hard on this, and it will be another three years before items happen. She pointed out Commissioner Isnardi brought up some ideas at the last meeting; the County has leaking infrastructure; it does not fall under the Lagoon Plan; but they are working hard now because of the problems of sewage leaking into the water, which is terrible, and looking at taking some Lagoon funds out because they have an excess amount. She stated Ms. Barker said permitting is a time issue, and it takes a long time to get things permitted and ready; everyone is working hard together on this; she has complete confidence the Board is working hard to help the Indian River Lagoon; and if the Board quits being hungry for economic growth, it will end up where it was eight years ago. She stated strategically she hopes they keep bringing in businesses, good tourism, good families, so they do not have the type of burden the County had a few years ago and trying to pull up out of the muck and put food on the tables for the families. She stated she thinks this is a good project; as Commissioner Barfield had mentioned, this has already been voted on; these are good projects; if the Board was needy for money now, she would be ready to stop and make an evaluation; but as far as where to put these things, the Board is on a good path right now; and she is ready to vote this through.

Commissioner Barfield commented this has to be a balanced approach as with everything; Viera is growing; and the Board should do this for the kids.

Chair Pritchett called for a vote on the motion. The Board approved Playing Fields Complex Use and Maintenance Agreement with United States Specialty Sports Association, Inc. (USSSA), subject to any non-substantial changes approved by the County Attorney and County Manager, and the bond requirement being waived.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Rita Pritchett, Jim Barfield, Curt Smith
NAYS:	John Tobia, Kristine Isnardi

ITEM V.C., BOARD DIRECTION, RE: STATUS OF COUNTY OPERATED GOLF COURSES (CONTINUED)

Tom Becker stated as a result of the motion on Thursday, they worked with the County to provide a letter of intent; they are requesting that the County Manager and County Attorney be given authority from the Board to negotiate the terms of the agreement for all documents to come back before the Board for approval and execution; and if the Board has questions regarding the letter of intent, he is happy to answer them as well as other members of his committee who are present as well.

Commissioner Tobia expressed his appreciation to County staff for this; he stated he thinks more has happened in the last three or four days than had in three or four months previously; he expressed his appreciation to Mr. Becker; he stated based upon the emails he received, he may have been hard on Mr. Becker; and he is looking at a work product that is a good starting point. He went on to say the Board mentioned collateral, and he was able to deal with it in another way; he has some additional issues with this; but he thinks it is pretty darned close; his understanding is Mr. Becker is looking at taking over the course January 1; and he inquired if that is correct.

Mr. Becker responded affirmatively; he stated they gave the County essentially options regarding what that date will be; and the amount of the transition fund would vary depending on that date because of negative or positive cash flows in the months immediately after that date.

Commissioner Tobia asked if he wanted to turn over the golf courses to Golf Brevard in a more timely fashion, he would be amenable to do that assuming that the County made up the estimated loss over that period of time.

Mr. Becker replied their original proposal offered a date of either October 1 or January 1; October 1 would provide a time for transition; it would require a larger amount from the County however; and that proposal was \$390,000 versus \$250,000.

Commissioner Tobia inquired if he wanted to turn it over May 1, for example, would Mr. Becker be amenable to take the \$150,000 and adding in the estimated losses from either the Christovich Report or the actual losses averaged out over the last couple of years to increase that amount; he stated his issue is the deferred maintenance; and should any of those issues come to fruition, he would hope that Golf Brevard would be able to deal with that instead of the Board having to handle these issues. He inquired if that can be expedited, is there any way he would be amenable to dealing with that.

Mr. Becker responded no, and the reason for that is primarily they saw what happened when the Board expedited the transition to Integrity Golf; and it left Integrity Golf in a position that was very difficult. He went on to explain it left the golfers in the community in a position that was difficult; the period of time they put for October 1 allows for a reasonable transition to take place; and if the County wants to delay that beyond October 1, then they are happy to accommodate that.

March 20, 2018

Commissioner Tobia asked Mr. Becker to explain Golf Brevard.

Mr. Becker advised Golf Brevard is made up of a steering committee of 10 people; the Board has a list of those people who are on the proposal provided to the Board; this group of people have only one purpose, and that is to be able to assist the County through these two golf courses; if the County says yes, it wants them to pursue that purpose, then they will form as a non-profit corporation; and they will be able to do that within a brief period of time before the County and Golf Brevard has that agreement in place.

Commissioner Tobia asked if Golf Brevard exists in any legal fashion whatsoever.

Mr. Becker replied right now they are a steering committee of 10 people, and a number of them are here; and they would be happy to show the Board they do in fact exist.

Commissioner Tobia inquired if they have paid the money to register with the State.

Mr. Becker replied no.

Commissioner Tobia asked how the County would negotiate a contract with an entity that is not set up in any legal fashion one way or the other.

Scott Knox, County Attorney, replied the County would probably ask them to incorporate; if the Board gives direction to move forward with this, Golf Brevard is going to incorporate; and ultimately after the contract is negotiated, there will be an entity to contract with.

Commissioner Tobia asked in the months the negotiations have been going on, Golf Brevard has not gone through any paperwork whatsoever to put them in a position to negotiate with the County one way or the other.

Mr. Becker stated they are able to negotiate with the County as a steering committee; they would be unable to sign an agreement with the County unless they are a corporate entity.

Commissioner Tobia inquired if Mr. Becker has looked at the resolution put forward dealing with the fiduciary duty that Golf Brevard would ultimately have if they were established as a not-for-profit corporation. He asked if Golf Brevard is actually comfortable should they organize into a legal entity to maintain a fiduciary duty to the County.

Mr. Becker replied affirmatively.

Commissioner Tobia stated the resolution adds that they would have a duty to report; and he asked if Mr. Becker would have any concern with maintaining an open ledger book the County could maintain to make sure they are on course and meeting the expectations to meet the needs of not only Brevard County but the golfers they would serve.

Mr. Becker advised in the letter of intent they have provided very specific ways for them to be able to report on a regular basis to the County; and at any time their books will be open, and the County is more than welcome to come in at any time to see what they are doing.

Commissioner Tobia inquired if there is a clause in the letter of intent, there is one in the resolution, that additional funding past the contract amount would automatically be deemed default in the corporation.

Mr. Becker responded it is considered a default by golf Brevard if they come back to the Board for additional funds.

March 20, 2018

Commissioner Isnardi expressed her appreciation to Mr. Becker for the time he spent in her office trying to come up with something everyone can live with, because everyone wants the same thing, they want the courses to maintain; she does not want the courses to go away; they are important to the community; and they are important to people who love golf. She stated she understands the question regarding the incorporation; but she inquired why would they incorporate if the sole purpose for that is to take over the courses without any sort of intent or blessing of the Board to move forward to negotiate that contract, because they would be creating a corporation to dissolve it if the Board does not move forward. She pointed out she completely understands it is not a lack of disorganization on Mr. Becker's part of lack of commitment, it is a lack of purpose; a person does not open a business to not run a business or open a non-profit not to run the non-profit. She stated she is comfortable with the letter of intent, and she appreciates the work of not just Mr. Becker, but his board and his passion to make the courses work.

Frank Abbate, County Manager, stated on the resolution Commissioner Tobia is speaking of, he does not believe Mr. Becker has seen the resolution; Mr. Becker and he have discussed the concept, so the items Commissioner Tobia brought forth were incorporated in the letter of intent; and if the expectation was that he should be sharing the resolution with Mr. Becker, he has not done that since it was something they had discussed and he may be bringing forward. He went on to say relative to incorporation there was at least one example he is familiar with that the Board has done something similar and that was the 114 acres of 100 Acres Hollow; the group was formed after the Board decided they were going to provide them the opportunity to have that land; that was land related to utilities and Gopher Tortoises that were on that property; and the homeowners took responsibility for that and incorporated once the Board set the parameters of what they wanted to do.

Commissioner Tobia stated the Board typically defers to the District this falls in; he does not believe that; and if that is the case, there should be five different counties, and each Commissioner should be the king of each person's county. He noted Chair Pritchett has said multiple times that the Board does not want to be in the golf business and he agrees; he just wants to get out of the golf business a lot quicker than what this letter of intent puts the Board at; he thinks Golf Brevard has come extremely far in three days; he thinks the Board can come to the finish line in two weeks by using these numbers, in fact, he is willing to go above these numbers to cover the loss so Golf Brevard can take the course over; and final touches can be put on a final document to be brought back that the Board could vote for in two weeks.

Motion by Commissioner Tobia, seconded by Commissioner Barfield, to direct staff to work with Mr. Becker to find a way to use these numbers as a baseline and increase them so they are able to take the course over and not incur any operating loss.

Commissioner Smith stated he would like to know for the people who are listening, what the total amount of money the Board is being asked to subsidize Golf Brevard and the Savannahs to take these headaches off the Board's hands.

Jim Liesenfelt, Interim Assistant County Manager, replied Savannahs is \$350,000 each for the next two years, so that is \$700,000 and they have a line of credit of \$1.2 million; the Golf Brevard is \$250,000 and take over on January 1; and the discussion is \$390,000 is they took over October 1.

Commissioner Smith stated it is in the neighborhood of \$1 million plus or minus; they are not choosing to spend \$1 on golf courses instead of the Lagoon.

Commissioner Isnardi stated she is open to the idea of Mr. Becker taking over sooner, however, she wants to make sure it is smooth; she knows there are leases on carts, things going on at

March 20, 2018

the courses that a person has to know the rhythm of what is happening there, and the needs of each day as the week goes; if they are willing to do it sooner, although she does not know if there is anything that would get Commissioner Tobia's support, because it seems like he does not like it for one reason on the other, and that is okay; and maybe a little sooner and Mr. Becker can work things out with staff if he thinks he and the steering committee would be open to. She pointed out she does not want to set them up for failure, and that is what she is afraid of if the Board moves too quickly.

Mr. Becker stated the reason they moved from the October 1 date to January 1 date is because of their understanding that the Board liked the smaller cash amount and the extended date; they do not have a problem going back to the October 1 date; the concern they have is they do need to recruit a manager of golf, put themselves in a position to be able to transition toward that, because that is their concept, and to be able to push it further forward than that, they can be flexible depending on how quickly they can move forward both with an agreement and with being able to take those steps. He commented he does not think it is unreasonable to look at if it can be done at a certain period and be comfortable with that and make it a smooth transition, then fine; and he inquired incrementally what would that difference be. He stated if the Board wants them to shoot for an earlier date, they will try to do that; but they need to make sure they have their people in place in a way that is going to be able to make it smooth; and they do not want the kind of abrupt transitions that took place in the past that created mayhem moving forward for the County's golf courses.

Commissioner Isnardi asked when Mr. Becker is talking transition is he talking like going in next month and saying they will evaluate the course, look at the capital needs that need to be done, and the maintenance; and are they going to start as soon as possible getting there and transitioning in, and fully taking over by October 1 exclusively.

Mr. Becker responded they have already done a lot of that assessment, but what they do need to do is form as a board, form the corporation, bring those board members back to the Board for confirmation, based upon the letter of intent, and then that board has to establish its policies and hire a manager of golf. He stated he does not see that taking place in 30, 45, or 60 days, it will take time for that to take place; that is why they looked at an October 1 day; and plus the other reasons. He stated at this point they are at the Board's pleasure for either October 1, which they are comfortable with at this point, or January 1, whichever the Board would desire.

Commissioner Isnardi inquired if things move along like a lot quicker, can they be ready, such as August 1.

Mr. Becker responded if the Board's desire is to say as soon as possible, they will hit the accelerator and see where it goes.

Commissioner Isnardi asked if maybe October 1 could be a deadline.

Mr. Becker replied maybe, that is a fine deadline for them.

Mr. Abbate suggested that hearing everything the Board is saying and trying to get to a win/win with everyone, staff will work diligently with Golf Brevard to see if they can get it moved up prior to the October 1 date to meet what their dates are; in light of the Board action it has already taken, looking at it from a budget standpoint, and he knows Commissioners would be interested in trying to minimize the General Fund impact, that staff will have an opportunity, especially if it is done before October 1, to utilize available resources within Multiple Services Taxing Unit (MSTU) or Parks and Recreation they would be able to move forward; it may not be May or June 1, but there is a possibility if everyone works aggressively like they have been doing thanks to the support and assistance from the County Attorney's Office and Mr. Becker, they

March 20, 2018

can fast track it so they can get either September 1 or maybe August 1; and to do it in a way that financially they would be in a position there would be no negative impacts to the General Fund for those courses based on where it is today. He stated if the Board so chooses to ask staff to move forward in that regard, they will work diligently; and he has a high degree of confidence they will do something that meets each one of the Board Members expectations.

Commissioner Barfield stated he would like to move forward; he thinks October 1 is the date; and he does have a few questions that can be ironed out later for the County Attorney's Office. He went on to say talking about the board of directors and confirmation by the County, he gets a little nervous about that is the Board piercing the corporate veil or taking on the liability than what it should not be taking. He stated if the Board is looking to move forward today, to have the details hammered out, and bring it back to the Board, he is all for that.

Chair Pritchett stated she would like to find an earlier date to transition; she would like staff to figure out how to accelerate that; and if not, what the plan is to keep the golf courses how they should be and what the costs are going to be for a date to transfer over; the Board has gotten more the last few days than it has that actually made sense; and she expressed her appreciation to Mr. Becker for his hard work. She stated the liquid cash assets that exceeds \$350,000, there needs to be a time limit on that; someone could buy huge capital investments and never have an adequate cash flow; and she thinks there needs to be a time limit and a minimal annual goal of pre-payments to the County on that. She stated there should be some sort of default in case this all goes south that the Board is able to do Option 9, as laid out in the plan that the courses could be sold.

Commissioner Barfield stated there could be \$360,000 on December 31, yet they may have to pay \$400,000 in bills the next month, and that cannot really be called reserves there at the time; and those are details that can be ironed out.

Commissioner Isnardi asked if Mr. Becker is agreeable to a date prior to October 1; and does he think what board members he has now will be okay with it. She asked if he wants to be held to a date to come back before October 1.

Mr. Becker stated they would prefer the direction given to staff so they could come back to the Board with an agreement, because a letter of intent is one thing; if the direction can be to come back to the Board with an operating agreement that the Board could then vote up or down, then they would like to move forward with that aggressively; and if they take two weeks to come back with another letter of intent, then all they are doing is moving our further their ability to move forward.

Commissioner Tobia amended his motion to an operating agreement instead of a letter of intent; he stated he does not care when Golf Brevard takes over the course; he just does not want taxpayers to be liable for the deferred maintenance; if they are willing to say they do not plan to take operation until October 1, but they will take financial responsibility once October 1 happens to deal with the deferred maintenance; and his fear is on September 30 the pumps and roof go out, and County taxpayers would be in the hole. He stated he hopes staff, if the organization takes a while to set up, maybe they could transfer liability to the deferred maintenance whether it be paid back after or whatever the case is.

Chair Pritchett asked if as staff is working with Golf Brevard working these things out, they are listening to all of these items to help bring back to the Board some good information; and she would like staff to send all updates out to the Board as they come along, as well as Golf Brevard advising the Board of updates as well.

March 20, 2018

Commissioner Isnardi stated she wants the Board to be aware that this new steering committee is taking over two golf courses; they are only asking for \$250,000, which is a drop in the bucket compared to what the Board agreed with the Savannahs; and if the Board is expecting Golf Brevard to take on this liability and deferred maintenance, because maintenance was deferred on these two courses, in case they come back and ask for additional funding, especially if that liability is in play.

Chair Pritchett called for a vote on the motion. The Board directed staff to work with Golf Brevard in drafting an operating agreement, and on providing a good faith date, prior to the October 1, 2018, proposed date, for the County to get out of the golf liability business; directed staff to provide all updates to the Board; and to bring back the operating agreement to the Board for consideration at its next meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.A., BOARD CONSIDERATION, RE: LAW FIRMS RESPONDING TO REQUEST FOR QUALIFICATIONS (RFQ) OF REPRESENTATION IN OPIOID LITIGATION PROCEEDING (CONTINUED)

Scott Knox, County Attorney, stated he would like to go back and discuss something with the Board regarding the opioid matter. He reminded the Board Members there is the cone of silence provision in the purchasing policies that would preclude he or she from talking to the presenters today between now and the next time the Board hears from them.

ITEM VI.A., RATIFICATION, RE: FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) CONSENT ORDER

Frank Abbate, County Manager, stated he sent the Board an email toward the end of last week that addressed the Florida Department of Environmental Protection Consent Order; as he indicated in the email, there was a misstep in terms of the County's execution of that Consent Order by the Board; and staff is in the process of taking corrective action, that corrective action is being here today asking for ratification of that Consent Order, which was provided to each Board member and is attached as part of this Agenda today.

Commissioner Tobia stated he appreciates the County Manager being straight forward with the Board in taking responsibility for this mistake; he wants to be clear, this was a procedural error; a hardworking staff member simply skipped a step; this staff member worked tirelessly after Hurricane Irma to identify and do what he could to mitigate infrastructure issues with the resources given to him by the Board; and he is confident this was merely an honest mistake. He went on to say fingers could be pointed, and the Board could claim it was the Chair's fault for signing it; this also would be false; she has the trust in staff with fulfilling administrative duties; he would never want to be the Chair with all of the signatures that are required and the responsibility that goes with that; and he is asking this Board to never make him Chair. He stated while it is important that these agreements come before the Board, the projects in this agreement are the same ones the Board has already approved; the agreements call for additional oversight, which the Board welcomes; and negotiations were not contentious between FDEP and the County, it is merely a mutually beneficial arrangement. He explained he was at Sam's and he bought a case of water, he put it on the bottom rack, when he got to his car, he

March 20, 2018

forgot to pay for the case of bottled water; he rectified that by going back into Sam's and paying the \$3.38; it was an error on his part; but it was one that was easily rectifiable. He stated he will not make this mistake in the future because he will continually check; County staff has made the procedural changes to prevent this error from re-occurring. He expressed his appreciation to Representative Randy Fine for his oversight and advocacy in protecting Brevard County's environment; and he looks forward to the County working with the State and local partners to make improvements to the infrastructure and do whatever it can to prevent discharge into the Lagoon in the future. He advised he wants to make it clear that he thinks the County Manager is great; and for every misstep that may be published in the newspaper, there are 20 wonderful things that people do not read about.

The Board approved ratifying the execution of the Florida Department of Environmental Protection (FDEP) Consent Order dated February 27, 2018.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.F.1., RESOLUTION, RE: AMENDMENT OF RESOLUTION NO. 2007-170 (PERMIT FEE SCHEDULE) TO EXEMPT FEES FOR THE INSTALLATION OF SOLAR POWER GENERATION EQUIPMENT

Commissioner Tobia stated he is not very often thought of as the environmental Commissioner up here, but he appreciates clean energy; he has built solar on his houses; and he appreciates folks that go through the initial startup costs to provide a better environment. He stated he thinks Brevard County can step out of the way a little bit to encourage this by doing away with the permitting fee that is associated with PV Solar, hopefully encouraging more people to get off the grid and provide clean, sustainable energy to their homes and vehicles. He pointed out all this would do is do away with the permitting fee for both residential, as well as commercial; the impact this would have on the County is \$21,800; he found out through staff it could be handled in house; and it would not be an additional cost one way or the other.

Commissioner Smith stated he is very much in favor of this; he has solar panels on his own home; his electric bill last month was \$8.16 or \$8.71; and it is a great idea. He stated the \$21,800 fiscal impact to the County would make it in 10 years around a quarter of a million dollars; and he inquired if that could be used on the Lagoon.

Commissioner Tobia stated his understanding is this would come from an enterprise fund, and the answer would be no.

John Denninghoff, Assistant County Manager, advised these funds are collected and used within the department for building permits and the inspection thereof; while technically they are General Fund funds, they are generally managed similar to an enterprise fund, so the General Funds collected from property tax payers is not required to operate the Building Department.

Chair Pritchett stated she likes this idea; she would like to throw out a tweak on it and maybe do it for year one; and it will hopefully encourage people with solar panels. She noted her only concern is the work is being now for free and there will still be costs; she would not mind doing a trial period and waiving the fees for year one; and to then come back to the Board and discuss it and make an analysis what the impacts are. She stated the costs will have to come from

March 20, 2018

somewhere like from other types of permitting or inspections the County would have to do; and that would be her request to do a trial for year one.

Commissioner Barfield asked if there are still tax incentives and rebates being offered for solar or did it expire.

Commissioner Smith replied it has expired.

Commissioner Tobia pointed out there have been some tariffs on solar panels; solar panel prices have gone up just a little bit; however, the 30 percent tax credit has been extended through next year; and it looks like it will be sunset after that, but it is still available. He stated he received a number of dollars back on his taxes this year because of the tax credit.

Commissioner Isnardi stated she likes this, it is nice, clean energy, and it would make a person's head spin if they knew what she spent for electricity; she thinks it is positive and a good thing for the County; the cost is nominal when thinking of the grand scheme of things; and without taking shots at the fee structure within the County, a person only has to run a small business or get permits for land changes to know how much the County charges for a lot of this stuff, so for her, it is not a big loss to the departments. She stated she is in support of this.

Chair Pritchett stated as a safety for the Board, this could grow from \$21,800 this year to quite a substantial amount for the next year; it can always be voted through again next year after the Board takes a peak at it; and she thinks it would be a smart thing to do to put some kind of constraints on what the Board is approving, and that the Board does not have an open end, because it is paying for the inspections.

The Board adopted Resolution No. 18-039, amending Resolution No. 07-170, exempting fees for the installation of solar power generation equipment, and Resolution to sunset after one year.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.F.2., CITIZEN REQUEST BY RITCH WORKMAN, RE: BREVARD COUNTY PROPERTY ASSESSED CLEAN ENERGY PROGRAM

Ritch Workman stated the reason he got involved in this is he knew it existed; the State had the pleasure of voting for it in 2009 to make it legal in the State; and when he settled down and wanted to make his home more energy efficient, he wanted to get a Property Assessed Clean Energy (PACE) loan. He went on to say Commissioner Smith announced what his electric bill was last month; he just got his in the email today, and it was \$644 for his 3,000 square foot ranch house with a brand new roof on it, because he can hear the wind blowing and rustling leaves out his single-pane 1971 windows; he can hear leaks in his Air Conditioner (AC) unit that he has not replaced in 25 years; and he wants to reduce the energy costs in his home, and that was his way to do it. He stated he found out they were not approved, so he is meeting with the Board; he is here not as a paid lobbyist, but as a resident that will be the first customer once this is approved; and it will allow him to get himself closer to Commissioner Smith's bill, as well as to replace his windows. He noted it is a not a loan that allows for remodeling, because it is self-

March 20, 2018

assessment; it is for windows, energy star rating appliances, AC, and it does do solar; it does not only do solar; and all four companies that offer the PACE Program are here today.

Ricardo Rodriguez, Ygrene Energy Fund, stated PACE is Property Assessed Clean Energy; it is one tool amongst many; what it basically does, it is a funding solution regarding a special assessment; an interlocal agreement would be signed with all four PACE districts to provide a multi-provider PACE program in Brevard County; it is financing for energy efficient renewable energies and wind resistant improvements; and they usually say it retains energy, or hardens the structure for wind. He stated it is available for both residential and commercial property, so both residences and commercial property will be available to take on a PACE project; and it is not available for public property. He stated it is 100 percent voluntary; if Mr. Workman wants a PACE project but his neighbor does not want a PACE project, his neighbor will not be affected by Mr. Workman's PACE project in his home; it enables long-term savings for property owners, as well as develops local contractor base, because they do pull all of their contractors from the local county; and it is not like other people are brought in to do the work, it is all Brevard County contractors doing the work. He advised he is going to ask one of his colleagues from one of the other companies speak about the rest.

Joe Marcos, Florida PACE Funding Agency, stated to give the Board an idea of how big PACE is in the United States and how many projects they have developed, they have developed roughly around 160,000 projects; and more importantly, they created jobs. He went on to say there has been a about \$4 billion in financing, \$3.5 for residential; the cream of the crop is all of them as different PACE providers, they are in more than 50 percent in the State of Florida; and they are in the Cities of Satellite Beach, Indian Harbour Beach, and Cape Canaveral. He noted they want to provide PACE in the County as soon as possible.

Mike Antheil, Renovate America, stated they are a third party administrator; the one thing he wants to show on this slide is kind of how the districts work; the way PACE works, it is a taxing district, the way the homeowners are going to pay back that assessment as it shows up as an ad valorem line item on their property taxes; each one of them are third party administrators; and they administer the program for these quasi-governmental districts. He explained each one of these districts were formed by cities and counties; what they are doing is they are saying they want the County to opt into their district and become a member of the district or just let the district operate and do business in the County; and that is how they end up entering into that public/private partnership, which is ultimately the foundation of PACE. He noted they are competitors but they encourage competition. He stated there are 125 governments in the State of Florida, 12 million residents in the State that currently have access to PACE, one-half a million dollars in energy savings, and so far to the residents \$40 million in insurance savings. He added they are lowering the energy bills, insurance bills, and that is the concept or the idea; there are no out-of-pocket expenses; and that is what makes PACE different. He stated their jobs are to hold those contractors accountable, hold their feet to the fire, and to make sure they are getting the right projects for the right homeowners.

Kate Wesner, Ygrene Energy Fund, stated PACE is available for commercial and residential, anything that is privately-owned; the State Statute was designed to provide for the up front cost of financing for anything that is energy related or wind mitigation; and some of these are the finer points they want to ensure the Board knows about. She went on to add they will provide notice to a person's existing lender, which is required by law; the improvements have to be affixed to the building; they have to stay with the property; there are some requirements for property owners to qualify; and some of the minimum requirements are to be currently on property taxes for the last three years. She commented there can be no involuntarily liens on the properties, no notices of default, or any property-based delinquency is not permitted through this program; the minimum available to borrow is \$2,500; but there are maximums a person can borrow; and if there is no debt on the property, the maximum is 20 percent of the just value.

March 20, 2018

Mr. Workman stated the last thing he wanted to say is the Board knows him as a conservative, and he does not like it when anyone else has to pay off stuff through property taxes; that is why he likes this program; he is self-assessing himself; and it is not going to cost anyone else in the County any money because he chooses to raise his personal taxes. He stated if there was a cost to any other citizen in the County, he would be against this program.

Anita Unrath stated her house was one of those 120 houses that according to the report Commissioner Tobia put up, was part of that \$21,000 they paid the permit fee to have solar on their home; they have had solar since August; they decided last April they wanted it when there was this wonderful program that Lorraine Koss set up; and that is when they decided they needed to put solar on their home. She went on to say they have lived in their home going on 16 years; she loves the \$8.65 bill; her home is 2,300 square feet; they chose to put 27 panels on the house, which may have been more than they needed, but they decided to do it; and it is fabulous. She noted in August they got 44.9 kilowatt hours of power, until last Friday when they received 45 kilowatt hours of power; and she cannot wait to see what they get in June. She stated she thinks she is doing something for the environment; it is a wonderful thing; it is a good incentive because that 30 percent is ending in 2019 as was mentioned; and she hopes the Board will vote for this. She pointed out she thinks people need the ability to go through lenders that can help them; she believes in her neighborhood there are only two homes with solar power; the incentive is there right off the top of a person's taxes as well; and she hopes more citizens will take advantage of this. She stated she has asked a couple of times when this building would have solar power; and that is something the Board should look at for all of the government buildings in the County.

Lorraine Koss stated she is proud to be a volunteer leader in Cocoa's newly established Sustainability Advisory Committee; the resolution the Board just passed will be a model for them; and they will want to follow that. She went on by saying for Cocoa, they have a couple of sustainability models, but they have a lower average income; it makes it difficult for the adoptability; and that is why the County taking on PACE bringing up the numbers that would be included in increasing the competition in bringing the interest rates down would really help. She advised she organized the Florida Sun Co-op that was referred to last year; there were 250 people throughout the Space Coast that signed up for that, 75 contracts; and probably the reason they did not have a higher fulfillment rate was for the availability of funding. She stated PACE also covers roof issues where a roof needs to be replaced, wind mitigation, and energy efficiency, all cornerstones of sustainability.

Courtney Barker, City of Satellite Beach City Manager, stated the City of Satellite Beach adopted this program probably about two years ago; in their City they have not seen a real good participation in the program; when they asked people, they say they have a hard time finding contractors certified with the program; and they believe that is because most of the contractors have to go through some vetting with the program providers, and that is not worth it when the market shares Satellite Beach. She commented she hopes with the adoption of the program through the County that the contractors will be more apt to get certified and get a larger market share to do these PACE projects. She advised the Board she is a PACE person; it is hard to find a contractor that is PACE certified in this area; it did get her impact windows; she went through Hurricane Matthew without them and Hurricane Irma with them, and it was so nice to have them; and it provides a choice to people. She noted it provided her with a greater financial ending than if she would have gone through traditional financing. She stated it is just providing people an option with this program; if the Board adopts this resolution, from a Countywide perspective, it will see a lot greater participation in the County.

John Saathoff, Citizens' Climate Lobby and Rethinking Energy Brevard, stated many folks want to save money on electricity but do not have the cash to buy and install solar; it is also true not only individual homeowners but larger organizations, such as the condominium building he lives

March 20, 2018

in which sustained some damage from Hurricane Irma; and the entire roof on that building is going to have to be replaced. He explained PACE would make it a lot smarter of a decision to make. He stated PACE will remove the obstacle, it significantly improves the buyer's rate of return, and it makes it a smart investment. He advised maybe just as important, it is the environmental and health benefits of doing this; many people he talked with would rather breathe clean air instead of pulling their power from polluting fracked gas plants; and this is an opportunity to nudge that along as well.

Commissioner Isnardi expressed her appreciation to Kate Wesner who came to her office the year she was elected; she appreciates her following up again; she met with Mr. Workman a couple of months ago, who was really excited about this program; and she told him she would like to put it on the Agenda herself, but she thought Mr. Workman could talk more intelligently than she could. She noted she thinks it is giving people the power to assess themselves; obviously, a person has to have the equity in order to do it; and there are a lot of blue tarps still on people's roofs. She stated it would be great to be able to see these people not only fix what they have but maybe improve upon it further. She advised the Board she will be supporting the resolution.

Karen Wade stated this is such an important step in moving forward on a movement already being seen in the County; there are people stepping up and really wanting the cities and County to practice accountability practices; people want to assure that moving forward that themselves, children, and grandchildren will have the quality of life they have had the chance to have up to now; and they are already seeing that change. She went on to say the quality of life is changing, and if people do not do something at a higher level, it will continue to happen; cities are stepping up; and this is a very important step. She commented it brings high paying jobs to the area; it takes care of the environment. She provided some statistics to the Board regarding pollution standards. She stated the cost of solar is going down in price, and the cost of current energy methods are continually gone up; right now there are caucus groups at the federal level looking to put in carbon fees and dividends, which will happen; and as that happens, the cost of the current electricity is going up, which will affect people across the board. She noted opening programs like this and making it available to everybody is important, and it brings forward the social justice aspect.

Commissioner Smith advised Mr. Workman visited his office to speak about this program, and he was excited about it; one of the concerns expressed by others to him and others in government, is that they are concerned that the elderly may be tempted to put a new roof or windows on their homes and over-extend themselves and lose their homes; but he inquired if he saw on one of the slides that people cannot extend more than 20 percent of the value of their home.

Ms. Wesner replied affirmatively; she stated there are other protections in place for not just seniors but all property owners; when the project is going through the approval process after the homeowner has signed the paperwork, they also do a follow up call with that property owner to make sure he or she understands it is a tax assessment and all of the obligations associated with that, what the first payment would look like, the term he or she signed up for, and to make sure they did not sign the paperwork without reviewing it carefully; and they go through that verbally with the homeowner and the call is recorded. She added there are those consumer protections in place so property owners cannot over-leverage themselves.

The Board adopted Resolution No. 18-040, creating a Property Assessed Clean Energy (PACE) Program within Brevard County and to allow residential, commercial, and industrial property owners to voluntarily use PACE financing as a mechanism to fund qualified energy conservation and efficiency improvements, renewable energy improvements, and wind resistance improvements; approved a non-exclusive Party Membership Agreement with Florida Green

March 20, 2018

Finance Authority; approved a non-exclusive Interlocal Agreement with the Florida PACE Funding Agency; approved a non-exclusive Membership Agreement with the Green Corridor Property Assessment Clean Energy (PACE) District; and approved a non-exclusive Limited Purpose Party Membership Agreement with the Florida Resiliency and Energy District.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

*The Board recessed at 1:00 p.m. and reconvened at 1:05 p.m.

ITEM VI.F.3., BOARD DISCUSSION, RE: STATUS OF PROPERTY LOCATED AT SECTION 19, TOWNSHIP 30G, RANGE 38 EAST ON MOCKINGBIRD LANE

Commissioner Tobia stated this is a very complicated issue, and he thinks he will put the parameters on where this is; and he is seeking direction from the Board. He went on to say he does not want homeowners to go through a process and then the Board to put them down. He advised at the first meeting for Commissioners Pritchett, Isnardi, and he, this Item was voted down; it is owned by St. Johns River Water Management District; they offered it to the County; and the Board said no. He stated since it was his first meeting he probably was not paying as much attention as he would today. He went on to say St. Johns River Water Management District recently decided to take this piece of property and put it up for bid; in fact, where it is right now, for another 52 minutes; homeowners have used this piece of property for decades in the area as access to the river; he is in the County taking a piece of land, and that land being the responsibility of the County; and a solution was brought to his attention, which would be a homeowners association. He pointed out it is where the homeowners in the area would get together voluntarily, go through the legal procedure to regulate that piece of land, and it would be the responsibility of those homeowners; Brevard County would not be responsible for the maintenance and all of those things that go along with that; right now, the St. Johns River Water Management District has bids on it; and one private landowner may get this property for \$30,000. He advised he believes it is the fear of the other folks in that area that, that individual in one way or the other would limit access since it was his or her property; the homeowners association would conceivably limit that from happening; it is his understanding that if they were to hand it over to the County, the County would then convey that to the homeowners association; and since the County would be conveying it below market value, essentially for nothing, it would need four votes. He stated if there are two or three Commissioners that do not feel comfortable to do it, the folks go through the process, and there would not be the four votes to then convey that land to the homeowners association; that is the situation currently; if the Board does not have consensus with at least four Commissioners, the sale will go through; and that homeowner will have access to the land. He added if there are four votes, he is asking the Board to give the folks a month to put together the documents that would set forth an HOA. He pointed out he is looking at what the other Commissioners would like to do with this piece of land. He stated there are homeowners present, a representative of St. Johns River Water Management District, and County staff that have dealt with Mockingbird Lane; in fairness, this is something his predecessor dealt with, but when a person takes an office, the transition is not always smooth; and while there were files on this, he had not gotten around to looking at it before the first meeting.

March 20, 2018

Commissioner Isnardi asked if St. Johns River Water Management District be handing over the property to the County as a transaction, or would the County be purchasing it.

Commissioner Tobia replied his understanding, and there are a couple of folks from St. Johns River Water Management District here, is that they would be handing it over to the County; there is value in that land; and the Board would be providing it to the HOA. He pointed out any time the Board conveys land at a below market rate, there would need to be four Commissioners to vote in favor of.

Commissioner Isnardi stated there would be no reason for the County to take over that land if the intentions were not to hand it over to the HOA. She noted on the surface, unless there are new information brought to light, she does not have a problem with this at all as long as the HOA accepts the liability for the piece they are taking over; they are already using the land anyway; and it would be more of a transactional thing.

Commissioner Barfield stated he and Commissioner Smith have been on the Board the longest; this came before the Board before and it has a long history; and he thinks it would be nice to give an abbreviated version of that history.

John Denninghoff, Assistant County Manager, explained this piece of property had a dock that was constructed on it; originally it was thought that the property was owned by the County; and when it was determined the dock had not been properly permitted, the Army Corp of Engineers issued an enforcement notification letter. He went on to say the Board directed staff to get an after-the-fact permit; at that point, staff started doing more indebt research and determined the County did not own it, and it was owned by the St. Johns River Water Management District; at that point, it resolved the issues for the County as far as enforcement and the Department of Justice, which is nice for the County; but St. Johns River Water Management District proceeded to move the dock, and there was an effort at that time to give the property to the County. He pointed out that was initially turned down because of the enforcement action; although it was resolved finally in December 2016, the Board was presented with that option again, and it was turned down again; and as Commissioner Tobia said, that was the first regular business meeting after the installation of the new Commissioners. He stated this item came to the Board multiple times because of the contentious nature of the situation; while the dock had been there for decades, it had been used by the neighborhood for access and recreational activities; and there began to be contention about it, particularly as materials were stored there and there was a lot of late night activity taking place. He noted the neighbors adjacent to the dock began to become irritated to where they began to seek relief; and thinking it was County owned, they came to the County. He commented one of the things is it is at the end of an existing County right-of-way so it does have public access to this property, and it is between the County right-of-way and the river, so the County property does not have access to the river at this point; it is a pretty small piece of property; it would have challenges associated with it as far as being allowed for usages, such as building a dock, it would require a Conditional Use Permit (CUP) in the future; and if it was the County's, it would be concerned about liability issues as well. He added if the County were to take it, he thinks it would need to be done on some sort of timeline that is conditional so staff knew it would go to the homeowners association, otherwise the County would take it and would have it; and then the term 'white elephant' would come to mind.

Commissioner Smith asked if St. Johns River Water Management District retained ownership of the property, what they would do with it, sell it.

Ramesh Buch, Bureau Chief of Real Estates Services, St. Johns River Water Management District, replied the last lawful order he received from the governing board in May was to surplus and sell the property; and as of 2:00 p.m., if there is no decision made by this Board, they will open the bids and proceed with their process.

March 20, 2018

Commissioner Smith inquired if St. Johns sells the property the County is out of it and does not have to do anything, so these folks can buy it if they want or they can form a homeowners association; and if their bid is the highest they get it, that is the free-market system, and if someone else is a higher bid, they get it.

Mr. Buch advised that is correct.

Commissioner Smith stated he is not in favor of doing anything because he does not the County to be involved.

Chair Pritchett asked if it would be possible for this group of people as an entity to purchase the property as soon as it goes out for bid.

Mr. Buch responded they probably have 40 minutes at this point to get a bid in as 2:00 p.m. is the deadline.

Commissioner Smith inquired how long that bid process has been open.

Mr. Buch responded the first advertising was three weeks ago.

Commissioner Smith noted they have had this three weeks and a couple of years to think about what would be best; if they have not thought of it in the past three years, they have had three weeks when they could have made the decision to enter the bid; and he does not want the County getting in the middle of this. He pointed out St. Johns have done what is lawfully required, it is the free-market enterprise system; and he thinks things should just go forward.

Commissioner Barfield agreed with Commissioner Smith; and he stated this property will go back on the tax rolls, which it is not now.

Chair Pritchett asked if the Board does this and takes it for a time period, does the Board have to wait for them to form a homeowners association, does the County have the liability of it, and if they never form a HOA, the Board kind of keeps ownership of the property.

Scott Knox, County Attorney, replied it depends upon St. Johns; and his question to St. Johns would be if the Board goes forward will they pull this out of the bidding process.

Mr. Buch responded they were willing postponing opening the bids assuming this meeting ran longer; the bids are still sealed in his office; they need a signal from this Board to their board to do something different than the last lawful order he received from the governing board, which is open the bids at 2:00; if the Board chooses to do what it decided last December, then the bids will be opened as soon as the Item is done here; but if the motion would be to accept the property, then he will go back to his executive director and explain to him Brevard County wants to accept the property. He went on to say it would need to be a fairly strong signal because the one bid they have received is probably from the end of the road and they have a right under the process to protest any decision made, for example, to cancel all of the bids; they would need something other than a promise or some kind of intent; and there would have to be a firm motion saying the County wants to have the property.

Chair Pritchett stated she does not want the County to pick up this dock or to have to perform maintenance on it; he concern would be is if the County decided to take the property, the people do not form an HOA, the County ends up with the property, and then it has to maintain it.

Commissioner Tobia stated this is one of the issues with the sunshine; he did not want to put anyone in a tough position; there are two Board Members who are not in favor of this; and that

March 20, 2018

is all he is asking for. He stated procedurally at some point there would need to be four Board Members to have the ability to transfer it over; assuming all three other Commissioners were a yes vote, it would not be enough to convey the property; and at this point he thinks it is a moot point. He expressed his appreciation to St. Johns River Water Management District and staff.

Commissioner Isnardi stated there may be something someone could say that may change the mind of one of the other two Commissioners.

Bob Audette stated he is here today to respectfully request that the Board vote to allow St. Johns bid process to continue; he thinks all of the Commissioners received emails from the people who live on the other side of Mockingbird Lane, also supporting the St. Johns sale; in their email, there are important facts to support the sale; and also it explained in detail how St. Johns has followed a fair process during the past year. He went on to say to the new issue of public access, he has a possible solution; he talked with his wife and their neighbors the Beladi's, and they all agree they would not object to St. Johns stopping the bid process; and he just found out his bid is going to be the winning bid if no one comes in, in the next few minutes. He stated if, and only if, they can be assured by the County that no one person, organization will ever be permitted to make any changes from what is existing right now or building any structures on the parcel or the right-of-way, including any type of dock, will they agree to it; currently only property owners adjacent to any right-of-way can apply for any type of permit such as driveways or fence openings into right-of-ways; only adjacent property owners can elect to maintain or not maintain the grounds; and if the adjacent property owners select not to maintain the grounds, only the County has the right to maintain. He stated they would be willing to agree now to simply live by basic County Park rules which are what have been applied for the last year and one-half; since the barriers were installed by St. Johns on the parcel, it has been quiet and peaceful; residents currently have access to the water; and kayaks and canoes are using the parcel. He noted they know installing a dock will bring all of the same problems they had in the past; the donation of the parcel by St. Johns to the County would be agreeable to them as long as it agrees to treat the property as a right-of-way; the neighbors can then continue to use the property like they do now, which they do not have a problem with; if this proposal is rejected, and it is possible it will get rejected because there were very harsh things said in an anonymous flier, they respectfully request the Board allow St. Johns bid process to continue; this process includes at least one more opportunity for public input at St. Johns, which in their opinion is a more appropriate time and place for this discussion; and there are many more factors that need to be included before making any decisions regarding this sale process, including a mandate by the Governor regarding surplus properties and St. Johns funding needs.

Mark Loyalano stated he is familiar with the property, he uses the property as a bicycler as a stop on a fitness run, and he has launched a canoe out there two times; it does have river access; others here have more important things to say; and he wants to call to the Board's attention that a decision will be made on the last remaining parcel of public access land to the St. Sebastian River in Brevard County.

Michael Schoeller stated the property was originally deeded to the County by the original platter of the development, Aaron's Wild Acres; it was given to the County for the perpetual use and enjoyment of the public in 1956; and it belonged to the County until 1967 when it was taken by St. Johns. He went on to say when he bought the property he was told by the realtor and everyone on the street that the County owned the property; the County does mow the piece of property just shy of this property; and this piece of property had been maintained by the neighborhood for 63 or 64 years at no cost to the County. He pointed out they have been here five times; five times the Board had voted to keep it available to public access prior to finding out the property belonged to St. Johns; St. Johns held a public meeting with them; and they assured them in writing they had planned on keeping the property available as public access, as the only public access to the Sebastian River, to Brevard County. He advised the Board there are 12

March 20, 2018

people who live on the street who are willing to form a homeowners association; they have contacted a lawyer and come up with the money to cover the cost of incorporating as an LLC to receive this property should the Board vote to turn it over that way; they would all prefer the County take the property from St. Johns; and they would like to keep it open and they will maintain the property. He noted they will form an HOA for the maintenance of the property; they will pay the taxes and insure the property for liability; and everyone on the street uses this property. He stated they did not put together a bid as a homeowners association because the last they were told by St. Johns is the property would be held in trust for the public by them; they posted a sign that it was public recreational property; and there is a list of things to use the property for. He commented they were all blindsided three weeks ago; he works as a Merchant Mariner off shore; he only had two weeks to come up with \$35,000 or \$40,000 or however much it would take to bid on this; and he expressed his appreciation to the Board for whatever consideration it can give to this issue.

Chair Pritchett stated since Mr. Audette said he does not mind it staying the same type of use, have they thought about forming the HOA, and buying it off Mr. Audette and setting up a legal thing between the two entities; it may be the save here; he will have the property and he wants to continue public access; and maybe the HOA can set up the contract with him and purchase it from him as a group.

Mr. Schoeller stated other than himself, everyone on the street is a fixed income retiree; they can talk to Mr. Audette about that.

Mr. Audette stated he thinks his proposal may be easier than that to simply have the County take the property back.

Chair Pritchett stated she thinks the County would be taking a risk there for the time period of setting up an HOA.

Mr. Audette inquired to be clear if the County takes that property, would it take it in a deed form.

Chair Pritchett replied she does not know; and she inquired if St. Johns will be willing to hold the property for the HOA to come along and purchase.

Mr. Buch replied they are holding it until the Board reaches a decision; it may go past 2:00; that is fine with them; as to how long they would wait, his last lawful order was to open the bids; and if it made a decision that required his governing board to go back on their last order, which was to sell it, their next meeting is actually here on April 10. He stressed to the Board he would have to get a strong signal from it if it wants it.

Chair Pritchett stated she is probably not willing to receive it as a County but she thinks there will be availability to work it out with the neighbors if Mr. Audette owns it to be able to make it back to public access, because he said he is willing to do that; and if the County can help alleviate that pain with some sort of creativity of how to help them along with that, it may be a good solution.

Attorney Knox explained once it is in private hands, there is not much the County can do.

Anne Briggs, representing the Micco Homeowners Association, stated they strongly support the residents in the vicinity in their need to keep the public access to this small piece of land; the fact it was donated over 60 years ago as a public access property and is the only public access to the Sebastian River in Brevard County, to her makes it clear that it should remain public access; the citizens were assured of continued public access to this property in 2015; and now,

March 20, 2018

it is suddenly up for sale. She asked the Board to please try to ensure it remains in the public access.

Ted Beck stated since St. Johns made access to the public, he, his wife, and his dog kayak from the launch area and follow the Sebastian River to the Buffer Preserve enjoying the dolphins and manatee sightings; and he fears if it goes to private hands, some day it will come down to the right-of-way and see a big fence at the end, and no one has access to that land any longer. He asked the Board to take control over this piece of property so they can have what they always have had, access to the river.

Alfred Perez stated a lot of information that has been brought forward is not quite accurate; Commissioner Smith mentioned they had time to buy it; the thing about it was St. Johns told them it would always be available and never be sold; and that is why they never formed a homeowners association. He went on to add he contacted St. Johns numerous times and they said to go to the County; they have an HOA ready to go; and they have already engaged an attorney to do such. He suggested that the Board consider tabling this, let the neighborhood form an HOA, come back to the Board, and then in turn the St. Johns can give it to the County to give to the HOA; the item he provided to the Board was a 1955 property being dedicated to the County by Harry and Ruth Arens for the sole purpose of perpetual use to the public; and if they do not walk away today with that, they have disrespected their dedication and donation.

Ed Arens stated when his uncle and aunt came down here for the winters, they bought the 20 acres, they went to an attorney, and the next day his uncle had the property. He went on to say his uncle was approached by someone when they wanted to build the C-54 Canal; they put a gravel road through the center of it so they could get through to the river; they hired him as a night watchman; and he thinks it was them who built that dock. He stated his uncle divided the property up into parcels he thinks one-half acre; he offered pieces of that property for \$2,000; he offered one to him; and he passed on the deal and he is sorry he did. He stated when his uncle died, the property passed to his grandson; he was in a car accident; the property passed to his wife; and his wife put the property up for sale.

Robin Carroll stated she lives around the corner from Mockingbird Lane; her first trip down Mockingbird Lane was in 1994; it is a wonderful street with river access around the corner; and she has now been using it for 20 years. She went on to say the sunsets from down there are spectacular; she has been using that land for over 20 years; she has recently retired as a school teacher; she wants to get a kayak or canoe; and she can put it on wheels, bring it down the street, and finally use that little piece of river the way she has always wanted to, but because of work restrictions, she could not. She stated friends of hers bought a lot, and will be breaking ground any day; and they purchased that land because of the river access, no one knew it was going to be sold. She pointed out it will bring those people's property value down. She asked the Board to let the people take this little piece of land; it will cost the County nothing.

Diane Grant stated the history of her husband's family goes back to the 1950s when Mr. Arens started that development, his father was a friend from Connecticut, and was invited to come down and buy a little piece of paradise. She stated the people who bought on the street bought with the understanding this was a road right-of-way that went down to the river, and that was her husband's recollection as well, that it was dedicated to Brevard County to remain that way forever; the piece of land that is for sale was not for sale at any one time, it was part of the street that ends into where the water of the north prong is of the Sebastian River; and everyone is sickened and disappointed that the County is not willing to take back the property. She stated St. Johns took it away in order to use it to make the C-54 Canal; they feel there is an injustice being done here that the County does not even want to consider to have it back; there was no problem with it before, people lived in harmony; and everyone loved to go to the river to fish and watch the sunsets. She asked the Board to put this back the way it was; if there is to be a HOA

March 20, 2018

formed and the County wants to so it that way, that would be something everyone has agreed to work on; but personally she cannot understand why it cannot be taken back the same way because that land adjoins Brevard County land. She noted there have never been any issues there. She stated to have a neighbor buy it and try to sell it back to the residents or control whether or not they can go there, is not the best solution, but it does take it out of the County's hands.

Linda Brannan stated for those people who have never been there, Mockingbird Lane is one little dead end road; there are only about 13 houses on it; part of the road is paved; and the last 200 to 300 feet is a dirt path that goes to the river. She added this piece being discussed is 50-foot wide by 20-foot deep; there is no dock on it, St. Johns removed it years ago; it is a vacant piece of dirt; but the residents use it, it has been there for over 60 years. She pointed out the County gave the property to St. Johns; in 1967 there was a Board meeting and it allowed the State to take the property, well actually it deeded it to the State; the Policy put into place in 2012 says, "The Board of County Commissioners acknowledges the importance of maintaining public access to waterfront property, and therefore will not consider vacating public access to waterfront property unless such action is clearly in the best interest of Brevard County;" and she stated St. Johns have never maintained this property, the residents maintain it. She noted the County thought it owned it, and until the survey was done of the land, no one even knew St. Johns owned the property; when there was a problem in 2015, the residents gave them a letter requesting they form a HOA for the sole purpose of achieving maintenance and perpetual preservation of the access land; everyone signed it; the same people are signing petitions today to keep it open; and they received a letter back that said they were committed to keeping the property open for public use and enjoyment, so they did not form the HOA. She stated the reason they did not bid on the property is because the opening bid is \$30,000 plus \$5,000 in closing costs and this is for a 20-foot strip of land, half of which is submerged when it rains real hard. She commented half of the people on Mockingbird Lane are senior citizens and do not have that kind of money to bid on a property; she is happy Mr. Audette lives on the riverfront and he can afford to buy it; but she does not think it is fair that St. Johns would sell it to him and deny all of the residents the right to use the property. She noted St. Johns cannot legally give the property to the residents as the State does not allow them to do that; when she talked to St. Johns they said they could give it back to the County and it can give it to a HOA but they cannot do that; they have tried everything over the years; there is not a problem with this access; it would not cost the County a dime if it took the property back; and it is hooked to a 200-foot piece of dirt the County already owns and is called a right-of-way. She read from the State's Public Trust Doctrine and Florida Navigable Lakes and Rivers as follows, "One of the greatest gifts received by modern day Floridians has been the bountiful rivers and lakes which make this State unique. These rivers and lakes have been enjoyed by generations of Floridians and visitors alike in large measure because of public trust doctrine have preserved these resources for public use. Recently, however, the public ownership of Florida's navigable rivers and lakes have come under attack by those who would prefer those converted to private use for the benefit of the few. These attacks, however, fly in the face of a century of Florida Supreme Court decisions which have clearly established the public's right of ownership. Among the facts supporting the conclusion that navigable lakes and rivers remain public are the following: the public constitution mandates that navigable water shall be held in trust for the people of Florida." She asked the Board to look at the situation the way it is; they cannot afford to buy it back from Mr. Audette, the people do not have that kind of money; and they are willing to pay to form the HOA; but they have talked to a lawyer.

Commissioner Isnardi stated if St. Johns would have been willing to hand over this little access piece of land to the HOA if they could have, if they would have been legally permissible to, it looks like they would have; the County is more of the conduit between the two; and she inquired if the Board thinks this will affect these people's property if they lose beach access. She stated if the HOA owns the property, they will pay taxes on it; it is easy to forget about these small

March 20, 2018

neighborhoods; but these are people who have had that access forever. She stated she does not think the gentleman who put a bid on the property is a bad guy; he may have every intention of keeping it public access; but there is no assurances of that; and all of these residents have enjoyed this for decades, and she does not think it is fair to devalue their property because St. Johns decided to dispose of the property. She stated maybe an option would be if the HOA does not form and take expeditious transfer of this property that the County sells it, because St. Johns would hand it over to the County; and if it does not want to get stuck with the property maybe that is the solution.

Attorney Knox advised that is always an option.

Commissioner Isnardi stated the Board needs to look at the whole picture; these are people who bought and have lived out here for years; these people are not in her District; but the Board has the responsibility to the entire County no matter which District it is.

Jillian Schoeller stated she is not here today as an individual, but she is here as a community asking the Board to intervene with St. Johns River Water Management District and stop the sale of the small, beloved riverfront property at the end of Mockingbird Lane that adjoins the County property; they hope the Board has read the emails and listened to their calls asking for its help in keeping this quintessential Florida property in a cherished part of the community for the past 60 years open to the public; her family and her children have spent nearly every day walking down there to see the river; and there are all manner of birds, fish, and beautiful tropical vegetation. She went on to add on all of the time she has lived on the street, she has not seen any illegal activities or any problems with the neighbors; and to her knowledge, there have been no complaints called into the Sheriff. She stated what they see are neighbors getting out, seeing the sights, getting some sun, and enjoying the sights, smells, and sounds of the river; what she provided to the Board is some aerial and ground photos of the property so the Board knows what the residents are talking about today; they are at the end of Brevard County; the first page is an aerial view of the community, Canal 54, and Sebastian River; and to the north is Micco, to the South is Indian River County, to the west is the large Sebastian Preserve, and to the east is the Indian River Lagoon. She noted on pages 2, 3, and 4 are aerial and ground shots of the property through time since they moved there; on page 2 is how the property looked then and the 50 years previous; it was a wide open view of the river, with the property, the adjoining County property, and the dock maintained a collective of neighbors; on page 3 is a better view of the dock; and the Audette's at this time had built and moved in, and they built a fence on their eastern property boundary that they heavily planted so they do not have any view of the property. She added on page 4 are the current conditions; St. Johns have known they own the property; they constructed a short series of wooden poles along the boundary between the 20-foot parcel and the rest of the unpaved portion of Mockingbird Lane; and they sort of kind of let maintenance go, and the weeds and invasive species are starting to grow in and make it harder to access. She stated they are here today to ask the Board to help keep this open to the public as it has been for the previous three generations and hopefully for future generations; money may talk but it cannot drown out the voice of this community; and she expressed her appreciation to the Board for its time.

Commissioner Smith stated he is looking at the picture and he sees the blue arrow on page 1 pointing to Mockingbird Lane; just to the east towards the Indian River Lagoon several hundred feet away it looks like there is another road that mimics Mockingbird Lane; further to the east there are three similar roads; and he asked if they are all about the same, they just end down to the river.

Ms. Schoeller replied she does not know much about them, but she thinks they are all deeded on the street so it is not public access.

March 20, 2018

Commissioner Smith stated it looks to him to be the same.

Commissioner Tobia asked how many bids were placed on that piece of property.

Mr. Buch advised that his staff confirmed that as of 2:00 p.m. there was just one bid.

Commissioner Tobia congratulated Mr. Audette; he stated it sounds like he is in the driver's seat; however, for all of the people who showed up today, he thinks there is a resolution that can solve all of this; and he thinks Mr. Audette has gone out of his way speaking at the beginning of the meeting to help solve that. He asked if Mr. Audette will have the ability to pull back that bid, and then there will be no bidders; the County could at that point take back the land.

Mr. Audette advised the Board that he thinks as the rules of the bid, if he declines to go through, he loses his 10 percent.

Commissioner Tobia stated he would expect Mr. Audette not to come out a penny short; that would be a condition; at that point, the County could directly transfer it to the HOA under the conditions that Mr. Audette was going to place on it, the no dock, access, and all that good nonsense; and people have to understand Mr. Audette is in the driver seat, as he just won a bid. He pointed out there are not four Commissioner votes to make it; the very person who has been demonized out here has the ability to very altruistically resend that and provide access; and it is his understanding he does not have to do that anymore.

Mr. Audette stated the bid is more than \$30,000; he does not think this bid process was a surprise to anyone in the room; and he thinks there was more to it than what everyone is claiming. He stated regardless, he does not really want to be here again, and he thinks they are close. He noted Ms. Grant and Ms. Brannon both kind of seemed to have the same basis at the end of their discussion that all everyone wants is the same thing that is basically there now, and hopefully there is a willingness of everyone in this room to say that there will never be a dock, he will continue to mow and maintain it the way he wants, and using the right-of-way rules; and how they get there he would trust the County to work out. He stated he thought it was simple as just letting it go to the County, rolling the right-of-way over it, and then going there, but apparently that is not it. He stated the problem is with the HOA, they have not been approached with that yet, and that is his hang up; and an HOA, everyone has an equal say, and they are actually giving up what they have now.

Commissioner Tobia asked if the residents would be willing to add Mr. Audette to the HOA.

Chair Pritchett asked if Mr. Audette could sell the property to the HOA with a contract stating how the use would be used.

Commissioner Tobia asked with a deed restriction; but then again it comes back to the exact same issue, these folks have said they are on limited incomes and they do not have the ability to do; and is a way to circumvent that, keep Mr. Audette whole, keep access there, and the only person who gets the short end of the stick is St. Johns does not receive their \$30,000.

Chair Pritchett inquired if the County takes it, how long is it in the County's possession before it is transferred over.

Attorney Knox replied the idea here, and St. Johns has to cooperate with the County, is when the homeowners association gets formally filed and it is all ready to go, St. Johns can then transfer the property to the County; it the very same transaction there will be two deeds, one for

March 20, 2018

the County and one for them; both deeds are signed and recorded in that order; and then it is done.

Chair Pritchett inquired if St. Johns has the ability to do that.

Mr. Buch responded he thinks they would need an assurance, a motion from the Board, saying it wants to do that; he would go back to the executive director and legal counsel advising them of the motion of the County; and he would ask if the bids would be returned. He stated he has been told repeatedly to get a strong signal from the Board that it is willing to take the property.

Chair Pritchett stated she would be willing if it immediately transfers over to the HOA and the County has no liability or cost whatsoever.

Attorney Knox advised that can be done.

Chair Pritchett asked if the Board can make a motion to have that happen as long as there would be a transfer over, and if St. Johns were not able to honor that transaction with being able to move Mr. Audette's bid.

Attorney Knox stated the Board can say to go forward with the transaction which would involve the creation of an HOA that includes all of the owners on the street, including Mr. Audette; and when that takes place the deed from St. Johns would be delivered from the County, and at the simultaneous transaction the deed can be signed over to the HOA, and they get recorded in that manner.

Chair Pritchett stated Mr. Audette would be one of the owners of the property; and the homeowners would have to come up with a way to make Mr. Audette whole in this process.

Mr. Buch clarified by saying the clear direction he received from his bosses was the County is taking the property cannot be contingent on doing something else with it, the County has to take it; and then it cannot come back to St. Johns.

Commissioner Smith stated Mr. Audette is in the driver's seat, and maybe he would like a few days of ownership before he makes a decision; he has already committed to buying it; and he has put a lot of thought and money into, and he should have the ultimate decision of what he wants to do.

Mr. Audette stated this HOA is just too much for him to absorb, he has not considered it, and no one ever asked him about it. He stated another solution is if the Board lets the bid go through, there will be another meeting at St. Johns; at that point, maybe everything can be worked out; he thinks they are close and have aired out the differences; and this will be worked out.

Commissioner Smith stated it is in their hands, not the County's, and that is the way to go.

Mr. Audette stated he thinks there is an option; St. Johns does not have to accept his bid if he says he does not want to submit it; and he thinks there is an avenue to get out of here today.

Mr. Buch advised he spent the last 30 minutes on the telephone trying to get that answer; and the direction he has been given is Mr. Audette will lose his deposit.

Commissioner Tobia asked if the deposit is 10 percent.

Mr. Buch replied affirmatively.

March 20, 2018

Commissioner Barfield stated if the homeowners can work it out with Mr. Audette, a long-term lease could be done to buy the property back as a homeowners association or it could be leased at a reasonable price; and he reiterated he does not want the County taking on the property.

Commissioner Tobia stated he thinks the majority of the Board does not feel comfortable with having an arrangement that would facilitate that immediate transfer; he appreciates the time and hard work from everyone on staff that went through this; and he greatly appreciates St. Johns for being so flexible with the County. He stated he hopes St. Johns will go forward with their lawful order, open the bid, and if something can be worked on past that, it would be great.

Attorney Knox stated the Board may want to make a motion not to take any action, so St. Johns will have clear direction.

The Board acknowledged request regarding the status of property located on Mockingbird Lane in Section 19, Township 30G South, Range 38 East, but took no formal action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VIII.B., SCOTT KNOX, COUNTY ATTORNEY

Scott Knox, County Attorney, reiterated what a pleasure it has been working with everyone; and he advised he will be here for three more days.

ITEM VIII.C., JIM BARFIELD, DISTRICT 2 COMMISSIONER

Commissioner Barfield expressed his appreciation to Scott Knox, County Attorney; he has been good to bring him along on a lot of things, especially District 2; and he further expressed his appreciation to the County Attorney's Office for helping with the Savannahs Golf Course.

Attorney Knox pointed out he would give a lot of the credit to Matt Soss, Assistant County Attorney, as he had a lot of those ideas.

ITEM VIII.D., JOHN TOBIA, DISTRICT 3 COMMISSIONER

Commissioner Tobia expressed his appreciation to Scott Knox, County Attorney, for all of his years of service; and most importantly being a loyal Gator. He thanked Commissioner Isnardi for suggesting the possibility of using greater than expected Lagoon Tax revenue on infrastructure; the past week alone there have been five reports in the *Florida TODAY* regarding the pollution in the Indian River Lagoon related to infrastructure; he does not know if it is changing their mandate or setting different parameters, but he believes the Board should follow Commissioner Isnardi's example and take a close look at directing funding sources, such as the Lagoon Tax, to be used to improve infrastructure which are a direct impact on the Lagoon; and he will be looking for that as that delta grows from what was expected and what was received.

March 20, 2018

ITEM VIII.E., CURT SMITH, DISTRICT 4 COMMISSIONER

Commissioner Smith stated he wants to recognize Scott Knox, County Attorney; he has been a great help to him whenever he has approached him about things outside of the box; he was very creative; and they usually got to where he thought he needed to go.

ITEM VIII.F., KRISTINE ISNARDI, DISTRICT 5 COMMISSIONER/VICE CHAIR

Commissioner Isnardi expressed her appreciation to Scott Knox, County Attorney, for always answering his telephone, calling her back, and answering their emails; and she appreciates the help given to District 5 and this Board. She went on to say she asked the County Manager to get with Utilities to see what can be done, what the needs are to avoid a sewage spill into the Lagoon, and she is hoping this Board will be open to this possibility; if the Board remembers at the budget meeting, it was talked about going out to the community because the County had more than anticipated funding; there are already excellent projects in place, dredging is being done, and clam beds are being done; but she inquired what if the things that happened with Hurricane Irma happens numerous times. She pointed out the sewage issue must be discussed now; it is something to be looked at; those monies will not be moved from something already in the County's plan into something else; and the decision ultimately lies with the Board regarding those funds.

ITEM VIII.G., RITA PRITCHETT, DISTRICT 1 COMMISSIONER/CHAIR

Chair Pritchett stated the Board Members are going to miss Scott Knox, County Attorney; he is always very calm, creative, and he is even nice when she disagrees with him; and she appreciates the wisdom he has brought through the years.

Upon consensus of the Board, the meeting was adjourned at 2:26 p.m.

ATTEST:

SCOTT ELLIS, CLERK

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA