

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 January 24, 2017 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	Vice Chairwoman/Commissioner District 1	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Chairman/Commissioner District 4	Present	
Kristine Isnardi	Commissioner District 5	Present	

**INVOCATION**

The invocation was provided by Chairman Smith, District 4 Commissioner.

**PLEDGE OF ALLEGIANCE**

Commissioner Isnardi led the assembly in the Pledge of Allegiance.

**APPROVAL OF MINUTES**

The Board approved the November 15, December 6, and December 20, 2016, Regular Meeting Minutes.

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

**ITEM I.A., RESOLUTION, RE: RECOGNIZING THE BREVARD COUNTY SCHOOL CROSSING GUARDS**

Commissioner Barfield read aloud, and the Board adopted Resolution No. 17-004, recognizing the Brevard County School Crossing Guards.

A representative of the Brevard County Crossing Guards expressed her appreciation of the Resolution.

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

**ITEM I.B., RESOLUTION, RE: RECOGNIZING BREVARD COUNTY LIBRARIAN, DIANNE LEARY ON HER RETIREMENT**

The Board reached consensus to table resolution recognizing Brevard County Librarian, Dianne Leary on her retirement, to the February 21, 2017, Regular Meeting.

**ITEM II.A.1., AGREEMENT NO. LP0511A WITH FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP), RE: CONSTRUCT 20 DITCH DENITRIFICATION BIOREACTORS THROUGHOUT BREVARD**

The Board executed FDEP Agreement No. LP0511A to construct 20 ditch denitrification bioreactors throughout Brevard; approved the legal venue as Leon County; authorized the County Manager, or his designee, to execute future contract amendments subject to the approval of the County Attorney's Office and Risk Management; and approved associated budget change requests.

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

**ITEM II.A.2., APPROVAL, RE: TRANSPORTATION IMPACT FEE TECHNICAL ADVISORY COMMITTEE PROJECT FUNDING RECOMMENDATIONS**

The Board approved the Project funding recommendations as prepared by the Technical Advisory Committee for the Merritt Island/North Beaches Benefit District on December 6, 2016; and authorized the Budget Office to execute any budget changes required to implement Project appropriations.

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

**ITEM II.A.3., PROPORTIONATE FAIR SHARE MITIGATION AGREEMENT WITH CITY OF WEST MELBOURNE AND DHIC - MINTON COVE, LLC, RE: TRANSPORTATION IMPROVEMENTS**

The Board approved the Proportionate Fair Share Mitigation Agreement with the City of West Melbourne and DHIC - Minton Cove, LLC; and authorized the Budget Office to execute any budget changes necessary to implement the proportionate share payment.

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

**ITEM II.A.4., PERMISSION TO PURCHASE OFF STATE CONTRACT, RE: STAFF AUGMENTATION FOR ACCELA SOFTWARE SUPPORT**

The Board granted the Planning and Development Director the permission to utilize the State of Florida Information Technology (IT) Consulting Services Contract, #973-561-10-1, effective through February 28, 2017, as superseded by State Term Contract (STC) 80101507-SA-15-1 which becomes effective March 1, 2017, through February 28, 2019, for Staff Augmentation and consulting services to support and enhance Brevard County's Accela Application: Building, Development, Enforcement, and Licensing modules; authorized the Chairman to execute the agreement, pending County Attorney and Risk Management review; and authorized any associated budgetary changes.

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

**ITEM II.B.1., APPROVAL, RE: FEDERAL TRANSIT ADMINISTRATION FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES**

The Board executed and approved the Fiscal Year 2017 Certifications and Assurances for FTA grants; and authorized the Transit Service Director to execute the Certifications and Assurances electronically.

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

**ITEM II.C.1., REQUEST, RE: WRITE-OFF UNCOLLECTIBLE AMBULANCE ACCOUNT RECEIVABLE FY 16**

The Board approved request to write-off Fiscal Year 2015-2016 uncollectible EMS accounts receivable.

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

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**ITEM II.D.1., APPROVAL, RE: BUDGET CHANGE REQUESTS**

The Board approved Budget Change Requests as submitted.

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

**ITEM II.D.2., RESOLUTION, RE: ESTABLISHING THE SAVE OUR INDIAN RIVER LAGOON TRUST FUND**

The Board adopted Resolution No. 17-005, establishing the Save Our Indian River Lagoon Trust Fund.

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

**ITEM II.D.3., ACKNOWLEDGEMENT, RE: PARRISH MEDICAL CENTERS CONFIDENTIAL MEETINGS FOR 2016**

The Board acknowledged receipt of Parrish Medical Center confidential meetings for 2016.

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

**ITEM II.D.4., APPROVAL, RE: ANNUAL INVESTMENT PERFORMANCE REPORT, YEAR ENDED SEPTEMBER 30, 2015**

The Board accepted the Annual Investment Performance Report for the year-ended September 30, 2016.

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

**ITEM II.D.5., RESOLUTION AND INTERLOCAL AGREEMENTS WITH FLORIDA EDUCATION INVESTMENT FUND TRUST AND FLORIDA INCOME TRUST, RE: INVESTING OF PUBLIC FUNDS**

The Board adopted Resolution No. 17-006, Florida Fixed Income Trust (Florida FIT); and approved Interlocal Agreement with the Florida Education Investment Fund Trust and Florida FIT for investing of public funds.

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

**ITEM II.D.6., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS**

The Board appointed/reappointed **Woody Rice** to the TPO Citizens Advisory Board, with term expiring December 31, 2017; **Barbara Borman** to the Emergency Medical Services Review Committee, with term expiring December 31, 2017; **Chris Navarro** to the Marine Advisory Council, with term expiring December 31, 2017; **Trudie Infantini** to the Economic Development Commission, with term expiring December 31, 2017; **Luke Miorelli** to the Contractors Licensing Board, with term expiring December 31, 2017; **Carol Drake Wheatley** to the Marine Advisory Council, with term expiring December 31, 2017; and **Joshua "Shane" Norcross** to Planning and Zoning Board as an alternate, with term expiring December 31, 2017.

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

**ITEMS PULLED**

**ITEM II.A.5., CONTRACT FOR SALE AND PURCHASE WITH WILLIAM LOWELL WILSON, RE: ACQUISITION OF A PORTION OF PROPERTY (PARCEL 104) LOCATED AT 7655 BABCOCK STREET SE, PALM BAY , AS PART OF THE BABCOCK STREET, WYOMING DRIVE AND VALKARIA ROAD INTERSECTION IMPROVEMENT PROJECT**

Chairman Curt Smith stated the reason he pulled Items II.A.5. and II.A.6., is to get comments from Commissioner Tobia.

Commissioner Tobia stated he has no problem with this being an accumulative Board decision; and this deals with a safety procedure lining up an intersection in District 3; he does have a concern with the future widening project of Hollywood Boulevard with no date to commence; it has a fiscal impact of more than \$120,000; his understanding is Brevard County has many failing roads and to spend more than \$120,000 on purchasing someone's land may not be fiscally prudent; and better use of the money may be to pave or fix roads that are in current disrepair instead of looking years down the road. He continued he is open to the pleasure of the Board and how it chooses to move forward.

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Commissioner Isnardi asked for a status from the County Manager or Public Works Director. She stated it is obvious Hollywood Boulevard needs to be widened; and maybe a status would put some minds at ease.

John Denninghoff, Public Works Director, stated Hollywood Boulevard has long been recognized as a road that needs to be widened to accommodate traffic; it is one of the principle corridors which serves the commuters traversing from the City of Palm Bay to Melbourne and parts of West Melbourne; it is not the only corridor, but is heavily traveled; and when widened it is going to provide relief to the other corridors such as Dairy Road, Minton Road, and I-95. He continued the County has a preliminary engineering plan that gets the design of the road up to fairly a 30 percent level and by doing so they are able to identify locations for the future widening of the roadway; and by doing that they are able to acquire right-of-way whenever an opportune time comes up and a willing seller as opposed to having to use a compulsory means to acquire the right-of-way. He added as they get closer to the time they would acquire right-of-way or start construction they would have to revert to eminent domain and the cost associated with that is substantially higher than what it is today; the cost with acquisition is substantially higher because of the way the statutory construct is with eminent domain; there is no denying there are a lot of roads in need of resurfacing, he has been saying that for years; however, there are also capacity issues. He went on to say they have two transportation issues to deal with as well; to him, while they do not have the money to complete the right-of-way acquisition currently or even to complete the designs much less construction, it has been his experience that as they get closer to having projects ready to build, when grant funds become available they are able to take advantage of them; if Federal funds become available they can take advantage of that much more quickly, timely, and at a lower cost to proceed with the project; this is the exact pattern they used with the Barnes Boulevard project when it started, and they did not have nearly as much money needed to finish that project, but today they do; and he asked does the County save money in the future by buying the land today or does it take care of road resurfacing and construction needs today that will be to the advantage to the public now. He stated it is a difficult call; prior Boards have directed staff to go ahead and pursue this path with a limited amount of money; and they are getting to the end of those funds that were allocated to that purpose, with quite a few lots being acquired on Hollywood Boulevard in that manor. He added he believes they have saved a lot of money for the future and set themselves up for a whole lot less acquisition when the time comes; but there is no doubt the money could be spent on resurfacing the roads.

Commissioner Pritchett stated she has talked to constituents about roads but most of the time their frustrations were about getting through traffic; she thinks this is a good thing to do; and she will be in favor of this.

Commissioner Barfield asked when Mr. Denninghoff anticipates the widening would occur.

Mr. Denninghoff replied he really does not know; the funds to pay for it are currently not available; most of the available grants require matching funds of 50 percent unless using Federal funds; and he emphasized when he has had projects ready to go they have been able to take advantage of grant funds that suddenly became available. He continued what happens in a Statewide basis is if trip funds, which is originally important roadways that provide relief to major roadways, this one would provide relief to I-95, so Florida Department of Transportation (FDOT) would want a 50/50 match on the grant; at one point in time during the course of a year, there may not be any of those funds available, and suddenly funds become available; when they built the Pineda Extension they got very good prices because the economy was very aggressive with the bidding; they had to forego the use of a couple million in grant funds from FDOT, so they got that money back and they were able allocated it to some other grant benefited project; and in his view being as close to ready to move forward is the best option to take advantage of the opportunities when they arise.

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Commissioner Barfield asked what the funding source would be for the matching funds.

Mr. Denninghoff replied it could be constitutional, Local Option Gas Tax (LOGT), a combination of the two, or impact fees; the City of West Melbourne is very interested this; and they have been a very active and cooperative partner in the past funding the improvements that have already been made.

Commissioner Tobia asked if the \$121,000 is not expended on the purchase of this property then could it be used for resurfacing; he stated that Mr. Denninghoff said if resurfacing is not taken care of the road denigrates to more than just the top layer, the County will have to spend more resources; he understands this may save money purchasing this land at some future date depending on where the market is; and he asked if that savings would outweigh the cost of the County having to tear a whole road up because the County is not resurfacing.

Mr. Denninghoff answered the typical ratio for reconstruction that is compared to resurfacing is between four and seven times the value; if the County were to apply the \$121,000 to a road that was about to go to the point where it needed to be reconstructed instead of resurfacing, and the alternative would be it would fall into reconstruction mode then they would be able to leverage that \$121,000 into something between \$500,000 and \$700,000.

Commissioner Tobia asked if Mr. Denninghoff perceives that the \$121,000 piece of property could cost County taxpayers at some time that \$500,000 to \$600,000 whether it be two years or five years from now, whenever the County gets the resources to widen Hollywood Boulevard or would it be more prudent to use those funds to avoid reconstruction, if there are any roads that are to that standard right now.

Mr. Denninghoff stated in this particular case it is residential property, which when filing for eminent domain on residential property there is a requirement for relocation of the resident, therefore it would probably come out about even; and depending upon how far in the future it is it could easily be exceeded.

Chairman Smith stated if the County were to turn its back on the purchase of this property it places the County behind on acquiring other properties; the overall picture is to purchase a lot of property to get this project done; each property is like a building block; the building gets stronger with each parcel that is purchased or added to the wall; and from that point of view he would support purchasing the property.

Commissioner Isnardi stated either way there is a domino effect.

Mr. Denninghoff commented that the County has not purchased most of the right-of-way; they have acquired about half of the residential property.

Commissioner Isnardi stated that is a big hurdle because that is assuming they will not fight the eminent domain; chances are if they are not willing to sell the property they are more apt to fight that issue; and the failure to widen Hollywood Boulevard results in more wear and tear on those other roads that need to be resurfaced. She added each decision has an effect on the other; and she would support this because she looks to long term and she understands how bad Hollywood Boulevard is.

Chairman Smith asked if Mr. Denninghoff thought this was a life or death issue, and if he had stated prior that people were having violent accidents on this because of misalignment.

Mr. Denninghoff replied on the other one mentioned in Item II.A.5., it is definitely a safety issue; there are serious crashes that take place on that one; for this one, it will improve safety

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dramatically on Hollywood Boulevard once it is widened; this acquisition itself will not accomplish that, but the one thing to think about is being able to take advantage of the sources of revenue that may become available, not sure of the time value; however, he assures the Board it could be a domino effect because the draw on local revenue improves once the grants are received, it provides for concurrency which removes permitting issues with construction and development, and it saves people money and time as they travel each and every day; and that accumulates to a very large sum of money. He added the calculations on that are surprising on how much money is lost by the public because of congestion.

Commissioner Pritchett stated she is hesitant because she respects that it is in Commissioner Tobia's District and she asked Commissioner Tobia if he is still weighing it, but not opposed to it because he is going to have it go through consent.

Commissioner Tobia replied for a safety issue it is certainly of importance for incidents that happened there; it is approximately 10 percent of Item II.A.6; and he strongly believes the \$12,125 should be allocated to deal with it as a safety issue. He continued for Item II.A.6., the Board has a choice to make; this happens to be in the District he represents, but there are reconstruction issues all across Brevard County when it comes to resurfacing; and he is open to the pleasure of the Board as to what direction it wants to go with it, especially since it is not a safety issue. He added he has heard pretty eloquently on both sides no matter how it uses the money it is going to benefit Brevard County.

The Board approved the contract for sale and purchase with William Lowell Wilson for the acquisition of a portion of property, parcels 104, located at 7655 Babcock Street SE, Palm Bay, as part of the Babcock Street, Wyoming Drive, and Valkaria Road intersection improvement project; and authorized the Chairman to execute the Contract.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jim Barfield, Commissioner District 2
<b>SECONDER:</b>	Rita Pritchett, Vice Chairwoman/Commissioner District 1
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM II.A.6., CONTRACT FOR SALE AND PURCHASE AND ADDENDUM WITH FAD REALTY, LLC, RE: ACQUISITION OF PROPERTY LOCATED AT 5040 SUTTON AVENUE AS PART OF THE PROPOSED HOLLYWOOD BOULEVARD WIDENING PROJECT**

The Board approved the contract for sale and purchase and addendum with FAD Realty LLC, for acquisition of property located at 5040 Sutton Avenue as part of the proposed Hollywood Boulevard widening project; and authorized the Chairman to execute the Contract.

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

**ITEM III., PUBLIC COMMENTS**

Arlene Nulty, Melbourne Space Coast Chapter of the National Federation of the Blind, stated she is the administrative assistant to the organization and provides transportation and assists with communication; she brought envelopes for the Board to describe their organization and



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provide the Board with names of resources should it be contacted by people with vision loss; and she would welcome any contact provided by the Board that she could be of assistance. She continued their mission is to provide services, resources, and help in locating those things; in the package there are names of organizations in Brevard County which the Board may want to refer citizens to; however, she would certainly take the calls and handle them expeditiously. She expressed her appreciation for the services of the Board; she stated the increased transportation has enabled people to get to important meetings and to reach doctor's appointments; and she welcomed the new members of the Board.

Camille Tate stated she is on the Melbourne Space Coast Chapter's Board of Directors; they are one of the largest chapters of the blind, low vision and sighted within the State of Florida; and one of their goals is to improve transportation. She continued sometimes people do not realize the disabled work, go to school, and have families; one of the biggest obstacles to date is transportation; not that Space Coast Area Transit (SCAT) is a bad service, the drivers and staff are great, they just do not have the funding to meet the needs of the blind and low vision citizens in Brevard County; as part of their mission this year they will continue to work with the Board and in the community to try to improve transportation services to the chapter members because one thing they believe is they need to live the life they want to live as full members of society within Brevard County and out; and what she wants the Board to take away from this is the entity has a firm believe that blindness is not the characteristics that define them or their future. She added she thinks that is the most powerful statement that can be made to everybody, and the one thing her chapter fully believes in.

Joe Nulty stated the Melbourne Space Coast Chapter has come a long way; when he moved to Brevard there was no representation for the National Federation of the Blind; he found out that the County was 72 miles long and his goal was to create a chapter and bring awareness; he works with Talking Book Library out of Daytona; and they sent out 530 letters to blind people from Pineda to Malabar, which is only the south end of the County and only includes those registered with Talking Book Library. He continued he has talked with Vocational Rehab, he has dealt with the State Division of Blind Services and they really do not have a good handle on how many blind people there are; the calculations he has come up with is somewhere between 6,000 and 9,000 blind people in Brevard County; what they are trying to do is reach out; and their chapter has grown as of the end of December they have 63 paid members and they plan to grow and develop more in 2017. He went on to say he personally has been a National Officer and he represents the deaf blind; he is not on eblind, but he is half deaf; and he thanked the Board for the device so he could hear the Commissioners speak. He stated the cost of equipment that they need is not available; and if someone does not have a job, they will not buy it for them, it has to come out of Social Security to buy any equipment to compete with the technology of today.

Charles Tovey stated Merry Christmas everybody; he wanted to excuse himself for not welcoming Commissioner Isnardi and he does not want to include her with any kind of his disgruntleness or anything else; everybody deserves a chance; and he has a motto, if you do not produce we cut you lose. He continued he still has his issues; although there seems to be other settlers of Brevard County, earlier than his family, that is fine; he goes by what he has learned; his name is Charles Tovey also known as Lagoon Man; and regardless of anybody doing anything now, it is already too late, as well as the past eight years. He added he has already addressed these issues that have been ignored; now there is a problem and no one wants to recognize him and his right to live; he is struggling to survive on a daily basis so everybody else can have a job and drive down the road; he cannot even have a cat; the only one cat he has left after it was dragged down the road and left for dead; and his neighbors laugh at him. He went on to say that is part of the problem, nobody enforces the laws, no one gets tickets; he asked where does the money come from and replied General Funds are supporting everybody so they do not have to do their job; he reiterated either way the cat was dragged

down the road and left for dead; there was rigamortis in his garage, and he brought it back to life; and he thanked Jesus, his God, his Savior. He stated he is a spiritual person; he does believe different than other people, but he does have a right to live as well as anything else; he has addressed these issues before; he did save the Lagoon; he has found his legal files, they were not destroyed; he lost everything, his right to live, everything but he saved the Lagoon; and while everybody was out giving away money for economic development he was out cleaning the Lagoon with his sponsors, Americans that care not only for Brevard, but for America and the world. He added everybody deserves a chance; if a person does not produce they cut them lose; he has a lot of other issues that he would like to address; they tried to burn him out of his house and no one even gave him a smoke alarm afterwards; he has not fixed his house because it is not that hard to fix; and a person cannot burn a house down twice, it is very difficult.

**ITEM VI.A.1., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: CODE REVISIONS TO CHAPTER 62, ARTICLE VIII, SITE PLANS**

Tad Calkins, Assistant Director of Planning and Development, stated this is a request to consider legislative intent and grant permission to advertise revisions to Chapter 62, Article VIII, Site Plans; what he is proposing in the revisions would streamline the process by incorporating the items found through the Lean Six Sigma Analysis and to the Code; and they would also be looking at providing some alternative parking standards.

Todd Pokrywa stated he wants to commend Lean Six Sigma staff team on implementing the development review process improvements to streamline the approval process; it is important for Brevard County to compete with surrounding jurisdictions, the State, and nationally for opportunities; time is the enemy for all opportunities; and this County needs to be better at the Site Plan and Subdivision Approval Process than in the other jurisdictions. He continued The Viera Company supports proposed provisions to streamline the Site Plan Process and modifications to the parking requirements of the Site Plan Code in order to allow for consideration of alternative developments standards; and he feels there needs to be more flexibility, practicality, and certainty in the process so it was wise for staff to bring this forward and for the County Commission to consider it. He added by way of example the Code with respect to multi-family development requires two parking spaces per unit and one space per five units of guest parking; staff has recognized the Code is more restrictive than many other counties and just the practical implementation of apartment developments; the example in Charlotte County requires 1.5 spaces per unit; and some additional information of value comes from the Institute of Transportation Engineers. He went on to say the Fourth Addition of Parking Generation Manual presents standards for residential use on the Land Use Code applicable to multi-family development in this County for low and midrise apartments; the ITE data based on 68 studies found an average weekday parking demand of 1.2 spaces per unit; the Land Use Code for that particular item in the manual found 1.2 spaces per unit for Urban sites and 1.23 spaces for suburban sites as being the parking spaces per dwelling unit; and the average in these parking studies are based on empirical data. He stated there are studies in parking management best practices, a publication by Todd Lipman in 2006 which establishes a standard for multi-family housing of 1.5 spaces per dwelling unit; there is an opportunity here to provide more flexibility as to what is practical; and he is really appreciative of the staff's efforts in bringing forward these proposed changes to the Site Plan approval process.

The Board approved legislative intent and granted permission to advertise revisions to Chapter 62, Article VIII - Site Plans.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rita Pritchett, Vice Chairwoman/Commissioner District 1
<b>SECONDER:</b>	Kristine Isnardi, Commissioner District 5
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM VI.A.2., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: CODE REVISIONS TO CHAPTER 62, ARTICLE VII, SUBDIVISIONS**

Tad Calkins, Planning and Development Assistant Director, stated this is a request to consider legislative intent and grant permission to advertise for revisions to Chapter 62, Article VII, Subdivisions; this is a companion to the Site Plan; they would be looking at proposing changes that would streamline the development process by incorporating the changes Lean Six Sigma identified in their analysis; they would be looking at removing the requirement for preliminary plats and final engineering to obtain Board approval; and by removing this step, they would be removing 15-21 days from the development process for developers.

Jim Stone welcomed the new Commissioners and provided them each a folder; he explained the package was from a year and a half ago that was brought to the Commissioners; he did not bother to bring other copies because he has no evidence from anywhere, including *USA TODAY* where he took a copy straight from this office to the editor and personally handed it to him; he received no response from anyone on the Board other than a short response from Commissioner Barfield or his administrator; and in any case, someone might want to read it, and of particular interest might be one of the final pages in the front part which lists a summary of the United States Constitution. He continued it says what the three articles are and asks a question; it asked if the Board is the legislative body of Brevard County, yes or no; it asks if the Board is the Administrative Body of Brevard County, and if it is the judicial body of Brevard County; and if those three questions are answered in the affirmative, then the Board is falling in the footsteps of three nations that do not exist. He added the Board is in a precarious position and he can only advise that it be careful because this Country is headed down a path that does need to be followed; it is identified in the package as Agenda 21 as presented to the United Nations and approved by George Bush; and thank God the legislative body says heck no, that is socialism and they do not want it. He went on to say he put in a development; it took him four years to get his development approved; he had to submit drawings over and over and over again at great expense; it wiped out his retirement entirely; and he had to submit surveys and attend meetings with the same people over and over, who would come back to the table with new questions. He asked if those people were competent enough to answer the questions or ask them in the first meeting. He added he was not a happy camper when it was done because he watched companies come in and receive approvals within 30 days; the Board has a lot of things to think about as they go through the County structure; and he is going to come back on the ethics question as it is a wide open door. He stated he had a good friend who would ask him for help; he did not want to get involved because friends of his were in the approval process and he wanted left out of it; he finally got involved at the end, much to his dismay; and he asked if the Board had any questions for him, because he could go on for hours.

Commissioner Barfield stated the County is using Lean Six Sigma and it is finding things within the County that can be done better; these legislative intents are both examples of that; they are a great start for the future; and he expressed his appreciation to the County Manager for doing it.

Commissioner Pritchett stated she is really glad these types of projects are happening; they did them in the City of Titusville and it changed their ability to do business; and she requested during their briefing for staff to come quarterly and share the projects with the Board because

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she thinks it would be good for the community to see the projects, the days being saved, and the money. She added she is really proud of the County for doing this.

Commissioner Isnardi expressed her appreciation for the staff taking on these projects; she stated the County needs to be smart when looking at any kind of development to make sure of the impacts on neighborhoods and the environment; she also believes the County needs to be open and friendly; often times when she was a Councilwoman in the City of Palm Bay, it was never someone who came to her wanting a special privilege, their biggest complaint was time being held up in permitting or inspections; and anything the County can do to expedite the process, she would be excited about. She added this item came up when she first took office; she was told the County Manager was in the process of building a roundtable; and she asked if it was ok with the Commission if she could be the one to attend the roundtable event.

Stockton Whitten, County Manager, stated he is very proud of the Lean Six Sigma process; he has actually been having the developer's roundtables for almost a year; they are done quarterly; the next one is coming up on February 17, and they are going to go over some Lean Six Sigma projects; and they are going to go over the proposal the last Board received on the Land Development Regulations. He added it is an informal meeting with the County Manager, staff, and developers just sitting around the table talking about how they can improve the process; time is money for the developers, but also they are protecting the public as they do that; and there are three or four areas of discussion.

Chairman Smith stated unless he hears objections from his fellow Commissioners he would like to suggest Commissioner Isnardi attend the next meeting and if any of the other Commissioners wish to attend one of the meetings then they can rotate.

The Board approved legislative intent and granted permission to advertise revisions to Chapter 62, Article VII - Subdivisions

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rita Pritchett, Vice Chairwoman/Commissioner District 1
<b>SECONDER:</b>	Kristine Isnardi, Commissioner District 5
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM VI.A.3., APPROVAL, RE: PROPOSED GRANT OF AERIAL, SUPPORT, TEMPORARY CONSTRUCTION AND DRAINAGE EASEMENTS IN AND OVER PINE STREET TO ALL ABOARD FLORIDA**

Stockton Whitten, County Manager, stated this is an approval of a proposed grant of aerial support, temporary construction, and drainage easement in and over Pine Street to All Aboard Florida in District 1; exhibit C is the second to the last page in the packet; those are the considerations that are under the Board's consideration for the conveyance of the aerial easement; and as he understands it, there was a contribution of \$150,000 and then a not to exceed cost amount of \$500,000. He continued he thinks the Public Works Director has had some discussions with the applicant on the not to exceed amount and they may cover that themselves.

John Denninghoff, Public Works Director, stated they have, through various communications with All Aboard Florida, been assured there is enough space under the proposed overpass over Pine Street to accommodate future sidewalks, piping of drainage, and those typical types of things that would be expected to be provided in a neighborhood like that in the future. He continued the central issues seem to be about the pedestrian crossings on the sides of five

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different roadways in the County and the cost associated with those crossings; he would say those five road crossings would then have a maximum of 10 crossings, one on either side of the road; and three of those are already proposed by All Aboard Florida in their plan, leaving five still in question.

Mr. Whitten stated at his briefing yesterday, he thinks Chairman Smith requested the last sentence in the second paragraph be modified to read "Applicant shall provide written notice with itemized expenditures for each of the sidewalk improvements to the County Public Works Director upon completion of all the sidewalk improvements."

Chairman Smith replied that was correct; he commented his concern is the way it is written now, they could just submit a bill and the County would be responsible for it; to him it is like an open-ended opportunity to say something cost this much money; and this sentence would require them to provide an itemized bill so Mr. Denninghoff and staff could discern whether it is accurate and the County would be responsible for those number.

Laura Young, attorney from the law firm of Dean Mead, stated she represents All Aboard Florida; and she is there to answer any questions and provide additional information that was discussed with Mr. Whitten and Mr. Denninghoff as early as this morning. She continued they have four easements in the area of Pine Street that are needed for the high speed rail to come over Pine Street; the first and most important is obviously the aerial bridge easement over Pine Street; in addition to that, they need two support easements where the actual structure will be to support the bridge; they also need a very small drainage easement to the south of it, where the runoff from the bridge will drain; and they need a temporary construction easement to the north and south of that to allow them to construct it. She went on to say Brevard County staff and Counsel have done an amazing job to get the easement document that protects the County in as many ways as possible; they have requirements to go through the County for any road impediments because they are not allowed to impede the road without the County's approval during construction and maintenance; there is a provision in the easement that if the easement is abandoned for any reason for a consecutive three years the County can terminate it unilaterally; the reason the County is able to do it is under section 2.247 of the Code where there is a provision that allows the County to grant easements, sell property, and enter into leases when it is in the best interest for the County, for public purpose, to serve the public function, something the County or Federal Government or other local government or State Government could do, but a private entity is willing and able to do it for the County; and they fit under all of the provisions of the Code and the Florida Statutes to ask for the easements. She added she knows there has been a lot of discussion between last fall and today about the consideration for that; she knows it is probably the most important thing to spend the majority of their time talking about; she knows the client has offered \$150,000 for the easement rights; in their own research and working within Brevard County and other areas there have been several other type easements similar either for them or for others where that value is definitely supported, if not more; and they believe Brevard County is getting a good deal with the value of the easements. She stated in addition to the cash consideration, which is very important, their client has agreed to construct with approval of the County, the County has to approve all the plans, the budget, and everything, five specific sidewalk improvements over the railroad crossings; they have gone with engineers and the design team to come up with a budget of what they think that could be; they have an itemized budget for each one of the roads, it is an estimate not construction cost, she has not been provided that information because it will not be done for another 18 to 24 months from now; and that cost is about \$45,000 to \$50,000 per sidewalk improvement, which is approximately \$280,000. She continued she knows that exceeds the \$500,000 that was initially offered, but the reasoning is in case there were other improvements the County wanted to provide for additional sidewalk improvements, because additionally there were some other roads included, but now they are not; they understand the concern with the disparity between \$300,000 and \$500,000 and the County possibly being on

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the hook for more money than it was anticipating; they are prepared to lower that number; however, they feel very strongly that the current estimate is about \$300,000 today so they have added on a cushion and believe realistically they could get that number down to \$350,000 as the cap. She added she understands that might still be of concern and they are willing to talk about it; and the one thing to remember is All Aboard Florida is in the corridor, doing their own work, they are going to be building the sidewalks for the County at cost probably anywhere from half the cost it would have been if the County were to do it themselves because of the timing and who is doing it.

Chairman Smith stated Ms. Young mentioned the estimated cost of doing the improvements to the intersections will be \$45,000 to \$50,000 each and Mr. Denninghoff has estimated it to be \$25,000 to \$30,000 so there is a big disparity; if they split the difference they would be somewhere around \$40,000; he understands construction will not start right away; he understands they are trying to cushion the fact that inflation could take a bite out of it; however, he feels it stretches the imagination that they are looking at inflation to be 30 percent over 18 months. He continued he is happy they have come down to \$350,000, but he thinks \$300,000 would be a more appropriate number; if the County is going to reimburse them for the work, the whole idea of having them do the work was it would be the same price or cheaper to have it done during construction rather than the County to come back and do it later; if in fact it was \$25,000 when it is being done, it very well could be \$50,000 if the County had to go do it after they finished; he finds it very difficult to be \$50,000 when they are doing it as they go; and if they are going to provide the County with itemized details then he does not have a problem with that either.

Ms. Young stated they will provide itemized details and all of the plans for the construction of these improvements including the budget, which has to be approved by the County; truly they want to do it for the right price and the County wants to do it for the right price; and they do not want to pay for any more than what is necessary.

Chairman Smith stated he wants everybody to understand they are partners in this; it is not something that All Aboard Florida is going to dictate to the County or vice versa; the County wants to be treated fairly; and he is sure they do as well.

Ms. Young stated she resonates that comment about this being a partnership; this kind of progress requires a significant partnership; and she is extremely excited that Brevard County gets to participate.

Commissioner Pritchett stated she has been watching this as it has been maturing to this process; and she asked Mr. Denninghoff if he really thought they could do each sidewalk for \$35,000.

Mr. Denninghoff stated he had drawn back on former lifetimes, having done a lot of consulting work which resulting in construction across railroads, and he came up with a rough estimate between \$25,000 and \$50,000 to build both sides as a marginal increase in costs; that would mean the expenses associated with a project, the maintenance of traffic, the flaggers, and some of the other work that would be done on a project was already going to be done so it would be just the additional materials to be constructed as opposed to a pro-rata share for the crossing; he has not had a chance to view the estimates or seen any detailed estimates associated with their proposed crossings; and at \$50,000 it still seems high to him, but he does know he is operating with a bit of a handicap at this point without modern recent information, although he did account for inflation when he figured between \$25,000 and \$50,000. He continued he is at about half of what they are saying the per side crossing is; without the detail he cannot dissect or examine what the differences are and why they are there; he feels it is a much more

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reasonable number than the \$500,000 was; and when he gets a detailed estimate he would be happy to dissect it and bring his opinion to the Board.

Commissioner Pritchett stated she had a real problem with the \$500,000, but she thinks she could agree with \$300,000 for the amount reimbursed with the \$150,000 to be given to the County.

Commissioner Tobia asked before the County even deals with costs, is there any research as far as the need for the sidewalks, as far as how many folks are crossing at these presently or what future usage of these corridors will be.

Mr. Denninghoff stated the County does not have a database to indicate the number; they do have evidence of people walking across because they have beaten down the grass, which is an indication of how many people are there; there have been incidents where pedestrians have been hit by cars in the railroad crossing, not so much with a train; and additionally inside the cities, particularly Sarno Road, Dixon Boulevard, and Michigan the cities have been making improvements to build sidewalks and in the case of Michigan they actually built the sidewalk right up to the railroad right-of-way. He continued getting across the railroad is formidable and a very costly task so they stopped at the railroad right-of-way on the west side of Michigan; although there is no study, there is lots of evidence in the case of pedestrians; and it is clearly a safety improvement for pedestrian use.

Commissioner Tobia asked Mr. Denninghoff to take off the hat he currently wears, and if he were back in the private sector would he make a recommendation to spend \$300,000 to \$500,000 for sidewalks with the anecdotal evidence.

Mr. Denninghoff stated if the County has evidence of pedestrians using the facility, it is a safety issue; and from a liability perspective if those pedestrians are not provided for, there is potential for a lawsuit to be generated; from that cost perspective, the County should go ahead and provide the facilities; in more and more of the locations, he is routinely getting people who are challenged in some sort of physical way and under ADA the County is required to provide certain types of improvements; and all of these would comply with the ADA standards, in addition to providing safety for the average citizen.

Chairman Smith reminded Commissioner Tobia the County's exposure would not be \$300,000, it would be \$150,000 because All Aboard Florida is going to give the County \$150,000.

Commissioner Barfield stated in light of the recent rankings, Brevard County is ranked number 2 NPO in the Country for pedestrian deaths; he believes it is very important that every issue dealt with in construction should be a priority to look at how the County can produce safety for the pedestrians of this County; exhibit C mentions Barnes Boulevard, but he does not see it listed as a crossing; and he asked if Barnes Boulevard is included.

Mr. Denninghoff stated early on in the negotiations, Barnes Boulevard was included on the list; in recognition of the current lack of pedestrians that do cross at Barnes, they realized it will occur because of the recent subdivision built to the west side of the railroad tracks and the existing community on the east side of the railroad tracks, they do anticipate there will be pedestrians there, they just are not there right now; for that reason they knocked Barnes Boulevard off the list; instead of twelve crossings they would have 10 except on Micco Road; to clarify Micco Road and Barefoot Boulevard originally had two at those locations; All Aboard Florida and the FRA did not result in the requirement for pedestrians at those locations because they did not have the actual facilities right there; the other three include Sarno, Dixon, and Michigan, which their plans include placing one crossing at those locations, so he is proposing to add a second one at those locations; and they would add one, going from zero to one at

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Micco, zero to one at Barefoot Boulevard, and then from one to two on each Sarno, Dixon, and Michigan for a total of five.

Commissioner Isnardi stated she is okay with lowering the reimbursement cap for the sidewalks; she asked if a number is needed because the County is going to do their due diligence for any bills submitted or any kind of reimbursement that would require some itemization and the County will be protected at all cost; and she stated she has a hard time believing that everybody is in cahoots to pay All Aboard Florida or anybody more money than what the cost of the job is. She stated she is certainly alright with lowering the amount if it gives comfort to the Board; however, she wants to make sure if there is some sort of drainage or other issue, they would have the opportunity to come back to the Board and request that number be bumped up.

Mr. Denninghoff replied no, the not to exceed number is just that, if it goes above the number for any reason All Aboard Florida would absorb the difference; that is why they are interested in having the number a little above what they estimate the cost will be so they can cover any unforeseen issues that might come up, or the inflationary effects by the time they get to construction; they have not developed a plan so they cannot produce an actual construction cost estimate; and it is more of a planning level estimate they have right now and in order to give the County clarity as to what the top limit would be, that is what the not to exceed number is for. He asked the Board what number it is comfortable with and if All Aboard Florida can live with that number.

Commissioner Isnardi asked if it is his professional opinion that he believes the number would not go above \$300,000.

Mr. Denninghoff replied without the plans he cannot determine what the cost would be; he realizes it could possibly go above the number depending on existing issues on a site specific basis; he does not think it will go above the number; and he believes if it was \$350,000 or \$300,000 they would still be okay. He continued he cannot provide a professional opinion of what the cost will be because there just is not enough information available to him to provide it.

Commissioner Isnardi stated she completely understands; the Board is always going to look for the best deal for the County when doing business with the private sector; and she is concerned because the County always pays nearly three times the appraised value amount what the property is worth, she wants to be fair to everybody. She added All Aboard Florida can absorb those costs; the County is also asking for a lot too because the number originally on this property was \$300,000 for the easement and the fact that it was cut in half shows Brevard County is a good partner in this; and she reiterated she is okay with lowering the amount she just does not want the County doing bad business.

Mr. Whitten stated All Aboard Florida has come down to \$350,000 and the Chairman stated \$300,000; if they were to split on this morning's negotiations it would be \$325,000; and maybe the number would be more acceptable to both sides.

Commissioner Pritchett stated she is good with it and All Aboard Florida is shaking their head too; if the Board had a stop it would have more increased revenue to pay these sorts of things; her only concern is it does not cost the taxpayers any additional funds for the project; she is excited about the project, but she thinks fast trains increase risks at crossings so she believes the crossings are needed; and if everybody is comfortable with Mr. Whitten's proposal then it may all be solved.

Chairman Smith stated he is not comfortable with \$325,000 because this increases Brevard County's exposure to \$325,000 or \$350,000; \$300,000 would limit the County's exposure to



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\$150,000; and All Aboard Florida have invested billions of dollars so for them it is pennies and for the County it is a big deal.

Commissioner Isnardi stated her concern is, that is often the mentality, like when the County gets sued as a government, it has the deepest pockets; she provided an example of doctors wanting to open up in her city and they were told since they were all doctors, they were going to be made to build an eight foot masonry wall; and she stated the County would only be exposed, if those bills were not correct. She continued the County is not just going to write a check.

Chairman Smith stated that is why he suggested limiting the County's exposure. He reminded the Board this needs a super majority vote, which means four of the five have to approve it.

Commissioner Barfield asked the Board to let All Aboard Florida tell it where they are at.

Ms. Young stated she appreciates the discussion the Board is willing to have; she feels All Aboard Florida's numbers are more accurate than Mr. Denninghoff's; she believes the number is closer to \$300,000 today; they are willing to agree with a \$300,000 cap if they have the right to come back to the County to increase the cap, because she has seen changes being made to caps like that; and if it is not an option then they would be more comfortable leaving the cap at \$350,000. She went on to say they cannot ask the County to build something they did not agree to build; it will have all the checks and balances; it will be built right into the resolution and the County will have the say all along the way; if there is a problem or a dispute then the County does not pay them; they could agree on \$325,000, but their preference is \$350,000 without a look back to the County; and if it is \$300,000 then she would like to be able to come before the Board to ask, explain, show, or whatever is necessary.

Commissioner Tobia stated it appears as though there are not just construction area concerns, there is inflation; there must be some index for construction inflation out there; he asked if there is a way to set it at \$300,000 or \$325,000 and put it into an index that takes into account the various cost of materials 18 to 24 months down the road; and he asked Mr. Denninghoff or Attorney Knox if it would be something to bring them closer to the middle and get this up for consideration.

Mr. Denninghoff stated he is sure they could construct language within the agreement that would assign some sort of potential escalator or indexing in some way; it would involve having to decide which index it would use; and whenever he has done one of those in the past he still ended up putting a not to exceed number. He continued the reason he says not to exceed is because the operative sentence reads, "the County shall reimburse the applicant for the cost of the sidewalks up to the amount of" then stated \$500,000; then it has a time frame to do it; and that is why he says it will not go above the number.

Chairman Smith stated he does not think there is any point in dancing around the fact he wants a number, that is what the County is going to live with and what All Aboard Florida is going to live with; and he thinks to complicate things and muddy the water is counterproductive.

Commissioner Isnardi stated Chairman Smith is obviously correct; All Aboard Florida stated they were comfortable at \$350,000; the Board talked about \$325,000; and she thinks finding that number so they can move forward is probably the best bet. She reiterated All Aboard Florida has to submit the itemized construction cost; she added she understands how the cap works but also thinks the Board has to be reasonable and have to be good partners; and if the cost does go above \$350,000 they are going to absorb the cost. She continued they are already paying nearly three times the amount of the appraised value of the easement that they will probably never do anything with; they are already being good partners; and she has no reason

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to advocate one way or another, she just wants the County to be a good partner and she wants to do good government.

Commissioner Pritchett stated maybe it would be better to get \$300,000 paid at closing, the County does the work, and there would be no risk to All Aboard Florida.

Chairman Smith stated the problem with that is then the cost does go up because then the County would be re doing it and adding to the cost; the easiest way to do it is to do it during the construction; they are the contractors so the cheapest way to do it is to have them do it as they progress because if the County does it before or after it escalates; and the Board is trying to negotiate the best deal for the County. He noted they have agreed to help the County out and do it. He went on to say it is going to get done; they have agreed to do it; they agreed to kick in \$150,000 in cash up front; and the only question is what kind of exposure does the Board want going forward.

Commissioner Barfield stated he likes the \$300,000; the reason he does is because once getting into the estimates the County will know where it stands; he would do the \$300,000 where All Aboard Florida could come before the Board again if they want to increase it with complete evidence up front just like in a contract; he thinks they will go down to the lowest level they can on their estimating; and if they come back to the Board, it can make that decision.

Chairman Smith stated if the Board was to do that than it might as well not have a number and just let All Aboard Florida do it.

Commissioner Barfield stated he would rather have a cap, and if they go over \$300,000 they would have an option to come back to the Board for a decision.

Chairman Smith stated the problem is if it were to occur and the Board was to disagree with them then attorneys would be getting involved; he feels if there is a cap it should be left at the cap; and if the Board is not comfortable with \$300,000 then make it bigger.

Commissioner Barfield stated his reasoning is All Aboard Florida needs this; it is not like it is an option for them.

Chairman Smith stated of course they need it, that is not in question; they are not going to Orlando unless they get this parcel; it is up to the Board to decide what the parcel is going to cost them; and at this point his suggestion would be to make a hard number, they had a hard number of \$500,000. He added he thinks their number is absurd and now the Board is down to either \$300,000 to \$325,000; they said they would be willing to work with either one, but would be happier with \$325,000; and now it is up to the Board to make a decision.

Commissioner Isnardi stated the cap limit could be set at \$350,000 with an amount not to exceed X amount of dollars provided they have evidence; that is a convoluted way to do it but otherwise the sky is the limit and they could potentially come back with something really crazy; either way the sidewalks need to be finished and there needs to be a cap; and what the Board agrees upon is where this is at. She added if it exceeds \$300,000 to \$350,000 they will absorb those costs.

Chairman Smith agreed with Commission Isnardi and requested the Board to find a cap it is comfortable with.

Mr. Whitten asked for the motion to include amending the documents to match the action taken today; he thinks there is still some work to do on the documents, resolution, etc.

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The Board granted approval of the proposed grant of aerial, support, temporary construction, and drainage easement in and over Pine Street to All Aboard Florida; authorized the documents to be amended to include a reimbursement cap of \$325,000; and authorized the Chairman to execute the Resolution and easements.

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

**ITEM VI.D.1., PERMISSION TO HOLD TEFRA PUBLIC HEARING ON FEBRUARY 7, 2017 AT 6:00 P.M., RE: RESOLUTION REISSUANCE OF FLORIDA DEVELOPMENT FINANCE CORPORATION EDUCATIONAL FACILITIES REVENUE REFUNDING BONDS, SERIES 2017 (SCULPTURE CHARTER SCHOOL)**

Scott Knox, County Attorney, stated this a request to hold a public hearing on February 7, being made on behalf of the folks trying to finance through a State program and as a local government who has jurisdiction over Brevard County; they have come before this Board to get tax exempt financing; and that is why the public hearing is required.

The Board granted permission to hold a TEFRA public hearing on February 7, 2017, at 6:00 p.m., for resolution reissuance of Florida Development Finance Corporation Educational Facilities Revenue Refunding Bonds, Series 2017, for Sculpture Charter School.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rita Pritchett, Vice Chairwoman/Commissioner District 1
<b>SECONDER:</b>	Kristine Isnardi, Commissioner District 5
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM VI.D.2., VIERA DEVELOPMENT OF REGIONAL IMPACT (VIERA DRI), LETTER OF CREDIT, RE: BARNES BOULEVARD WORK DUE UNDER RESOLUTION NO. 14-120, REQUEST TO REDUCE AMOUNT**

The Board approved the reduction for Viera Development Regional Impact (Viera DRI), of the Letter of Credit for Barnes Boulevard work due under Resolution No. 14-120; and authorized the Chairman to execute the letter consenting to the reduction.

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

**ITEM VI.F.1., PENDING VBE CERTIFICATE, RE: MODE SPLIT LLC PROPOSAL**

Stockton Whitten, County Manager, stated this is a request of a vendor who was late in submitting a proposal for a solicitation on the street; he does not know if the vendor is here, but Leslie Rothering, Purchasing Manager, is in attendance to give a staff report.

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Peter Martinez stated he is a United States Marine Corp veteran; he started, launched, and expanded a bike share program for the City of Orlando; in the fall he resigned from his position at the bike share company in Orlando to pursue a bike share program on the coast; and he was late submitting the Request for Proposals (RFP) because he was waiting for a Veterans Preference Certificate from the State; he was encouraged to sign up for a minority business but opted to go for the veteran owned business designation; and that certificate came in after the submittal to the County. He added he is hoping to get consideration for the proposal which is going to be opening in two days, on January 26.

Leslie Rothering, Purchasing Manager, stated Mr. Martinez submitted a proposal to her office on January 3, however, it was late; the RFP process was on the street for 40 days; it did go out over the holidays, but she did allow for sufficient time for the RFP process; their minimum requirement is 21 days; the purchasing office manages about 165 formal solicitations annually; and in the past 10 years they have had eight late bids in which six were returned at purchasing and no further action was requested by the Board, two others had come before the Board. She added Purchasing does have a deadline for all solicitations; there is a due date and time identified in the RFP documents and it does state any late bids will not be accepted; in addition, Brevard County does not have a veterans preference policy in place, so that was not a requirement for this RFP; Mr. Martinez could have submitted the RFP without the certification; and at this point their established procedures does not recommend accepting an RFP or bid submittal after the due date and time.

Commissioner Pritchett thanked Mr. Martinez for his service. She stated she thinks the Board would be going down a slippery slope so she will not be supporting this.

Commissioner Isnardi stated she feels for the applicant because she has been in the position before and had someone come with whatever reason they did not submit properly or submitted late; while she does believe Brevard County needs a Veteran's preference, which she will get on because she did not realize this County did not have one, she thinks the Board opens itself up to litigation by not going through the process set forth in the policy; and she cannot support this.

Commissioner Barfield stated he owns a company; he has done major proposals; he started from two people to well over 1,000 people and nothing is more disheartening when you work hard on a proposal and it does not go in on time; he knows where Mr. Martinez is coming from, however, the Board cannot change a policy; procurements have to be equal across the Board for everyone; and he agrees with Commissioner Isnardi on the Veteran's preference, he does think the County needs that. He thanked Mr. Martinez for his service; and stated he will not be able to support this.

The Board reached consensus not to consider the Request for Proposal from Mode Split LLC.

**ITEM VI.F.2., REQUEST TO ADVERTISE PUBLIC HEARING, RE: ORDINANCE RELATING TO A COMMISSIONER CODE OF ETHICS**

Commissioner Tobia stated this is a request for advertising a proposed ordinance; this would heighten public awareness instead of restricting it; it has three common sense ethics reforms that instead of being aimed at the lobbyists because that did not work so well with some of his fellow Commissioners, this is aimed at the Board; it is an attempt to bring some transparency as to what happens behind the dais to the Board; and there are very clear reforms which have successfully worked in other jurisdictions, so none of this is new. He continued the three basic ones which he believes were mentioned on January 10, when the last ethics reform package was brought forward are a ban on electronic communications while in a session; he believes the taxpayers give up their time to speak to the Board and believes the Board should not be on their

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cell phones looking things up, as some former Commissioners have been extremely rude to the speakers, based on things they were getting off of their cell phones; he thinks the Board should take this job seriously and do their research before they show up to a Commission meeting, not while they are at it; second is to deal with the revolving door extension, statutorily former Board Members are not allowed to lobby the Commission for two years and this would extend it to six years; this would benefit the taxpayers because relationships on the Board last longer than two years; and as Commissioners, they have relationships with department heads that would provide more insight than what the average Joe might. He went on to say this would take a little bit of the perception of favoritism still being offered to former members of the Commission; travel approval is the third; he thinks if any of the Board members decide to go on a junket with taxpayer dollars when there is no return, may be questionable, and the Commission should provide approval so they are all in agreement that it is a wise use of taxpayer dollars; and it is under sunshine so there are issues as far as him speaking with the other Commissioners. He added this has been out in public domain for three or four days; apparently 15 pages was too many last time, therefore, he worked hard to get this one down to four or five pages; and he reiterated this is just for the advertisement in the *Florida TODAY* so the Board can discuss this in detail at a future date.

Commissioner Isnardi stated she likes the idea of any kind of ethics reform; she understands both sides of the argument as far as this is concerned; last time the failure of the lobbyists registration was probably because it was not given enough time; whether the Board members are prepared or not is not the issue, but they have a better chance of success at any kind of ethics legislation through this Commission if there is a workshop where the Board can have some solid public input where people can have the time to talk, because this will probably end up in the *Florida TODAY* again; there were people who wished they would have come to the last meeting, unfortunately they do not have the additions to the Agenda once it is released the first time; and she does not have a problem with any of these, they could just use some tweaking and public input.

Pam LaSalle stated she is excited; she is not used to being happy with what is going on with the County Commissioners; she thinks anything that will improve transparency and bolster ethics is a move in the right direction; and she is a little conflicted because if she thought this would make it to the next step she would have waited and had more discussion then, but she is not sure the Board will vote to move forward so she is going to throw a few things out there. She continued she brought up the texting before and as a result of the actions afterwards she requested the text of all the Commissioners for the prior six months; three Commissioners gave information that really shows there was little to nothing done; one Commissioner was coached; one Commissioner had pictures of the Lagoon; one Commissioner spent six hours producing a receipt; and in some ways moving towards this would be economical because the information would be more readily available. She added two Commissioners had no texts to report at all, and if anyone wants the information she has it; she knows one of those Commissioners was on their electronic device in front of the audience while stating there was no text to report which makes her wonder if there was personal business or another job being done during the Commission meetings; she thinks this would be a great building block to start with on the ethics reform because her ultimate goal is more independent oversight; and she loves the idea of a workshop because it can build a lot of integrity for the constituents and that is what the Board needs, to build confidence in the public.

Melissa Martin stated there is a need for restoration of the relationship between the government and the people; even though County government and city government feel there is no need within their own offices, on behalf of the people there definitely is a need; she saw this very recently in the campaign for the Lagoon Referendum where discussion of the various aspects of the referendum to the community and lots of opportunity for speaking engagements, and a lot of people on social media were stating how people do not trust government which unfortunately

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included the County, with or without grounds for it; and that is what compelled her to reach out to the County Manager. She mentioned they had a sit down, they looked at previous referendums and how the County used the public's money for various tax purposes, and she walked away from the meeting feeling relieved that it fulfilled her expectation of how government should work on the internal levels; there are plenty of controls in place; however, there are still transparency issues and accountability issues that pertain to all levels of government; and she believes this is a welcomed opening to necessary dialogue for the people, whether it be in the form of a workshop or some sort of public input, because it is very important. She added she is still determining whether she supports this ordinance; she would like to see some tweaks in it; and she definitely supports the calls for an open and serious dialogue for some sort of robust clarification of what government does, how they do it, and how it actually serves the public interests.

Chairman Smith stated it seems to him an awful lot of people have the impression there are no ethics rules in place that elected officials who work for the government are guilty of something; and there are boogeymen behind every tree and around every corner. He asked Ms. Martin if she was aware Brevard County has three ethics policies, one for travel, one for employing or contracting with former Brevard Commissioners, and a five pager for conflict of interest and ethics policy.

Ms. Martin replied yes she is aware.

Chairman Smith went on to say there are ethics policies in place and he asked Ms. Martin if she or anyone else was aware of any policies not working, failing, or abuses of them.

Ms. Martin stated she is aware that what is in place is not being translated to the people.

Chairman Smith thanked her for her input and he stated it is good to be having this discussion.

Ms. Martin agreed with Chairman Smith; she stated communication is the relationship; and right now she would qualify it as a broken relationship that needs to be mended.

Jim Stone provided envelopes to the new Commissioners; he stated the sidewalk issues really made him feel good; the County has been holding his sidewalk bond in ransom for over 20 years; and it is a sore subject with him. He continued the whole development process is a sore subject; he is against the proposal because it does not go nearly deep enough because all of the aggravations started at a pinnacle which is the Board, the next level of management which is the County Manager, to each department director, to Supervisors and however else it is structured; he was such a bad engineer during the Apollo Program, when it came to an end management put him in management; and his goal of management with 485 people was to talk to everybody at least every three months. He added he looks at this and wonders what is missing in Brevard County; it has no feedback process that he is aware of; he does not see where the County has a program in place for the people and employees to speak; all these things are pointed out in the package he provided; and he provided this as an example, the way his buddy Charlie Crisafulli was treated in his late 80's and early 90s was a sin, what he had to go through to get his little 20 lot development approved and then afterwards the County Manager got into it after houses were being built and changed the rule, so he does get involved and he knows what he is talking about. He mentioned another buddy, an engineer, quit his business in Brevard after three submittal's and three reviews, to become a City engineer in another town in Florida and still practices there today; the Chuck Nelson Flag Lot Rule really messed him up because after putting in his development, he had to go through the whole process again because the Director of Development ignored the little block on the top of the form that says minor development; and he had to go through the whole process all over again, which took him another three years and hundreds and hundreds and hundreds of dollars for

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more drawings and surveys. He went on to say the only thing that happened at the end of it, was he put in six concrete monuments. He stated he was rejected by *Florida TODAY* 36 times and had to put his letter in the business page; the second letter is one the Board really ought to read because he does not know how many people in Brevard County are affected by it; after 40 years of continuous employment, his life insurance and his medical were both cancelled in this past year after putting money into it all this time; and he cannot find anybody to ring that bell anywhere, Congressmen, Senators, Department of Labor, the Inspector General, the United States of Florida Insurance Commissioner, and on and on. He went on to say Brevard County needs some kind of ethics system set up; it needs to be big time; it needs to be real; it needs to have teeth in it; and it has to be open so when people go there they will not feel like they will get fired and the citizens will not have their money tied up in a sidewalk bond for 20 years.

John Solanna stated occasionally someone like Commissioner Tobia reminds the public of the notion of ethics and open government; Brevard County has open government, it is obvious after reading today's paper; everyone encourages it, supports it, and it will be a sorry day if it changes; and he encouraged the Board to support the motion. He added for those members of the Board who have worked at it and figured out being a County Commissioner is a full time job, and he gives his compliments.

Commissioner Pritchett stated she thinks the Board needs to have a workshop on these types of topics; coming from the City, by the time they got to resolutions they all knew where they were going as a Council; they would just tweak it out for what they needed; she thinks what is throwing her off on this is it comes before the Board and she still has so many questions; there are things she agrees with and things she does not agree with; she would rather not put this through for advertising as a resolution; however, she would like the Board to pick a time certain to talk about the items. She continued there are things the Board needs to do differently, but to pick on cell phones, when people can get messages on their wristwatches, computers, and I-pads; there are also snap chats that disappear in 30 seconds; if someone is going to be dishonorable there are ways to get around it for sure; and she thinks the communication issue between the constituents and what the Board is doing at the meetings is important, it gives everyone a sense that the Board is trying to be honorable. She added an accountant places a check and balance in control; she thinks that is what the Board is trying to do; she does not think there is one person on the Board who is dishonest, but down the road she does not know who could be elected; she does think the Board needs to work on checks and balances; however, some of the items she is not so sure need to be in a resolution, maybe it just needs to strengthen policy; and she thinks it can be worked out better in a workshop where everyone is a little more comfortable, because the Board members are just getting to know each other as five people. She went on to say maybe her bringing up the City is not fair because that was another level she worked in; the State of Florida is not going to work either because none of them have relationships; she thinks if the Board got together where it is allowed to have conversations, it could come to some conclusions of what it thinks needs to be done going forward, and what is best for this County; she would rather do this in a workshop; and reporting to the City Manager may be an ethics issue. She went on to say there are so many things the Board is going to have to work through to get there; three things on a resolution is tough for her; she would do some type of workshop in the future where the Board could come prepared with the items they want to bring as a Commission, that way it does not show up in the paper that two Commissioners do not want ethics, because that is not the truth; and if the Board could get a working document that is fair, legal, and does not just weigh it down with laws that do not make sense, she would be more comfortable supporting it.

Commissioner Barfield stated he does not want anyone walking away thinking the Board does not have an ethics Policy; he asked Attorney Knox what the differences are between the proposed ordinance and the ethics Policy or if there are any conflicts which supersedes that; and he stated the Board knows the ethics Policy, because they have been adhering to it.

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Scott Knox, County Attorney, stated he thinks the ordinance covers things not in the ethics Policy; an ordinance is not a policy, so it cannot be changed without going through a public hearing and those types of formal processes whereas policies or resolutions can probably be changed without any public hearing; and those are the biggest differences between the two.

Commissioner Barfield asked if the issues it covers are for both the ordinance and the ethics Policy.

Attorney Knox stated he does not think some of the issues in the ordinance are covered by the Policy.

Commissioner Barfield stated he knows they have another ordinance on travel and all of that is included; they all have expense reports; they have to get approval to travel and it is all within the system; and as far as he knows everything said here is what the Board already adheres to.

Attorney Knox stated he agrees the Commissioners are covered by the travel policy, there is a State Law which requires certain things when traveling, like staying in a hotel or going to a seminar or conference; the bills are presented with all the expenditures to the Finance Department in the Clerk's Office if one is seeking reimbursement; and there is a record of everything that is done because it is public record and everyone can see it. He continued there is not a policy of who gets to go where, which is more specific than some of the experiences he has had with Commissioners who travel; the revolving door policy is not in the ethics provision Policy, but it is in State Law that the Commission cannot lobby before the County Commission after they leave office for a period of two years; and this one adds four years and extends to Directors and employees as well. He went on to say cell phones are not covered in the policy at all, so that may be an issue to talk about.

Commissioner Barfield stated he has a lot of questions and issues especially talking about the six year number; the definition of a lobbyist and what it does not include; and in one place it reads, one acting in his own private capacity, and a paid officer or employee of a company representing or advocating on behalf of the company before the Board is not a lobbyist, this does not match up. He continued as far as the cell phones and text messages, it does not bother him; he is fine putting stringent rules on that; the problem is texting can be done on a tablet; and he uses his phone to email and research things, so it would have to be more specific. He went on to say he just does not understand the travel procedure; Section Seven states which Commissioner may attend what business meeting or whatever and he asked how the determination will be made on who attends; he has been appointed to so many different Boards and he has to travel to those, it is part of the deal; he has his report of what he travels; he goes to every type of local event possible for his constituents; he goes to ribbon cutting ceremonies, he goes to different Homeowners associations; he goes to open houses at Cocoa Beach Library and Cocoa Library; and he submits his travel every three or four months for approval. He added he understands they must account for their travel, that makes sense but Commissioners using their own personal funds shall not be subject to this section, which is great, but the question becomes if he pays his own way to a conference and is representing Brevard County as a County Commissioner would he be totally exempt from any transparency because he paid his own way; and it is not right. He reiterated there are a lot of issues with this, how it is interpreted, and how the Board makes it work; there is an ethics policy in place; there are strict procedures on the travel; and the Board can make changes, but he does not want people thinking the Board does not have procedures in place.

Commissioner Tobia stated people have said this is coming fast and there has not been an opportunity to vet this type of material; all this does is put it in the public domain; the Board can make subsidized changes to the policy; he is not perfect and has never claimed to be; he is just



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putting the issue out there because for the last two years a couple of his fellow Commissioners have done nothing, not an ordinance and not a workshop dealing with reforms when it comes to ethics; and the fact there has not been any ethical lapses is not an excuse to not increase transparency. He added there should be no excuse needed to increase transparency. He continued there is a travel opportunity coming up; he used the word junket earlier but correctly it is the 33rd Space Symposium; he looked up the word symposium and it means to drink together so he went a step further, looked at the conference, and found there are at least two opportunities where there is an open bar sponsored by a major corporation to go and drink with other people; he has gone on a couple conferences for the college, but he went through a board and there were two criteria; one is presenting a paper to add to the discourse; and number two is being a moderator. He mentioned he looked up some forums that he could learn about at this 33rd Space Symposium; Space Fusion he is not qualified to deal with as a subject and international astrophotography; the question then becomes before the Board sends some of the Commissioners out to drink on the taxpayer's dime, he thinks it is apparent that one should justify at least some semblance of a return on the investment; and the fact that this has not happened before, probably means it needs to be changed. He went on to say the Board makes changes; it just had an add on with All Aboard Florida and there was some good discourse; it came in at \$500,000 and it was amended to \$325,000; that was a 65-page document and he took it very seriously; he read through it and spoke to some of the players to determine how best to tackle it; that is what this forum is for; and he does not want to put this down the road to some workshop that may or may not happen, because history says it does not happen. He stated the Board can put it aside, call it a working document, and incorporate some of the changes; the definition of lobbyists has been changed from suggestions that were made, even though he feels the changes did not need to be clarified because he has data from other counties and cities that have word for word the same definition and they are working effectively, so to think one of the Board members is going to be able to find a hole in an argument and something in the real world that has happened for years is probably false; all he is asking for is a thumbs up or a thumbs down; he wants a discussion and he wants constituent participation; and this gives two weeks where they can call the Commissioners' offices and talk about how the Board can make this better because he does not disagree with many of the suggestions that were made. He continued he has another package on the way because he takes ethic reform very seriously; it is one of the things he ran on; no one has ever asked him how many ethics policies he has submitted; it is terrible for him to open a newspaper and find out he does not understand how government was run when he had a fellow Commissioner who had to ask what the difference between a policy and an ordinance was; that is ridiculous; he suggested the Board do a public forum where it can act like adults, disagree, come to some sort of ending that will be best because this is not about him, in fact he does not need to sponsor this stuff; and if there is someone else who is willing to put this on the Agenda it does not need to be him, there just has not been anyone else to do it. He added instead of saying what is best for the Board, to say what is best for the citizens so they can be active participants and have more avenues to speak with the Commissioners, show them some respect by not being on cell phones, and show them more acutely about where their resources are being spent; he thinks it is very disingenuous to decide this does not give constituents enough input so kill it now; by advertising it, the Board is providing constituents with added time to make improvements; and that is all this document is. He went on to say he took the suggestions that were made on his last unsuccessful ethics ordinance and incorporated them into this one; as bad as his fellow Board members think this is, it was even worse before he received the suggestions; these are common sense reforms; nothing is radical or new; this just provides more transparency to the citizens; and a vote now, not in favor of even advertising it is telling the folks the relationship is broken. He stated this is only part of the reform; there is reform that needs to take place in the electoral arena that he is working on right now; if the Board does not like this common sense reform, it will definitely not like the reform coming up that lends more transparency and lowers the amount that constituents can play in the game to take out the big money donors; this is the low hanging fruit but he thinks it takes the Board in a good step to mending that relationship that

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has been inherited; and he asked for the Board's indulgence at least for the next two weeks to give this some time to percolate good ideas and come prepared to a meeting. He suggested the Board go to the County Attorney; the Agenda came out on Friday, and the Board had all day Monday to tightened it up and give suggestions to make it better instead of just saying there are problems with it; he would not expect that from his 14 year old daughter and he certainly would not expect it from his fellow Commissioners; he wants solutions to make it better because it is the Board's job; it requires a lot of work to have a good relationship; and he takes it extremely seriously and expects the same from his fellow Commissioners. He went on to say he appreciates the discourse no matter what way this goes; there is certainly a lot more to take place so it can have a lot better relationship with the people who work so darn hard to send their hard earned dollars; and he is available to answer any questions.

Commissioner Isnardi commented she would agree; she loves this ethics reform because she has been watching it closely; she reached out to Representative Randy Fine the other day because she is trying to do her research too with the limited amount of time she had with this; and she sees what is coming down for local ethics reform. She stated she is excited and full onboard; it was one of the things she fought for at the city level; it was nothing she campaigned or promised but something she actually did while she served on City Council; her goal and her thinking on the workshop was not to delay the process because she has been to dozens of workshops; what happens in workshops is good dialogue; and she knows Commissioner Tobia feels strongly about this and may be able to tweak some of the details, but the goal should be success if he wants the reforms to pass like she does. She added Commissioner Tobia and herself only need one more vote to make it happen; they saw what happened last time with the lobbyist registration and that should have been black and white; she does not want to risk failure of this just to have the other Commissioners on record say they do not want it; either way she will vote to bring it back to another meeting if that is what it takes because she does not think scrapping it is the right thing to do; it is difficult when this comes out of Commissioner Tobia's office because they cannot have the dialogue to say anything; that is one of the unfortunate things of sunshine; and she thinks this is definitely workable and she likes all three items. She went on to say she likes some of the things that came out of the Committee that could be added to it; she is sure there would be some excellent public input too; if left with the option to kill it or push it through, she is going to vote to bring it to public hearing because she is an experienced council person and does not need that much time to come up with her revisions; however, when there are four people trying to come up with their own and public input, she does not want to risk failure of it. She stated she thinks a workshop is always the way to go, with dialogue and public input sometimes there are extra and better ideas that could be added to it.

Commissioner Pritchett stated the goal is ethics and how to get there; she feels almost like this is a little bit of the cart before the horse; she would not mind having a workshop within the next week to have conversations on ethics reform; she thinks by the time the Board gets to resolution, the purpose should be totally worked out; and there is a lot in this resolution that should would to have changed. She noted she cannot call him up because she has to abide by sunshine law; this is their first conversation; and she thinks they should have a big ethics workshop and figure out where the Board wants to go with it and how to get there. She continued she does not want to have a workshop in six months, she wants it as soon as the Board is prepared; she is never afraid of conversation and enjoys listening to what everyone has to say because she likes to get all the information she can before she comes to a conclusion; this becomes a legal document and she wants it to be correct; and there are some things that need to be worked out. She added she is for having ethics in place with checks and balances; she does not think it is fair to say everyone on the Board is trying to get rid of it, if they are not comfortable with it; the goal is to get to ethics; and she is for reaching that goal but would rather have a workshop in a few weeks and have the discussions to figure out how to get there. She went on to say she is not going to support passing this right now for advertising; she does not mind advertising a workshop in a few weeks; and she would like to make this a really

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good document by the time they are ready to go with it; she thinks some of the things in it just need to strengthen policy; maybe it needs to be a resolution on top of policy; and she wants it worked out as a Commission and a community to get it right.

Chairman Smith stated never let it be said that he would stand in the way of open-door policies; he did not move out of his District and he does not have a lock on his door; he welcomes the idea of openness; he knows that there are already three separate policies the Board lives by; and he has not seen any situation where any of the policies were violated by past Commissioners. He added it has worked very well for years; he would agree there is probably some type of disconnect because the public does not know there are policies in place; and he knows there are paranoid people who say things that would make someone's head explode. He went on to say he really thinks the effort here is to create more bureaucracy and not to create more openness; he challenged each of the Commissioners, when the new Commissioners took office, to find ways to fix the roads; after being here for two years his experience tells him the biggest problem the Board has is how to fix the roads because the roads are going to cost tons of money going forward; as Mr. Denninghoff said today, if there is a road that has been compromised and cannot be repaired then it will have to be replaced and it cost seven times more than it would to repair it; and instead of spending the last two and a half months doing something constructive, Mr. Tobia, in his opinion, has spent the last two and a half months being destructive. He continued Commissioner Tobia is trying to play the gotcha game; he voted as he did on the lobbyist thing because he did not want to create more bureaucracy; to him it was a solution for a problem that did not exist; and he realized some people were going to try to paint him into a corner saying that Commissioner Smith is not for openness because he voted against registering lobbyists. He stated it is the furthest thing from the truth; this is creating more bureaucracy with no purpose other than trying to make other Commissioners look bad; this is not well thought out; as Commissioner Barfield pointed out if he uses his own money to go on a trip he can do or say anything he wants and there is no transparency there; so the purpose of this is not transparency, it is something else; and he could be wrong, but he thinks the purpose of this is to play the gotcha game. He added Commissioner Tobia has openly stated he wants to do everything he can to get Commissioner Barfield and himself not elected if they choose to run again; he believes that is really the purpose here; if the Board wants to have a workshop it would be welcomed; he thinks it is important for the Board to communicate to the public that it does in fact care about openness; and the Board is here to protect the citizens, that is its purpose. He continued unlike Commissioner Tobia, he and Commissioner Barfield do not need this job; they have money and have already succeeded in life; they run successful businesses and do not depend on the government for their paycheck; they are here to serve the community not cheat them; and to suggest that if he were to vote against this that he is against openness is absurd. He reiterated he welcomes some kind of workshop so the community can be involved and the Board can hear what they have to say; and at the same time the Board can tell the community what is already in place. He went on to say there is no reason to reinvent the wheel; some of the existing policies could be tweaked; this was not well thought out; and he maintains the purpose was not benevolent, it was something else. He stated the Board needs to make something benevolent out of this; be constructive instead of destructive; move forward, get with the County Manager, and have a public forum or workshop to get this out in the open so people can hear that yes the Board does care about openness.

The Board approved a Workshop be created to discuss ethics.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rita Pritchett, Vice Chairwoman/Commissioner District 1
<b>SECONDER:</b>	Jim Barfield, Commissioner District 2
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM VI.F.2., REQUEST TO ADVERTISE PUBLIC HEARING, RE: ORDINANCE RELATING TO A COMMISSIONER CODE OF ETHICS (CONTINUED)**

Commissioner Tobia stated he would like to make a motion on the Agenda Item; staff worked extremely hard on the ordinance, even though Chairman Smith was very critical of their work product; and he thanked staff for their work on it. He continued the faults in it probably lie with him and the other cities that have put this in place and had it work so well; he thinks the Board should do its due diligence of putting it up for a vote as far as advertising because he has invested a lot of time on this; and he may not get a second but would like to put forward the motion to advertise the ordinance as brought forth on the Agenda.

Commissioner Pritchett asked Commissioner Tobia if he would consider tabling this item until after the workshop so it does not get completely thrown away.

Commissioner Tobia replied if a date can be set now for the workshop; clearly in the last two years his fellow Commissioners have done nothing with ethics; he does not take it at face value that it will be dealt with at a workshop in the future; his future is relatively soon; and he will have to take time out of his failure as a college instructor to do that, but it is a commitment that he has made. He added it is a great idea if the Board will come with a date he would absolutely be willing to table this and work with staff to make it even better; however, without a date he would not be willing to table it.

Commissioner Isnardi asked if Commissioner Tobia would be willing to move the public hearing to the February 21 Commission Meeting, if the Board were to schedule the workshop, since this is his motion.

Commissioner Tobia replied as long as Commissioner Pritchett feels it would give her the required amount of time to add input and make this a better document that will have a positive impact on Brevard County; he is fine with February 21 if it meets her needs; and it can be in March, he is just looking for a date.

Commissioner Pritchett stated she thinks better changes can be made after a workshop; it is up to him, but maybe it will not pass; or he can wait on it.

Commissioner Tobia stated he can wait until February 21 if staff can make that available and she believes it is enough time to craft it in a way with staff so the Board can incorporate many of the good ideas she had, not only on the last one but this one as well; he has no problem changing phone to electronic communications device; and if February 21 works for her, he will absolutely clear his schedule and give the Board and the taxpayers as many hours as needed.

Chairman Smith asked Commissioner Tobia why time is so critical to him, and if he was suggesting that Commissioner Barfield and he do not have an interest in openness. He stated it is what Commissioner Tobia is suggesting when saying it never will happen; he took issue with that when he mentioned it an hour ago; and he asked again if Commissioner Tobia was really suggesting that.

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Commissioner Tobia replied what he is suggesting is that in two years as a County Commissioner, Chairman Smith has brought forward no ordinance and if past performance is a dictator of future performance then that would be a fair assessment, which is the only assessment he is making; there have been zero ordinances for the last two years dealing with ethics reform; it is not his interpretation, it is a fact; what Chairman Smith's constituents or *Florida TODAY* or Bill Mick does with that is up to them; he is just stating in facts; and he is trying to be as straight forward as he can be.

Chairman Smith asked if he had not brought that up, what fact would that conclusion bring him to, that he is unethical because he has not done anything.

Commissioner Tobia stated Chairman Smith is welcomed to bring light to his fact being incorrect; if the research he has done is incorrect, and if Chairman Smith can show any meaningful ethical reform he has brought forth or any measurable changes, then he will be the first to admit the research he did was wrong and he will apologize; however he will not apologize for stating facts.

Chairman Smith replied he did not have to apologize; he just wanted to state for the record he did not bring anything forward in two and a half years because he does not think there is anything wrong with the current policies in place; and it is not like the Board is working in a vacuum and everybody can just do what they feel like doing. He reiterated there are policies in place; and he stated there have not been any violations of these policies.

Commissioner Isnardi noted that February 21 is a Commission date; she asked if he wanted to have the workshop before then; and she stated that was what she meant when she mentioned to him to bring this back on February 21.

Commissioner Tobia stated he got that; if the Board would like to do the workshop immediately following the meeting so there can be more participation with their constituents he would be more than willing to do that; and as long as there is a date certain, he is fully okay with bringing this forward as a workshop.

Commissioner Barfield asked Commissioner Tobia how many ethics reform bills he sponsored in his eight years in the House.

Commissioner Tobia replied he co-sponsored two of them and one passed.

Commissioner Pritchett commented she thinks this will help with the communication, if the Board develops relationships; maybe there could be more kindness as they move forward; and she believes all the Board members are good people.

Chairman Smith inquired if the suggestion is to have the workshop following the February 21 County Commissioner meeting.

Commissioner Tobia stated he would hold all ethic reforms until the Board could work on it after the February 21 meeting.

The Board approved a Workshop Meeting on February 21, 2017, at 1:00 p.m. in the Florida Room, to discuss standards and conditions regarding County Commission ethics.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** John Tobia, Commissioner District 3  
**SECONDER:** Kristine Isnardi, Commissioner District 5  
**AYES:** Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM VIII.A., REPORTS, RE: STOCKTON WHITTEN, COUNTY MANAGER**

Stockton Whitten, County Manager, stated Commissioner Barfield is not available for the workshop on February 9, and asked the board that it be struck from the schedule; the ethics workshop on February 21 at 1:00 would be the Board's workshop for February; and he asked for a motion to strike that workshop.

The Board cancelled the Workshop Meeting scheduled for February 9, 2017.

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

**ITEM VIII.A., REPORTS, RE: STOCKTON WHITTEN, COUNTY MANAGER (CONTINUED)**

Stockton Whitten County Manager stated in order to receive public assistance funding from Federal Emergency Management Agency (FEMA) in the State of Florida, Brevard County must execute the federally funded Public Assistance Funding Agreement related to Hurricane Matthew; under the agreement the County will be reimbursed for eligible costs incurred; the agreement has been reviewed by the County Attorney's office and the Budget Office; and he requested the Board authorize the Chairman to sign the funding agreement and delegate authority to the County Manager, or his designee, to coordinate the submittal of all documentation required for reimbursement.

The Board authorized the Chairman to execute Federally Funded Public Assistance Funding Agreement relating to Hurricane Matthew in order to receive public assistance funding from Federal Emergency Management Agency (FEMA) and the State of Florida; and delegated the County Manager, or his designee, to coordinate the submittal of all documentation required for reimbursement.

**EXECUTIVE SESSION: BREVARD COUNTY, FLORIDA V. B. WEST TOWNHOUSES, ET AL, CASE NO. 05-2013-CA-025677-XXXX-XX**

The Board temporarily adjourned for Executive Session to be held in the County Manager's Office in the case of Brevard County, Florida v. B. West Townhouses, et al., Case No. 05-2013-CA-025677-XXXX-XX.

**EXECUTIVE SESSION: DEER PARK RANCH, LTD V. BREVARD COUNTY SOLID WASTE MANAGEMENT DEPARTMENT AND DEPARTMENT OF ENVIRONMENTAL PROTECTION, 16-3549 AND FARMLAND RESERVE, INC., D/B/A DESERET RANCHES OF FLORIDA V. BREVARD COUNTY SOLID WASTE MANAGEMENT DEPARTMENT OF ENVIRONMENTAL PROTECTION, 16-3550**

The Board temporarily adjourned for Executive Session to be held in the County Manager's Office in the case of Deer Park Ranch, Ltd. v. Brevard County Solid Waste Management

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Department and Department of Environmental Protection, Case Number 16-3549 and Farmland Reserve, Inc., d/b/a Deseret Ranches of Florida v. Brevard County Solid Waste Management Department and Department of Environmental Protection, Case No. 16-3550.

Upon consensus of the Board, the meeting adjourned at 11:59 a.m.

ATTEST:

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SCOTT ELLIS, CLERK

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CURT SMITH, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA