

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 October 23, 2012 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
Robin Fisher	Commissioner District 1	Present	
Chuck Nelson	Chairman/Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Commissioner District 4	Present	
Andy Anderson	Vice Chairman/Commissioner District 5	Present	

INVOCATION

The invocation was given by Senior Minister Ellis Myers, First Pentecostal Church, Palm Bay.

PLEDGE OF ALLEGIANCE

Commissioner Robin Fisher led the assembly in the Pledge of Allegiance.

APPROVAL OF MINUTES

The Board adopted the minutes of September 27, 2012, Special Meeting, and October 4, 2012, Zoning Meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM II.E.1., PRESENTATION BY KEVIN GHOLSTON, RE: DOUGHNUTS FOR THE HEART CHALLENGE

Ben Schwartz, State Administrator for the MMRL (Masonic Medical Research Laboratory) Florida Campaign, stated the Free Masons of the 26th Masonic District have organized a fundraiser dubbed, Doughnuts for the Heart Challenge, from which the proceeds will be donated to the Cardiac Research Institute at the MMRL. He advised the MMRL is one of the premier cardiac research institutes located in Utica, New York; it has been the flagship charity of the local Grand Lodge since 1997; stated research at the MMRL has contributed to the development of the pacemaker and plantable cardio defibrillator, automatic external defibrillator, and provided direct evidence linking Sudden Infant Death Syndrome to abnormal heart rhythms; and noted the MMRL has also contributed to the development of new heart medications. He stated areas of research of the MMRL encompass cardiac arrhythmia, atria fibrillation, and

October 23, 2012

brugada syndrome; and programs in place include molecular genetics, molecular biology, and stem cell research. He stated the MMRL is a non-profit 501(c)3 organization registered with the Florida Department of Agriculture and Consumer Services, funded by volunteer contributions and bequests; additional funding is obtained from foundations, and corporate and federal grants; and stated in all probability, everyone knows someone who has benefited from research done at the MMRL. He explained, the Doughnuts for the Heart Challenge, is scheduled for Sunday, October 28th, at Wickham Park Pavilion; the challenge portion of the event is to run two miles, take a doughnut break to eat one dozen Krispy Kreme glazed doughnuts, and then run two more miles, and do it all under 60 minutes and not lose any doughnuts. He stated the inaugural race last year was an amazing success; and for more information, people can visit www.doughnutsfortheheart.com.

ITEM I.A., RESOLUTION, RE: PROCLAIMING THE MONTH OF NOVEMBER 2012 AS PUERTO RICAN HERITAGE MONTH

Chairman Nelson read aloud, and the Board adopted, Resolution No. 12-222, proclaiming the Month of November 2012 as Puerto Rican Heritage Month.

Julian Maldonado, from United Third Bridge (UTB) expressed appreciation to the Board for recognizing the Hispanic and Puerto Rican communities for what they have done for the nation; and noted this year is the 499th year celebration of the discovery of North America by Juan Ponce de Leon. He invited the Commissioners, as well as the community, to a banquet which will be held November 2nd, celebrating the upcoming parade; and stated November 4th is the 16th annual Puerto Rican Day parade, which will be in the City of Palm Bay on Malabar Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM I.B., RESOLUTION, RE: PROCLAIMING NOVEMBER 5-11, 2012, AS PERIOPERATIVE NURSE WEEK

Commissioner Infantini read aloud, and the Board adopted, Resolution No. 12-223, proclaiming November 5 - 11, 2012, as Perioperative Nurse Week.

Nancy Boyd, RN, stated she is the former president of the Association of Operating Room Nurses for Space Coast Chapter 1013; the association is made up of approximately 40,000 certified operating room nurses, which means they have gone above and beyond the regular education to receive certification; the Space Coast Chapter has 96 members; and the Space Coast Chapter is third in the State of Florida for having a registered nurse for every patient in the operating room.

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

October 23, 2012

ITEM I.C., RESOLUTION CONGRATULATING ANDRES BOHUSZEWICZ UPON RECEIVING EAGLE SCOUT STATUS

Commissioner Fisher read aloud, and the Board adopted, Resolution No. 12-224, congratulating Andres Bohuszewicz upon receiving Eagle Scout status, and wished him the very best as he continues his commitment to the attainment of the goals he has set for himself.

Andres Bohuszewicz expressed appreciation to the Board for the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM I.D., RESOLUTION, RE: CELEBRATING THE FRIENDS OF THE COCOA BEACH LIBRARY 50TH ANNIVERSARY

Chairman Nelson read aloud a resolution celebrating the 50th Anniversary of The Friends of the Cocoa Beach Library.

Chairman Nelson passed the Gavel to Vice Chairman Anderson.

The Board adopted Resolution No. 12-225, celebrating the 50th Anniversary of The Friends of the Cocoa Beach Library, and expressed appreciation to all the volunteers who have enabled people of all ages to improve their quality of life by providing a vital role in the community by promoting literacy, education, lifelong learning, and free access to information.

Jane Beskow, President of The Friends of the Cocoa Beach Library, expressed appreciation to the Board for the resolution; and also expressed thanks to the Cocoa Beach Women's Club, and the American Association of University Women, who back in 1961, encouraged a number of volunteers to form a Friends group. She stated before each meeting of The Friends of the Cocoa Beach Library, she reminds the board members of their goal, which is to promote the welfare and growth of the library, to enrich its resources, and to make its services better known; and stated she hopes to continue to provide the help and support the community needs.

Ray Dickinson, Director, Cocoa Beach Library, stated he has been honored to work with The Friends of the Cocoa Beach Library, which is one of the largest Friends groups in the State of Florida, with 1,100 members.

Vice Chairman Anderson passed the gavel back to Chairman Nelson

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Chairman/Commissioner District 2
SECONDER:	Mary Bolin Lewis, Commissioner District 4
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM II.C.1., RESOLUTIONS, RE: CONGRATULATING KATHIE ENGLAND ON HER RETIREMENT

Commissioner Fisher stated when he became Commissioner he did something that had probably never been done before and kept the existing staff that was already in place; and stated the last four years have been wonderful with them there, but they are at that point in their careers where retirement is setting in. He stated he appreciates the work Ms. England and Ms. Lackovich have done for the constituents, the County, and himself.

Commissioner Fisher read aloud, and the Board adopted, Resolution No. 12-227, congratulating Kathie England on her retirement, and for 27 years of dedicated public service to Brevard County.

Kathie England stated God has blessed her with many people, and her tenure with the Board of County Commissioners has been one of them. She stated if it was not for the phenomenal staff that has supported her, cleared their calendars for her, let her take them out of meetings, and given up their lunch hours, her job would not have been as wonderful. She expressed appreciation to the Board for the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM II.C.2., RESOLUTION, RE: CONGRATULATING MARY B. "LIZ" LACKOVICH ON HER RETIREMENT

Commissioner Fisher read aloud, and the Board adopted, Resolution No. 12-227, congratulating Mary B. "Liz" Lackovich on her retirement, and for her 22 years of dedicated public service to Brevard County.

Liz Lackovich stated it has been a privilege to serve the citizens of Brevard County; it has been an honor to work with so many talented and dedicated people on staff; and she feels blessed, as each of the Commissioners have touched her heart in their own special way, and they will be in her prayers as they continue to guide the County forward to a better tomorrow.

Commissioner Fisher announced there will be a celebration for Kathie and Liz on Tuesday, October 30th, in the District 1 Office, at noon, and everyone is invited to attend.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

October 23, 2012

ITEM II.C., ROBIN FISHER, DISTRICT 1 COMMISSIONER

Commissioner Fisher stated two years ago, there was a Transportation Workshop at which the Board talked about the different funding that was available and how it would be spread out; and stated it was spread out among the districts. He noted after the Workshop, he summoned some staff members to his office and challenged them to pave one mile of road per week for the next 50 weeks, with the goal of 100 miles; and staff has met that goal and he is very proud of the Road and Bridge and Public Works Department. He announced that the 100th mile was paved this week, and last Friday he celebrated with the crew and provided lunch for them, along with a checkered flag that was signed by everyone and given to Eric Cita, who was very instrumental in keeping the project on track. He introduced a video that was made for the staff.

ITEM II.D., TRUDIE INFANTINI, DISTRICT 3 COMMISSIONER

Commissioner Infantini stated she attended, along with Chairman Nelson and Commissioner Bolin Lewis, the groundbreaking of a new community center at a park in Grant-Valkaria, on Thursday; and expressed appreciation to Rick Hood, Grant-Valkaria City Manager; Jack Masson, Parks and Recreation Director; and Greg Minor and John Denninghoff, Public Works Department, for helping her with the project.

ITEM II.E., MARY BOLIN LEWIS, DISTRICT 4 COMMISSIONER

Commissioner Bolin Lewis as a follow-up to the Board's recent discussion on backyard chickens, she was notified that the Brevard County University of Florida Extension Office is now offering an introduction to backyard chicken class; and anyone who would like more information can call Joe Walter at 321-633-1702.

ITEM II.F., ANDY ANDERSON DISTRICT 5 COMMISSIONER, VICE CHAIRMAN

Commissioner Anderson advised his office coordinates the Coats for Kids drive each Christmas season; this Saturday, October 27th, from 8:00 a.m. to 11:00 a.m., he and his staff are having Community Appreciation breakfast at Howard Futch Park; and it will also be the kick-off for the Coats for Kids drive. He stated everyone is invited to attend, and bringing a coat is optional. He went on to say, the coats are being collected this year at all Brevard County libraries and will benefit the Brevard Family Partnership, which cares for 850 youth, and the coats are desperately needed.

He further announced that during the Workshop on Aging, it was apparent that District 5 has a majority of the senior population; his office has partnered with Aging Solutions and is doing an Elves for Elders drive; he has a list of 60 elderly wards of the State who have no family and are by themselves; they receive \$35 per month for their basic needs; and he is asking businesses and individuals and families to help out and adopt one of the well-deserving seniors. He stated anyone who is interested can call 321-253-6611 for more information. He noted most of the items requested are basic, such as personal hygiene, books, and puzzles; and stated the 60 seniors are mostly in South Brevard, but if there are more volunteers, he will work with other Commissioners to expand it to the rest of the County.

He stated he attended the groundbreaking on the initial phase of the City of Palm Bay's portion of the St. Johns Heritage Parkway, which is a great project and will alleviate the traffic issue in South Brevard.

ITEM II.G., CHUCK NELSON, DISTRICT 2 COMMISSIONER, CHAIRMAN

Chairman Nelson congratulated Commissioner Fisher on paving 100 miles of roads in District 1; stated he has had 60 miles of roads paved in District 2 during the same period of time; and noted that because Merritt Island was built during the space race, a lot of roads were built in a hurry, and now they are being fixed.

ITEMS PULLED FROM CONSENT AGENDA

Howard Tipton, County Manager, advised Item III.A.5., Approval, Re: Permission to Purchase Using Existing State, or Other Florida Governmental Contract, any Heavy Equipment Budgeted for Purchase in FY 12/13, will be pulled from Consent and brought back to the Board on November 13th.

Commissioner Infantini advised she will be voting in opposition to Items III.B.1., Approval, Re: Budget Change Requests; and III.C.6., Approval, Re: Billfolder.

ITEM III.A.1., GRANT CONTRACTS WITH STATE OF FLORIDA, DIVISION OF EMERGENCY MANAGEMENT, RE: COX ROAD DRAINAGE IMPROVEMENTS, HAZARD MITIGATION GRANT PROGRAM

The Board authorized the Chairman to execute the proposed time extension Subgrant Agreement between Brevard County and the State of Florida, Division of Emergency Management for Hazard Mitigation Grant Contract No. 11HM-3E-06-15-01-019 for Cox Road Drainage Improvements; and approved two subsequent no-cost administrative amendments if acceptable to the Natural Resources Management Office, the County Attorney's Office, and Risk Management.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Commissioner District 4
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.A.2., PRELIMINARY PLAT/FINAL ENGINEERING APPROVAL, RE: WALKABOUT WAY EXTENSION

The Board granted preliminary plat and final engineering approval for the Walkabout Way Extension, subject to minor engineering changes as applicable, and developer responsible for all other necessary jurisdictional permits.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Commissioner District 4
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.A.3., RESOLUTION OF NECESSITY, RE: ACQUISITION OF PARCELS FOR THE SARNO LAKES DRAINAGE IMPROVEMENTS PROJECT

The Board adopted Resolution of Necessity No. 12-228, acquiring parcels in Section 14, Township 27 South, Range 36 East, Brevard County, Florida, required for construction and maintenance of drainage improvements; authorized the County Attorney's Office and staff to proceed with this action in accordance with the requirements being set forth in Chapters 73 and 74 of the Florida Statutes applicable to "quick-take" proceedings; and authorized the payment of reasonable expert fees per Chapters 73 and 74 of the Florida Statutes, as part of the staff's efforts to negotiate settlements.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Commissioner District 4
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.A.4., APPROVAL, RE: PERMISSION TO EXECUTE RENTAL AGREEMENT FOR THE MODULAR OFFICE TRAILER LOCATED AT ROAD AND BRIDGE WICKHAM ROAD SHOP

The Board executed the Temporary Office Trailer Rental Agreement extending the term agreement with Williams Scotsman, Inc., for a period of five years, for rental of the modular office trailer at the Wickham Road and Bridge Shop.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Commissioner District 4
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.A.5., APPROVAL, RE: PERMITTIN TO PURCHASE USING EXISTING STATE, OR OTHER FLORIDA GOVERNMENTAL CONTRACT, ANY HEAVY EQUIPMENT BUDGETED FOR PURCHASE IN 12-13

The Board pulled consideration of permission to purchase using existing State, or other Florida Governmental Contract, any heavy equipment budgeted for purchase in FY 12-13, to be brought back to the Board on November 13, 2012.

ITEM III.A.6., REQUEST PERMISSION TO BID, AWARD TO LOWEST BIDDER, AND EXECUTE CONTRACT, RE: SARNO ROAD TRANSFER STATION FLOOR REPAIR

The Board granted permission to bid and award to the lowest qualified and responsive bidder; and authorized the Chairman to execute a Contract for the repair of the Sarno Road Transfer Station floor.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.B.1., APPROVAL, RE: BUDGET CHANGE REQUESTS

The Board approved the Budget Change Requests as submitted.

RESULT: **ADOPTED [4 TO 1]**
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
NAYS: Trudie Infantini

ITEM III.B.2., ACKNOWLEDGEMENT, RE: FY 2012-2013 ADOPTED BUDGET FOR CANAVERAL PORT AUTHORITY

The Board acknowledged receipt of the FY 2012-2013 adopted budget for the Canaveral Port Authority.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.B.3., CONTINUATION OF AGREEMENTS WITH DAVID W. DYER AND STEWART B. CAPPS, RE: SPECIAL MAGISTRATE SERVICES

The Board approved one-year renewals of the Agreements with David W. Dyer and Stewart B. Capps, to provide Special Magistrate services for unlicensed contractor, vested rights, and Code violation hearings; and authorized the Chairman to execute the Agreement to Extend Existing Contract for each of the existing Agreements.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.B.4., APPROVAL OF STATEMENT OF WORK, RE: UPGRADE OF THE COUNTY'S SAP FINANCE MANAGEMENT SOFTWARE SYSTEM

The Board waived the bid requirements, and authorized the Chairman to execute the Statement of Work for upgrading the County's SAP Financial Management Software System, offered by SAP, AG, the vendor of the software.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.B.5., RESOLUTION AND LEASE AGREEMENT WITH BREVARD HERITAGE COUNCIL, INC., RE: CITY POINT COMMUNITY CHURCH A HISTORICAL BUILDING

The Board adopted Resolution No. 12-229, and executed Lease Agreement with Brevard Heritage Council, Inc., for use of the City Point Community Church, located at 3781 N. Indian River Drive, Cocoa; and approved assigning the Parks and Recreation Director, as a duly authorized representative of the County.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.C.1., APPROVAL, RE: RISK ASSESSMENT AND PROPOSED AUDIT PLAN FY 2012-2013, AND ACCEPTANCE OF FACILITIES MAINTENANCE AUDIT REPORT

The Board approved the Auditors Risk Assessment and Proposed Audit Plan FY 2012-2013; and accepted the Audit Committee's Facilities Maintenance Audit Report.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.C.2., ACCEPTANCE, RE: REAPPOINTMENT OF INTERNAL AUDIT COMMITTEE MEMBERS

The Board appointed/reappointed, **Sam Lenck, Mark Cherry, Mary Louise E. Young, Roberta Stoner, and Michael G. Miller**, to the Internal Audit Committee, with terms expiring October 23, 2014.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.C.3., AGREEMENT WITH DR. BEN C. STOREY, RE: MIMS TOWER LEASE AGREEMENT

The Board approved the Mims Tower Lease Agreement with Dr. Ben C. Storey; authorized the County Manager or designee to sign documents associated with the Lease Agreement and any renewals provided for; and authorized any necessary budget actions.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.C.4., APPROVAL, RE: AT LARGE APPOINTMENTS

There were no at-large appointments to approve.

ITEM III.C.5., APPROVAL, RE: CITIZEN ADVISORY BOARDS

There were no appointments/reappointment to Citizen Advisory Boards.

ITEM III.C.6., APPROVAL, RE: BILLFOLDER

The Board approved the Billfolder as submitted.

RESULT: ADOPTED [4 TO 1]
MOVER: Mary Bolin Lewis, Commissioner District 4
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
NAYS: Trudie Infantini

PUBLIC COMMENTS

Robert Audette stated he lives on Mockingbird Lane, which is a dead-end street; and it dead-ends into the north fork of the Sebastian River, also known as the C-54 Canal. He stated he lives at the end of Mockingbird Lane, directly adjacent to the right-of-way that leads from the end of the paved road and goes 200 feet to the river; the right-of-way is unpaved and only 50 feet wide; there is Code Enforcement action regarding abuse of the right-of-way, which includes an illegal dock and boat ramp; and it currently still exists. He noted, according to some neighbors, both the dock and boat ramp have existed off and on over the years; however, in the

October 23, 2012

six years he has lived there, one person on the street has done quite a bit of handy-craft on the dock and ramp; the Code Enforcement action forced the neighbor to remove his boats, trailers, grills, chairs, firewood, fire pit, and debris; and stated it was as if the right-of-way was being used by the neighbor as his own personal backyard. He stated himself and the neighbors on the other side of the right-of-way are grateful to the County's clean-up accomplishments; and apparently, the next and final step Code Enforcement planned to do was to remove the dock and ramp and install barriers or pilings that would prevent further use of cars and trucks launching boats, but would still allow canoes and kayaks, and public access to the river. He stated he accidentally found out that the neighbor who was abusing the right-of-way had formed a petition of select people who would prefer to keep the dock, and was working on forming some kind of non-profit association that would then allow them to insure the right-of-way and enter into a maintenance use agreement with the County and keep the illegal dock; it is believed that the neighbor was working with Commissioner Infantini; and noted no notification was mailed to anyone about it. He explained he had jury duty the next week, after finding out about the agreement, and during his lunch and talked to Blaise Mancini in the office of Right-of-Way Acquisition, who did verify that there was indeed a maintenance use agreement in the works, and Mr. Mancini also printed out the interoffice emails that showed how it started and where it was at; stated Mr. Mancini also said the he and the neighbors on the other side of the right-of-way should send letters stating how they feel about the agreement, especially as they are directly adjacent to the right-of-way and would feel the greatest impact; and Mr. Mancini assured him he would forward the letters to everyone involved, which he did. He went on to say that himself and the owners on the other side of the right-of-way each sent letters objecting to any type of maintenance use agreement with the County; there were responses, and he and the others attempted to clarify their concerns with Ms. Infantini's office, and later, the Brevard County Office of Natural Resources; and as they went through the process, they realized that County staff's mission is to do everything they can to help Commissioner Infantini achieve her goal. He stated he realized he needed to find out from somebody else whether his concerns were legitimate; he and the other neighbors hired an attorney who confirmed that any use of the right-of-way, other than what is described in the original plat dedication, is not allowed; and the dedication of Mockingbird Lane says that it is only a right-of-way and nothing else. He pointed out that one of the County interoffice emails made mention of a dock existing on the original plat when in fact there is no dock on the original plat; he was informed that Commissioner Infantini has a meeting planned with all interested parties, and that staff would keep him informed; and stated recently, he has found a letter about the maintenance use agreement sent out by Commissioner Infantini's office, and it only invites everyone who is in favor of the dock. He stated he is not looking for an invitation to the meeting, but he is asking one of the four remaining Commissioners to please direct County staff to answer three, direct, unanswered questions before the whole thing goes any further: 1.) Was this all allowed to start because somebody mistakenly thought the dock was on the original plat; and 2.), Can a group of people form a not-for-profit civic group, pick a piece of public property, build illegal structures, and then install rules as to how the public should use the structures, just because they can get them insured. He stated maintenance use agreements are typically used by private community homeowner associations to allow special entrances off major road, and they usually go through as consent items. He further asked if it is now going to be County policy to disregard all plat dedications and land use regulations; a right-of-way is a path, and a park is a destination; and stated making it a park would be a land use change. He stated he would appreciate specific answers to his questions, and then, ideally, all of the residents of Brevard County would then not have to review upcoming Commission meeting agendas forever and look for consent agenda items that would change the use of the right-of-ways.

Commissioner Infantini stated her office is working with staff regarding the situation; one neighbor wants one thing, and another neighbor wants something else; and stated she did have a meeting scheduled, but it never took place because too many of the people are out of town, and she had a choice of having all parties together at one time, or have the people who are in

favor of the dock and the people who are against the dock, there at separate times, as she has a very small space in her office. She advised she has been working with Public Works Director John Denninghoff; and stated she has been looking into the situation for a few months, and is trying to look for the best possible situation for all of the residents on the street. She stated she does not believe in vacating right-of-ways.

Commissioner Fisher inquired if Mr. Audette has had a chance to meet with Commissioner Infantini to discuss the issue. Mr. Audette replied no, and if the Board reviews the packet he distributed, they will see that the emails are confusing, so he did not see the benefit of meeting with her. Commissioner Infantini noted that she has spoken to Mr. Audette on the phone. Chairman Nelson stated as they work through the issues, the Board needs to have a discussion on what the use is going to be, first. Commissioner Infantini stated she is not moving to have an organization created, and she has not promoted it. Chairman Nelson stated he was not saying that she did, but he had read one of the emails that it was being discussed; and stated he thinks there is a moment when the Board needs to make a decision about how the right-of-way is to be used, and then at the point it can talk about what the next step will be. He stated at least two of Mr. Audette's questions were legal questions about the plat itself, and he is sure Mr. Denninghoff is working with the County Attorney's Office to have that determination made.

Vic Brungart read his Statement of Candidate for District 4 Commissioner, and stated he may lose, but he is not planning on it; and noted that when he campaigns he will mean what he says.

Commissioner Bolin Lewis noted that due to term limits, both Chairman Nelson and herself are not legally able to continue serving.

ITEM V.A., PUBLIC HEARING, RE: RESOLUTION VACATING A PUBLIC UTILITY AND DRAINAGE EASEMENT IN LAKEWOOD CIRCLE FORTENBERRY PLACE - HERBERT JR. AND PATRICIA J. STRATTON

Chairman Nelson called for the public hearing to consider a resolution vacating a public utility and drainage easement in Lakewood Circle, Fortenberry Place - Herbert Jr. And Patricia J. Stratton.

There being no comments, the Board adopted Resolution No. 12-230, vacating a Public Utility and Drainage Easement in Lakewood Circle, Fortenberry Place, as petitioned by Herbert J. And Patricia J. Stratton.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Vice Chairman/Commissioner District 5
SECONDER:	Mary Bolin Lewis, Commissioner District 4
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM V.B., PUBLIC HEARING, RE: RESOLUTION VACATING A PUBLIC UTILITY EASEMENT IN WATERWOOD WAY, WOODBRIDGE AT SUNTREE, UNIT III, SUNTREE PUD, STAGE 85, TRACT 90 - UNSUK HURST

Chairman Nelson called for the public hearing to consider a resolution vacating a public utility easement in Waterwood Way, Woodbridge at Suntree, Unit III, Suntree PUD, Stage 85, Tract 90 - Unsuk Hurst.

October 23, 2012

There being no comments the Board adopted Resolution No. 12-231, vacating a Public Utility Easement in Waterwood Way, Woodbridge at Suntree, Unit III, Suntree PUD, Stage 85, Tract 90, as petitioned by Unsuk Hurst.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Commissioner District 4
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM V.C., PUBLIC HEARING, RE: ORDINANCE ADOPTING CODE REVISIONS TO CHAPTER 62, ARTICLE VII - SUBDIVISION CONSTRUCTION TIME FRAMES

Chairman Nelson called for the public hearing to consider an ordinance adopting Code revisions to Chapter 62, Article VII, Subdivision Construction Time Frames.

Robin Sobrino, Planning and Development Director, advised the item was originally brought to the Board's attention in February, and staff was provided direction to revisit the time allowances for subdivisions in order to ensure that infrastructure would be done in a manner that is consistent with the latest development standards. She stated staff has brought forward two options for the Board's consideration; Option No. 1 purely takes the direction of the Board and shortens the time frame from 48 months to 36 months; Option No. 2 is a hybrid that was presented by the Building Construction and Advisory Committee (BCAC) and the Local Planning Agency (LPA), and rather than shortening the 48 months to 36 months, the industry who attended those meetings felt that they wanted to maintain the 48-month window, but they were comfortable with a requirement that if there are any delays in construction, that the development standards would meet those that are the most recent standards.

Motion by Commissioner Bolin Lewis, seconded by Commissioner Anderson, to adopt Option No. 2.

Chairman Nelson stated he likes Option No. 2, but not at 48 months; and stated he will not support the 48 months because the developers still have the ability for an extension. He stated the whole issue was the length of time for the Heritage Isle issue; and seems to him that Option No. 2 is repeating that history. He stated he agrees with the other changes that were recommended, but thinks that the time frame should be 36 months.

Commissioner Fisher stated he is okay with 36 months.

Commissioner Bolin Lewis inquired if the industry had any statements about either 48 or 36 months. Tad Calkins, Planning and Development Department, stated the industry felt that the 48 months was what they wanted to keep, but they did not discuss 48 months versus 36 months; and stated their focus was more on a mechanism to evaluate the new standards. Commissioner Bolin Lewis inquired if the Board approves 36 months, developers have the option to extend; with Mr. Calkins responding affirmatively.

Commissioner Bolin Lewis stated she will amend her motion to approve Option No. 2 at 36 months. Commissioner Anderson agreed to amend his second to the motion. Chairman Nelson clarified that the motion has been amended to approve Option No. 2, with 36 months as opposed to 48 months.

October 23, 2012

Commissioner Infantini stated she thinks the Board should keep the 48 months down to 24 months, but then the developer has to justify why they are extending in 12 month intervals; and asked staff to explain the difference.

Mr. Calkins explained in Option No. 1, the developer has the ability to get a 12-month construction permit extension with the recordation of the plat, posting a revised performance bond, and submitting new inspection fees; and Option No. 2, the proposal would be that the developer would have the 36-month time frame, a resubmittal of a plan that demonstrates that they are meeting the most current construction standard, the plat has to be recorded, they would have to post the performance bond, and they would have to pay the revised inspection fees.

Chairman Nelson pointed out that the Board got into the discussion because of the 48 months.

There being no further comments or objections, the Board adopted Ordinance No. 12-34, amending Chapter 62, Land Development Regulations, Code of Ordinances of Brevard County, Florida; amending Article VII, Subdivisions, specifically amending Division 2, 62-2809(c) amending construction permit language; Section 62-2841(1) amending time limits; Section 62-2848 amending language regarding changes to plans and revocation; providing for conflicting provisions; providing for severability; providing for an effective date; providing for inclusion in the Code of Ordinances of Brevard County, Florida, and providing for an area encompassed.

The Board recessed at 10:13 a.m. and reconvened at 10:33 a.m.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Bolin Lewis, Commissioner District 4
SECONDER:	Andy Anderson, Vice Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM VI.A. STAFF DIRECTION, RE: BINDING DEVELOPMENT PLAN WITH AMMIE G. DANIEL

Robin Sobrino, Planning and Development Director, advised the item was before the Board on August 2, 2012; it was a rezoning application from AU to BU-1; at the time, the representation of the applicant was that they felt that a limitation of the use to wedding ceremonies only was acceptable; and upon further consideration, they have decided to reconsider that position and they have submitted a binding development plan that allows a number of other uses on the property. She noted the applicants understand that the Board cannot take action today to accept the new BDP; staff is looking for Board direction on whether it wants to see the BDP remain as it was originally approved on August 2nd, or if it would be willing to reconsider opening the public hearing to allow for this broadened scope of uses to be considered.

Commissioner Fisher stated he would like to reopen the public hearing and allow it to be re-considered. He stated there was some confusion in what the applicants were asking for and what the demand was going to be, and it is weird that they can hold a wedding onsite, but not the wedding reception; and they have also worked out a parking agreement with the existing property owner. He further stated that Mr. Ammons could not attend the previous meeting and therefore did not understand what the Board was doing.

October 23, 2012

Chairman Nelson stated he does not have a problem reopening the public hearing, but the item was a recommendation from the Planning and Zoning Board and Local Planning Agency, which heard the presentation and did not get the benefit of the discussion; and inquired if the advisory boards should have the opportunity to revisit the issue before it comes back to the Board, so that they can understand what the uses are. Ms. Sobrino replied staff can take the item back through the entire hearing process, where it will be heard again before the Planning and Zoning Board and Local Planning Agency, and it will have to be re-advertised and re-noticed at the applicant's expense. Chairman Nelson stated he would be okay with the applicant only being responsible for the advertising expense.

Commissioner Fisher stated he is okay with that, but ultimately it is going to be the Board's decision, regardless of the recommendation from the advisory boards; and he would rather save the applicant's time and let it get back in front of the Board as soon as possible.

Chairman Nelson stated he is opposed, as it diminishes why the Board has the advisory boards in the first place.

The Board directed staff to re-open the public hearing to consider a request for a Small Scale Plan Amendment from NC (Neighborhood Commercial) to CC (Community Commercial); and a change from AU (Agricultural Residential) to BU-1 (General Retail Commercial) on 1.14 acres, located on the north side of Kilmarnoch Lane, approximately 650 feet west of South Street (part of 3436 Kilmarnoch Lane, Titusville), to be continued at a later date, following re-advertisement and re-noticing, with only the re-advertisement at the applicant's expense.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Robin Fisher, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
NAYS:	Chuck Nelson

ITEM VI.B., RECONSIDERATION OF LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: ORDINANCE AMENDING ZONING REGULATIONS FOR SEASONAL PACKAGE STORAGE/DELIVERY ACTIVITIES

Chairman Nelson stated he brought this discussion back to the Board today; and he thinks it would be appropriate to have a re-discussion, but he would like to understand from the County Attorney, the Board's ability to affect a change, if it chooses to, in a time frame that allows the storage and delivery to be implemented.

Scott Knox, County Attorney, advised if the Board is going to affect a change in the Zoning Ordinance, it will require two public hearings and two notices, and it will take until the end of December before it is done. Chairman Nelson inquired if the Board can approve it as an emergency. Attorney Knox stated if it is declared an emergency, it can be done today; however, there may be another way to do it. He explained, the activity that seems to be involved does involve the use of a public street; one of the contemplated methods of dealing with this was to make it a special event; the special event as defined in the Code seems to cover any activity that involves the use of a public street; and the Board could go ahead and authorize it as a special event permit with conditions.

October 23, 2012

Commissioner Bolin Lewis inquired if that would cover the use for this year, while the Board goes through the process of making it specific for next year; with Attorney Knox responding affirmatively.

Motion by Commissioner Infantini, seconded by Commissioner Anderson, to make Seasonal Package Storage/Delivery Activities a special event for this year only.

Commissioner Infantini noted it would also give the Board a chance to analyze the impact to the communities to see if there is anything so adverse that going forward that it impacts the community, but at the same time, if the Board can allow them to move forward in a positive, productive way, it is a good idea.

Chairman Nelson stated he wants to make sure it covers the issue of the pods in neighborhoods.

Mel Scott, Assistant County Manager, inquired if the Board is suggesting that staff have UPS identify all of the locations that they would propose a pod to be dropped off. Attorney Knox stated staff can do it however it wants to; it is the use of the public right-of-way that triggers the special event; staff can go by the criteria established in the Ordinance, because conditions can be imposed on special event permits; and the only thing he would caution the Board about is if there are deed restrictions that stop this kind of activity in any particular neighborhood, whatever the Board does will not help those folks.

Robin Sobrino, Planning and Development Director, clarified that the ordinance staff brought forward for legislative intent did not address the mechanism for the deliveries themselves; it related specifically to the storage and distribution of packages; those were really to be placed on private property; and the delivery mechanism itself was not a part of the ordinance. Attorney Knox stated it is a Board-issued permit, so if the Board wants to put restrictions on it, it can do that.

Mr. Scott inquired if the Board will approve and issue the special event permit at the next December meeting, or does it want it to be an administrative function where staff processes it like it would a concert on a church property. Attorney Knox inquired how staff normally does special events. Mr. Scott responded it is administrative, and it typically addresses that moment where property owners want to do something that they cannot do as a matter of right because of its zoning, so they go through the special event permit process, such as with a block party or a concert event outdoors. Attorney Knox advised for the purposes of what the Board is doing today, it is defining the type of use as a special event, so it falls within the parameters of the special event permit ordinance, which allows it to go forward; and noted the Board can put conditions on it.

Commissioner Fisher stated the Board needs to see the conditions. Commissioner Anderson stated he would like to move forward in that manner, and he is assuming UPS can identify the locations to satisfy a special event permit.

Mr. Scott stated one thing that would be helpful would be the Board's expectations of how the activity might be impacting neighborhoods, as there has been previous discussion that single-family residential garages would not be allowed to be deposed, but the pod would have to be placed on a commercial or industrial site and site-plan it so that the emergency vehicle access was safe.

Chairman Nelson stated on the Agenda Report from August 21st, there are eight bullet points that address a lot of what the Board is discussing: seasonal activity being limited from

October 23, 2012

November through December; truck delivery to residentially located storage sites be limited to two daily trips; and disbursement from residentially located storage sites be permitted from Monday through Saturday; seasonal sites permitted from developed commercial, industrial, or institutional zoned properties - which keeps it out of the driveways of residences. Ms. Sobrino stated the Board also needs to consider provision no. 5, which does bring it into residential areas, but only in common open space tracts. Chairman Nelson stated he wanted to make sure that a homeowners association would have to approve the activity in a common area. He noted that another provision is that the Board is not contemplating golf carts and trailers, similar to Seminole County and the City of Rockledge ordinances. He inquired if there are golf carts that are street legal. Shannon Wilson, Deputy County Attorney, replied the legislature has specifically provided for a segment of permitted use of golf carts in certain low-speed areas; the legislature defines seasonal delivery personnel and golf carts, and references other low-speed utility vehicles; and the statute basically defines seasonal delivery personnel as employees of a licensed commercial delivery service that has at least 10,000 employees in the State of Florida, and read, "Those personnel may use the following vehicles solely for the purpose of delivering express envelopes and packages, having a maximum size of 130 inches, for a combined length and girth, and weigh not more than 150 pounds, from midnight October 15th until midnight December 31st of each year. Low-speed vehicles are allowed on any public road within a residential area that has a posted speed limit of 35 mph or less. Golf carts on a public road within a residential area that has a posted speed limit of 30 to 35 mph or less, unless a municipality having jurisdiction over the public road has enacted an ordinance restricting personnel from driving on such roads". She noted golf carts may also pull a trailer. She further clarified that it is allowed per State Statute on low-speed roads. Chairman Nelson inquired if it is enforced by the Sheriff's Office, or local police department; with Ms. Wilson responding affirmatively.

Commissioner Anderson stated in the special event permit it would want to reference that legislation. Ms. Sobrino stated staff can make sure that is specified; and noted the Sheriff's Office is part of the special event permit review.

Commissioner Infantini stated she strongly encourages the use of golf carts, because there is a certain speed they can go; and stated they are safer than trucks speeding through residential neighborhoods.

Les Titus, UPS, stated he does not see any issues with what the Board is proposing for the activity this year, and he is surprised that it is being discussed as a special event, but that works out well for UPS. He assured the Board that UPS is acutely aware of all of the issues from last year; it has become part of the training at UPS, for the people being brought on as helpers; and stated UPS can work with the current regulations.

Chairman Nelson stated the special event permit gives the Board the ability to consider the activity this year as a pilot program to show the rest of Florida how it can be done. He stated the motion is to allow the activity as a special event.

Commissioner Fisher inquired if the activity takes place in a residential neighborhood, will staff see a site plan on where the pod is going to be located. Chairman Nelson replied it is a requirement of the special event permit process. He stated one of the things he spoke to Mr. Titus about was that the site for the pod has to be sufficient; for instance, if there is a site where there is going to be a Christmas party and the pod takes up all of the parking, the Board would have created a different kind of problem, which is cars sprawling into the neighborhood; and stated the location needs to be of sufficient size to adequately continue its original intended uses.

Commissioner Fisher stated the Board also needs to be considerate of the fact that even though one subdivision might be okay with the activity, what is the site of it from another subdivision or the main road; and stated during the site plan process, staff might want to take into consideration that they do not just look at the subdivision that does not have a problem, because there may be another subdivision that has a problem with it. Chairman Nelson stated staff will take that into consideration the impact on adjacent neighborhoods.

Mr. Scott stated staff will place the burden on UPS to obtain homeowners associations' approval as part of a complete application.

Ms. Sobrino inquired if the Board wants to grant legislative intent so it can enact a motion. Chairman Nelson responded the Board can wait until after this holiday season.

The Board defined seasonal package storage/delivery activities for the 2012 holiday season as special events, authorizing staff to accept special event permits for storage/delivery locations pursuant to the operational limitations set forth in the agenda report of August 21, 2012, Item VI.C.; directed that UPS is responsible for providing site plans for each location along with letters of approval from each respective homeowners association; directed staff to evaluate impacts to adjacent neighborhoods when reviewing storage/delivery locations; and directed that special event permits stipulate that golf cart deliveries be consistent with Chapter 316.2126, Florida Statutes.

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

ITEM VII.A.1., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: AMENDMENT TO SECTION 62-1953 TO ESTABLISH TWO APPLICATION CYCLES FOR TOWERS AND ANTENNAS CONDITIONAL USE PERMITS (CUPS)

Chairman Nelson stated he had worked with the County Attorney about an ongoing problem the Board has had in the Central Merritt Island area where it is getting multiple cell tower requests; the problem is that the Board needs to evaluate them in terms of what is best for the community and the neighborhood; and when the Board is only looking at one at a time, that may or may not be the best place, and there may be a better one in the system, that given the opportunity, the Board may have chosen over another. He stated that happened to the Board earlier in the year when the Board denied a cell tower application, and approved a second one, but there was a third tower application had been submitted on Merritt Island; and instead of looking at all three, the Board had to deny one, approve the second, and never even had a chance to see the third. He stated the Board is going to see more and more requests for cell towers in Brevard County because the technology is leaping forward; in order to keep from having this proliferation of cell towers throughout the community, it is to the Board's advantage to group them into requests twice per year, so that if a cell tower is needed in a certain location, the Board can call for an application and look at the locations and determine what is best for the community; and noted there is another application coming forward that had been recommended for denial by the Planning and Zoning Board a couple of weeks ago for the same reasons the Board saw with the condos before. He stated today's agenda item is an attempt to make the process sane for the County Commission and the Planning and Zoning Board; the Planning and Zoning Board is frustrated with not having the information sufficient to make the best decision; and thankfully, with the last application, a consultant looked at the request. He stated there are two parts to the

October 23, 2012

request; one is asking the County Attorney and Planning and Development staff to proceed with a process that would bring applications in twice a year for consideration; the second part is something the Planning and Zoning Board asked for, which was more of a study of what is happening throughout the County in terms of impact; Merritt Island is straight forward because it is an island and it is not incorporated, but in other areas applications are bumping into city boundaries where the City of Palm Bay may be looking at a tower and someone comes to the Board looking at a tower and they could be within 100 feet of each other; and the Board is not able to capture that right now. He stated one of the interesting things that came out of the last application was that there are 37 FCC-approved towers on Merritt Island; some of them are only in the 40 to 50-foot range, and some of them are 250-foot, but it is not known how many users are on those towers; and stated there may be capacity on those towers.

Chairman Nelson passed the gavel to Vice Chairman Anderson.

Motion by Chairman Nelson, seconded by Commissioner Bolin Lewis, to direct staff and the County Attorney's Office to work together on a process to bring cell towers back to the Board twice per year.

Commissioner Fisher inquired if the Board can legally restrict people from bringing projects to it that might make sense for them, even though the Board has the right to deny them; and further inquired if the Board can tell developers that they can only bring two buildings per year to it to consider. Scott Knox, County Attorney, replied yes, and the model he has for that is the fact that by State law, there is a land use amendment process that limits the number of application periods to two; and stated the idea behind it is to get as many applications for the same kind of location as possible to determine which one of them may be the best. Commissioner Fisher inquired if the Board can start requiring that for buildings. Chairman Nelson stated the one difference he has discovered through the process is that one of the criteria for Board consideration is the number of carriers, as in, if there is availability elsewhere; if there is a tower on Merritt Island that has capacity, the Board can say it is not going to approve another one because that tower has capacity; and that is part of the approval process, which separates it from the analogy of a business. He stated towers are so intrusive in communities that the Board can even review them based on aesthetics, which is unusual, as it cannot do that with other land use categories.

Commissioner Infantini stated she understands the thought process, but she does not agree with limiting the applications to two times per year. She pointed out that the item was a last minute add-on, so the Board did not have time to discuss with staff all of the implications; she does not like limiting free enterprise to two times per year, because if something comes up at the last minute and a developer misses the window, they have to wait another six months; and stated she does not think the Board wants to start over-regulating specific areas. She stated she appreciates the intent, but she cannot support it.

Commissioner Anderson stated if AT&T has a tower and they have capacity on it, and Verizon wants to add to that tower, AT&T does not have to permit their competitors to add to their tower, and inquired if there is some specific legislation on it. Attorney Knox replied no, they do not have to. Chairman Nelson pointed out that typically, the tower is not owned by the carrier; they lease the space on the tower, and the towers are being built by tower companies who then lease the space; the competitive aspect has not been an issue; and stated one criteria of the federal law is if there is additional capacity on the tower. He advised federal law enforces the consideration of how much can be on a single tower. Commissioner Anderson stated he does not disagree, but he gets concerned that a carrier could shut another carrier out. Attorney Knox stated that is part of the Board's consideration when it considers the application, but it has nothing to do with how often it considers applications.

October 23, 2012

Commissioner Anderson stated the School Board is now involved in cell phone towers, and inquired if two-cycle request would include School Board properties. Attorney Knox stated he thinks it would include the School Board, but he will check into it, as there were some exemptions from being able to regulate the School Board, but he does not think towers are one of them.

Commissioner Fisher inquired how the two-cycles would affect the County, which is considering a new emergency management tower. He stated something the Board might want to consider is that the Board does not really know what the capacity is and what is available; and stated perhaps the issue should come back to the Board after those questions are answered, and then see if the limitation makes more sense at that time, because the Board will have had some clarity and knows where the capacity is.

Chairman Nelson stated he has been contacted by three tower companies; one was just denied, and two more want to submit, but they are holding off their submissions until they see what happens with the other one; and stated his District is the one that has had the most requests. He stated all he is trying to do is make sure the Board has the best ability to look at the community and see what works best, and structure it so that it can see all of the sites at one time and make that decision and move on.

Commissioner Fisher stated he got a call about a proposed tower on S.R. 528 in the Canaveral Groves area. He inquired even if the Board sees tower applications twice per year and it chooses a particular site, and then six months later another one comes up; it is possible that the second one would have been a better location than the first one; and stated he does not know if the Board can ever get away from which location is better than another. He stated he would like to see the tower industry do a comprehensive study, because it might help the Board figure out what kind of ordinances it needs to put in place.

Chairman Nelson stated all he is looking to do today is have staff begin to put the information together. He noted that the applications the Board has seen for Merritt Island have all been to serve one general area; the one that was denied deserved to be denied because it was not a good location; one was approved; another did not even come before the Board; and if the Board had been able to see all three applications at the same time, it would have had the ability to look at the needs and who they were serving. Commissioner Fisher stated it is possible that the property owner of the tower site that the Board never saw, maybe did not want to sell at that time. Chairman Nelson stated having two cycles will generate some sanity back into the process because it will get worse before it gets better, because the signals now have to penetrate into houses.

Commissioner Bolin Lewis stated she sees the advantage of having a two-cycle process because it would bring the different companies together the Board can compare them at the same time. She noted that at one of the six-month meetings there could be towers from five different districts, and not necessarily all from one location; it would also give the companies a timeline to prepare for; and she would like to have staff get more information on how it can be put together.

Commissioner Anderson stated he is okay with moving forward with legislative intent, but he is not there for the whole concept for a couple of reasons; he would like an answer on the School Board issue, because he gets nervous imposing the Board's will upon other government bodies; and stated he understands the intent, but if there are two cycles per year, then the smaller companies would be at the mercy of higher prices because of limited availability of tower space.

October 23, 2012

Commissioner Infantini stated she would prefer not to have staff prepare legislative intent on something that she has no desire to move forward on; and inquired if the Board could find something else for staff to work on. Commissioner Anderson stated the reason he is okay with legislative intent is because it gives the opportunity for the industry to come talk to the Board.

Commissioner Fisher inquired if the County would be restricted if it wants to put up an emergency tower. Chairman Nelson stated he thinks that a tower for the County is different than a commercial service tower. Commissioner Fisher inquired if the County can make money off of a tower if it buys one and leases the space. Chairman Nelson noted on Central Merritt Island there are some churches off of Tropical Trail that have large tracts that would be beneficial, and the church would benefit from having the tower, and it would be away from the Courtenay Parkway corridor, but the problem is that the Board would never see that application because there would be something else in the pipeline. Commissioner Fisher stated he has discovered that carriers rent tower space for \$50,000 to \$70,000 per year; and it is possible that the County might be in a position to own a tower on one of its properties. Chairman Nelson pointed out that the Board cannot make the School Board do anything. Commissioner Anderson stated he would like staff to notify the School Board to get their feelings on the proposed intent of the two-cycles for tower applications.

The Board granted legislative intent and permission to advertise an ordinance amending Section 62-1953 to establish two application cycles for towers and antennas Conditional Use Permit (CUP) applications.

Vice Chairman Anderson passed the gavel back to Chairman Nelson.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Chuck Nelson, Chairman/Commissioner District 2
SECONDER:	Mary Bolin Lewis, Commissioner District 4
AYES:	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
NAYS:	Trudie Infantini

ITEM VII.A.2., PERMISSION TO SOLICIT BIDS, NEGOTIATE, AND AUTHORIZE THE CHAIRMAN TO EXECUTE CONTRACT, RE: WETLAND MITIGATION CREDITS

John Denninghoff, Public Works Director, stated recently staff became aware of an opportunity that exists to potentially acquire a number of mitigation credits from the Mary A mitigation bank, which serves the south part of the County and the St. Johns River drainage basin, at a substantially reduced price; and as such, that opportunity has a timeline associated with it that is somewhat constrained, but it would save money for future mitigation needs that the mitigation bank could serve. He advised currently, there are at least two projects that need a significant number of credits, and they are the St. Johns Heritage Parkway and the Sarno Landfill; the acquisition would be for 100 credits, which would take advantage of the substantial reduction in cost; the combined savings that could be realized would be \$3.5 million; the Parkway needs approximately 25 credits soon; and the Landfill needs 70 to 75 credits, but could go above that. He stated staff is seeking authorization to utilize Transportation funds and Solid Waste funds for the purpose of securing 100 units and also an option to negotiate with the Mary A an opportunity to acquire another 100 units on top of that for a relatively small deposit of \$10,000; and stated that option would be to acquire them at the same unit price of \$45,000 instead of the normal price of \$80,000 to \$90,000. He advised the County can use the credits for any project it has, or it could sell them to a city if there is a need, and they would have to reimburse the funds. He

October 23, 2012

further stated the idea is that staff would negotiate the contract and get the County Attorney's and County Manager's approval and then take it to the Chairman for execution; and noted a contract needs to be signed no later than the Thanksgiving time frame, with the closing of the credits before Christmas.

Commissioner Anderson asked staff to explain why the County is choosing the Mary A mitigation bank, because of the requirement that the mitigation credits be in the same basin. Mr. Denninghoff explained each mitigation bank has a geographic area that they are allowed to provide credits for; in this particular case, the south part of the County the Mary A is the only option for the type of credit needed; they are fresh water marsh basin mitigation credits; and it is a limited area that the County can obtain credits from. He noted the only other option for credits would be to do a wetland creation, which requires an extensive monitoring process. He pointed out there are potential projects on the transportation side that would potentially need credits, such as the Washingtonia extension, the Hollywood Boulevard widening, and the Babcock Street widening; and money has already been spent to explore those projects to develop them. He advised the credits do not expire; there is no shelf life associated with them; and staff thinks it is a good opportunity to save the tax payers quite a bit of money.

Commissioner Bolin Lewis stated she thought it was an excellent idea to take advantage of the credits; and stated she would like to direct staff to add the Washingtonia monies to be able to buy 12 credits, because District 4 is going to need those credits in the future for the road project.

Commissioner Fisher inquired if it would be a bond procedure purchase, or if it is a Solid Waste purchase. Euri Rodriguez, Solid Waste Director, replied it is a combination of both; staff originally presented 25 for Transportation and 75 for Solid Waste. Mr. Denninghoff stated the source of the funds in the case of the Parkway, staff will need to purchase those with local option gas tax funds in the immediate term, but if staff follows the proper procedure the federal funds will be able to reimburse the County for those; and in the case of Washingtonia, staff could do the same thing. He advised the bond resolution does not allow for that right now, but staff can make a modification to it; and he could not get it to the Board on such short notice to be able to make the modifications. He noted staff can come back and do that and then shift the funds around to reimburse one fund from the other.

Commissioner Fisher inquired if there is any other property within the basin that could be bid, and put the County in a bidding situation of what it is willing to buy with the credits. Mr. Denninghoff replied there is no other mitigation bank that is permitted and services the area; in the case of the Parkway, to follow the federal process, staff has to go to bid and give the only supplier the opportunity to bid on the project, and they are the only ones who actually have a permit to issue credits right now; others could develop the credits if they had suitable land, but it is a lengthy process; and the typical cost for these kinds of credits is between \$80,000 and \$90,000 per unit.

Commissioner Fisher inquired if there is someone in that basin who owns 200 acres of wetlands, would the County be better off buying those 200 acres at \$20,000 each and use it for credits in the future. Mr. Denninghoff responded he would have to look at the details to answer that, but generically, the problem with purchasing a piece that is for that purpose is that the County then has to get the permits for it and do ongoing maintenance. Mr. Rodriguez stated on the U.S. 192 site, staff is looking at doing enhancements through a combination of mitigation credits plus enhancement of current wetlands onsite; the current wetlands have to be improved, or create new wetlands and provided maintenance for a few years; and stated they have to be taken care of forever.

Commissioner Anderson inquired if the 12 additional credits for Washingtonia are purchased, and then down the road other funding sources become available for right-of-way acquisition,

October 23, 2012

can the Washingtonia money be reimbursed. Mr. Denninghoff replied to address that, staff will increase the bid process to purchase the Parkway credits, and increase it by 12 or 13, then follow the same process, which preserves the federal process and protects that project from the loss of future consideration of federal funds.

Chairman Nelson summarized that staff is going to buy credits at a reduced cost for Solid Waste and Transportation; staff is going to be using the respective funds for projects in the basin, and will potentially be reimbursed at a later date from the federal source; and stated there is an interim step, which is that the bond resolution has to be changed in order to be able to take from the project, and that will occur as part of the process.

Mr. Denninghoff stated staff will come back with a bond resolution modification; in the meantime, in order to meet the timeline that is necessary if the bond resolution cannot be done in time, rather than use the bond funds now, he would suggest using the available local option gas tax funds for that purpose, and then the funds can be swapped out with the bond resolution later.

Chairman Nelson inquired if the bond resolution could be done before the next Board meeting. Mr. Denninghoff stated he can get it ready as quickly as possible, but he did not want to have the process of amending the bond resolution interfere with the process of getting the mitigation credits and then miss out on the opportunity for the savings.

The Board directed staff to solicit bids and negotiate the purchase of wetland mitigation bank credits suitable for County projects located within the service area of the Mary A. mitigation bank, with an option to purchase 100 additional credits; authorized staff to use money reserved for the Washingtonia Extension to purchase 12 to 13 additional credits; and authorized the Chairman to execute a contract for such credits and approve needed budgetary changes utilizing funds from reserves, Solid Waste, or Transportation funds.

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

ADJOURNMENT

Upon consensus of the Board, the meeting was adjourned at 11:36 a.m.

ATTEST:

MITCH NEEDELMAN, CLERK

CHUCK NELSON, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA