

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 December 19, 2017 at 9:01 AM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**CALL TO ORDER**

9:00 AM Meeting called to order on December 19, 2017 at Board Room, Board Room, Viera, FL.

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

**INVOCATION**

There was a moment of silence.

**PLEDGE OF ALLEGIANCE**

Chair Pritchett led the assembly in the Pledge of Allegiance.

**APPROVAL OF MINUTES**

The Board approved the November 7, 2017 and November 21, 2017 Regular Meeting minutes.

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

**PRESENTATION, RE: SANTA CLAUS**

Santa Claus stated he hopes everyone has a Merry Christmas; and he presented gifts to the Commissioners.

**ITEM I.C., RESOLUTION, RE: RECOGNIZING JIM RIDENOUR FOR HIS DISTINGUISHED SERVICE TO THE COMMUNITY**

Commissioner Barfield read aloud, and the Board adopted Resolution No. 17-251, recognizing Jim Ridenour for his distinguished service to the community.

Jim Ridenour expressed his appreciation for the Resolution.

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

**ITEM I.D., RESOLUTION, RE: PROCLAIMING DECEMBER 24, 2017, AS SURFING SANTA DAY IN BREVARD COUNTY**

Commissioner Barfield read aloud, and the Board adopted Resolution No. 17-252, proclaiming December 24, 2017, as Surfing Santa Day in Brevard County.

George Trosset expressed his appreciation for the Resolution; and he provided the Board with a presentation of the Surfing Santas.

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

**ITEM I.A., RESOLUTION, RE: PROCLAIMING THE WEEK OF NOVEMBER 15-22, 2017, AS FARM CITY WEEK**

Chair Pritchett read aloud, and the Board adopted Resolution No. 17-250, proclaiming the week of November 15-22, 2017, as Farm City Week.

Tom Shuler expressed his appreciation to the Board for the Resolution; he stated every year Farm Bureau hosts this annual event; it starts out in Washington D.C. when the President signs a proclamation, the week before Thanksgiving, supporting and honoring the farmers of America who produce the food and fiber; the American Farm Bureau passes this on to the states; the Florida Farm Bureau does it in every County in the State; and he is glad Brevard County also honors the farmers and supports agriculture. He reminded everyone how important agriculture is, not only for the food and fiber but also for the economic impact it creates in the State of Florida and Brevard County.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Rita Pritchett, Chair/Commissioner District 1  
**SECONDER:** Kristine Isnardi, Vice Chair/Commissioner District 5  
**AYES:** Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM II.A.4., APPROVAL, RE: BOARD POLICY BCC-28, PRE-QUALIFICATION OF CONSTRUCTION BIDDERS PRIOR TO AWARD**

The Board executed Policy BCC-28, Pre-Qualification of Construction Bidders Prior to Award.

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

**ITEM VI.F.4., RESOLUTION, RE: RECOGNIZING AND SUPPORTING MEALS ON WHEELS**

Commissioner Isnardi stated she brought this Item back, and she thinks she warned the Commission she was going to bring this Item back; part of her interest in bringing this back, if anyone watched any of the budget meetings, he or she would be the first to know that she, along with Commissioner Tobia, were not fans of Community Based Organizations (CBO's); part of the reason why is because the decisions, which she is sure are well intended, are left to a board to decide; then those recommendations come to this County Commission where it can either modify, eliminate, add, and otherwise; and it puts not only the Board in a difficult spot, but it also puts those agencies, the ones awarded funds versus ones that were not in a bit of a spot. She explained while again she is not a fan of CBOs, she does not believe the Meals on Wheels program is a charity event, she believes that it is a program, she believes that it saves the County tens of thousands of dollars, probably hundreds of thousands of dollars annually in increased Medicare and Medicaid costs; they are able to get match funding, which is unprecedented, to the tune of over a million dollars; and the County's \$60,000, along with United Way grant, helps return those funds to the County, so while it would be nice to categorize Meals on Wheels into a charity organization, it is not a charity organization in her opinion. She went on to say unfortunately during the budget cycle, Meals on Wheels was touted as one of the strongest reasons to support CBOs, which she does not believe is fair, and she is not picking on the Commission when she says this, but it did nothing to make sure Meals on Wheels received funding; Cindy Flachmeier, who does a fantastic job as the leader of Aging Matters, Director of Aging Matters, did not want her agency or the program to be pitted against other programs that were awarded funding; she understands her hesitation to approach the podium and ask the Board to fund Meals on Wheels as much as its hearts wanted to; and that is why she has opted to bring this back to the Board for consideration that it has the opportunity to fund this because there is money available in the General Fund because the Board over-funded the Reserves. She stated next year, given the fact that the Board will be reducing the CBO funding by another 20 percent, which calculates to about \$102,000 additional General Fund monies in the next budget cycle the Board would get, the next budget cycle, even if the Board were to fund them at the same level, which obviously will be discussed and will come back, it will be able to do that without any injury per se to the General Fund given that the County will still be \$40,000 in the black; she regrets that Meals on Wheels was held as a poster child as to why the Board needs to continue to fund CBOs, because there is not a person in the room, at least in her opinion, who can justify to her how feeding the elderly does not trump charter school transportation; although it is important, although it is need of the community, and she understands that, there is nothing on the list that would surpass feeding the elderly for her; and the financial aspect, the money that the Meals on Wheels program is able to return is unprecedented, it is a testament to the work Aging Matters does to ensure Meals on Wheels funding. She noted the Board can discuss it; she asked that once it is discussed, she would get a chance to at least respond to make possible comments moving forward; she brought this as a resolution because again the Board can set the funding level every year if the budget is tight, or if the Board opts not to fund it, it can do that; but this year she is asking the Board to pass this resolution for \$60,000 to fund the Meals on Wheels Program, and it takes them out of the CBO mix. She noted if this Board chooses next year, the Commission has the option of moving \$60,000 from the CBO funding so the money does not have to come from the General Fund if

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that is peoples issues. She added she thinks it is a shame that this organization did not receive funding, but that decision has already been made by a majority of the Board.

Commissioner Tobia stated this was pulled from the Agenda at the eleventh hour; there was the Brevard Cultural Alliance Grant that was a total of about \$130,000; he is hesitant of pulling any resources out of Reserves for a number of reasons; he thinks if the Board wants to keep the budget neutral, it could look at pulling the \$60,000 out of Brevard Cultural Alliance; while it is projects like the symphony, and other organizations like that, that may be worthy, he does not think they rise to the level of the importance of the Meals on Wheels program, the amount of dollars that it saves out of the County's budget; and if the Board is looking at doing that this year, he thinks that is a way to accomplish it with a simple budget change that would have zero impact on the County's Reserves. He added that is just a suggestion to get the resources to that organization as soon as possible.

Commissioner Barfield stated that is an interesting idea; the issue is where that money comes from; he thinks of the \$130,000, \$100,000 is from the Tourist Development Council (TDC) funds, which cannot be used for that; with budget processing reviews back in the summer, the Board looked at budgeting this at a full amount and that was not going to fly; there was a 3:2 consensus to eliminate CBO funding altogether; Chair Pritchett and himself were the two who wanted to see CBO funding continue; in a compromise, he proposed that it be phased out over five years instead of all these organizations being hit at one time with no preparation; and he reiterated that passed 3:2. He continued the Board has stuck with that budget, that budget was approved; Meals on Wheels is dear to his heart because his father used Meals on Wheels; it was a life saver for him because of the contact he had with people; the moral and ethical side of Meals on Wheels and it is paramount for the County to take care of its elders; this County has an aging population and it is absolutely important; the County has an unfunded mandate it pays each year to Medicaid of \$6.8 million, which is based on the number of clients that the County has; and each County has a number of recipients of Medicaid, it is split by that amount all across the State, and the County never knows how much that is going to be. He noted this past year is \$6.8 million; Meals on Wheels provides the service delivering meals, and a lot of times that is the only contact these people have; if Meals on Wheels does not go visit them, the people do not receive the meal; these people want to stay in their homes, but if it was not for Meals on Wheels a lot of these people would have to go into Medicaid into long term care; being conservative with the numbers, Medicaid pays \$63,000 a year for a person to go into a long term care facility; there are 1,120 clients and if 10 percent of those end up going into long term care because they are not receiving their meals it would equate to \$6.9 million in addition to the \$6.8 the County pays now; and Meals on Wheels is a huge cost avoidance for the County. He commented every community has a Meals on Wheels and it is more than just the meal it is the human contact; and he agrees with what Commissioner Isnardi is saying and he believes the County needs to make this a contracted service, and that it needs to be set up as a line item specifically where the County is contracting the services; and that it be a grant every year. He continued on he is a firm believer in this; the cost avoidance is major; and the other side of it is visiting people who sometimes do not see anyone.

Commissioner Isnardi stated she had looked at this a few different ways as to whether request the Board to choose by motion to fund this for this year, but with a resolution the Board would have to repeal it; she thinks the resolution not only holds this Board or any future Board accountable to have to justify de-funding Meals on Wheels by repealing the resolution; she thinks it allows the Board the flexibility, whether money is moved from the General Fund, because although there was a plan in place, voted 3:2, the plan in place was to de-fund the CBOs in five years; this Commission is going to change by at least by one person this time next year; not only that, two years from that point, it could be at \$1 million again, or totally de-funded in 2018; she believes this isolates it and protects it, and holds the Commission publicly accountable not only for funding the Meals on Wheels program but taking care of those in the

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community; and she agrees with Commissioner Barfield on the financial end, she is glad he went into the numbers more, because she knew she was going to ramble, so she is glad he took that angle. She noted she understands the cost, not just because she is involved in the medical field and otherwise, but she understands the importance of that contact, and that is why she does not look at this as a charitable thing the Board is doing, she does not view this as something the Board really has an option not to fund.

Commissioner Smith stated he agrees with all that is being said, however, he spoke with Ms. Flachmeier himself and her opinion to him was that the CBO funding has a process in which Meals on Wheels did not make the cut; because they did not make the cut, they accept that as part of the process; his mother used Meals on Wheels, he has delivered Meals on Wheels, and he supports Meals on Wheels, he thinks it is a phenomenal program; but as Ms. Flachmeier said, Meals on Wheels is not going to go away if it does not receive the \$60,000; they would love to have it, but it is not going away, they are well funded; and he likes the idea that the Board now wants to support it. He noted he thinks what is being done is the Board is making an arbitrary decision to pick winners and losers. He continued there is a process that was designed to take the Commission out of the political process, and to try and make it a little more fair; as Commissioner Isnardi pointed out, the Board is going to change, and if it changes the opinions could change; he believes it would be best to leave it in the process as it is and take it out of the hands of the Board and let it be; if Meals on Wheels qualify next year then it will receive the funding; he noted that is his opinion; and he will not support this motion.

Commissioner Isnardi stated she asked Ms. Flachmeier to come to the podium, and she inquired if the Board was okay with that; she asked Ms. Flachmeier to tell the Board whether or not her organization needs the funding; she does not expect her to plead the case, but she does understand that it is not fair to ask her to come to the podium and ask the Board to pull money from other agencies to fund hers, and she was not willing to do that based on the fact there was a process; however, for someone to suggest that Aging Matters does not need the money to fund this program is not factual.

Cynthia Flachmeier, President and CEO of Aging Matters in Brevard County, stated every day at Aging Matters the telephone rings and there is one more senior in the community, one more person who is hungry; that is what is being talked about today, hungry people and hungry seniors that do not have access; if the Board gave them all the money in the world, it could probably take care of the folks in Brevard County, but the truth of the matter is there is never enough money; she hopes her board supports her on this, it is very difficult for her to stand and say that one group is better than another group; she would hope Brevard County is not that kind of community; she does have a lot of seniors; and she told a story of going to Titusville where there was a seniors at lunch party and every senior received a gift at a minimum of \$20. She went on to say these are poor Community Development Block Grant clients that have nothing; they were each given a choice of 10 different gifts, and they could have one of those 10 gifts; there was a women who was clutching a nightgown, another who could not figure out how the representatives figured out she wanted a blue shirt; this is what the community is all about; when asked the question which is better to look at, arts, hunger, or kids in community centers, she cannot and will not answer that; and what she will say is there are hungry people in this community and they need to be fed. She mentioned they have volunteers out all over this County because they are providing four days of meals out of Aging Matters funding, because on Christmas Eve, Christmas day, and two more days there are no meals because the Federal Government does not pay for those four days of meals; for people who are in their homes and have absolutely nothing, they would go hungry and possibly die if they do not eat; that is why they have packed up meals to be delivered; and that is what Aging Matters does. She noted they do need the money but that is the Board's decision.

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Commissioner Isnardi thanked Commissioner Barfield for his support of the program; she mentioned she did not mean to put Ms. Flachmeier on the spot as far as the need for funding, but she does not think it is fair to ask her to fight another organization for funding; when the funding was awarded, it came to the Commission from a board, by the way where she lost her sitting member because he believed the process within that board was too political for his liking, and he did not feel comfortable serving as a member; again, that is why there are two checks in place, that is why it comes back to the Board; and the Board had the opportunity not to even defund anybody. She stated if some think funding a not-for-profit charter school transportation is important, because that was number one on the list over senior nutrition, or if some think that funding classes for child abuse prevention is important, but it still does not in her opinion come before food and nutrition for the elderly; and she thinks a little bit of that funding could have been redistributed to Meals on Wheels and Seniors nutrition program. She noted that is what has led her to this; it is okay if the Board does not support it; she is not quite sure how anyone on the Board could not vote to modify the existing awards that it has given just to vote no on Meals on Wheels; it is like saying feeding seniors is less important than the other organizations that it chose to fund instead; and she pled to the Board to support the resolution.

Chair Pritchett stated she believes this is a program more than a charity cause; she thinks the Board needs to start having conversations; what happens when the County invests in Meals on Wheels for \$60,000, the Federal Government is going to pour over a million dollars into this community; the community has paid into those federal funds and she is all for the community getting its fair share; if this County were not to utilize the matching funds, they would go to other counties, and this County is paying for them; she wants to be on top of it when looking for these where there are federal grants of these types of numbers; \$1 million does boost the economy; and to have these funds pour into this economy, it helps with those types of situations. She asked the Board to take a good look at the CBO funds; she thinks this would serve as being a line item; she is trying to figure out a way to make that happen; she thinks it is a smart move; if someone does not have a heart for doing this for the community, it is still the smart thing to do; and as Commissioner Barfield stated, the tax savings is quite substantial in being about to put money into this and saving money down-the-road. She noted she will be supporting the resolution; in the future the Board can tweak it; and anytime the County is receiving a return like this, she will vote in favor of it because she believes it is beneficial to the taxpayers.

Commissioner Barfield stated the evaluation of the CBOs that is done through the citizen's committee could be looked at by the Board and make recommendations to change that.

Ian Golden, Housing and Human Services Director, stated no matter what the Board decides, staff will have a contract with contracted services; it will be treated the same as every other contract by monitoring it and all of those other things; the other has to do with the process itself; the Department already has a plan to come back to the Board starting in February; based on the Board's discussion at the previous meeting, he wants to bring back what the priorities are for the CBO application itself; it was a previous Board that set up the current list of priorities; and based on that discussion, he feels there is going to be a new set of priorities and a different focus. He continued they are also going to bring back the process itself to give the Board additional options on that as well.

Commissioner Isnardi expressed her appreciation to staff.

The Board adopted Resolution No. 17-253, recognizing and supporting Meals on Wheels; and authorized the County Manager to move \$60,000 in Reserves to fund the Meals on Wheels Program.

**RESULT:** ADOPTED [3 TO 2]  
**MOVER:** Kristine Isnardi, Vice Chair/Commissioner District 5  
**SECONDER:** Jim Barfield, Commissioner District 2  
**AYES:** Rita Pritchett, Jim Barfield, Kristine Isnardi  
**NAYS:** John Tobia, Curt Smith

**ITEM II.A.2., FIRST AMENDMENT TO THE TRANSPORTATION IMPACT FEE TRUST FUND DISBURSEMENT AGREEMENT BETWEEN BREVARD COUNTY AND TOWN OF GRANT/VALKARIA AND TOWN OF MALABAR, 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 South Mainland Benefit District on November 15, 2017; executed Transportation Impact Fee Disbursement Agreements with Town of Grant/Valkaria and Town of Malabar; and authorized the Budget Office to execute any budget changes required to implement project appropriations.

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

**ITEM II.A.3., RESOLUTION, CONSERVATION EASEMENT, AND OWNERS' AFFIDAVIT IN FAVOR OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (SJRWMD), RE: HALL ROAD**

The Board adopted Resolution No. 17-254, executed Conservation Easement, and executed Affidavit of Ownership in favor of St. Johns River Water Management District for Hall Road.

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

**ITEM II.A.5., PUBLIC ACCESS EASEMENT AGREEMENT FROM PALM BEACH OF BREVARD, INC., RE: SITE PLAN #17SP00014**

The Board executed the Public Access Agreement; and authorized the County Manager or designee to accept delivery of and cause the recording of any deed, grant of easement or other instrument conveying interest in real property needed for Site Plan #17SP00014, pursuant to BCC-24.

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

**ITEM II.B.1., APPROVAL TO AWARD, RE: EMERGENCY MEDICAL SERVICES (EMS) TRUST FUND GRANTS TO LOCAL EMS PROVIDERS FOR 2017**

The Board awarded Emergency Medical Services (EMS) Trust Funding to local EMS providers who have submitted grant applications, funding for this request is provided to the County from the State Department of Health; and approved all budget changes necessary for this process to be approved by the County Manager.

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

**ITEM II.B.3., APPOINTMENT, RE: AFFORDABLE HOUSING COUNCIL MEMBERS**

The Board appointed/reappointed **Verdell Shackelford, Carole M. Williams-Hayes, Cynthia Matthews, Joshua Thomson, Brenda B. Burton**, to the Affordable Housing Council with terms expiring December 31, 2019.

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

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

The Board approved the Budget Change Requests.

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

**ITEM II.C.2., ACKNOWLEDGE RECEIPT, RE: FY 2017-2018 PARRISH MEDICAL CENTER REVENUE AND EXPENSE BUDGET, AND MILLAGE RESOLUTION**

The Board acknowledged the receipt for FY 2017-2018 Parrish Medical Center Revenue and Expense Budget, Millage Resolution.



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

**ITEM II.C.3., APPROVAL AND RENEWAL OF STOP LOSS INSURANCE WITH SYMETRA FINANCIAL, RE: SELF-INSURED GROUP HEALTH INSURANCE PROGRAM**

The Board approved the renewal of Stop Loss Insurance with Symetra Financial for the self-insured group health insurance program; and authorized Human Resources Director Jerry Visco to execute all documents necessary to bind this coverage effective January 1, 2018.

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

**ITEM II.D.2., APPROVAL, RE: BILLFOLDER**

The Board approved the Billfolder as submitted.

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

**ITEM II.A.1., CONTRACT WITH PERRY CONSTRUCTION COMPANY, INC. AND HARTMAN CIVIL CONSTRUCTION COMPANY, INC., RE: MOSQUITO IMPOUNDMENT DIKE REPAIRS - UTILITIES OF ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (SJRWMD) ANNUAL CIVIL WORKS CONSTRUCTION SERVICES CONTRACT, AND BREVARD COUNTY PUBLIC WORKS ROAD CONSTRUCTION MATERIALS CONTRACT**

Frank Abbate, County Manager, stated since this Item is a time sensitive matter dealing with Mosquito Control Impoundments, he would like to ask the Board to approve the Agenda Item as written with the understanding that FEMA may not approve the use of a piggyback contract for this; therefore, he would like the Board to approve placing the project out to bid using the County Manager and the County Attorney's Office approved documents, if that is necessary; they are in the process of communicating with FEMA to ensure they do it and can get the appropriate reimbursement that they would be eligible for; and he would also ask that the Chair execute a contract with the lowest responsive and responsible bidder, and to authorize the necessary budget modifications to complete the project, if that is necessary.

The Board executed Contract with Perry Construction Company, Inc. and Hartman Civil Construction Company, Inc. (A Joint Venture) for mosquito impoundment dike repairs; approved placing the project out for bid, using the County Manager and the County Attorney's Office to approve the documents necessary for appropriate reimbursement eligibility; authorized the

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Chair to execute the contract with the lowest responsive and responsible bidder; and authorized any necessary budget modifications to complete the project, if necessary.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	John Tobia, Commissioner District 3
<b>SECONDER:</b>	Kristine Isnardi, Vice Chair/Commissioner District 5
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

### ITEM III., PUBLIC COMMENTS

Charles Tovey stated he is back again beating a dead horse; he wished all those who do not believe a Happy Holidays and to those who believe a Happy Birthday to Jesus, God his savior; the gift of life as waking up an American, as to just waking up, he has the gift of life; that is what his Christmas is all about, except for the big picture; he asked where he goes from here, as he had an abundance of agencies put him in this situation; and it has been going on for 10 years, with no help. He asked how he is to get out of it or if he is going to get out of it, or if he is going to be driven off his property; he stated he has mostly electives to get his Bachelor's Degree in Science; he has a few years in Bible College; he was engaged and might still be, he lost contact with everything; and he is there now because he is healthier and stronger today, he does not have anything left, and has nothing to lose. He continued what is left at his property, permanent jurisdiction, and why, because it has been a progressive effort of entrapment to oust him out of his property; the Board does not want to hear it, but where else can he go; fines, fees, and all the plethora of Ordinances and aggression against him, he is still looking for someone of Brevard County to assist him in clearing a path where they can straighten out their differences; he is not moving out of Palm Shores as long as he is alive, he will have to be murdered; and he stated he is going to find the first person on the street he can to get married to, so they can inherit his problems that Brevard County and Palm Shores created for him. He went on to say seniors need to eat but it is difficult enough for them to fix their own meals; they need help cooking, preparing, and serving and if that is not happening they do not eat; their condition then deteriorates like everything else; and then it becomes the burden of the taxpayers. He thanked the Board for the homeless adoption day on December 21; and he stated if people could adopt a needy person and give a little bit of their time to help another person, this would change a lot of the community. He wished the Board a Merry Christmas.

### ITEM IV.A., RESOLUTION, RE: PETITION TO VACATE PUBLIC UTILITY EASEMENT - MARLIN CIRCLE - BAREFOOT BAY UNIT ONE - BAREFOOT BAY - JIMMY AND KAREN RECTOR

Chair Pritchett called for public hearing on a petition to vacate public utility easement at Marlin Circle, Barefoot Bay Unit One, Barefoot Bay, by Jimmy and Karen Rector.

Andy Holmes, Public Works Director, stated this is a petition to vacate a public utility easement on Martin Circle in Barefoot Bay; the petitioner has requested this in order to build a shed without an encroachment; and there have been no objections to this request.

There being no comments or objections, the Board adopted Resolution No. 17-255, vacating a public easement at Marlin Circle, Barefoot Bay, as requested by Jimmy and Karen Rector.

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

**ITEM IV.B., RESOLUTION, RE: PETITION TO VACATE PUBLIC UTILITY AND DRAINAGE EASEMENT - PINTA CIRCLE - SEA GATE WEST UNIT TWO - MERRITT ISLAND - PAMELA DIAZ**

Chair Pritchett called for public hearing on a petition to vacate public utility and drainage easement on Pinta Circle, located in Sea Gate West, Unit Two, Merritt Island, by petitioner Pamela Diaz.

Andy Holmes, Public Works Director, stated this is another petition to vacate a public utility and drainage easement on Pinta Circle; the petitioner has requested this vacation in order to construct a pool deck and enclosure; and the County has no objections to this.

There being no further comments or objections, the Board adopted Resolution No. 17-256, vacating a public utility drainage easement on Pinta Circle, in Merritt Island by Pamela Diaz.

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

**ITEM VI.E.1., BOARD DIRECTION FOR ADDENDUM TO AT&T INTRASTATE PRICING SCHEDULE, RE: RESPONSE TO PROPOSED AT&T CONTRACT EXTENSION**

Jeff McKnight, Information Technology Director, stated this is a contract extension for AT & T; it prevents the contract rates, primarily for telephones service from going into month-to-month prices, which are significantly higher; and this is following efforts to aid in the migration from the AT&T circuits to Spectrum circuits.

The Board executed and approved the Addendum Agreement for an extension of the pricing schedule term with AT&T.

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

**ITEM VI.F.1., AUTHORIZATION OF STAFF AND FINANCING TEAM TO UNDERTAKE A REQUEST FOR PROPOSALS TO IDENTIFY A FINANCIAL INSTITUTION TO PROVIDE A LOAN TO REFINANCE OUTSTANDING COMMERCIAL PAPER AND TO FUND NEW MONEY NEEDS, RE: VALKARIA AIRPORT PROJECTS**

Frank Abbate, County Manager, stated this Item has been reviewed by staff, the Budget Office, and County Finance along with the County's financial advisor to undertake a Request for Proposals (RFP) to look at providing and obtaining a loan for a fixed rate of 15 years; because of rising interest rates, the belief is it would be in the County's best interest to review opportunities to go into a long term fixed rate rather than the current short-term commercial paper that is utilized; and County Finance is on board with this. He continued he would bring back the results of the RFP for the Board's consideration.

Chair Pritchett stated she thinks this is a smart move because she thinks rates are about to start rising.

The Board authorized County staff and the County's financing team (Public Financial Management-Financial Advisor and Nabors, Giblin & Nickerson - Bond Counsel) to undertake a Request for Proposals (RFP) to identify a financial institution to provide a loan to refund outstanding commercial paper and to fund new money needs related to Valkaria Airport Projects; and following completion of the RFP, the results along with a bond resolution will be brought back to the Board for consideration at a future meeting.

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

**ITEM VI.F.2., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: AMENDING ORDINANCE SECTION 62-182, ALLOWING AT-LARGE APPOINTMENTS, AND RATIFYING EXISTING CONDITIONS/MEMBERS**

Commissioner Barfield stated it has come up before that the people on the Planning and Zoning Board are very qualified and understand planning; he would like this opened up to at-large appointments; it would work much better if there are people who have that experience; and this is strictly to approve legislative intent and grant permission for advertisement.

Commissioner Isnardi stated she would support that; sometimes it is difficult to find qualified people for some of the boards; and she thinks it is a smart idea.

Chair Pritchett stated she thinks it is in the best interest of the County as well.

The Board approved legislative intent and granted permission to advertise an amendment of Ordinance Section 62-182 allowing for at-large appointments; and ratifying existing conditions/members.

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

**ITEM VI.F.3., RESOLUTION, RE: SUPPORTING THE PASSAGE OF HOUSE BILL 17 BY THE FLORIDA LEGISLATURE**

Commissioner Tobia stated this is to recognize a House Bill that has moved quite swiftly through the House and is sitting on the calendar; it is dealing with Community Redevelopment Agencies (CRAs) and focuses in on ethics training; it passed the one and only committee stop, Government in Accountability Committee, with a 20:1 vote; it is very simple improvements for CRAs; these include ethical training, procurements that follow the normal processes, being transparent in performance data, common sense limits on expansion, and following basic and budgeting auditing principles; and given the Board's extensive experience in this area, he believes it is appropriate for the Board to weigh in and lend its support. He read the resolution.

Commissioner Barfield stated he has gone through the House Bill very carefully and he likes a lot of it, the ethics training and the reporting is great; he cannot support it because it requires for a new CRA to petition the legislature to get approval to form the CRA; that is taking away Home Rule and he will never give up Home Rule to Tallahassee; he feels that is something the Board should never do because it needs to be legislating at the lowest levels which is the County and the cities; and he will not give up his vote to Tallahassee either. He continued he understands Commissioner Tobia bringing this up; he is obviously opposed to CRAs, but the Board keeps having the CRAs come up over and over again and he feels at some point it needs to stop; he reiterated he cannot support it because it takes away Home Rule; and if that was taken out of it, he would not have a problem with it.

Commissioner Isnardi stated that was her only concern as well; she thinks 95 percent of it is wonderful, but to support a bill where five percent of it is terrible, people just do not do it; she thinks that one item needs to be removed; she believes there are municipalities and counties that have used Home Rule power; she would prefer to see a bill that eliminates CRAs altogether; and that she would support, but as far as the legislature regulating what the County does with CRAs she does not like it. She reiterated she would prefer CRAs did not exist; she commented some of the local CRAs have already proven they are not doing the right things with the money; she thinks there needs to be that accountability; perhaps when there are good agreements with some municipalities and they start being a little more transparent, they do not do illegal or unethical things with the CRA money, and not all of them do, then the Board can back off; however, until the transparency, accounting, and audits are in place, she wants to keep going after them to make sure they are spending the tax dollars properly.

Commissioner Smith stated he agrees 95 percent of that bill is right on target; he disagrees with taking away Home Rule from the County; he thinks this County exemplifies the fact that it can cooperate with CRAs and bring them under control, so in the absence of taking away Home Rule, he will not support this proclamation; and if this moves forward without the Home Rule portion, he would be there.

Chair Pritchett stated she thinks a lot of these are already being done by municipalities; she does not know how to encourage them to continue; she thinks ethics training would be good for anyone sitting on any board; there are things she did not even know, like an elected official is not allowed to write a recommendation for a scholarship for someone; and she thinks it would

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be very beneficial to find out what they can and cannot do. She continued being a conservative, she thinks Home Rule is the utmost of conservatism; getting local government into the hands of local people is the best thing; if there is something out of whack, then they get voted out of office; and she likes it that way. She went on to say she does not like the federal government going to the State and saying this is how to run the State of Florida; she thinks people put into positions of representation need to be respected; and she is not going to support this either. She noted she respects Commissioner Tobia, and that he was a great Florida Representative.

Commissioner Tobia thanked the Board for its comments; he stated he assumes there will be a lack of a second so he will pull this; he noted there was a 20:1 vote; if each member of the Board is not in favor of this, they might want to keep an eye out for Senate Bill 432, because it is much more draconian than the House Bill, and it is moving along with only three more stops; and even despite the four members being distained with this, it may be something that has to be lived with in the near future.

Chair Pritchett stated maybe the Board should let its representatives know this Board is concerned with them making decisions for this level of government.

The Board took no action on the resolution supporting the passage of House Bill 17 by the Florida Legislature.

**ITEM V.B., RESOLUTION, AND INTERLOCAL AGREEMENT BETWEEN THE NORTH BREVARD ECONOMIC DEVELOPMENT DISTRICT AND BREVARD COUNTY RELATING TO THE PAYMENT OF DEBT SERVICE ON FINANCING OF BLUE ORIGIN GRANT AGREEMENT, RE: BLUE ORIGIN VALIDATION**

Scott Knox, County Attorney, stated this is a request from the County Attorney's Office for a series of actions by the Board relating to the Blue Origin arrangement with the County; some time ago, a prior Board gave Blue Origin, an aerospace company that is building rockets at a facility in Exploration Park, District 2, a grant in the amount of \$8 million; it was approved that Blue Origin would move forward building that 250,000 square foot building, which is now a 630,000 square foot building; and once it was complete, they would get a Certificate of Occupancy (CO) for that building, and then the County promised to give them the \$8 million. He went on to say with that time approaching, the North Brevard Economic Development Zone (NBEDZ) who is actually the District responsible for paying the grant, met with Blue Origin and discussed the possibility of borrowing the money; and if that was going to happen they would probably have to delay the receipt of their \$8 million from the time they received their CO, to sometime in the future. He continued Blue Origin did not have a problem with that as long as the County proceeded to the validation of the bond issue, which is basically a borrowing issue, that means the County would have to go to court to get the judge to say it was okay to give this private company \$8 million, which he believes to be legal and appropriate given the fact the County has a contract stating that is what it is going to do; the reason the County wants to do that is because it has to give them a good faith effort under the contract to go forward pursuing some kind of a loan; and if it cannot get that loan, the County would have to back off and pay them \$1.3 million over six years. He added the County and the District were both parties to that contract; at the time the contract was signed, the District was too new to have any credit which turned out to be true because another deal that the District got involved with, the banks would not loan to the District specifically; when everyone signed the contract it was pretty apparent the District would not be able to pull a loan themselves, so it was the County's feeling that in good faith they would have to go forward with a County borrowing, which is what it being presented today; and what the County is looking for is the approval to move forward with a bond resolution that would allow the County to seek validation in front of a Circuit Court judge whether it is appropriate and legal to borrow funds for the purposes of giving a grant to the Blue Origin organization. He pointed out Florida Statutes 125.045 does allow the County to do that

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specifically, it says it is a public purpose for a County to give money to corporations in order to draw them into the County, which is what happened in this case; the original deal when Blue Origin came to the County, was they were seeking opportunities in other States and the County agreed to give them \$8 million to come here; they built the facility larger than expected, he thinks there will be more jobs than they said there would be; and on that basis the County is coming before the Board today to ask for this.

Commissioner Tobia stated this Board was not a party to the loan; it is his understanding that Titusville did not go through this same validation process with Titus Landing; and he inquired why the Board is going through this validation process.

Attorney Knox stated Titusville had the same bond counsel; the County's bond counsel was concerned with the issue, there is a constitutional requirement that the County cannot use its credit to put benefit over a private company unless there is proof of overriding or paramount public purpose; the way to establish paramount public purpose, other than opinions of lawyers, which would be bond counsel and himself, would be to go before a court and get the court to say it is a paramount public purpose, which validates the bond and lets them move forward with it; the bonding companies typically when they get millions of dollars like this, like to have some kind of insurance that what they are doing is legal; the County's bond counsel was hesitant to render an opinion without having a court say it was okay; and that is why it is being done this way in this case.

Commissioner Tobia stated his understanding is Titus Landing is in the neighborhood of \$6 million, this is in the \$8 million range, this is a private company and Brevard County has no stake; he inquired if Titus Landing was a private company and if Titusville or Brevard County have any stake in that; and he noted he is just trying to understand the difference.

Attorney Knox stated there is a distinction between this deal and the Titus Landing deal; the \$6 million for Titus Landing went towards putting in infrastructure like water improvements, drainage facilities, and roads or turn lanes that the County would take control of afterwards.

Scott Ellis, Brevard County Clerk of Courts, stated he agrees with Attorney Knox, it is lawful to give away the money; he does not appreciate it and he does not like it, but that does not matter it is lawful; it is unlawful for the County to borrow money for operational expenses; if the County was allowed to borrow money for operational expenses as a local government it could fundamentally run in the red year-after-year like the federal government until it reaches a point where the debt service overtakes the revenue source; and in the case of the School Board, that happened on their capital facilities, but at least it was for capital. He reiterated local government cannot borrow money for an operational expense; he continued it has been mentioned about the contract that was signed by NBEDZ; he believes the contract is unlawful, NBEDZ agreed to borrow money that they cannot by law borrow; it is not hard to do an unlawful contract, for example, he could do a contract and sell Attorney Knox's house with a contract and give someone a quit claim deed to move the property, however, none of that matters, it is a useless contract because he does not have the ability to sell a house that he does not own; NBEDZ does not have the ability to borrow money; and the County cannot borrow money to back NBEDZ up. He went on to say it is unfortunate that the loan showed up, but during the two public hearings there was no mention of getting a loan; each meeting discussed making 10 payments of \$800,000 a year; the only dispute he had was he felt that would be subject to appropriations by the Board; he reiterated there was no mention of getting a loan; there was a secret contract held by the Commissioners that no one else in the public was allowed to see; and he feels the County can go for the bond validation, but his belief is it is unlawful and he will intervene in the bond validation suit. He stated there are very sound reasons why the County should not borrow money for operational expenses and this is truly an operational expense, it is not a capital expense because there is no property interest in what is being done; it is not a

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stadium, a road, or a sewer plant, and the County has zero property interest in this facility; therefore, he believes it is totally unlawful to borrow money for that grant.

Commissioner Barfield inquired about the secret contract Mr. Ellis is talking about; he stated he does not know if he was on the Board then; however, he does not remember a secret contract.

Mr. Ellis stated when the two Blue Origin votes came before the Board, the contract it voted on was not released to the public; and he noted Attorney Knox would back him up on that one.

Attorney Knox stated he would explain; like all companies seeking to locate in Brevard County, they have the right to ask for confidentiality of the business arrangement and business dealings; one of the things that Blue Origin requested was confidentiality, when it came to working up the details of the business arrangement and what the plans were; the County could not reveal that by law and if it did there would be a criminal penalty along with other things, so it did not; they had that information available to the County Commissioners, who all signed non-disclosure and confidentiality agreements; each Board member had access to those agreements and knew what was in them; the Board voted based on what was in front of it; and the public did not know because the County could not tell the public.

Mr. Ellis stated also what the public could not know was about the fact that the loan was being promised; the confidentiality for the company name is very common, it happens all the time; and the fact that money was to be borrowed for this project is not something that was ever done before.

Attorney Knox replied that is true, however, the provision about the loan was in the contract before the Board when it voted on it, and it could not be revealed to anybody.

Mr. Ellis stated the County could always redact the company name.

Attorney Knox stated it would not make a difference because Blue Origin was under Project Panther at the time.

Mr. Ellis stated it is not like it was a great secret of who it was.

Attorney Knox stated that may be true but the details of the arrangement and the details of the business plan were not, that was confidential.

Mr. Ellis stated the disturbing thing was the Board chose to borrow money and issue debt without a public discussion on issuing debt.

Attorney Knox stated that may be true but there was a confidentiality requirement and he is sure if the Board had the opportunity to disclose it without violating the agreement and possibly being fined or going to jail for it, it would have done it.

Mr. Ellis asked if there was anything else.

Troy Post, NBEDZ Director, stated he would like to mention the narrative that was passed out came from the company and they wanted to distribute that information to show what was in the agreement and also what they had achieved to date at the signing; note on the first page it calls for the board to create 336 fulltime jobs by this time next year; they are actually on a pace to grow much faster; they already have 90 positions employed at that facility; they also have grown the square footage to a much larger footprint; the requirement was 250,000 square feet and they have grown it to over 650,000 square feet; the company is meeting the benchmarks set forth in the agreement; and he is very excited about their prospect for growth.



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Chair Pritchett stated she has spent some time reading through this and she read Mr. Ellis' comments in the paper so she is trying to process through it; she was thinking it looks like it is funding of a contractual obligation; she called Attorney Knox and there was a contract made to Blue Origin, whether people agree with the process or not, the Board is not approving whether it is doing the incentive or not, but that they are trying to fund it; there was a promise made to Blue Origin that when they reached benchmarks the County would supply them with a certain amount of dollars; and when she asked Attorney Knox, he said he called them, and they said they would not take it over a period of time, they had agreed to up-front and that is what they want. She went on to say Mr. Besos, head of Amazon, wants the County to abide by its promise. She inquired if the request today is to send this to an entity of people who will let the Board know if it is legal or not.

Attorney Knox stated it will go to the Circuit Court, and the Court will rule on whether it is legal or not; Mr. Ellis brings up points for his position and the County Attorney's Office does not agree with his position; he does not believe this is an operational expense at all, it is a contractual agreement and the County is required to pay its contractual agreements; and he thinks that will be the prevalent.

Chair Pritchett asked if the Board votes to move this forward if it will go to Circuit Court then the Board will have an answer.

Attorney Knox replied affirmatively.

Chair Pritchett noted that way the Board is doing due diligence as it promised Blue Origin it would do; and the Board would be abiding by its promise.

Attorney Knox replied again in the affirmative.

Chair Pritchett stated Blue Origin was going to build a 250,000 square foot building and it is over 650,000 square feet; they did this in nine months; she received a tour of it and thinks it is just amazing; they are creating 330 jobs of \$89,000 a year; and they are also venturing into new projects, so it is really blowing up out there. She went on to say she is very glad to have this company in North Brevard.

Commissioner Isnardi stated she read through the contract, and she does not pretend to be an attorney, but aside from the legal concerns of the Clerk, who given his history, she respects, and aside from the fact that \$8 million to the richest man in the world is worth over \$90 billion, the contract reads, "The District may apply for financing from a bank or other financial institution in an attempt to provide in total the grant, however, if the District cannot obtain financing or if the financing terms and requirements proposed to the District for the provision of the award to the company in total are determined to be unfavorable by the District and the County then such event shall not relieve the District of its obligation to pay the awarded amount of \$8 million;" she noted the payment schedule shows years one through six; and she inquired what is she missing. She continued the County has the option to pay it over time according to this contract.

Attorney Knox stated she missed the part about good faith.

Commissioner Isnardi responded okay, but where is it in the contract.

Attorney Knox stated to give him a minute and he would find it.

Commissioner Isnardi stated she means a good faith financial decision; and the Clerk, who is the financial auditor of the County, tells the Board that it is not legal to pay for these expenses.

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Attorney Knox stated he believes the Clerk is completely wrong, so that should not be a determining factor today; he believes he has an agreement from Bond Counsel on that; and because the Clerk does think that is the case, is what warrants the filing of the suit for validation. He noted he knew Mr. Ellis would have a problem with it, because he has had a problem with it since the day it started. He continued he cannot seem to locate it right now, but there is always a good faith obligation in every contract; and the County has to make an effort to at least get the money.

Commissioner Isnardi stated the argument made by the District was that they wanted to have those funds available, now, for other projects; whether or not someone agrees with NBEDZ or not, getting \$3 million of tax increments per year, she does not think that is a valid reason to take out a loan for \$8 million; and to pay over a million dollars in interest so NBEDZ can do more projects and provide more incentives for billionaires is hard for her to swallow.

Attorney Knox stated the only other option is to come up with \$8 million and pay them.

Commissioner Isnardi commented or be sued.

Attorney Knox agreed and he stated that may be something the Board wants to do, but he does not think it is a great policy.

Commissioner Isnardi stated she does not think it is a great policy to give \$8 million to a billionaire either.

Mr. Post stated to answer the Commissioner's question, Section 3.2.2, the first sentence speaks to providing the incentive in total.

Commissioner Tobia stated Attorney Knox is referring to a bad faith suit, if the County does not meet that; knowing that the County has a homestead exemption coming down the pike that will cost the County in excess of \$7 million in General Fund dollars and an uncertain housing market; he inquired what Mr. Knox's legal opinion is about a bad faith suit coming about if instead of going forth with a loan, the Board went with the payment schedule laid out in the document itself.

Attorney Knox stated the District has to make an effort to get the loan; the County who is a party to the contract is certainly in a position to do that, in fact they may be the only party to get a loan; they can do that one of two ways, either seek a loan or they can take money from the Reserve account and pay Blue Origin, and let the District pay them back; but, that is something that he thinks the County Manager is a little shy about doing because he has other issues that relate to Reserve accounts, such as hurricanes and the like.

Commissioner Barfield inquired what is the exact motion and if it will come back to the Board again.

Chair Pritchett stated it does.

Attorney Knox responded after it goes through validation, the actual contracts for the bond issue itself will have to go out for RFP first and then it will come back to the Board for the award of that.

Commissioner Barfield inquired if the Board will only see it if they award.

Attorney Knox replied affirmatively.

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Commissioner Smith stated he has a great deal of respect and faith in the County Attorney and Scott Ellis, Clerk of Court; he thinks what the Board is doing here is simply making an effort to make good on its promise that it would pay them in one lump sum; and this is simply taking the opportunity for the Circuit Court to tell the Board that it can or cannot do this. He continued if it can then it will, if it cannot then the County will have the option of paying Blue Origin over six years; and he thinks that is the bottom line question here and he would be in support of letting the Court make the decision.

Chair Pritchett asked if that is a motion

Commissioner Smith responded yes, he would like to make that motion that the County move forward and allow the Court to make the decision.

Commissioner Barfield stated Commissioner Tobia brought up about the homestead exemption and the payment schedule they have here is basically about \$1.38 million a year for six years with the last year being a little less; and he inquired how that relates to what the payments would be if it was financed.

Mr. Post stated it is his understanding that the type of interest rate range they would likely be looking at would probably put the repayment of the principle and interest each year at just under \$1 million; in the proforma generated on the Zone that he shared with each Commissioner during briefings were able to show that they can very comfortably cover that amount and still have some additional monies to use for new projects; and this would be a change of about \$400,000 to \$450,000 more each year that would have to be allocated toward this Project.

Commissioner Tobia inquired if the \$1.38 million is for a course of six years.

Mr. Post stated he thinks the number Commissioner Tobia is referencing is in the agreement.

Commissioner Tobia replied affirmatively.

Mr. Post stated that is essentially dividing the \$8 million over a six year period of time and coming out with what the cost would be to pay that \$8 million with no interest charged at all.

Commissioner Tobia stated just to be clear, he does not want to say Mr. Post sounds like a used car salesman, but to get the lower price of under a million the County would have to extend that loan; first of all, get away from the zero percent, unless someone knows an area where to get zero percent; and it was discussed looking at somewhere between three and three and one-half percent range potentially.

Mr. Post noted he was projecting between two and 3.5 percent, somewhere in that range.

Commissioner Tobia inquired if that was from six to 10 years, adding four years onto this repayment plus interest to get below that million dollar threshold that Mr. Post spoke of.

Mr. Post replied affirmatively and stated in his assumption, he was using a 10-year amortization and a 10-year term.

The Board adopted Resolution No. 17-257, authorizing the issuance of its Non-Ad Valorem Revenue Note, Series 2018; approved Interlocal Agreement between the North Brevard Economic Development District and Brevard County relating to the payment of debt service on financing of Blue Origin Grant Agreement; and authorized retaining bond counsel Nabors, Giblin, & Nickerson to file a bond validation suit, not to exceed \$25,000 at the circuit court level

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and \$35,000 at the appellate level, seeking court approval of Brevard County borrowing up to \$8,100,000 to satisfy the grant incentive payable in lump sum to Blue Origin.

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

Frank Abbate, County Manager, stated one issue that Attorney Knox brought up that he wants some clarification on is that if this validation went forward, the County would go ahead and make the first year payment, which is what Blue Origin had requested.

Attorney Knox stated when he talked to Blue Origin they were concerned about the length of time it would take to get the validation done; if there was no opposition it is typically a 60-day process which would have been within the 120 days; and the County could have done the full payment. He noted Blue Origin requested they at least make the \$1.3 million payment for the first year if it goes longer than that 60-day period; and since the Clerk has indicated that he is going to intervene, that probably is going to extend the date for resolution by the Court beyond the 60 days.

Chair Pritchett stated she was there before NBEDZ was put in place, the economic driver; District 1 was really bad before NBEDZ had the ability to drive in some businesses; people would come to a place that had nothing going on and everybody moving out; this is starting to work, businesses are coming in and Blue Origin has the building built; they will start manning it now; and it is exciting because there are new things to publicize about what he is going to put in that building. She mentioned she is pretty excited about what is coming into the area with space opportunity, jobs, families, and even the housing market is taking off; it puts a lot of smiles on the faces of those people in North Brevard because for a while it was tough for people to put food on their tables; she really appreciates everything being done and the way the money is being spent; and she thinks it is a benefit to the entire County.

Commissioner Tobia stated he thinks the County Attorney's Office is looking for a motion.

Chair Pritchett inquired what motion.

Commissioner Tobia stated he thinks he is looking for one for the first year's payment. He inquired where the first payment of \$1.38 million would come from if the County were to pay this out in the first 60 days.

Mr. Post stated they did consider that as a possibility; last year in their Fiscal Year they had money budgeted for making a full years' worth of principle and interest payments on the Miracle City Mall Project, Titus Landing, but because of the benchmarks required on that project they did not actually qualify for the incentives until this most recent Fiscal Year in May; that means NBEDZ is carrying forward a pretty large balance coming into this Fiscal Year; and the plan was to take some of those proceeds and apply it towards the Blue Origin Plan.

Commissioner Tobia asked for clarification that NBEDZ does have \$1.379 million in the bank to satisfy that first year payment.

Mr. Post responded affirmatively; he stated it will require a Budget Change Request (BCR) to come back to the Board, but yes they could do that.

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Commissioner Tobia inquired if this does receive validation and a bond does come back to the County, if the County would then be looking at, instead of an \$8 million bond, it would be \$8 million less the \$1.379.

Mr. Post again responded affirmatively.

Attorney Knox stated he would need a motion to go forward with the payment if it is required.

The Board approved, as the bond validation proceeding is expected to be ongoing when the incentive is due to Blue Origin, authorizing the North Brevard Economic Development District to make the first payment to Blue Origin in the amount of \$1.379 million within 120 days of receipt of the Certificate of Occupancy (CO).

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

**ITEM V.A., CITIZEN REQUEST BY LTM OF FLORIDA HOLDINGS, LLC (LTM) - SUPPLEMENTAL REPORT, RE: 1923 INDIAN RIVER HOME SITES PLAT, PB 3/PG 37: ACCEPTANCE OF COMMON LAW DEDICATION**

Kim Rezanka, Attorney with the Law Firm of Cantwell and Goldman, stated she is representing LTM Holdings, LLC; and she asked for 10 minutes to present her case because she has 110 pages of documents.

The Board authorized Ms. Rezanka to have 10 minutes to present her case to the Board.

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

Ms. Rezanka stated the matter before the Board is jurisdiction not ownership; her client is merely seeking legal access to his property; the document she just provided the Board sums up this entire issue; it is the Property Appraiser's official map dated February 28, 2013; it is the County map relied upon by most everyone in the County, along with Florida Power and Light (FP&L) and AT&T; and it shows Miller Cove Road as being in the County. She continued her first question for the Board, is it more likely than not that Miller Cove Road is under County jurisdiction; her second question, was it reasonable for LTM of Florida Holdings to believe this was a County road; the answer to both of these questions must be yes; initially her client believed it was a simple matter of asking to pave two roads that show on every map as roads within the County limits; he planned to pave the 800 linear feet of Miller Cove Road and the 160 feet of Old Dixie Highway, whether it be a road or a driveway; and this was August 2016. She went on to say as time went on Miller Cove Road became a hot potato, no one wanted to claim jurisdiction or ownership of the road; now it appears everyone, except the County, wants to claim a piece of Miller Cove Road; and her client has been attempting to resolve this access problem for over nine months. She stated she wanted to talk briefly about the County Attorney's memos and the Town of Palm Shores attorney's memos which the Board received late last week; both catastrophize what will happen if the County does what they are asking, either

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accept the plat or approve a cross access easement, which were provided to the Board; neither memo provides the full view of the law; the third way the roads are accepted for use as public roads has nothing to do with Florida Statutes, such acceptance is by use of roads by the public; and she reiterated use by the public. She stated neither the County Attorney nor the Town attorney have addressed this type of acceptance with case law with legal precedent; she has repeatedly stated this in the documents provided to the Board; both the County and town attorneys imply that losses will follow if the Board gives her client legal access to this property; unfortunately, if they are unable to resolve this access problem today, a law suit will result in an opening of Pandora's box; it will involve the Town, the County, Florida Department of Transportation (FDOT), FP&L, AT&T, all of the property owners in the 1923 plat, and the County Property Appraiser; and they will probably need to include the Tax Collector since the alleged owners of the 331 feet of Millers Cove Road have never paid taxes on that property. She noted maybe the Clerk of Court would like to join in too, so to include all of the Constitutional Officers; this court case could take years; her client has already been denied use of this property for nine months; he will seek damages, present ability to use the property, seek to void and vacate all of the resolutions that the Town has adopted which were provided to the Board in the Title Opinion, and seek attorney's fees from the Town and possibly the adjacent property owners on the wrongful act doctrine; the lawsuit would create more impact than any action that the Board could take here today; and as to the Town's claim to Miller Cover Road, she was stunned to read in the town attorney's letter that it now thinks it may have some ownership interest in Millers Cove Road, especially since as far back as May there was a letter stating they had no ownership interest or jurisdiction over this road. She continued this is a completely new approach to harassing her client; her client has been harassed by the Town repeatedly; they have been unreasonable, interfering, and defamatory to her client; many of the Board knows the story of her client being nearly arrested due to a call by a Town official to the Sheriff's Office; and the Board will hear more about the Town's unreasonable actions today from third parties. She inquired why the Board should believe the Court is more likely than not to determine that Miller Cove Road is a County road; she stated there are many documents in the packet she provided; the County exercised jurisdiction over the plat when it vacated First Avenue in the plat in 1963, which was a County Resolution dated June 20, 1963; this shows jurisdiction not ownership; and County Code 86-63, only allows the County to vacate roads within its jurisdiction and it states jurisdiction in the Ordinance. She added a vacating ordinance is not similar to a quit claim deed as she has heard bantered about; there is no law to support that vacating is like a quit claim deed; the County in its motion for summary judgment in a similar Brevard County case, Merritt Industrial vs. Brevard County, a 2012 case just now heading to trial in March of next year, specifically identified that vacating of roads in a plat is a showing of acceptance of the platters common law offer to dedicate the rights-of-way in a plat; County maps including the Emergency 911 maps show Miller Cove Road as a roadway; substantial use of Miller Cove Road by the public, it is used by a commercial nursery, it is used by right-of-way by FP&L, AT&T, and Waste Pro; these uses are all cited in case law as Attorney General's opinions as showing acceptance by the public creating a County interest in the land for street purposes which is held in trust for the benefit of the public, no ownership is required; that is directly from the AGO which she will provide to the Board; and the annexation Ordinance by the Town from 88 and 1991 specifically state, "The County of Brevard has sole interest of record in and to the real property" of the Indian River Homes site plat and Miller Cove Road, really Central Boulevard, looks like a road, has been used as a public road, and has been treated as a public road, therefore, under the duck principle, it is more likely than not a public road. She went on to say since it was not annexed by the Town, none of the roads were annexed by the Town when it annexed the plat, it must have stayed within the jurisdiction of Brevard County; both the County and Town attorneys have attempted to divert this Board's attention from the jurisdiction issue claiming many defects of the title search, title opinion, and the survey; the title search by Old Republic merely pulled recorded documents from the Public Records; a title examiner is not qualified to make a legal opinion on the validity of those documents, a lawyer is qualified to make legal opinions on the validity of those documents by way of a title opinion; and the title

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examiner is not an expert witness as the town attorney would have the Board believe, it is a fact witness, an attorney is an expert witness. She stated as to the survey, Bob Reel created the legal description that he used to survey Miller Cove Road and Old Dixie; the legal description used by the title examiner, is attached as Exhibit A to the cross access easement agreement that was provided to the Board; the survey does have the notation that Miller Cove Road was added to the survey of parcels on November 16, 2017, and the notation is located at the bottom lower right above the project number information; Mr. Reel is the only expert of record qualified to opine this location of the attempted vacating by the Town of 331 feet of Miller Cover Road; Mr. Reel has opined that the 331 feet vacated is west of the railroad tracks and not in the current Miller Cove Road; and her request for today on behalf of her client is, the Board has the authority to declare the plat was accepted by the County as early as 1963 when the first vacating occurred, or it could accept it today should it choose to do so which is the preferred action. She added the Board could also approve the cross access agreement with the indemnity provision that was provided; it can change all the notations of driveway to road since that is what her client intended to do; it can change owner to jurisdiction of; and simply because the County Attorney's Office did not recommend any of these actions, does not mean the Board cannot accept the plat or approve the agreement. She asked the Board to consider the court will more likely than not find that Miller Cove Road is a County road or whether a court will grant her client legal access by Miller Cove Road which has all the indicia of a public road, unpaved but a public road; and she mentioned she is there to answer any questions.

Stuart Buchanan stated he was previously on the County's Planning staff and previously employed as part of the Public Works staff; he worked with the County Attorney's Office preparing joint planning agreements and interlocal agreements which are between the Board of County Commissioners and municipalities; those agreements address many things such as the transfer of roads, right-of-ways, and other public improvements; as Ms. Rezanka has stated the Board has two choices before it, the acceptance of the plat or the alternative of granting of the cross access easement; and the Board has seen the extensive concerns written by the County Attorney's Office on acceptance of the plat. He continued the Board has also seen a couple concerns about granting a cross access easement; this is not a new item, these roads have come before the Board several times in the past; one of the worst case scenarios is when Brevard County was forced to design, permit, construct, and maintain a brand new public road which occurred many years ago and is referred to as Satellite Boulevard; this is not what he is asking the Board to do nor would he ask the Board to place itself in a position to have to do one of those roads again; and by saying that it is not right-of-way, but that the County has no ownership interest, is going to create a ripple effect far outside of these chambers. He added it will affect fellow elected officials, in particular the Board's Constitutional Officers. He went on to say if these are not publicly owned the Property Appraiser has not correctly or is incorrectly not assessed them for taxes for the past 80 years; the Tax Collector has not collected the money; the Sheriff's Deputies may have issued traffic violations on these roads when they were not in fact roadways at all or even under public ownership, should the County take that position; the Clerk has processed these cases; look at how the Clerk has addressed these with deed abutting these particular paper roads that have been recorded; and there is another item to be considered, roadways and water bodies do not have zoning districts assigned. He continued when a road is vacated it is easy, half the road gets the abutting zoning district and the other half of the road gets the other zoning district; if the County is saying these are not only right-of-ways but not even publicly owned, there cannot be blank spaces on the official zoning map; the Board will be forced to do dozens of administrative rezoning's; if the Board believes it has good attendance today, when Mr. Calkins and his staff are forced to send out hundreds of rezoning notices to people who do not understand what that is and that the road next to their house that they thought was an un-built road is now going to go through a rezoning, that is a very tough thing to explain to the general public; and their client is willing to accept cross access easement and build a private drive. He noted there is specific language in the easement to address other concerns that can be brought up in the Code like width, and driveways versus roadways; what it

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does do is prevent the Board from having to become responsible for another public road or even a private road that it may be asked to take over in the future; the two options the Board has before it brings resolution to this matter; and if the Board is unwilling to accept the plat then simply grant the easement for whatever ownership interest it has.

Okie Lopresti stated he was out there one day to see the property and while he was there a Deputy Sheriff showed up and said there was criminal activity going on; they thought that to be strange so they questioned what that activity would be; the Deputy was not exactly sure so they asked to speak with a supervisor; the supervisor made the comment that the issue was way above his supervisory level, it came down from someone just below the Sheriff; and the officer made a phone call and returned stating this was a civil issue and left.

Ed Washburn stated the Town Council of Palm Shores authorized him to speak on this; he is their planning and zoning consultant; they agree with the County Attorney's opinion to deny this request; it is unclear who owns the property known as Miller Cove Road; and he spoke with Mr. Mason and Mr. Miller and they are adamant, they think they own one-half of the north of that property right-of-way. He continued this all started when the applicant purchased surplus property from FDOT; one parcel was the back half of a retention pond from U.S. 1 and the parcel which is in the County was south of that parcel; there is a total of four acres; FDOT had access to that property, they went through the retention pond and could get to the back of it so they did not have to worry about access; it would probably have been nice had Mr. Mattioli hired Ms. Rezanka at the outset to due diligence; and they could have found out there were questions as to who owned Miller Cove Road. He mentioned he had worked for Brevard County for 14 years; he served the same position that John Denninghoff sits in now, he sat as the County's Planning Director, he served as the Assistant Public Works Director, and he served as Permitting Enforcement Director; he has seen a lot of unpaved roads agreements and a lot of paper streets throughout the County; if the County permits a driveway on one of these paper streets it will open Pandora's Box; and it has been said that the Town of Palm Shores has harassed Mr. Mattioli. He continued on Miller Cove Road looking west, if the Board were to pull up the Property Appraiser's aerial, there are a lot of trees and vegetation, no road base, and some pond areas in there; the picture they furnished to the Board the road bases have been put in, the trees taken down, and the pond areas filled; that was all done by the applicant without permit; when they contacted the Sheriff's Office, they were told it was a civil matter and they did not want to get involved; and one thing he knows for sure today is that Mr. Mattioli does not own that property, but has done work on it. He asked the Board to deny the request until it can be proven; he stated there are a lot of people who think they own parts of that; he looked at the opinion, he is not an attorney and he is not a surveyor, but he believes the plats on either end of Miller Cove Road were vacated by new subdivisions before 1992 when the vacating was done by the Town of Palm Shores; Central Boulevard or Miller Cove Road did not exist west of the railroad tracks in 1992; and he thinks if the Board permits what they have asked, he has never seen an item that had the volume of paperwork that came through, because it is evident no one knows who owns this property.

Ken Myrback stated his property backs up to what will be the driveway that has been put in; he has known since 2005 that the last 15 feet or so, the back of their property, was a road or driveway; a few years ago they looked at placing a pool on their property and it was designed to be five feet back from their property line; and when the rezoning notice came through they had already been talking with Mr. Mattioli. He commented everything that was done in the back was for his dogs; the vegetation that was removed behind the fence was just a nuisance; there were un-kept bushes and trees that were removed; and it all improved his view from the back. He noted he likes what Mr. Mattioli is planning to do with the property so he supports not only LTM but also Mr. Mattioli.



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Karl Owens stated his house backs up against Old Dixie Highway; he was out there when the gentlemen were being harassed by the private citizen who called and said there was criminal activity going on out there; he stood out there for about 10-15 minutes when the Sheriff's Department came and said they did not know what was going on, it was a civil matter and they were going to leave them alone. He continued to say when he purchased his house in 2000 he went to build a pool in his back yard; he pulled the permit; and when the guys were there to dig the footer the Homeowners Association came by and said he needed to cease and desist from building the pool because he was going to build it on Old Dixie Highway. He added Old Dixie Highway runs approximately 20 feet behind his house; he was told it was abandoned but never formally de-commissioned so he could not build anything back there; he ended up building a 15 foot by 30 foot concrete slab and screened in his back porch because nothing back there was to be permanent; his view out of his backyard is of a double-wide trailer, a shack, and six or seven vehicles, like a used car lot; back in 2011 there were brush fires back there; there was a photographer back there filming and as he got near the shed that was built back there illegally he fell into a three foot hole that was filled with urine and feces because of squatters living back there; and he would love to see Old Dixie Highway re-commissioned and built on the other side of his privacy fence. He stated he has known Mr. Mattioli for quite a while and he did great landscaping back there; he helped him landscape his own yard; and he reiterated he would love to see a highway back there or road other than looking at a double-wide trailer and aluminum shack.

Scott Knox, County Attorney, stated he thinks this is a County Attorney issue and Ms. Bentley is here to speak on what she believes to be the case; the County is a governmental entity and it has to be very careful about whose rights it is impacting; when things are vacated or accepted when there is no interest it impacts other people's rights, and he thinks the County may or may not have some interest but not complete interest; when impacting other people's rights they generally do not like it and end up suing; and they do win sometimes. He continued there have been many takings cases decided on vacation of right-of-way that leaves some people with no access; in this case he does not know who owns the right-of-way, notwithstanding whatever opinion came to the Board in the form of opinion from Ms. Rezanka's law firm; and he does not think that was a firm opinion of anything, it did not state who owned it, only who they thought had jurisdiction over it, which he does not believe to be the case, and it is all debatable at this point. He noted there is a mechanism available to the individual who bought the property and wants access to it, called statutory way of necessity; he has no way to get there right now because of all the property interest; he has recommended that to Ms. Rezanka as a means of proceeding because he would not oppose that kind of approach to it and Statute gives her that opportunity for this very reason; when someone does not have access to a property the court will lay out an access system, the easiest and most convenient for him; they have indicated they would prefer to sue the County over their version of what the ownership is, but he believes that will be a tough road for them; and he thinks it would be a lot easier for everybody if they just went for the statutory way of necessity and were granted the right to build that road where they want to build it and the court would agree. He added that would be his recommendation, but Ms. Bentley will explain why the County Attorney's Office does not agree with their position on this.

Chair Pritchett asked Attorney Knox to repeat his recommendation.

Attorney Knox stated he believes the property owner who wants to provide access to his property should be suing for a statutory way of necessity or alternatively he could even sue the Department of Transportation who sold the property to him without access to get access across the retention pond area, the same way they got to it, as another option; however, Ms. Rezanka does not agree with that either, but he thinks either one of those two options would work for them. He mentioned there is a third option which is the County could file a declaratory judgment to see who owns it so it knows what to do with it; that may be an easier way to go at it; that would include bringing everybody into the picture and see who owns what; and as part of that

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Ms. Rezanka could file a statutory way of necessity claim as a counterclaim against all the people who would have to join, and see if the court can establish some legal right to use the property. He added the County is not trying to obstruct the access it is just trying to help avoid putting itself in the position of having to pay for everything because it took someone else's property or impacted someone's property rights because there are people who claim they own property on that right-of-way.

Eden Bentley, Deputy County Attorney, stated the Board has an extensive memo from the County Attorney's Office going through the details of why they think there is a problem here; the title work on the strip in question, now titled Miller Cove Road, was internally conflicting; the title report gave one ownership interest and the opinion from Mitch Goldman who attached the title report gave a different opinion of title; that just emphasizes the level of difficulty of title problems presented by the roadway; and until those title issues are resolved, they do not think the County should be accepting title to the roadway. She continued the request was revised to ask the Board to grant them an easement agreement; an easement cannot be granted unless that person or entity owns the property; and they do not think Ms. Rezanka's client owns the property, which means they could be stepping into a lawsuit by granting an easement without owning the property. She noted the easement that was provided to the County as the proposal says in the whereas clause that the Board of County Commissioners is the owner of certain real property, we do not believe that you are, and in paragraph three of the easement it states that Brevard County Board of County Commissioners covenants what is lawfully seized and possessed of parcel A, that is Miller Cove Road; that language in the document would give LTM the right to sue the County if title fails, so it is a difficult proposition to sign an easement without clear title to the property; the original request for LTM was to except a 1923 plat but that plat was not just the strip n/k/a Miller Cove Road, that plat incorporated seven streets and hundreds of small lots; some of those areas have been re-platted; accepting the entire plat, which mostly lies within the Town of Palm Shores, which are the jurisdictional issues that give the County problems with accepting the entire plat at this time, until the title issues are resolved, the County does not see where this would be a safe move for it due to multiple liability issues that are presented. She stated the map that was provided by Ms. Rezanka from the Property Appraiser's Office, the highlighted segment states private road not public road.

Commissioner Tobia stated he just received the December 19th addition, and asked Ms. Bentley to explain her position if the Board has the authority to accept the plat or approve the easement with the indemnity that was provided, of what the indemnification would do to opening the County up to the law suits.

Ms. Bentley stated at the end of the paragraph of the indemnification, LTM reserves the right to approve the County's attorney that is used on this process and to approve cost, so LTM would then be controlling the litigation in which case they might as well control it from the beginning and clear the title before the County gets it; the indemnification is only as good as the pocket that is hunting it; and the County has no information regarding their financial resources.

Commissioner Tobia inquired if it would be in LTM's best interest to provide the County with an attorney that is capable and if at that point the County and LTM's interest would coincide.

Ms. Bentley stated it could be.

Attorney Knox stated if the County granted the easement of a property it does not own, it impacts everybody's title on that road that claims an interest in it, the County has taken their property; if that happens the County ends up paying the attorney's fees for them as well as for LTM; he does not know if the owner who thinks he is going to indemnify this is aware of the attorney's fees he is going to be charged for just a simple little taking that would normally cost \$1,000, it is astronomical; if he wants to go that route then he is taking a big risk; and he does

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not think the Board wants to take the risk that the indemnification would not be enforceable because it is against public Policy for the County to take property without paying for it.

Commissioner Barfield stated this is a citizen's request and the Board really does not have to do anything; he thinks there needs to be a judge's decision on who has the title to the property; he does not think the Board needs to do anything, just let the judicial system go through the process; and he inquired how the County can do anything if it does not know who owns the property.

Ms. Rezanka stated the entire problem here is rarely does a County own a road; it is a jurisdiction issue granted to the County by a plat, by dedication of a plat and acceptance of a plat; it can be accepted by Statute, by document, or by common law, which is what she has been trying to put forth here; no one has addressed the common law acceptance in any fashion except her; however, no one to date has legally claimed ownership of the property she has been talking about, the 800 feet and the 160 feet. She continued Miller and Mason have never paid taxes, the property appraisers will not recognize any of those properties as being in the road; there are notes in the files about the Town stating it was going to rescind the Ordinance, but they never did; the level of difficulty with the title issues is because a title examiner just pulls the documents from the record, they are not able to render a legal opinion, they render what the document says, just like the map cited by Ms. Bentley where it states private road; it also states that these were just pulled from the public records; there is a 1994 invalid Town ordinance that renames this as a "private road" and the town had no jurisdiction to do that; they repeatedly said they had no jurisdiction over this road; and that road is in County jurisdiction. She noted the County is not going to receive a deed to the road, it is just not going to be the chain of title, which she has tried to explain over and over to the County Attorney's Office; what she was asked to do was a title search and a survey and that is what she did; if the County does not like the language of the driveway, or the seized and possessed, she thinks the County can and should recognize that it has jurisdiction over this road; the County has exercised jurisdiction over this road and this plat; and she believes it is clear. She went on to say if she has to file a lawsuit over this, she will and she will join everyone and go the statutory way, but the statutory way gets them an easement and they need a road or the County to say her client has a driveway; this has been going on for a long time and to her it is very clear cut; and the indemnity language, except for the last language comes out of the right-of-way use agreement that Parks uses, is the indemnity provision and was pulled from that document. She stated the language she gets to choose, the attorney will pay the fees, that is generally in the County's Insurance Policy; her client wants to take the risk, he understands the risk of indemnifying the County; and she understands the County does not want more roads and she is not asking the County to build more roads or accept the road, just give her client legal access over an area the County already has jurisdiction over.

Attorney Knox stated he would like Ms. Bentley to talk briefly about a deed she has in her possession.

Ms. Bentley stated the deed is in the Board's packet; there are a couple other deeds with the same language; this is an OR Book 3491/PG 2922 and it is a transfer from Mr. Mason to Mr. Miller; it describes lots and blocks and all of the north half of vacated Central Boulevard as recorded in the official records whereas Central Boulevard is the same as Miller Cove Road; therefore, there are individuals who have deeds that purport to transfer ownership of half of this roadway that Ms. Rezanka is discussing.

Attorney Knox stated it does not really make a difference if they pay taxes on it or not, they own it or they do not own it; one of the options he would consider if sitting in the Board's position would be for the County to file a declaratory judgment to find out if the County has jurisdiction because that seems to be the big issue Ms. Rezanka is raising; that would help the County

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determine if there is anything it can do about it or not; and it may also help determine who owns the property as well.

Commissioner Isnardi inquired how long something like that would take.

Attorney Knox stated they would have to sue a lot of people because a lot of people claim to have an interest in it.

Commissioner Isnardi inquired who is claiming an interest, because there is no one in attendance except for those who are okay with the roadway; there is no one even in attendance except for the Planning and Zoning consultant from the Town of Palm Shores; and they may not like it but nobody in attendance is talking about why it is a bad idea. She added everybody acknowledges it is a road.

Attorney Knox stated it is a bad idea from the County's point of view until it can be cleared up as to who can do what; his thought about the declaratory judgment is it is a friendly suit applied to the County and the owner is trying to get the access; he reiterated the County is not trying to stop him from access, it is just trying to find out if it has a right to do that; if it has a right to do it, that is great, it will do it; the problem he thinks they will have is the people who claim they own part of the road and those are the people who he thinks will oppose it, but if they do not, then that is fine; and if they do oppose it, then the suit will take longer.

Commissioner Isnardi stated she thinks the County should be looking at how to make this work rather than why the County wants its hand off of it; the County should look for solutions not why it is a bad idea for the County and why it exposes the County; and she stated this man just wants to get to his property.

Attorney Knox stated statutory necessity is the answer for that.

Commissioner Tobia inquired if it is friendly is there is just one time-frame for the declaratory judgment, or if it is adversarial then roughly how long would it take, a couple months or is it something that could be tied up for years.

Attorney Knox stated a friendly suit would proceed pretty quickly; he thinks it could be done in probably six months; if there is opposition there is no telling how long it could take; they are supposed to have them done in 18 months but they never do; it also depends on what the judge's calendar is like; and he thinks 18 months is the earliest with opposition.

Commissioner Barfield inquired if the County were to do the declaratory judgment if that would be done in house or if there would be an additional cost; and he inquired if LTM's lawyer could do that.

Attorney Knox stated their lawyer could absolutely ask for a declaratory judgment and name the County as a party, and he is sure they will; either way it will work out where LTM and the County are in litigation with each other; he thinks the County filing the declaratory judgment allows the County to try to figure out who owns the property and who has jurisdiction over it, which he believes needs to be resolved; they can file whatever counterclaims they want to file; they can file one for statutory way of necessity because all the people the County is going to have to join would have had to join Ms. Rezanka's suit too; and he thinks it works out better that way for everybody.

Chair Pritchett mentioned she thinks that is a good compromised solution.

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Commissioner Isnardi inquired what these would mean in the interim for the gentleman having use to his property; she inquired if he would be considered trespassing; and if nobody knows if that road exists and who has jurisdiction over it, no one could tell him he cannot be there.

Attorney Knox stated someone made the point to tell him he does not own that road.

Commissioner Pritchett inquired if it would be up to the owner, who has never paid taxes on that property, to go after him.

Attorney Knox stated the County cannot allow people to build roads where they do not own the property.

Commissioner Isnardi stated she is not saying they can build the road, she is saying the road exists because he is driving out to his spot.

Attorney Knox stated he assumes he has been using whatever is out there right now to get to the property, but he does not know that he can pull a permit to build a building.

Commissioner Isnardi stated of course not, that is not what she was saying, what she was saying is that he is not going to get harassed for being out there.

Attorney Knox stated he does not think the County is harassing him for being out there.

Commissioner Isnardi stated obviously the County did or it acted on somebody calling the Sheriff's Department.

Chair Pritchett stated they have to.

Attorney Knox stated the Sheriff's Department went out there, but he thinks the private owners called the Sheriff's Department; and he does not think the County has been out there trying to harass him.

Commissioner Isnardi commented she thinks Attorney Knox missed her point.

Commissioner Barfield asked what FDOT's responsibility is in this, to sell landlocked property.

Attorney Knox stated typically in the law there is a statute that states if someone has landlocked property and someone sold it to them that owned all the property between the nearest exit point of that property, it is implied that the person has access over the property to get to the property that was bought from them; he does not know why that does not apply in this scenario because it seems to him that it would; that is something that Ms. Rezanka could bring in to the lawsuit if the County files a declaratory judgment; and she could bring FDOT in and see if the judge agrees with that.

Chair Pritchett inquired if Attorney Knox is recommending the County file suit or if the County should let Ms. Rezanka file suit.

Attorney Knox stated he thinks since the County needs to know who has jurisdiction that it should initiate it; he does not think it would be any problem for them to do it this way; Ms. Rezanka can always raise whatever counterclaims they have, if they have any; and he is looking at it more as a way to resolve the issue so everyone knows where they stand.

Chair Pritchett stated she agrees; he is a nice guy and everybody seems to like it; but if there is one property owner out there who feels differently, the County has to protect taxpayer funds

from future huge lawsuits of just taking someone's property; and she thinks this is a good solution of how to move forward.

Commissioner Tobia asked if the Board could get Ms. Rezanka's opinion on whether she is in favor this.

Ms. Rezanka stated her client is in favor of getting this resolved; he had hoped to get a cross access agreement today at minimum because they do believe there is jurisdiction; she does not believe a declaratory judgment in the future would stop the Board from acting today; if they could get it in six months that would be great; however, they had hoped to move forward today. She continued this is the first time she has heard the County is willing to take on that responsibility, so that is progress; she would like to do both, they would like the easement agreement and the declaratory judgment; and she reiterated she does think the County has right-of-way issues with utilities that are on that land. She continued FP&L and AT&T already have use of that right-of-way because they were told by the County that it is a County road; and she thinks it is more than just a few property owners who need to be involved.

Attorney Knox stated Ms. Bentley just brought up a good point; Ms. Rezanka pointed out there was a lot of people involved who could potentially be a party to the law suit and one way to resolve that without naming all those people would be to ask them if they would relinquish by quit claim deed whatever part of the road they think they own; if they do not own it, then get something to that effect; and maybe that would minimize the parties that would otherwise be involved.

Chair Pritchett stated she thinks there is direction for the County attorney to move forward with quit claim deeds and then filing a declaratory judgment suit.

The Board granted the County Attorney permission to file a Declaratory Judgment suit in the Circuit Court regarding the citizen request by LTM for Supplemental Report for 1923 Indian River Home Sites Plat, PB 3/PG 37, Acceptance of Common Law Dedication.

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

**ITEM VI.F.5., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: AMENDMENTS TO CODE OF ORDINANCE FOR CHAPTER 14, ARTICLE II, ANIMAL CONTROL**

Chief Mike DeMorat, Brevard County Sheriff's Office (BCSO), stated the Item is a request for the Board to approve the legislative intent and permission to advertise for the amendments to Chapter 14, Article 20(V) Animal Control Ordinance.

Commissioner Isnardi stated she spoke with the Sheriff last night; this will come back to the Board once the language has been completed; she has had some people asking what was included; and the Sheriff was kind enough to answer those questions.

Chief DeMorat stated they will coordinate a date between the County Manager and BCSO for the appearance of the public.

Commissioner Isnardi stated she is very excited about the dangerous dog stuff.

Chief DeMorat stated they are too; he thinks there are going to be some great additions that will result in better practices and policies.

Barbara Gorin stated she would like to issue a statement that was authored by Pam LaSalle regarding this Item as she is unable to attend today; she has her permission and encouragement to share her concerns for the community regarding this Agenda Item; and she read, "It is unfortunate this critical Item unexpectedly appeared on the Agenda during this holiday season. I continue to have serious concern about risks to human health created by our County's Animal Control Ordinances and I have repeatedly voiced these concerns to the Board of County Commissioners as well as to prior Boards. I know many of the viewers of this meeting will not be aware or have the ability to access the Agenda Item to read it completely and there are several points I would like to make regarding this Agenda Item. The exhibits in Exhibit A are extensive in number yet short on details about the proposed changes. To properly discuss these multiple changes will take hours before this Board and it will be physically impossible to adequately express concerns within the five minute time limit that will apply when this Item appears on a future Agenda for its final hearing if they vote to advertise it. I would like to note Brevard County does not have an animal advisory board, which is the responsibility of this Board. It would have been the authority to consider changes to animal ordinances. In 2013, the Board suspended the County's animal advisory board. I would also like to note there had been no workshops provided by the Board to discuss animal control issues. The Board in 2014 decided to hire a contractor to administer and enforce the provisions of the County Ordinances. Hiring a contractor does not diminish this Board's responsibility or authority. The general public has not been allowed to participate in the creation of these proposed changes to the animal ordinance this year or during the last revision in 2014. Both times the contractor had the primary influence in their creation. It is not in the public's best interest to have laws created by those who enforce them and even more so when there is no public participation in creation of the laws. This Country and County depend on the separation of powers to protect the citizens from authoritarian control and to allow those who administer and enforce the ordinances, to also create them is un-American. I respectfully request the Board table this serious Item until it can be thoroughly vetted and created by the community and the general public and not allow the creation of changes to our County Ordinance to be made by the contractor and possibly influenced by persons who may have had exclusive access. I also would request the Board provide a means for public participation concerning animal issues in County government in an effort to guide the community, as promised in the County Charter, Section 5.6 Public Participation and inclusion. I would suggest promptly reestablishing the Animal Advisory Board as a suitable way to achieve this Charter provision and as a means to create any further ordinance changes regarding Animal Services and Control."

The Board approved legislative intent and granted permission to advertise for public hearing to consider changes to Chapter 14, Article II, Animal Control, Brevard County Code of Ordinances.

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

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**ITEM VI.F.7., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: ORDINANCE TO AMEND CODE OF ORDINANCE SECTIONS 62-1482, 62-1483, 62-1541, 62-1542, 62-1543, AND 62-1544**

Commissioner Barfield stated this is legislative intent for permission to advertise an ordinance to amend Brevard County Ordinance; this came about because of the cruise parking areas being developed in all kinds of different places; the zoning does not put a Conditional Use Permit (CUP) on these areas; the big concern is public safety because there are buses, and overnight parking for two to three days or longer, complete transportation going by neighborhoods with the zoning being BU-1, BU-2, PVB, PIB, IU, and IU-1, all of those allowing to make a parking lot; this is legislative intent to advertise coming up with a means to control this from the standpoint of the community; and District 1 and District 2 have the biggest impact.

Tammy Dabu stated she lives in District 2 and is very aware of this situation and a situation very close to her; she supports this ordinance; there are a plethora of concerns whether it be District 1, District 2, or should something else large come about in Brevard County; the people have to protect themselves from these park and rides and the overnight concerns; the community needs traffic studies; these sites need stormwater treatment regardless of the fill, they need landscaping, they need security, they need setbacks, and all of these issues need to be considered; and the only way to do that is to get on the advance side of it as proposed to try and get these conditional uses addressed because otherwise there will be flooding of adjacent properties, and huge traffic problems in North Merritt Island. She requested the Board pass this 5:0.

Mary Hillberg stated she would encourage the Board to approve this; this is a designated scenic highway and if it starts being opened up to parking lots it would no longer be a scenic route; the traffic congestion is an enormous safety issue being just prior to the barge canal which opens every 30 minutes; and during high traffic times it is backed up farther than a mile because that is where she lives and she cannot go out that way. She continued another is tree removal issues; there are multiple tree removals there; the stormwater is a paramount problem in North Merritt Island; and lastly the small area study that is supposed to be happening has been dormant for months, although for good reason, it still has not been acted on and is included in that area.

Commissioner Tobia stated he is going to vote to grant permission to advertise but he thinks there needs to be some background; a number of years ago there were some enterprising hotels, that abutted the Port, that started to charge for parking at a lower rate than the port was charging; the Port was then perturbed with that and wanted to place some protections about transportation there; he thought that was a very fair concern from the hotels, by providing some competition because the Port parking was higher than what higher enterprises could supply; and now it seems this would place a stranglehold on providing more parking, which would keep the prices low. He continued his understanding is if the Board did this then it would eventually hit some equilibrium between the outside parking and the parking at the Port; it would be helpful to find out if the Port has access for more parking there; they are very proud about not taxing, which is a wonderful thing, but they also charge \$17 a day to park and go on a cruise; he reiterated he is going to support the permission to advertise; and he would just like Commissioner Barfield to help his office see that this will not lessen competition and increase prices for the future growth of the Port.

Commissioner Barfield stated this is a CUP; it is really to see what the initial plans are, not to do away with or eliminate it; it is just to have a better understanding of it especially with the flooding; the Board has no input right now, people can just do this without any oversight; and this would be coming back to the March 1, Zoning Meeting.



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The Board granted legislative intent and permission to advertise an ordinance to amend Brevard County Ordinance Section 62-1482, 62-1483, 62-1541, 62-1542, 62-1543, and 62-1544 to remove parking lots (commercial) from the list of permitted uses and placing non-overnight commercial parking lots as a permitted use and overnight commercial parking lots as a conditional use; and directed staff to bring back the ordinance at the March 1, 2018, Zoning Meeting.

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

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

Commissioner Barfield stated last Wednesday on *Channel 2* there was a presentation on return from the Shuttle program, and it was excellent; it was a rebound from what *60 Minutes* said back when the County was going down the tubes, in their opinion; the Surfing Santa's will be out at the beach on Christmas Eve; and he has been talked into being a judge for one of the various costume contests. He wished everyone a Merry Christmas.

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

Commissioner Smith wished everyone a Merry Christmas and Happy Hanukkah.

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

Commissioner Isnardi thanked Danielle Stern for all her work on the Elves for the Elderly Program where her office sponsors 70 ward's from the State; every year it seems to get larger and larger; every year they are overwhelmed, not just by the support from the community but they get huge donations from County staff; Danielle spends her last week before the gifts are given out, picking them up; and maybe next year they will partner with Meals on Wheels for some of the overage that they get. She wished everyone a Merry Christmas and Happy New Year.

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

Chair Pritchett stated there is a link to the program Commissioner Barfield talked about on her Facebook page; *60 Minutes* slammed District 1 so bad six years ago; the turnaround, it is a good day in Brevard County; she is so pleased; there is a lot of great leadership, and she loves the debates with the rest of the Board; and she thanked Commissioner Isnardi for her organizing the Elves for the Elderly Program. She continued on to thank all those who donated coats; they were able to deliver coats to the elementary and junior high schools. She went on to wish the Board a Merry Christmas.

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Upon consensus of the Board, the meeting adjourned at 12:11 p.m.

ATTEST:

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SCOTT ELLIS, CLERK

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

DRAFT