

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

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on February 6, 2018 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**CALL TO ORDER**

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

**INVOCATION**

Chair Pritchett called for a moment of silence.

**PLEDGE OF ALLEGIANCE**

Commissioner Isnardi led the assembly in the Pledge of Allegiance.

**MINUTES APPROVAL**

The Board approved the December 19, 2017 and January 9, 2018 Regular Meeting Minutes.

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

**ITEM I.A., RESOLUTION, RE: RECOGNIZING FEBRUARY 2018 AS BLACK HISTORY MONTH IN BREVARD COUNTY**

Chair Pritchett read aloud, and the Board adopted Resolution No. 18-008, recognizing February 2018 as Black History Month in Brevard County.

Melvin Morris expressed his appreciation for the Resolution.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Rita Pritchett, Chair/Commissioner District 1  
**SECONDER:** Jim Barfield, Commissioner District 2  
**AYES:** Rita Pritchett, Jim Barfield, John Tobia, Curt Smith  
**ABSENT:** Kristine Isnardi

**ITEM II.A.1., DISTRICT 2 CANAL DREDGING COMMITTEE, RE: PRIORITIZATION OF CANAL MAINTENANCE DREDGING PROJECTS**

The Board reviewed and approved the recommendations of the District 2 Canal Dredging Committee; authorized design, permitting, and construction services for prioritized maintenance dredging activities within the District; authorized the County Manager, or his designee, to execute task orders, contracts, agreements, and change orders, as required and in excess of \$100,000, to accomplish the work; and authorized associated Budget Change Requests.

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

**ITEM II.A.2., FINAL PLAT AND CONTRACT APPROVAL, RE: ADDISON DRIVE & STADIUM PARKWAY SOUTH EXTENSION PHASE 1 - THE VIERA COMPANY**

The Board granted final plat approval; and authorized the Chair to sign the final plat and Contract for Addison Drive and Stadium Parkway South Extension Phase 1, subject to minor engineering changes, as applicable, and developer responsible for obtaining all other necessary jurisdictional permits.

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

**ITEM II.A.3., RESOLUTION, DONATION, AND EASEMENT TO FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), RE: RELATED TO THE ROTARY PARK AND US 1/SUNTREE BOULEVARD PROJECT**

The Board adopted Resolution No. 18-009; and executed the Perpetual Easement and Donation of Property to FDOT.

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

**ITEM II.A.4., RESOLUTION AND RELEASE OF PERFORMANCE BOND, RE: REELING PARK NORTH AND SEVILLE AT ADDISON VILLAGE, PHASE 2 SUBDIVISION**

The Board adopted Resolution No. 18-010, releasing Contract and Surety Performance bond dated February 7, 2017, for Reeling Park North and Seville at Addison Village, Phase 2 Subdivision.

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

**ITEM II.A.5., RESOLUTION AND RELEASE OF PERFORMANCE BOND, RE: TRASONA AT ADDISON VILLAGE, PHASE 4 SUBDIVISION**

The Board adopted Resolution No. 18-011, releasing Contract and Surety Performance bond dated October 4, 2016, for Trasona at Addison Village, Phase 4 Subdivision.

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

**ITEM II.A.6., RESOLUTION AND COUNTY INCENTIVE GRANT PROGRAM AGREEMENT SUPPLEMENTAL AMENDMENT NUMBER 1 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), RE: ST. JOHNS HERITAGE PARKWAY NORTHERN SEGMENT**

The Board adopted Resolution No. 18-012; and executed County Incentive Grant Program Agreement Supplemental Amendment Number 1 with FDOT for St. Johns Heritage Parkway Northern Segment.

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

**ITEM II.A.7., RESOLUTION, CONSERVATION EASEMENT AND AFFIDAVIT IN FAVOR OF THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP), RE: US 192 SOLID WASTE MANAGEMENT FACILITY ENVIRONMENTAL RESOURCE PERMIT (ERP)**

The Board adopted Resolution No. 18-013; and executed Conservation Easement with FDEP associated with the ERP for development of Phase 1 of the U.S. 192 Solid Waste Management Facility; approved recording the Conservation Easement upon issuance of a Notice of Intent to Issue the permit; and authorized the County Attorney to sign the associated "Title, Possession, and Lien Affidavit."

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

**ITEM II.D.1., RESOLUTION AND DEED WITH CITY OF MELBOURNE TO EFFECT TRANSFER, RE: BABCOCK PARCEL IN ACCORDANCE WITH FLORIDA STATUTE 125.38**

The Board adopted Resolution No. 18-014; and executed County Deed for the Babcock Parcel to the City of Melbourne, as agreed to in the Interlocal Agreement with the City.

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

**ITEM II.D.2., APPROVAL, RE: THE CHILDREN'S SERVICES COUNCIL OF BREVARD CANDIDATES FOR MEMBERSHIP ON THE COUNCIL**

The Board approved 23 individuals as candidates for membership on the Children Services Council, and to forward the names of all of the individuals to Gubernatorial Appointment Office.

<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>	Rita Pritchett, Jim Barfield, John Tobia, Curt Smith
<b>ABSENT:</b>	Kristine Isnardi

**ITEM II.D.3., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS**

The Board appointed/reappointed **Robert Salonen** to the Transportation Planning Organization Advisory Board, with term expiring December 31, 2018; and **Jabez Coggan, IV** to the Port St. John Public Library Advisory Board, with term expiring December 31, 2018.

<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>	Rita Pritchett, Jim Barfield, John Tobia, Curt Smith
<b>ABSENT:</b>	Kristine Isnardi

**ITEM III., PUBLIC COMMENT**

Pam LaSalle stated she wanted to added some information that was not covered in the meeting two weeks ago, over the Animal Ordinance and to rebut some information that was given; it was discussed that trap, neuter, return works in Alachua County and San Diego County; there is a study from *The Journal of American Veterinary Medical Association*, December 1, 2005, Volume 227, Number 11, titled *Analysis of the Impact of Trap, Neuter, Return Programs on Populations of Feral Cats*; the objective was to evaluate a two county trap, neuter, return (TNR) program for feral population management via mathematical modeling; and those were the animals that were used. She continued the animals used were in both counties; the results in both counties did not indicate a consistent reduction in per capita growth, the population multiplier, or the proportion of female cats that were pregnant; the conclusion was the success of feral cat programs that use TNR can be monitored with an easily collected set of data and statistical analysis facilitated by population modeling; results may be used to suggest possible future monitoring; and as far as she knows Brevard County does not have any monitoring. She went on to say TNR does not work; one of the authors of this is a leading proponent of TNR; and if anyone wanted this to work it would be that person. She added the Ordinance that was passed two weeks ago has unleashed a big problem in this County; she has never seen anything so pro-cat in her life; and to her it is very sad because human health is being compromised.

Charles Tovey stated his humble apologies to the Board for what it has inherited, him and his problems; he is a caring person, and by his attendance and his verbalization, the Board should see that he cares about his property and other things as well; he is not a quitter, there is a willingness; he still has issues with his property; he bought his property for the environment, the trees, and the location; there is not much left; and the little forest he had is down to like five Pine trees and five Oak trees. He mentioned there is six months left of the Board's office, so it looks like he is out of luck for this Commission. He went on to say he has two cats that he needs adopted; they should not be tortured and run over; Brevard County has animal laws but nothing is applicable for him and his situation; some of the Captains in the County also have a problem with the sand that was purchased and is being issued at the beach; and it is not what they call

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acceptable, with their taxpayer dollars. He stated he does not have time for a lot of things, but he wants the Board to know that he will be back because he does have a willingness; he will apply whatever he needs to do; he did comply, he did pay all of his fines, and yet it continued to progress and yet nobody can do anything; he asked what is there left for him to do; and he reiterated they have destroyed everything in his livelihood, everything he made of life, there is nothing left. He commented tear down the house; he has five Pine trees and five Palm trees left; just strip the property and everyone will be happy; he has his fines and fees he has accrued for the boat that was inadvertently taken; and the arson of the house, which has never been proven. He added he wonders why there was not a State Inspector; he could not bring his papers today, but he will be more prepared next time; he will be back; he only has a few minutes left; and he earned his right to say this, there is nothing else for him to do, he has nothing.

**ITEM V.A., INTERLOCAL AGREEMENT WITH CITY OF COCOA BEACH AND CITY OF COCOA BEACH COMMUNITY REDEVELOPMENT AGENCY, RE: DIRECTION OF OPTIONS**

Frank Abbate, County Manager, stated this Item is a proposed interlocal agreement between the Board of County Commissioners (BOCC), the City of Cocoa Beach, and the City of Cocoa Beach Community Redevelopment Agency (CRA); staff brought a draft agreement back before the Board in October; when the Board considered that particular agreement, which the City and the CRA had agreed to a variety of items that the Board had previously indicated they were interested in seeing in the interlocal agreement, however, at the Board meeting staff received additional direction to seek some language that was not contained, but was contrary to what the Board was seeking to have in the agreement with regards to the Board having the ability to modify the agreement; the authority of the Board is outlined in Section 3(B) of a resolution that had put the CRA into existence, that would have authorized the Board in certain limited circumstances to substitute itself as the CRA board; and that was not agreed to by the City. He noted the City Attorney felt that it was a primary reason to give the CRA some assurance moving forward that, that kind of situation would not occur and that would be a good reason for them to enter into the interlocal agreement, which they are not mandated to do; staff ended up taking back the proposed modifications to the City; initially the City Manager provided documentation that he submitted to the Board back in early November indicating they were not agreeable to those terms; subsequently, after the County entered into the agreement with the City of Satellite Beach, staff went back to the City of Cocoa Beach and had further discussions to see if they would be willing at that time to incorporate the requested language because that language is found in the Interlocal Agreement with the City of Satellite Beach; the City Manager gave staff the courtesy of bringing that back before the CRA board last Thursday evening; and the CRA board did not elect to move forward with that modification. He noted they wanted to stay with the agreement they had previously asked the Board to execute and they indicated they had given the Board virtually everything it had requested. He went on to say as a result of that, the Board has this Agenda Item where staff has provided four options for the Board's consideration; option one is to approve the interlocal agreement that was set forth by the City of Cocoa Beach and their CRA, it is attached as Exhibit A; staff corrected a few scrivener errors that were in the interlocal agreement; the second option is to approve the interlocal agreement that was set forth by the City of Cocoa with changes that the Board requested and that is attached as Exhibit B; it strikes out the language that the City Attorney had requested; if the Board chooses that action then it would have to direct staff to continue discussions with Cocoa Beach; option three is for staff to continue without an interlocal agreement with the City of Cocoa Beach and the CRA; and then there is always the option of the Board to provide staff with any alternate direction it may want.

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Commissioner Smith stated he has looked over the options and pending further comments from the Board he would like option one.

Commissioner Tobia stated he would like time to discuss this before the vote; it is unfortunate that Commissioner Isnardi is not here because on October 10, 2017, she said she would just as soon have no agreement than to give up authority to take over the board if need be; that is exactly what option one does; it provides the County with very little; the Board asked the CRA to sunset at an earlier date, which it did not; the County would be entering into an interlocal agreement that would take away the authority from this Board, should there be a host of issues that could come up with this CRA as has come up with previous CRAs; for this reason along with a lot of others he does not think it would be wise for the Board to enter into this agreement; he reiterated the County receives very little and the CRA receives quite a bit; and he does not feel this is a fair and equitable agreement. He continued to put it in prospective, 3(b) is even located in the Satellite Beach CRA; his issue is, he imagines it would be very difficult for the County Manager to negotiate this providing certain accommodations to some CRAs and not to others; this does not meet most of the conditions that the Board asked for to begin with; he recalls this is the CRA that the Board gave permission to enter into a whole lot of debt, that being a large parking structure; he feels the Board has gone the extra mile here; and he would ask for this to be tabled until Commissioner Isnardi is back so she may enter her opinion as to what she would like to do with this.

The Board approved Option 1, accepting the Interlocal Agreement set forth by the City of Cocoa Beach and the City of Cocoa Beach CRA; and authorized the Chair to execute the Interlocal Agreement.

<b>RESULT:</b>	<b>ADOPTED [3 TO 1]</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
<b>ABSENT:</b>	Kristine Isnardi

#### **ITEM VIII.A., BOARD REPORTS, RE: FRANK ABBATE, COUNTY MANAGER**

Frank Abbate, County Manager, stated the Board asked for an update on the golf courses; County staff has met with the Savannah's Homeowners Association (HOA); they discussed a potential strategy looking for a way to move forward in light of the input by the Board at the last meeting where they discussed the golf courses; they anticipate the HOA and the Savannah partners to really look hard at the capital needs from their perspective and all the different input from County staff and the Board's consultants; and the County has agreed to meet with them to provide the support they need to further refine a proposal to come back to the Board within the 60-day period, which is approximately the middle of March. He continued he believes there is a tentative Workshop scheduled for that date; he knows the Board is interested in having this Item brought back; and he just wanted to give the Board an update. He went on to say the meeting with Commissioner Isnardi and Golf Brevard will be scheduled in the very near future. He mentioned he does not know if the Board would like to set March 15 as a Workshop for golf.

Commissioner Barfield stated he does not know if it is needed; he would be okay with it; however, there may be a presentation before that time, but the Workshop can be cancelled.

Mr. Abbate stated that would be fine if that is what the Board wants to do.

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Chair Pritchett stated hopefully it will all be worked out before then.

Mr. Abbate stated staff will make themselves available to support and be of assistance to get to a point where each group can make a presentation to the Board, the Board can consider it and then give further direction.

Chair Pritchett inquired if they will be bringing it back to the Board shortly.

Mr. Abbate stated they are going to try to target the 60-day period; if they get it before then, they can bring it to a Board meeting before then; and he inquired if the Board wants to leave that date for this particular Workshop and if the Board gets it before, then if can consider it on an Agenda before that. He requested a motion to dedicate that Workshop.

Commissioner Tobia stated he would like a brief update of the meeting with the Savannahs.

Mr. Abbate stated staff met with the District 2 Commission Office and the HOA; they really looked at a funding strategy that would enable the HOA to increase its participation; the County Attorney made a suggestion relative to how that might be accomplished; they considered it; no commitments were made but they were going to look at it as a strategy that would enable the HOA to take a more active role in the partnership; and to contribute financially, which is consistent with what the Board wanted to see happen. He continued it has been left with them to see how they can accomplish that; staff will work with them to really refine what the capital needs are, for them to be successful moving forward and how the HOA would be participating in the funding of that; they believe the County has some degree of obligation to participate relative to the condition of the course; when it will be turned over remains unresolved, so they will have to put what they think is appropriate for consideration; and he thinks that is a fair representation of what occurred at the meeting.

#### **ITEM VIII.C., BOARD REPORTS, RE: JIM BARFIELD, DISTRICT 2 COMMISSIONER**

Commissioner Barfield stated he has the follow up on the response to the November 21, meeting where he brought up the issue of State Representative Randy Fine sending a letter recommending a company for the Emergency Operations Center (EOC) design project; on October 27, 2017, during the procurement process for the EOC design project, Kimberly Prosser, Emergency Management Director and Selection Committee Voting Member, received a letter on State of Florida letterhead from State Representative Randy Fine supporting one bidder for the EOC design award; Florida Statute 112.3436, The Misuse of Public Position states, "No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or any resource which may be in his or her trust, or perform his or her official duties to secure a special privilege benefit or exemption for himself, herself or others;" as he reported, he was concerned that outside influences from a public position such as a sitting State Representative, could influence procurements such as the EOC design and others; and this was even more important because Brevard County is seeking State funding for construction of the EOC. He continued based on the Statute and the facts, he sought to determine if the letter was a violation and if this practice could affect future procurements; to determine if the letter violated the State Statute he filed a complaint with the Florida Commission on Ethics on December 1, 2017; he also sought the opinion of the State Attorney's Office just as he stated he would do; on January 24, 2018, he received an order dismissing the complaint from the Florida Commission on Ethics; and basically it was stated that this was not a violation and he read, " It is not corrupt or inconsistent with the proper performance of public duty and wrongful for a representative to send such a letter," "The complaint does not allege that the respondent received any remuneration in exchange for sending the letter or that he was connected to the firm in a financial business



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manner." He went on to say in addition the State Attorney's Office stated the letter does not violate Florida law; as he stated at the November 21 meeting, the County procurement process must be a pure process absent from outside political influences; and he would ask that the County re-evaluate its current processes. He added based on the decision of the Ethics Commission there is no State Statute that prevents a State official from recommending the selection of a contractor when there is no remuneration in exchange for sending such a letter; he firmly believes that transparency when making contract awards is critical; as a result he would like to recommend two items to be included into the procurement process; the first is if the final award is to be made by the County Commission, copies of any recommendations from any State or Federal elected official shall be provided prior to award and become part of the Agenda Item; and secondly, if a contract award is delegated to the County Manager, and not to be awarded by the County Commission, it is to be reviewed with the County Commission before the final decision so the Board knows if there has been any recommendations made by State or Federal elected officials.

Chair Pritchett stated she thinks that is appropriate.

Frank Abbate, County Manager, stated if the Board wants staff to bring back those modifications, they would be happy to do that; and he asked the Board to give that direction in the form of a motion.

The Board of County Commissioners, in regular session on February 6, 2018, approved amending the procurement process Policy to include: 1) if the final award is to be made by the Board of County Commissioners (BOCC), copies of any recommendations from State and/or Federal officials shall be provided prior to the award and become part of the Agenda Item, and 2) if the contract award is delegated to the County Manager, it is to be reviewed with the BOCC prior to the final decision and is to include any recommendations by State and/or Federal officials.

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

**ITEM VIII.E., BOARD REPORTS, RE: CURT SMITH, DISTRICT 4 COMMISSIONER**

Commissioner Smith motioned for the March 15, Workshop to be assigned for Golf discussions.

The Board approved the topic for discussion at the March 16, 2018, Workshop to be Golf.

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

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**ITEM VIII.G., BOARD REPORTS, RE: RITA PRITCHETT, DISTRICT 1  
COMMISSIONER/CHAIR**

Chair Pritchett mentioned that she and Commissioner Barfield had both gone to an astronaut memorial at the Space Center; there was a large turnout to honor all of the fallen space soldiers that have given their lives to further space exploration; and she just wanted to give a shout out for that.

Upon consensus of the Board, the meeting adjourned at 5:40 p.m.

ATTEST:

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SCOTT ELLIS, CLERK

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