



Meeting Date
September 16, 2014

AGENDA	
Section	New Business
Item No.	<b>V D 1</b>

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

**SUBJECT:** Approval of EDC grant agreement and resolution formally appointing/ratifying County Manager and designees as section 288.075, F.S. "county economic development agency"

**DEPT/OFFICE:** County Attorney's Office, Scott L. Knox, County Attorney, 321-633-2090

**Requested Action:**

Consider approval of grant agreement with the Economic Development Commission of Florida's Space Coast, Inc. and approval of resolution ratifying the designation of the County Manager or his designee as an "economic development agency" for the purposes of section 288.075 Florida Statutes.

**Summary Explanation & Background:**

1. It is recommended that the Board of County Commissioners adopt the attached resolution appointing, ratifying and confirming the County Manager and his designees as the economic development agency of the County with the duty to promote the general business and industrial interests of Brevard County for all purposes, including for the purposes of section 288.075, Florida Statutes, to the exclusion of any other person, firm, or corporation whether for profit or not for profit including the EDC. The effect of the resolution will be to formally require requests for economic development confidentiality exemptions from the public records laws to be filed directly with the County Manager, thereby expressly leaving the EDC in its current role as a private economic development agency.
2. It is further recommended that the Board adopt the attached grant agreement with the EDC. The grant agreement provides for the distribution of four equal quarterly payments beginning on October 10, 2014 for a total of \$1,400,050. The grant is authorized under section 125.045 Florida Statutes and requires the EDC to expend the funds for activities related to the expansion of businesses existing in the county or the attraction of new businesses to the county. The one year grant funding will replace the expiring services contract with the EDC and grants in successive years will only be renewable if the funds are budgeted by the Board in those succeeding fiscal years. The grant agreement is proposed in lieu of renewing the services agreement which could possibly bring the EDC under the public records law in accordance with the recently enacted s.119.071, Florida Statutes. Though the EDC must still conform to public records laws and exemptions thereto with regard to EDC record specifically related to a county project, as defined in the agreement, all other records of the EDC—including contact lists, telephone records, and leads would remain private records free from disclosure to competing economic development agencies in Florida and other states, as well as to competitors with EDC prospects.

**Exhibits Attached:** Proposed Resolution; Proposed grant agreement

**Contract /Agreement (If attached):** Reviewed by County Attorney **Yes**  **No**

County Manager's Office

Department: County Attorney's Office

Stockton Whitten, County Manager

Scott L. Knox, County Attorney 



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

October 3, 2017

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item V.D.1., Economic Development Commission of **Florida's** Space Coast, Inc. (EDC) Grant Agreement and Resolution Formally Appointing/Ratifying County Manager and Designees as Section 288.075, Florida Statutes, County Economic Development Agency

**This is to correct the Memorandum dated September 17, 2014.** The Board of County Commissioners, in regular session on September 16, 2014, executed Grant Agreement with the Economic Development Commission of Florida's Space Coast, Inc. and adopted Resolution No. 14-160, ratifying the designation of the County Manager, or his designee, as an 'economic development agency' for the purposes of Section 288.075, Florida Statutes. Enclosed are the original Agreement and a certified copy of the Resolution.

**Upon execution by the EDC, please return the fully-executed Agreement to this office for inclusion in the official minutes.**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*for Donna Scott*  
for Tammy Rowe, Deputy Clerk

Encls. (2)

cc: - Contracts Administration  
Finance  
Budget



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972

September 17, 2014

**MEMORANDUM**

**TO:** Scott Knox, County Attorney

**RE:** Item V.D.1., Economic Development Commission of the Space Coast, Inc. (EDC) Grant Agreement and Resolution Formally Appointing/Ratifying County Manager and Designees as Section 288.075, Florida Statutes, 'County Economic Development Agency'

The Board of County Commissioners, in regular session on September 17, 2014, executed Grant Agreement with the Economic Development Commission of Florida's Space Coast, Inc. and adopted Resolution No. 14-160, ratifying the designation of the County Manager, or his designee, as an 'economic development agency' for the purposes of Section 288.075, Florida Statutes. Enclosed are the original Agreement and a certified copy of the Resolution.

**Upon execution by the EDC, please return the fully-executed Agreement to this office for inclusion in the official minutes.**

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Etheridge*

Tammy Etheridge, Deputy Clerk

Encls. (2)

cc: Contracts Administration  
Finance  
Budget

RESOLUTION NO. 2014- 160

**A RESOLUTION OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS APPOINTING, RATIFYING AND CONFIRMING THE COUNTY MANAGER AND HIS DESIGNEES AS THE COUNTY EMPLOYEES CHARGED WITH THE RESPONSIBILITY FOR NEGOTIATING AND FACILITATING ECONOMIC DEVELOPMENT; CONFIRMING THAT THE COUNTY MANAGER AND HIS DESIGNEES ARE THE ECONOMIC DEVELOPMENT AGENCY IN BREVARD COUNTY FOR THE PURPOSES OF SECTION 288.075, FLORIDA STATUTES; AUTHORIZING THE COUNTY ATTORNEY, COUNTY MANAGER AND HIS DESIGNEES TO EXECUTE CONFIDENTIALITY/NON-DISCLOSURE AGREEMENTS IN THE MANNER PROVIDED FOR IN SECTION 288.075, FLORIDA STATUTES; AUTHORIZING THE COUNTY ATTORNEY TO PARTICIPATE IN NEGOTIATIONS AND DRAFTING OF AGREEMENTS WITH COMPANIES SEEKING TO CREATE, RELOCATE OR EXPAND THEIR BUSINESSES WITHIN BREVARD COUNTY, FOR CONSIDERATION BY THE BOARD OF COUNTY COMMISSIONERS.**

**WHEREAS**, the County Manager and his designees have consistently been engaged in economic development activities within the County, in behalf of the County over the past twenty years; and

**WHEREAS**, the Board desires to formalize their appointment of the County Manager and his designees as the County employees responsible for economic development in behalf of Brevard County, for the purposes of section 288.075, Florida Statutes to the exclusion of any other person, firm, or corporation whether for profit or not for profit; and

**WHEREAS**, the Board desires to authorize the County Attorney to participate in the negotiations, legal review and drafting of agreements and other relevant documents relating to county incentives or other matters which may arise in connection with the creation, relocation or expansion of businesses in Brevard County; and

**WHEREAS**, the Board also desires to authorize the County Attorney or his designees to enter into confidentiality/non-disclosure agreements under the circumstances prescribed in section 288.075, Florida Statutes;

**NOW THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida:

1. The County Manager and his designees are hereby designated as the County employees with the duty to promote the general business and industrial interests of Brevard County and the responsibilities related thereto for all purposes, including for the purposes of section 288.075, Florida Statutes, to the exclusion of any other person, firm, or corporation whether for profit or not for profit.

2. The Board hereby appoints, ratifies and confirms the County Manager or his designees as the economic development agency of the County for all purposes, including section 288.075 Florida Statutes.

3. The Board hereby authorizes the County Attorney to participate in the negotiations, legal review and drafting of agreements and other relevant documents relating to county incentives or other matters which may arise in connection with the creation, relocation or expansion of businesses in Brevard County and any other related economic development activities.

4. The Board hereby authorizes the County Manager, the County Attorney and their respective designees to enter into confidentiality/non-disclosure agreements under the circumstances prescribed in section 288.075, Florida Statutes.

**DONE, ORDERED AND ADOPTED** this \_\_16<sup>th</sup> day of September, 2014.

Brevard County Board of County Commissioners

BY:  \_\_\_\_\_

Mary Bolin Lewis, Chair

(As approved by the Board on September 16, 2014)

ATTEST:

 \_\_\_\_\_

Scott Ellis, Clerk

## GRANT AGREEMENT

**THIS GRANT AGREEMENT** is entered into by and between BREVARD COUNTY, a political subdivision of the State of Florida (hereafter referred to as the “County”), and THE ECONOMIC DEVELOPMENT COMMISSION OF FLORIDA’S SPACE COAST, INC., a Florida Corporation Not-for-Profit (hereafter referred to as the “EDC”);

### RECITALS

**WHEREAS**, the Board of County Commissioners has assigned the County Manager and his/her designated staff to function as the economic development agency for the County with legal assistance from the County Attorney; and

**WHEREAS**, under section 125.045(3), Florida Statutes, the County is authorized make grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community; and

**WHEREAS**, EDC is a private, not-for-profit corporation engaged in the activity of attracting new business investment, retaining and expanding existing businesses, and encouraging entrepreneurship to and in all communities and jurisdictions within the county, including the 16 municipalities, the unincorporated area, the Melbourne International Airport Authority, the Titusville-Cocoa Airport Authority, the Canaveral Port Authority, and military installations; and,

**WHEREAS**, EDC has a focus on the manufacturing and high tech industry, which advances growth in corporate investment, job creation and business sustainability for the long-term vitality of the county economy through the direct and indirect impact associated with the investment of businesses within our community; and,

**WHEREAS**, economic development efforts within a community must include a wide range of programs and resources to compete globally;

**NOW THEREFORE** in consideration of the following covenants and provisions the parties hereto agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and incorporated by reference herein.

2. **Grant.** The County hereby agrees to provide a grant to the EDC in fiscal year 2014-2015 in the amount of \$1,400,050.00. This grant is authorized by 125.045, Florida Statutes.

3. **Use of Grant Funds.** The grant funds provided by the County to the EDC shall be used exclusively for EDC efforts to retain existing businesses in the County and to attract new businesses to the County. The grant funds will enhance the programs of work and strategic goals of the EDC to improve the economic growth and stability of the county. These programs of work focus on:

- (a) Providing assistance to companies that are interested in investing in the county through relocation, retention and/or expansion of their businesses in the County.
- (b) Marketing the county and promoting its competitive advantages to targeted business industries through multiple outlets and trade missions.
- (c) Creating and distributing materials and publications with relevant and timely economic and demographic data for use by the business community.
- (d) Working with elected officials and community partners to develop a competitive business environment in the county.
- (e) Identifying and providing resources designed to expand opportunities for existing manufacturing and high tech businesses in the county.

Notwithstanding anything herein to the contrary, at the discretion of the EDC, the grant funds may be used for administration, travel, office expenses, salaries or other expenses related to the EDC's program of work involving the retention or expansion of existing businesses and attraction of new businesses within the county.

4. **Public Records.** The County and EDC acknowledge that EDC is a private corporation and not subject to Florida's Public Records law, per se. The County and EDC also acknowledge that the Board of County Commissioners has also designated the County Manager and his designees as the economic development agency for the County, for the purposes of County Projects, as defined below, encompassed by the provisions of section 288.075, Florida Statutes. However, when the EDC is working on a County Project all records related to the EDC's work on that project in coordination with the EDC's private business client and the County are deemed to be public records available for inspection by any person, unless those records are otherwise exempt or confidential under Florida Public Records laws. For the purposes of this Grant Agreement, a "County Project" is defined as a project:

- a. where employees or officials of County government, or of any special district dependent to County government, have received a written request from a private business for a confidentiality/non-disclosure exemption in accordance with the provisions of section 288.075, Florida Statutes; or
- b. where a business has filed a written request for one or more County economic incentives to induce that business to locate, expand or relocate in the County,

regardless of whether the business has submitted a request for confidentiality under the provisions of section 288.075, Florida Statutes. Such incentives may include, but are not limited to, ad valorem tax exemptions; cash grants; or lease or conveyance of county-owned property.

The term "County Project" shall not include any EDC activities involving private companies; municipal corporations; airports; ports; chambers of commerce or other private organizations, but not involving the County.

**5. EDC's Ad Valorem Tax Exemption Advisory Role.** The parties acknowledge and agree that EDC has no approval or decision-making authority in County government other than acting in an advisory capacity solely for the purpose of reviewing ad valorem tax exemption applications, in which circumstances the EDC committee responsible for that function must conduct advertised, public meetings in accordance chapter 286, Florida Statutes (the Florida Sunshine Law). Any record or document generated as a result of the EDC committee's activity in an advisory capacity related to the review of ad valorem tax exemptions shall be deemed public record and open for public inspection, unless otherwise exempt or confidential under Florida law.

**6. Term and Renewals.** The term of this Grant Agreement is one year, commencing on October 1, 2014 and ending on September 30, 2015; provided this Grant Agreement shall automatically renew for additional one year periods over a maximum period of ten additional years should the Board of County Commissioners adopt an annual county budget setting aside funds for an renewal grant for each such renewal year. In the event the Board does not adopt an annual county budget setting aside grant funds for the EDC prior to October 1 of the upcoming renewal year, this Grant Agreement shall be deemed terminated.

**7. Payment Schedule.** Payments shall be made on a quarterly basis in the amount of \$350,102.50 due on October 10, 2014, January 10, 2015, April 10, 2015, and July 10, 2015.

**8. Reporting Requirement.** Prior to September 30, 2015 or the same date in any subsequent year for which this Grant Agreement has been automatically renewed, the EDC shall submit a report to the Board of County Commissioners setting forth as to County Projects, at a minimum, the following:

- a. the manner in which County grant funds were expended; and
- b. the results of the EDC's efforts in retaining existing businesses, attracting new businesses, or relocating businesses from other areas.


c. The EDC also agrees to voluntarily furnish the County each such year with a copy of the annual audit of the EDC's financial records and operations conducted by a certified public accountant, as well as a financial report.

9. **Effective Date; Prior Agreements Superseded.** All prior agreements between the EDC and the County are superseded and rendered inoperative as the effective date of this Grant Agreement, which is October 1, 2014.

**WHEREFORE**, the parties have executed this Grant Agreement on this 16<sup>th</sup> day of September, 2014.

**Economic Development Commission  
of Florida's Space Coast, Inc.**

**Brevard County**


BY:   
Lynda Weatherman, Executive Director

BY:   
Mary Bolin Lewis  
(As approved by the Board on September 16, 2014)

DATE: 9/29/14

Date: 9-16-2014

**ATTEST:**

  
Scott Ellis, Clerk of the Circuit Court  
in his capacity of Clerk to the Board

VERBATIM TRANSCRIPT OF SEPTEMBER 16, 2014, ITEM V.D.1. RESOLUTION AND GRANT AGREEMENT WITH ECONOMIC DEVELOPMENT OF FLORIDA'S SPACE COAST, INC., RE: FORMALLY APPOINTING/RATIFYING COUNTY MANAGER AS DESIGNEES AS SECTION 288,075, FLORIDA STATUTES, "COUNTY ECONOMIC DEVELOPMENT AGENCY"

Bolin Lewis: The next Item is V.D.1. I do have a card on this, Mr. Mikolajczyk.

Mark Mikalajczyk: Good morning again, Commissioners. I have some priority remarks, if that's okay I'll go through them. As you discuss this agreement today between the EDC and the Brevard County Commission, I thought this would be a good opportunity to provide a recap of the activities and successes of this past year, as a result of the EDC's hard work and dedication to improving our community, and supported by the Brevard County Commissions focus and commitment. Creating a strong, vibrant economic phase for the citizens of Brevard County, is our goal, and I'd like to recognize the Board members that are present with me here today. So, will they please stand. I would like to take a moment to highlight this EDC's Project accomplishments. In October of 2013 the EDC announced Embraer's new assembly plant, which would be built at the Melbourne International Airport. This Project will create 600 new jobs with a capital investment of over \$76 million. You all recall that the EDC, with the help from our partners and the County Commission worked to bring Embraer here more than six years ago. In total, the company has located three significant Projects in Brevard. Just last Monday on September 8th Embraer SA unveiled its \$24 million new facility to the community. Their total job commitment through 2019 is 1,000 new jobs. Sun Nuclear Corporation announces plans to more than double its size of its Melbourne facility and hire 100 new employees over the next three years. This expansion Project has a capital investment of \$4.47 million. Barn Light Electric Company is based in Titusville and is more than doubling its manufacturing and warehouse operations, this expansion would generate \$2 million capital investment and 30 new jobs over three years. North American Surveillance Systems announced it will locate in Titusville and create 20 jobs over the next three years; this Project has a capital investment of \$1.6 million. International Municipal Sign Association announced a Space Coast location, IMSA is a small business which would create 12 new jobs with a \$200,000 capital investment. Of course, who could forget Northrop Grumman Corporation, who selected Brevard County for a significant expansion that will add 1,800 jobs at a full-program capacity? The Company will invest approximately \$500 million in new capital at the Melbourne International Airport. This Project represents one of the largest investments in our community, when you factor in the number of jobs, average wage, and total capital investment. Also, in Melbourne MCM Assembly will expand by converting their existing office space into a state-of-the-art electronics manufacturing facility. This business retention Project will keep hundreds of jobs in the community, and a \$17 million capital investment will be brought into the local economy. Anuva Manufacturing, also in Melbourne, announced its plans to move out of their current facility into a larger manufacturing facility. This move would create 30 new jobs through the end of 2016

with a capital invest of \$1.7 million. These Projects from the, which the dedicated staff of the EDC has worked directly represent 2,592 new jobs, 665 retained jobs, with over \$603 million in capital investment, and a total economic impact of nearly \$517 million. But, the EDC also works many other initiatives to help existing businesses grow in Brevard. The EDC's G.O. Contracts Program has seen great success this past year. To date, we have processed 130 applications with 60 percent of users identifying at least one opportunity, in which to bid. This is an online government contracting site that surveys the web and finds many different opportunities out there. Eight companies reported a total of 25 contract wins, representing over \$6.4 million in contract wins. G.O. Contracts is helping local industry take a better informed approach to a new business acquisition. The EDC has also been committed to fostering an environment for entrepreneurialism and innovation. In March, the EDC announced the launch of its website Accelerate Brevard; this portal stimulates thought, conversations, and interactions by linking entrepreneurs, innovators, academia, and existing businesses with valuable resources. This website is part of the EDC's overall plan, to drive innovation, and small business growth on the Space Coast. As I touched upon earlier in this meeting this EDC's Made in Brevard Program has seen great recognition with 185 companies currently using the Program and being recognized through billboards, articles, and the EDC's Made in Brevard website, and yet, there's another successful initiative of this EDC, that's called our SNAP Program, which is Simplified and Nimble Accelerated Permitting Program. We currently have all 11. Oh, we have 11 municipalities who are SNAP certified, and we welcome the City of Satellite Beach, as a recipient just this past year. So, as you can see the EDC has been busy with new, exciting developments. We look forward to continuing our successful effort and adding new elements to extend our reach. In closing, and on behalf of the Board of Directors of EDC, we are in full support of the proposed grant agreement, and feel that it allows the EDC with flexibility and attracting retaining businesses in Brevard County while respecting the concerns of transparency, in compliance with Florida Public Records law. We the members of Board of Directors and staff appreciate and respect the relationship between the EDC and the Brevard County Commission, and its staff which has led, and will continue to lead many years of positive economic growth. Thank you.

Bolin Lewis: Thank you, Sir. Any questions for this gentleman? Commissioner Infantini.

Infantini: I have one question. When you mentioned transparency. Back in August, actually I think it was July; I started asking for, yes, July 15th, I started asking to see copies of records from the EDC. In two months, finally on, actually almost three, at 5/21 before our last Commission meeting, I was finally emailed something by Lynda Weatherman, and it was just a chart of information for part of the Cash Disbursements Journal. It took me all of July, all of August, and half of September to get any information what so ever. So, when you refer to transparency, I've seen none. I have not been able to go to the office and look at any documents, so I think that's one of the big reasons why I'm so concerned

about continuing the contract with EDC. What can we do to make it so it is transparent? So that when they say that they were the ones who got companies here, I can see some type of backup information that shows, look, I contacted the President, and I was in communications and he's said, if you don't let us. Give us this tax abatement we're going to locate to Texas. I've seen nothing. So, could you elaborate on the transparency? Because I'm.

Mikolajczyk:

I. I think that.

Infantini:

Because I'm not afforded anything.

Mikolajczyk:

I think your question though was about expenses, not about those other things.

Infantini:

It, it was in deed, but I have asked for.

Mikolajczyk:

Your question was about expenses. Can I ask what the issue was with transparency regarding the expenses?

Infantini:

I would like to see copies of the invoices and I'd like to. I wanted to see the expense journal and I wanted to see copies of the invoices, so I could see who was being paid, and for what services. And finally, after two and one-half months I was actually afforded a Cash Disbursements Journal listing from QuickBooks.

Mikolajczyk:

Right.

Infantini:

As to some expenses that were paid out over three years.

Mikolajczyk:

And that wasn't sufficient enough?

Infantini:

No. I mean that I, I, I could play A, B, C as who I paid, but what did you pay them for? I haven't seen anything and I offered to go to the office and, and look at the documents. And, I would imagine you have documents?

Mikolajczyk:

Yes, we have quite a few documents.

Infantini:

Okay.

Mikolajczyk:

We go through various audits and we prepare the audits for the County Commission.

Infantini:

Right.

Mikolajczyk:

That is under the current contract, yes.

Infantini:

So, is it. How would somebody like a County Commissioner ever be able to see any of the supporting documents to support the expenses that are paid for, that, to the sub-contractors, or for the travel and entertainment?

Mikolajczyk: I'll check with the staff on that. Why it, we took so long for that, for those comments, but I'm just curious, too as to what. Is typical of other contracts in the County that, we can look through everything that's there?

Infantini: I don't know? You have a contract. The EDC has a contract with us, that they will show us their books and records. And so, I would think as a County Commissioner, if we're going to be spending \$1.4 million, we should be able to see that the five of us, we should be able to see where our money; where your money, it's not mine it's your. Where your money is being spent, specifically, and so, or it draws into question why is it being hidden? If there's nothing inappropriate then why would it not be opened to the Sunshine?

Mikolajczyk: Yeah. Okay. Thank you. Nothings being hidden. We. We are trying. We do go open, open audits and we do have our process and procedures in place, like any good organization would. We do file our other tax forms and such so, but I will check with the staff and see where we're at on that.

Infantini: Right.

Bolin Lewis: Okay.

Infantini: But that's a financial audit. I mean that entirely different. Thank you.

Bolin Lewis: Commissioner Fisher.

Fisher: I, I just want to be for the record clear. What exactly from an audit standpoint. And this is a question to Mr. Whitten or Mr. Knox. Do we. What do we get from EDC on an annual basis and what do the auditors actually do? Look for? I'm assuming it's a typical audit. She says it's a financial. I think any records or any, anything they do is financial if it's being audited, Commissioner Infantini.

Infantini: I. You're understanding. I. I know that there's different types audits and a financial audit just says that the amount that you're claiming for travel for instance, if the EDC says that they spent \$100,000 in travel, the audit will reflect, in fact, yes, they did spend \$100,000. It doesn't go in to see whether or not one person went to dinner for \$10,000 or 50 people went to dinner for \$10,000. It just nearly says the amount that your claiming that you spent on a specific expenditure was, in fact, spent. It's not saying that you're following procedures according to what we would expect them to follow. Well, actually, there isn't any listing of that.

Fisher: I'll let Mr. Whitten answer it then I'll.

Whitten: Yeah. I believe this receives annually the annual financial audit and the, the financial report from the EDC. So, I think those are the two documents that you formally except or acknowledge on your Board's Agenda.

Fisher: Okay. Thank you, Sir.

Bolin Lewis: And no further questions? Thank you very much, Sir.

Mikolajczyk: Thank you for your time.

Bolin Lewis: And I do want to bring to the attention of the Board, that this particular Item, there's two separate votes that we'll be looking at. The first one is the resolution and then the second one is the grant. So for.

Nelson: I move the resolution.

Bolin Lewis: I have a motion by Commissioner Nelson, seconded by Commissioner Anderson.

Infantini: I think. I think there's a speaker.

Bolin Lewis: Whom wanted to speak? I'm sorry, I don't.

Fisher: Mr. Ellis.

Bolin Lewis: Mr. Ellis. Where did his card go? If you would like to come forward, please?

Ellis: Thank you. Scott Ellis 2811 Breeze Ridge Road, Eau Gallie. Before I speak I'd like to address the last question; is the Board gives no detail on how their \$1.4 million was spent. You don't even know if the \$1.4 million was spent. You get no such detail at all. You have no idea how much is spent, how much is carried forward, and what it is spent for? So, you can get a financial audit, but you have no idea where your money went. The issue I'd like to talk about, more from Mr. Knox, what is the difference between a grant and a contract?

Knox: In this case, the grant is a contract; it's a grant-contract just like we have other client contracts with other agencies. We give money away, we have, I think in this case, we have the requirement that they, not a requirement they actually volunteered and provided an audit at the end of the year, and their only job for the grant is to attract businesses, expand existing businesses, or keep retained existing businesses.

Ellis: So the grant is a contract?

Knox: Yeah.

Ellis: And it is a contract for services?

Knox: No.

Ellis: Then what is the contract for?

Knox: It's a contract to give them money to continue to attract businesses, to

expand existing businesses, and to retain businesses.

Ellis: But since their not providing a capital good, then the only thing they can provide are services.

Knox: It's a. No, it's not; it's a different between services and the grant. Services would be by going out to hire an engineering company and having them prepare plans for you, and oversee your construction.

Ellis: Services are recruiting businesses to move here.

Knox: Whelp, we don't see it that way, Scott.

Ellis: I don't really understand how you see it honestly Scott, because I understand what your trying to do based on 125 between three and four, but four is very clear it talks about contract for the governing body for economic development activity, on behalf of the County of the government entity, and that's clearly what this money is for.

Knox: And I would agree, and if you're talking about public records, to the extent that they become and acting on behalf of the County for any particular project those are going to be public records.

Ellis: So, my point then, do you feel this falls under subsection four or subsection three?

Knox: I'm not. I haven't got those in front of me, so I don't know.

Ellis: That's your economic development powers and, and clearly you are, you are going to have these guys do economic development for the County.

Knox: In some circumstances, they'll do it for the County, and some circumstances they'll work with the Port, they'll work with the airport, and they'll work with other entities beside the County though.

Ellis: They'll work with others, but you're paying them.

Knox: That may be true?

Ellis: To provide this service for the County.

Knox: That's. Well, to provide a service to the County when the County, when the project comes to the County.

Ellis: You're, you're looking at. I, I, I think we have a semantic issue because you're looking at County, in terms of County government. I'm looking at County, in terms of Brevard County as a whole.

Knox: Okay, I'll agree.

Ellis: You see what I'm say? They're not. They are not going to recruit people

for Seminole or Volusia?

Knox: No. I agree with that.

Ellis: So, they're here for Brevard County?

Knox: Yeah, right, it may be Melbourne, and it may be Brevard. It's County government we're talking about, so it triggers the public records law though.

Ellis: And I don't understand how you're. Why you have this as a grant instead of a contract for services, when you have a grant of a contract for services?

Knox: Whelp, it's called, we do have for a couple reasons. Number one the grant renews every year, so you have to come back before the Board to get it budgeted every year in this business, you're supposed to have a 10-year contract like we did the last time, and so that's one reason. The second reason was to make sure we narrow down the scope of the public records law, so we don't have to go through the same thing we went through with you on this last go-around, because that contract had a much broader scope, in terms of how it was put together. It was based upon the old, special act that was, that granted the council the economic development council the, that power and authority to do economic development in the County.

Ellis: Right, but you now have a new Statute that would subject them to 119, based on the service contract.

Knox: Well, Sir, that service contract only applies to the same extent that this one does frankly, because it only operates where its, EDC would be working on behalf of the County, that's the trigger to that Statute as well. So, that it's really the same test for both.

Ellis: So, you're saying that this grant is the same as the last contract, in terms of public record law?

Knox: I'm saying, if the County, yeah, to the extend they are working on a project specifically for County government, yes, it is.

Ellis: And, in terms of financial information?

Knox: Financial information's going to be available for each project that they work on behalf of the County, yes.

Ellis: And, you will get an accounting of how your money is spent?

Knox: They will provide and I assume that the public is still public record, yes; it's going to be provided to us, yes.

Ellis: Well, I don't know about assuming. I. I'm asking, are you going to get an

accounting of how your money is spent, because to date, you don't get that.

Knox: Well, that's not provided before the contract, but to the extent that they, that their records on a particular project are public records, whatever information they have on that project is available, including how they spent the money.

Ellis: Are you saying each project comes with a listed expenditures?

Knox: I'm. I'm saying. I'm sure that there's some way to track what expenditures they have related to a specific project.

Ellis: And, I would tell you I'm sure there is not.

Knox: Well.

Ellis: And, that's why you don't receive how your money is spent. Your funds are commingled with all the other funds, therefore, you have no idea how your money is spent. That last time I believe you had a carry forward of five or six hundred thousand dollars. You have a no way to verify if that's carrying forward your County money, or carrying forward money from their contributors.

Knox: And that may be? That may be?

Ellis: I think, that when we talked about financial audits and finances, you have absolutely no detail on how you're money is spent, will be spent, or even if it is spent. None.

Bolin Lewis: Mr. Ellis, your time is up. If you'd like to make your last statement for us please.

Ellis: Yes, I would. You have a procurement Policy. In your procurement Policy all requests for goods and services, all purchases shall be for public purpose, and it goes on with various things how you do this, unless otherwise exempt under this Policy. I find no exemption under this Policy for anything remotely resembling economic development. And it says \$100,000 and above, you will go through and solicit three responsive, qualified sources for purchasing thresholds.

Bolin Lewis: Thank you, Sir.

Ellis: Have you done that?

Bolin Lewis: Your.

Ellis: Have you gone to RFP?

Bolin Lewis: Your time is up, Sir.

Ellis: I'm asking you a question.

Bolin Lewis: I not answering that, I.

Ellis: Well, I will tell you all.

Infantini: No, we have not gone out to RFP.

Ellis: No, that's okay, because they've other venues than this, and you control this venue but you don't control all venues. Thank you.

Bolin Lewis: Commissioner Anderson, did you have a question?

Anderson: No. Just back to the transparency issue and and, I think there's a misunderstanding. Each Chairman of this Board has the right to appoint themselves or somebody else to the Executive Board of the EDC. And I've sat there. The four of us have sat there, and those financial data's and those metrics are provided. We see them, so to say they are not transparent, I can assure the residents of my District, anyways that it's pretty transparent whenever we ask for anything. In addition, each Member of this body has an appointee to the, to the EDC board, who can ask those questions, see the metrics, see the financials, and and I don't know if the County Attorney could correct me if I'm wrong. But, I'm not sure, but I think you can appoint yourself to the EDC board, right?

Knox: Me?

Anderson: No, not. If I wanted to appoint myself as my Commission appointee?

Knox: You could. You could.

Anderson: So, those people can sit on that board if they chose, and it's not so our money. And back to that issue, accounting for every dollar is important but it's like, we belong to the Florida Association of Counties. Have we asked them how they've been spending our money? I just want to know if we have went through their audits, because there's somewhere where I'm interested in also? So, no, we don't, because its 67 counties money, and there's no way they could tell what our little contribution exactly went. What pencil was bought with our money? So, I'm going to leave it at that. I support the resolution.

Bolin Lewis: Okay, I do have another light. Commissioner Infantini.

Infantini: Well, I can tell you when I was sitting on the board representing Brevard County on the Transportation Planning Board, I did ask specifically where our money was going, and I did ask for documentation, but as soon as I did that I got removed from the board, from the TPO because they didn't want somebody asking those questions, so. But I can tell you when I do sit on boards, I do ask for specific enumeration and justification. So, when they ask for a 25 percent increase in their pay and there was no justification, rather than stick around for the answer I was removed from

that board. I do have a question for Scott Knox. Specifically, you were talking about documents and with Mr. Ellis. What am I entitled to as a County Commissioner, to ask for in the form of documents from the EDC, as our old contract exists? Not going forward with this new one. What am I entitled to see as a County Commissioner or as a member of the public? Under public records. What should be entitled to?

Knox: Well, well there's a big dispute about that right now, so.

Infantini: Right. Well, I'm asking for your interpretation. What do you think I'm entitled to?

Knox: My opinion was that as long as the EDC is working on a specific project involving the County that you're entitled to see records relating to that project. I don't think anything has changed. I think, that's what this agreement does as well. The difference between the last agreement and this agreement, is they volunteered to provide their audit, but they also have to account for how they spent the money on, that you're giving to them. So, it's actually going to have to be some kind of listed expenditures that they are going to have to provide to you under this agreement which wasn't under the last agreement.

Infantini: So, if I asked let's say for emails that would support that they were the primary reason why a company located here. Would I be entitled to see those emails?

Knox: If they were relating to a specific project and it could be identified in that way, yes. The answer is yes.

Infantini: Okay. All right.

Nelson: At some point in time.

Anderson: At some point in time.

Infantini: What. No. A. A. A company that's already here.

Knox: Yeah.

Infantini: I'm not talking about one that we're recruiting, because that's probably secret, and nobody would be entitled any of that information. But I'm just talking about the companies that are already located, the Northrop Grumman, the Embraer's. All of those, I would be entitled to see.

Knox: Well, you would be entitled to see it to the extent they have a project going, okay. I mean if if Northrop Grumman is working as Northrop Grumman, you don't have a right to see anything they have, period.

Infantini: No. Not. I. The EDC? I would ask the EDC for the documents they used to secure Northrop Grumman.

Knox: The EDC would be working.

Infantini: I would ask the EDC for the documents they used to secure Northrop Grumman.

Knox: Once it's no confidentiality involved because Grumman has asked for it, the answer would be yes, you could do that if to the extent the EDC was working with them, but if they've asked for confidentiality, you can't see them because the State law doesn't allow you to see them because it would be a criminal violation for anybody to have those in their possession to show them to you.

Infantini: Be. I don't understand why it's a criminal violation, because confidentiality applies to trade secrets and secrets, whether or not they're going to locate here? Once it's already been established that they are locating here, there's no longer a secret.

Knox: Confidentiality applies to their business plans and their intentions and interest in moving here. So, what, and how? That's a very broad category and anything that falls under that category is protected once they ask for confidentiality. It's the State Statute acts on behalf of the private company, it doesn't act on the behalf of its exemption from the public records law once they ask for it. But it's only for a year. After those, after the year has passed, unless it has been extended because the project's going on, all those records become public, and then you can see them.

Infantini: Okay. Well, it's my position that this grant is a request for goods or services, and as such, we need to go out to bid for it. We need to receive three responsive bidders for this contract and I do not think legally, that we can award this. I'm trying to discourage this Board from moving forward on this. I know how the vote will go, but I would like to say for the record, I do not think legally we are allowed to do this, personally.

Knox: Yeah. I would also point out that that is a Board Policy, which can be waived even if it were services, which it's not.

Bolin Lewis: I do have before us Mr. Whitten's light.

Whitten: actually, the Board Policy provides for that exception and so, the Board can make that exception, it's already in your Policy, and then Madam Chairman, when we get to the agreement I have a suggestion, an addition to that, to the reporting requirement section.

Bolin Lewis: Okay. Right now I do have before us a motion for the resolution. All in favor, please state Aye.

Nelson: Aye.

Anderson: Aye.

Fisher: Just for clarity through. Is it. Are we going to waive the procedure Policy in this motion, or is that something?

Nelson: That's the next one.

Bolin Lewis: That's next one. This is the resolution.

Fisher: Okay. Okay. Aye, then.

Bolin Lewis: All in favor please state Aye.

Fisher: Aye.

Bolin Lewis: Anyone opposed?

Infantini: Nay.

Bolin Lewis: Passes 4:1. Commissioner Infantini. We will now be going to the grant. Commissioner Nelson.

Nelson: I'm just curious, see all we did in that motion was to name our County Manager as our person for negotiating economic development. So, I'm a little bit of vague on why the Commissioner would not support having the County Manager in that role, but, you know, I certainly understand the the comments on the contract or the agreement, but that's just odd?

Bolin Lewis: Mr. Whitten.

Whitten: On page three of the agreement, reporting requirement, it actually does say, and Mr. Knox highlighted this that the EDC is to, is required to report the manner in which County grant funds were expended, and so, that's a difference between this grant agreement and the previous contract. But on page 4, under Requirement C, I would also like the Board to add and I don't think that the EDC would have a problem with this is, it requires, it actually says that they will voluntarily furnish the annual audit, and I would also like to add an annual financial report.

Fisher: Okay. I make a motion to approving that as is

Infantini: What's the difference?

Whitten: The difference between the audit and the financial report?

Infantini: Yeah. Yes.

Whitten: They're two different documents. So, an audit is an audit and the financial report is their reporting, and I know they are from the same sets of data but they're different documents and so, you know, an audit is a tracking of the expenditures. I sound like I'm teaching a class here.

Infantini: I know, I'm just trying to find out what goes in a financial report because I do teach a class, and I don't have a report called a financial report. So,

I'm just curious what's involved inside of a financial report? I just. I haven't seen one and if there's something call a financial report that is out there. I mean, what is that list?

Fisher: You've never heard of a financial report?

Infantini: I. No. I've called an income statement, a balance sheet, statement of owners' equity, statement of cash flows, a management letter, but I've not heard just financial report.

Whitten: Each. Each year.

Infantini: Have you? Could you tell me what it is?

Fisher: Yeah. It gives you their annual, the finances in the current year that was spent.

Whitten: Yeah. Each year. Well, I.

Fisher: When it's that simple maybe you need a CPA?

Whitten: Well, I'll do it by example of County government. Each year there's an annual audit and there's an annual financial report. And. So, there's two different documents submitted to two different bodies there, and so the audit is a tracking of accounting expenditures, a report is a reporting on revenues, expenses, assets, liabilities, and all of those things and so, you know, I can't give you the strict definition. They're two separate documents the County is required to produce two separate documents. And. So, I think the EDC also produces, has conducted an annual audit, and produces an annual financial report.

Infantini: Okay.

Bolin Lewis: Okay, we have now before us the grant and we have accepted the addition of the statement of the financial report. Do I have a motion?

Nelson: So moved.

Bolin Lewis: I have a motion by Commissioner Nelson. Second?

Anderson: Second.

Bolin Lewis: By Commissioner Anderson. All in favor, please state Aye.

Nelson: Aye.

Anderson: Aye.

Fisher: Aye.

Bolin Lewis: Anyone opposed?

Infantini: Nay.

Bolin Lewis: Passes 4:1. Commissioner Infantini, Nay.