

Meeting Date
9/01/15



Replacement	
AGENDA	
Section	Unfinished Bus.
Item No.	V B

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	APPROVAL OF NBEDZ GRANT AGREEMENT FOR PROJECT PANTHER
DEPT/OFFICE:	MANAGEMENT SERVICES & COMMUNITY SERVICES/COUNTY MANAGER'S OFFICE

Requested Action:

The North Brevard Economic Development Zone (NBEDZ) requests that the Board of County Commissioners approve a Grant Award Agreement in an amount of \$8 million as an economic development inducement for Project Panther.

Summary Explanation & Background:

Resolution number 2015-083 regarding a NBEDZ grant incentive for Project Panther was adopted by the Board of County Commissioners on May 26, 2015. The completed agreement must now be approved by the Board of County Commissioners.

Project Panther is a qualified target industry sector business as defined by F.S. 288.106. This project will involve the construction of a facility to be used for the design and manufacture of a high-tech aerospace product.

Project Panther plans to create 330 jobs with an average wage of approximately \$89,000, invest approximately \$205,000,000 – \$220,000,000 in new capital investments.

Under a signed NDA, NBEDZ board members and County Commissioners will be offered detailed briefings on this agreement.

Fiscal Impact: Grant proceeds would come from the North Brevard Economic Development Zone (NBEDZ).

EDC Contact: GWeiner@SpaceCoastEDC.org, 321-638-2000
 Staff Contact: Troy.Post@brevardcounty.us, 321-264-6750

Clerk to the Board instruction: Need the agreement approved ASAP.

Exhibits Attached: N/A

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

County Manager	Department Director / Extension
Stockton Whitten	



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September 2, 2015

MEMORANDUM

TO: Stockton Whitten, County Manager

RE: Item V.B., Approval of North Brevard Economic Development Zone (NBEDZ) Grant Agreement for Project Panther

The Board of County Commissioners, in regular session on September 1, 2015, approved Grant Award Agreement in the amount of \$8 million as an economic development inducement for Project Panther.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge

✓ Tammy Etheridge, Deputy Clerk

/kg

cc: NBEDZ Executive Director

VERBATIM TRANSCRIPT ITEM V.B., SEPTEMBER 1, 2015

Fisher: V.B., Mr. Post are you, you kind of already set that one up? So you're good? We do have some cards on that one, too. Mark would you like to come back up or . . .

Mikolajczyk: Just briefly, I didn't realize that we were separating these two; but Project Panther, we've heard it all, it's great. I think it's going to be a great impact. We think at the EDC, for our community. I mean, think about it. This company says that they're going to design, manufacture a launch and reclaim, return their vehicles to the Space Coast; and for the space industry, that's wonderful, that's impactful, and for commercial space, I think this is a great way to move forward for us and this County to be a leader in this dramatic change that's going on in this space industry. So, on behalf again of the EDC, we, and the board, we do support Project Panther, the resolution to approve that. Thank you.

Fisher: Thank you, sir. Yes?

Infantini: You work for Craig Technologies?

Miklajczyk: Yes.

Infantini: And when, when your firm is going to make a business decision, do they know where the money's going to come from to finance that decision? Would your firm, would your organization go out and make an acquisition, a contract, acquire something for \$100 million without knowing where it was going to get the money to pay for it?

Miklajczyk: No, you would actually have to try to figure out exactly how you're going to look at all of the investment or opportunities that may be out there to help mitigate your investment as well. So yes, you do a lot of research, you do a lot of efforts, you do a lot of work, and you work with a lot of different people that are going to make that kind of investment.

Infantini: For the record, Craig Technologies is a very successful business here in Brevard County. The reason why I make this point is the North Brevard Economic Zone has now pledged roughly \$16 million in the next couple of years, couple or three years. It's generating roughly \$3 million per year. If you're going to bring in \$3 million per year, in three years that is \$9 million, but you're spending \$16 million. So, I was asking during my briefing where's the money going to come from, and they said that they'll figure that out later that they've got ideas. Now, I don't know about you guys, but when I was looking to buy a house or when my daughter was looking to buy a house, they lined up their financing before they went to buy a house so they would know how much they could spend. So how in the world, and this is a question to the Board more than to you, I just wanted you to establish that Craig Technologies actually figures out where they're getting the money before they spend it . . . I want to ask this Board, this is going to be after I'm off, so I don't have to worry about where this money's going to be coming from. I'm termed out in November, but, next November not this one. Sorry guys. Where you going to get the money, because that's going to turn out that they're going to have to bond, start bonding the revenue stream coming in to the North

Brevard Economic Zone; and so for that reason, I ask you, gentlemen, where will you be arriving at the money? Where's this money going to come from? You're pledging \$16 million, \$6 million for the Miracle City Mall, \$2.5 million for one of these projects, \$8 million for another project. Where are you going to get the money from, because there's, it's only bringing in roughly \$3 million a year? So, Commissioner Smith, you're making eye contact, where is this money going to come from? Everybody else knows not to look at me.

Smith: Well . . .

Fisher: They have a revenue stream, sir that be able to . . .

Infantini: Okay, no, I was asking Commissioner Smith. I don't think he needs you to bail him out, Commissioner Fisher. I'll bet he can answer all by himself.

Smith: I don't need anybody's help.

Fisher: No one else is looking for you, because no one cares, but go ahead.

Smith: No, that's not fair either.

Fisher: Okay.

Infantini: There he goes again, Mr. Fisher.

Smith: We do care what Commissioner Infantini has to say because she has input, and she's an elected member of this Board. So the revenue streams are buried, and I can't get into specifics because of . . . and some of the things I don't know. I don't know. But the revenue streams are there. I can't even imagine that would even be a question because nobody's going to go out and say, hey I'm going to go buy \$200,000 or \$200 million house and I don't know where the money's coming from, but I'm just going to do it. Well, that just doesn't happen in the real world.

Infantini: But it did happen, because it happened at my briefing. I asked that very question, so when you're saying it didn't happen . . . I specifically asked that question during the briefing, and the response was . . .

Post: Mr. Chairman.

Infantini: . . . you have ideas.

Fisher: Well, let's let Mr. Post try to answer your question.

Post: The Zone has what we believe is a stable revenue stream that has a 30-year life expectancy. We have a stable revenue stream. There is no requirement that we pay out incentives based on cash flow. Just like a business does not build a building base out of cash flow. There's nothing wrong with incurring debt to try to accomplish what you aims are. If you're constructing a manufacturing building, it's typical for a business to enter into some kind of a debt arrangement so that it can manage the amount of money that it would take to actually pay for that

building over a period of time. This is the same thing that would apply to this particular incentive. Would we do every incentive this way? Most likely not, but occasionally there comes along a project the magnitude of which is so impactful, as has been mentioned by several observers, that you want to do something that's a little bit out of the box. So, we're looking at using future cash flows to pay off this incentive provision. We feel like we can adequately manage that. In addition to revenues that we get off just the FPL plant. We have additional projects that are coming online in the future that will add to the tax value that will be part of the funding formula. We do expect over time for that revenue to increase, and we believe we will be able to manage not only this Project Panther but also the what we're now calling Titus Landing, which for those of you up in Titusville you've seen the Mall go down so it's a great hoorah there. We love that. So we think we can handle these projects, and that's what my job is, is to make sure we don't get in over our heads and we do adequately manage our cash flow.

Infantini: But that's my problem. The source has not been identified. These five people, myself and these four gentlemen, are making a decision to spend money, \$16 million, and this is the last time I'll belabor this. We're going to spend and pledge \$16 million without having to find specifically where that money is coming from. We do have future cash flows, I understand that, but you have not determined specifically where that extra money is going to come from.

Post: Tax revenue, that's what we get.

Infantini: I know it's from tax revenue but we're going to have to borrow. Who are we going to borrow from at what rate? This has not been lined up and this Board is approving spending without having the specifics exactly of where you're going to get that money. I know you have to borrow it, but from whom and how much and at what rate?

Fisher: Ms. Weatherman, did you want to come back up on this one? Okay, good. Mr. Ellis.

Ellis: Thank you. Scott Ellis, 400 South Street, Titusville, Florida; and what Ms. Infantini said just raised a few more questions. So let me hit those right now while they're fresh, and I would like to ask Mr. Post for a copy of your cash flow analysis for NBEDZ. I'm not certainly, I don't expect you to produce it at this meeting right now, but I'd like to get a copy of your cash flow analysis, and also the statutory authority you have to borrow money other than for capital projects. Thank you. The contract, where is the contract that you're voting on? We've asked for it for a couple of weeks. We've not seen it. I'm dead serious. I'm really not joking here. Where is the contract? And I'm not getting an answer. So where is the contract?

Infantini: I have a copy on front of me. Am I permitted to hand it out?

Fisher: No, I think it's under NBA disclosure.

Ellis: Then I'd like to know if the contract is confidential why is it confidential? Under the contracts there are certain things that are confidential, trade secrets, different

issues. What in this contract is confidential?

Fisher: Mr. Knox?

Knox: It reveals the business plan of the organization.

Ellis: And can that not be redacted?

Knox: No, overall it's confidential, Scott.

Ellis: There is no such thing as overall confidential, Scott.

Knox: All right, we can argue about this right now if you want to. We can do it by email.

Ellis: No, I don't want to argue about it right now, we go through this all of the time in the courts. All right, you're approving a contract and nobody else has seen it. Nobody knows what the milestones are. Nobody knows how you turn it off. Nobody knows how you turn it on, and you are appropriating money in secret. We went through this at the last time, the contract was coming back to the Board. You are here to vote to appropriate money with no public knowledge of where the money is going. We don't know how much you are going to spend. We don't know how you are going to spend it or when it is due.

Knox: Scott, I suggest you go to the Legislature and get them to correct that confidentiality Statute if that's what your concern is because I'm not going to tell these people sitting on this Board to violate that law and end up with a second degree misdemeanor which could put them in jail or realize a fine for them.

Ellis: We'll redact those criminal records for them. Because I really am amazed that you would spend a large sum of money and no one is allowed to know where it goes. You know, the School Board's done that and FDLE's now looking at their last contract, which was done the same way with their software. You're here to appropriate an unknown amount of money. We've heard \$8 million, we've heard 10 years. We have no contract, no milestones. I've heard that there's a claw back. We have no idea what the claw back is, 100 percent, 50 percent, 20 percent. We don't know when the claw back takes effect.

Post: We've shared that with each Commissioner in briefings.

Ellis: Well that really doesn't help anybody else here, Troy. Everybody else is paying the freight for this project, not just a handful of people that are voting for it, and the whole thing is being done in total secrecy, even down to the financing and the contract. Under the Statutes there are certain things that I agree are confidential. We've gone through that with the BlueWare issue, but there is no way that the appropriation is in secret; and there is no way that appropriation is confidential. So I would like to have, Scott, an opinion from you please on exactly what in the contract is confidential and why it cannot be redacted. Again, I'm not going to put you at a point right now line by line because I know you don't have it line by line right now, but I would like to see that line by line, and not in detail, but what is included in this contract that is confidential; and honestly, why is it even in the contract? If the contract is payable based on milestones, there is an amount of

money, annual payment milestones, why is anything else in the contract other than the appropriation of the money? You can always a confidential addendum to any contract and therefore your addendum can be confidential; and the basic contract itself can be public knowledge. So, as of now there is no contract, and we have no rules, we have no milestones. I would go back to the issue, which we're waiting on, I don't believe you can make a long-term obligation. I know we disagree on that. I'm prepared to go elsewhere for legal. I can't get another legal opinion on the long-term obligation of the Board without issuing debt until I get a copy of the contract. So, when will this contract ever become public? That's a very real question. That's not a fake question, that's a real question.

Infantini: I don't have the answer. Mr. Knox, will you tell me when this will be public?

Knox: Yes, the law provides for, I think it's a year after the initial contact. So, whenever we have the year going forward today.

Infantini: I think this contract called . . . something about six months. I did read something about six months in the contract.

Knox: It could be six months, but there's also the possibility of asking for an extension. So, I'm not sure how that will all work out, but it's six months to a year. You're right.

Ellis: And do they expect to appropriate money before the contract becomes public?

Knox: Depends on how fast it takes them to . . .

Ellis: I will guarantee you today, there will not be a check cut until that contract is public. I will promise you that.

Knox: I will guarantee that the contract will probably be public by the time they finish the building when the amount is due.

Ellis: Because we are not cutting checks for unknown contracts just because someone says we're supposed to give them the money.

Fisher: Okay, Mr. Ellis. Appreciate it.

Ellis: Well, you know, I don't appreciate it. I'll go on. On your certificate of occupancy, who is supposed to issue that? Certainly not the County.

Fisher: Whatever federal government agency.

Knox: It is whatever agency issues it.

Ellis: So which would be the federal government?

Knox: I'm not sure.

Ellis: All of these things should be known before you vote out \$8 million or however much you're going to spend.

Fisher: Mr. Ellis, your time's about up. You want to wrap it up, sir, please?

Infantini: I have a question.

Fisher: Sure.

Infantini: Are you telling me that this Board is voting to give funding when the organization receives their CO but we don't know who's going to be issuing the CO? So how are we even going to know when they receive it? Because I'll tell you, a building went up that was built by the federal government down South Beach side. I called the County to find out who was building down there. The County didn't even know a building was being put up because the federal government was putting it up. It was Fish and Wildlife or something like that. But that went up right down on A1A, and nobody at Brevard County could even tell me that there was a building going up except for me because I drive by it every single day. So I'd like to know who's . . .

Fisher: Well, Kennedy Space Center's been put up by the federal government a lot of buildings and whatever process they go through to do that, I think this building being on federal land would go through the same process. You have anything else, sir?

Ellis: You are off the Space Center.

Infantini: But we don't know, so I think that should not be voted on today. You don't even know who is going to be issuing the certificate of occupancy, yet we're going to rely on that unknown source of criteria.

Fisher: I have some other cards. Are you done, sir?

Ellis: Yes, I'd like to, I just want to make sure I get the opinion on why this is confidential so that we can move forward ourselves legally, because I don't believe you can appropriate money in secret. Thank you.

Fisher: Thank you. Mr. Weiner . . . you made . . . okay. Mr. Tulley, Mayor Tulley? Okay. Mr. Jordan? Okay. Mr. Barfield. Mr. Anderson is actually first and then you, okay? Commissioner Anderson.

Anderson: You know the issue with these economic development projects, and I say this all of the time, the most unregulated industry in the United States of America is economic development. Any jurisdiction can create their own rules to lure any company; and I remember in 2009 when we knew the Shuttle Program was ending and we attended some meetings and conferences, and Commissioner Fisher was at some of those. And you would hear about areas like Huntsville, Alabama, who after the Apollo Program went out and found themselves in a similar situation, and they did what they had to do to keep those companies in probably one of the most successful economic development parks in the United States, if the not successful now, in Huntsville, Alabama; and it's because of strong leadership from community leaders, economic development people, chambers of commerce. In fact, they attend a lot of those conferences to this

day because they weren't rested on their laurels; and had they had a chance to get something like this, they would. Not to mention Wallops Island in Virginia, Texas, there's even Space Alaska, which is amazing to me. So, this is nothing new; and actually I always get disturbed when we think that we're the only jurisdiction that does these incentives and the only State that does financing for targeted industries. Ohio, I don't know if you know this story, in Columbus, Ohio, Akron was going, they had an old Asian facility. Probably was, I don't know when the original Goodyear facility was built but it was a long time ago. In order to save that, because had we known it was open at the time, it was in 07, I'm sure that we would have went after the Goodyear Rubber Company, but \$20 million in loans from Columbus in the State of Ohio, from a state at the time in 07 was fiscally broke, they were in trouble, fortunately they go new leadership later on with Governor Kasich that recognized the importance of economic development to the survival of his state; and thank goodness that we have a government that thinks in the same terms. They gave \$30 million in terms of tax credits over 30 years for 2,900 employees for the Goodyear Rubber in taxes. That's incredible, because they knew without that plant, Akron was done, it was gone. All that they would have is the Football Hall of Fame, and I don't think that generates enough to keep their economy going. So, you know, we could have all of the hanging in the world over these economic development incentives and this and that, and the sky is falling, but we're not doing anything different than anybody else in the United States is doing. In fact, we're way behind the curve because some of the jurisdictions are doing far more and giving out huge cash incentives, which we, anything we do from NBEDZ or the State are minimal in comparison to ensure that our residents have jobs. Had we not done what we did in 2008, 2009, they'd be people lined up here saying why are we still at 15 percent unemployment. By the way Commissioner infantini, full employment, we're still far from many people are under employed or working part time of the people who lost their jobs in the housing bust and the Shuttle transition. So, people who were making \$50,000 to \$60,000 are making \$20,000 or \$30,000 if they're employed, but I wouldn't consider it full employment. So, I support this, and we just need to move forward.

Fisher: Okay, Commissioner Barfield.

Barfield: Again . . . well, let me answer a little bit. Who does the CO on Kennedy Space Center? NASA does. They have a facilities engineering department. That's what they do. I used to work out there. I know how that works and they're the ones that do the CO; and quite frankly, they're very stringent. So, the other thing is, we've seen this before. We know it's a company that's coming in that is going to manufacture launch, refurbish launch vehicles that will also be in the manned flight system, too, which is amazing. We're going to have everything right here. Manufactured here till it's brought back, and that just hasn't happened in the Cape, Kennedy Space Center. And then let's look at the business case again. You are looking at a facility that's over \$200 million that they're going to put up. Before they ever get a dime that has to be in place, so that means money has been spent already, and so that is when the money comes up. We're talking 330 jobs at \$89,000 a year. That's \$29.7 million a year going directly into the economy. Again, not counting all of the indirect. So you multiply that by 10 years. Ten years times 29, that's \$290 million. You add that \$200 million in a facility. You're looking at one-half a billion dollars going into the economy. A half

a billion dollars. I mean, and you're going to put \$8 million after they've already got the facility. That's a no brainer. I'd invest in that any day. By the way, I have a pretty successful company. We do approximately \$120 million in business a year so I understand that. So with that, I make a motion that we accept this agreement and move forward.

Fisher: A motion by Commissioner Barfield. I have a second?

Anderson: Second.

Fisher: I have a second, tie, by Commissioner Anderson; and for discussion, Commissioner Infantini.

Infantini: Okay, the illustration from Ohio that Commissioner Anderson referred to was \$30 million in tax credits. I didn't say I was against tax credits. Personally, I'm not for them, but the voters voted for them. So a tax credit would be okay. This isn't tax credits, this is cash before any taxes are generated, which by the way, none will be generated. Next, if it's such a great investment, then let the public sector go out and do it. Why are we investing government money in a privately held company if it's so profitable? This guy is so amazingly brilliant because he's going out to the government, getting the government to subsidize his very profitable venture. Where is my equity? I don't know if any of you have ever watch Shark Tank, but before they go and invest their money, they start quibbling over how much equity do I get. So if this is so valuable and such a profitable good business to be in, why don't we ask him for a piece of the equity. I'll take, you know, for how much I'm investing, I'll take 10 percent of that private company. At least it's some skin in the game. I'm sorry, there was a little distraction to my right. Anyway. You've got to stop that Stockton. That's not fair. His phone is talking to him, and so, but it's nice. It was a nice lady talking. It's like that, you know those I-Phones that you can ask the person, that's what it sounded like.

Whitten: Well, just in case my mother-in-law's watching, that was actually Suri so.

Infantini: That's what I said, I said it sounded like the voice from the I-Phone, and she has a nice voice. I just wanted to say that. If it's so profitable, if it's such a good business, why isn't the public sector running to do it? Why are we using taxpayer dollars? And what are the taxpayers . . . are we going to give you a tax refund after this business comes out and it's profitable, which it may be profitable, but where do I get my money back that I can give back to you guys, the taxpayers. That's what I'm trying to get for you.

Fisher: Just right quick. Do you guys, Lynda or Greg, remember how much BMW got from South Carolina? Was it \$200 million? Don't hold me to the number, but you know, BMW's a pretty well ran company and they got \$200 million from the taxpayer dollars to move their company to Greenville, South Carolina; and if you ever go to that area, it's booming, and it's doing real well, and that was a good investment for the taxpayers to make that investment. And I think this is a good investment for Brevard County. All in favor say Aye.

Fisher, Barfield, Smith, Anderson: Aye.

Fisher: All opposed?

Infantini: Nay.

Fisher: It approves 4:1. Thank you.