



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

8/2/2022

Subject:

Amendment to Brevard County Code Chapter 2, Article VIII, Section 2-247(2) Requiring a Majority Plus One Vote for Non-Competitive Leases or Sales of County Property of Nominal Value

Fiscal Impact:

N/A

Dept/Office:

District 3 Commission Office

Requested Action:

It is requested that the Board pass the attached ordinance, reinstating the majority plus one requirement for a nominal sale or lease.

Summary Explanation and Background:

In February of 2021, a change to section 2-247 of Brevard County Code was implemented. This change eliminated the requirement for a supermajority vote to approve nominal sales and leases. The issue was brought back for discussion at the July 19, 2022 meeting where a motion was passed directing the County Attorney's Office to draft the amendment language and advertise the change to ordinance. This change reinstates the majority plus one requirement for non-competitive sales and leases. A copy of the proposed ordinance is attached.

Clerk to the Board Instructions:



August 3, 2022

M E M O R A N D U M

TO: Frank Abbate, County Manager

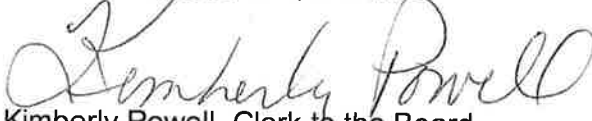
RE: Item H.8., Amendment to Brevard County Code Chapter 2, Article VIII, Section 2-247(2) Requiring a Majority Plus One Vote for Non-Competitive Leases or Sales of County Property of Nominal Value

The Board of County Commissioners, in regular session on August 2, 2022, adopted Ordinance No. 22-21, amending the Code of Ordinances of Brevard County, Chapter 2, Article VIII, Section 2-247(2) requiring a majority plus one vote for non-competitive leases or sales of County property of nominal value. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

cc: Each Commissioner
Interim County Attorney
Finance
Budget



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

August 4, 2022

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-21, which was filed in this office on August 4, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh

ORDINANCE 2022- 21

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, CHAPTER 2, ARTICLE VIII, SECTION 2-247(2) REQUIRING A MAJORITY PLUS ONE VOTE FOR NON-COMPETITIVE LEASES OR SALES OF COUNTY PROPERTY OF NOMINAL VALUE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, (the "Board") has reviewed the existing ordinance pertaining to the non-competitive lease or sale of County property; and

WHEREAS, the Board seeks to ensure that certain leases and/or sales that are requested below market value require a supermajority vote of the Board in order for such sale or lease to be approved; and

WHEREAS, the Board desires to update the existing voting requirements relating to non-competitive leases or sales of County property in order to ensure the County's interests are being protected and safeguarded.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that Section 2-247(2) of the Code of Ordinances of Brevard County, Florida, is amended to read as follows:

SECTION 1. SUPERMAJORITY REQUIREMENT FOR NOMINAL LEASE OR SALE.

Section 2-247(2) of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows (underline indicates an addition to the Ordinance, a strikethrough indicates a deletion):

The proposed lease or purchase must be brought up as a regular agenda item at a duly noticed regular public meeting of the county commission at which members of the public are afforded the opportunity to comment on the proposed sale or lease. A copy of this article shall be made available for review by any member of the public at the location where members of the public sign up to speak on the item. If the board of county commissioners is satisfied that the proposed use of the property will serve the public interest; will serve a public purpose; is in the best interest of the county; and make a finding that the property is either likely to be not needed for county purposes in the future or will be used in a manner compatible with county purposes, the board of county

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON AUGUST 4, 2022.

commissioners may, in its sole discretion, authorize the sale or entry into a lease for rent, whether nominal or otherwise, as the board of county commissioners may fix, regardless of the actual value of the lease. If the value of such sale or lease is of nominal value, then a majority plus one vote of the board of county commissioners shall be required. For purposes of this section, nominal value shall mean a token value that does not bear a direct relationship to the fair market value.

SECTION 2. CONFLICTING PROVISIONS. Unless preempted by law, in the case of a direct conflict between any provision of this Ordinance and a portion or provision of any applicable Federal, State or County law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. SEVERABILITY. If any section, subsection, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance, provided the remaining portions effectuate the purpose and intent of this Ordinance.

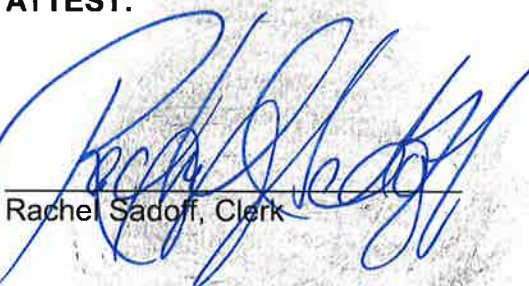
SECTION 4. AREA ENCOMPASSED. This Ordinance shall take effect in the unincorporated areas of Brevard County, Florida.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon filing with the Department of State, per Section 125.66, Florida Statutes.

SECTION 6. INCLUSION IN THE CODE. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of Brevard County, Florida.


DONE, ORDERED, AND ADOPTED, in Regular Session, this 2nd day of August, 2022.

ATTEST:



Rachel Sadoff, Clerk

**BOARD OF COUNTY
COMMISSIONERS OF BREVARD
COUNTY, FLORIDA**



Kristine Zonka, Chair
As approved by the Board on 8/2/2022