

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

9:00 AM

The Board of County Commissioners of Brevard County, Florida, met in regular session on January 29, 2013 at 9:00 AM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**Call to Order**

9:00 AM Meeting called to order on January 29, 2013 at Board Room, Board Room, Viera, FL.

Attendee Name	Title	Status	Arrived
Robin Fisher	Commissioner District 1	Present	
Chuck Nelson	Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Vice Chairman/Commissioner District 4	Present	
Andy Anderson	Chairman/Commissioner District 5	Present	

**INVOCATION**

The invocation was given by Pastor Shaun Ferguson, Faith Temple Christian Center, Rockledge.

**PLEDGE OF ALLEGIANCE**

Commissioner Fisher led the assembly in the Pledge of Allegiance.

**APPROVAL OF MINUTES**

The Board approved the December 11, 2012, Regular meeting minutes.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Chuck Nelson, Commissioner District 2
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM I.A., RESOLUTION, RE: RECOGNIZING THE GUARDIAN AD LITEM PROGRAM'S 25TH ANNIVERSARY**

Commissioner Anderson read aloud, and the Board adopted, Resolution No. 13-008, recognizing and commending the Florida Guardian ad Litem Program of Brevard County for giving voices to Brevard County's most vulnerable children for 25 years.

Charlie Nelson stated he traveled from Tallahassee today because Brevard County's Guardian ad Litem Program is one of the organization's shining stars; the recognition by the Board is important; and expressed appreciation on behalf of the State of Florida.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM I.B., PRESENTATION BY TROY RICE, INDIAN RIVER LAGOON PROGRAM DIRECTOR, RE: GRANT WRITING SERVICES FOR ENVIRONMENTAL AND PARK PROJECTS TO ACHIEVE STATE AND LOCAL REQUIREMENTS**

Troy Rice introduced Amy Adams, President of Cape Canaveral Scientific; and Joe Capra of Capra Engineering.

Amy Adams provided an update on the Indian River Lagoon's National Estuary's grant writing services, which are offered to local governments at a gratis agreement; the St. Johns River Water Management District (SJRWMD), under the Indian River Lagoon Program, pays for the services; and the intent is to try to encourage local governments to go after supplemental funds to try to implement some of the environmental mandates that are coming down from the State. She displayed a PowerPoint Presentation on the Indian River Lagoon National Estuary Program.

Commissioner Nelson stated the partnership with the Indian River Lagoon National Estuary Program has been good; the Pine Island Project was a treatment, but it also addressed flooding; the Veterans Project will be a great project for treatment of water in a highly urbanized area; and he would encourage any of the other Commissioners who have the same kind of issues to contact the Indian River Lagoon National Estuary Program and Cape Canaveral Scientific.

The Board acknowledged a presentation by Troy Rice and Amy Adams of the Indian River Lagoon National Estuary Program regarding gratis grant writing services for environmental and park projects to achieve State and local requirements.

**ITEM I.C., PRESENTATION BY RON MORGAN, RE: INTERNATIONAL SCIENCE CENTER WEBSITE**

Ron Morgan stated the International Science Center concept was approved by the Board of County Commissioners on August 3, 2010. He advised there were two primary objectives for the International Science Center (ISC) Plan: 1.) Ensure that Brevard County would remain the premier launch site for Space activities in the 21st century; and 2.), Ensure that education, in all the sciences (Space, Earth, Ocean, Environment, and New Technology) is fostered and encouraged by the citizens of all nations. He stated the International Science Center website is dedicated to the 2nd objective of the ISC; the education and beauty it provides is presented in a user friendly format that features knowledge, entertainment, music, and the wonders of nature; and it is sponsored by the American Millennium Foundation, Inc., a 501(c)(3), and is commercial-free.

Mr. Morgan displayed the website for the Board.

The Board acknowledged a presentation on the International Science Center website by Ron Morgan.

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**ITEM I.D., RESOLUTION, RE: OPPOSING BREVARD COUNTY SCHOOL CLOSINGS**

Commissioner Nelson stated last Tuesday he attended a School Board meeting related to proposed school closures; he had an opportunity to see presentations by each of the schools; and he thought it was important enough to bring it to the Board of County Commissioners. He stated the question is why one elected body would get involved with another elected body; and the answer to that question is that these schools impact the communities, as they are the Commissioners' constituents; and at the meeting last Tuesday there were representatives from Cocoa, Cocoa Beach, Satellite Beach, and Titusville, who were all there in support of their communities. He stated it is not intended to be a criticism of the School Board; it is intended to say that the community has looked at the options the School Board has provided and have a different thought about how that should end up; for him, personally, the last thing that should be done is close a school, because that is the basic unit of the school system; and opined the School Board has picked four schools that he thinks are terrific schools and need to continue to serve the community. He stated there is also some mis-information about the closures are being done; one question he hears is, "Why would you be opposed to saving money?", but the answer is that money is not being saved; the School Board is looking at the school system and saying they are going to prioritize buildings over the education of kids; in effect, the School Board is going to fix things instead of educating kids; and he thinks that is a clear choice, although it is not one that he personally agrees with, which is why he wanted to bring this to the attention of the Board today. He stated he also thinks there is a misconception that the schools on the closure list are under-utilized schools, but that could not be farther from the truth; Sea Park and South Lake are at 90 percent occupancy; and Gardendale is at 80 percent with a waiting list because it is a magnet school. He noted Gardendale is a nationally award winning school for its education process; it is in an area of Merritt Island where there is an economically depressed community that goes to the school and is inter-mixed with kids who want to be there; and it has turned into a great program. He stated he feels bad for the kids at South Lake because this will be the third time that they have had to move; it is one thing to make kids resilient moving them year after year, but he thinks stability is a better approach; and stated kids can get enough resilient from other life lessons, rather than the school system doing it to them. He stated ultimately, it is not so much about the failure of the sales tax referendum, which is a bigger issue and needs to be discussed, but kids are important and neighborhoods and communities do not need to be broken up; and he would hate to think schools are being closed so a track at Palm Bay can be paved.

Commissioner Nelson read aloud a resolution opposing the school closures being considered by the Brevard County School Board.

He advised a meeting is scheduled for Wednesday, January 30, 2013; and another meeting will be held on Thursday, January 31, 2013, in the Florida Room of Building C, which all of the Commissioners are invited to attend. He noted the discussions will continue at the School Board meetings as well; and the School Board is talking about refinancing their bonds, which will generate \$3 million and \$4 million based on what they finally decide, so options are starting to come forward.

Elizabeth Mikitarian stated she is speaking on behalf of the children of Brevard County; she is in a classroom every day and she knows what she is talking about; concerned parents, business leaders, and municipalities are pulling together to help the School Board to make decisions that will benefit all of the schools and all of the children; many of the Commissioners are taking steps individually to be included in those efforts; and expressed appreciation to Commissioners Nelson and Fisher for their efforts in bringing the issue to the light of day. She noted she has spoken to Commissioner Anderson on the issue as well, and she appreciates his leadership. She stated the citizens thank the Commissioners for their vision, faith, and for displaying true leadership; the Commissioners recognize that schools are the foundation of Brevard County; it

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is not about the four schools on the closure list; it is about the County and if there is a hit in the foundation of the County, there will be much larger issues to deal with; and ultimately, there may be some school closures, but the community would like to be part of that process and decision making, and part of having a say in the future of the County.

Vida Escue stated she is part of the South Lake family, and thanked the Commissioners for considering the resolution, because it is about the County, community, and the children; her biggest concern with the closings is the thought of breaking Florida State Constitution and over-crowd classrooms in one or two years when the School Board's claimed priority is to clear-up under-utilized areas; and stated Brevard took a big hit after the shut-down at Kennedy Space Center, but there are award winning schools and programs, and Brevard County will rebound.

Commissioner Fisher stated he thinks it is important to support the motion because on September 25th, the School Board came out with their Capital Facility Work Plan with no indication of whether the sales tax revenue would be included or not; according to the Superintendent, the School Board had not considered using any of that revenue if they were to get it; and the School Board made the recommendation to the CAC Committee and put it in the five-year capital work plan that they would not close any schools at all in the County. He stated there have been several inconsistencies on why the schools need to be closed; it flies in the face of everything the Commissioners have done to try for everyone to have economic development in the community; and he is in support of the resolution.

Commissioner Infantini stated she would be in support of the resolution if two paragraphs were removed, one of which is the paragraph that reflected that the community was 'shocked' at the referendum that turned down the extra penny sales tax. She stated she feels that is an opinion rather than an accurate statement. She stated she would like to modify the paragraph that reflects that the answer to close the community schools is not the answer and should be 'removed from consideration'; stated she does not have all the facts and the last thing she is going to do is try to override another body without having all of the information and tell them to take it off the table; if it were her school, she would be fighting for it, but also making sure that all options had been investigated prior to making that decision; and stated she does not have enough facts to say that the School Board is making a bad choice. She advised she does not think it should be 'removed', but should be 'further investigated'; and if Commissioner Nelson puts that in the resolution she will support it.

Commissioner Bolin Lewis she is in support of the resolution; she does not want Sea Park to be closed; the Commissioners have been working hard to bring in new industry, and one of the things asked by incoming businesses is what the schools are like; and she urges the School Board not to close the four schools.

Commissioner Nelson stated he would be willing to look at the word, 'shocked', but he thinks the nature of what the Commissioners are trying to say is that no one knew this was going to happen; and it was not represented to the community schools were going to be closed if the referendum did not pass. He inquired if the paragraph would be acceptable if read, "Whereas, the announcement of the closing of these four excellent and award winning schools after the narrow loss of the School Sales Tax referendum was of concern to the community, parents, teachers, and students, because it was unclear." Commissioner Infantini stated she would agree with that statement. Commissioner Nelson stated he is not sure he understood Commissioner Infantini's other concern. Commissioner Infantini reiterated the paragraph stated that closing the four schools should be 'removed' from consideration; and stated she wants all options considered before closing a school, and she does not think the School Board should be told to 'remove' it from consideration, but to seek further input prior to consideration. Commissioner Nelson inquired if it should read, "Should be the 'last' consideration"? Commissioner Infantini agreed with the change.

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The Board adopted Resolution No. 13-009, as amended, Opposing Brevard County School Closings at Gardendale Magnet School, Sea Park Elementary School, Clearlake Middle School, and South Lake Elementary School.

Commissioner Fisher stated he has heard several times that the CAC is just an advisory board and does not have any power, and that the School Board is just accommodating the CAC by having a meeting on the 30th; and inquired if he is misunderstanding Florida Statute 164.

Scott Knox, County Attorney, stated the County has an Interlocal Agreement with the cities and School Board providing for the review of school closures among other things; the Interlocal Agreement specifies conditions and processes that the School Board is supposed to go through in order to get schools closed, and among those is review by the CAC; and that is something that did not happen in this case before the schools were announced for closure. He advised as a consequence, the City of Titusville sent out a letter, as did the County Manager and himself on behalf of the Board, suggesting that the School Board should look at the Interlocal Agreement and follow the procedures; and if the School Board does not follow those procedures and obtain a recommendation, then there is an issue as to whether they violated the contract, which would potentially create a dispute between the cities, County, and School Board. He stated he thinks what the School Board is hopefully trying to do is go back and take a look at those procedures and follow them to make sure they comply with the Contract, and if they do not do that Chapter 164 would kick in and the County and cities could all seek a dispute resolution through that process.

Commissioner Fisher stated his concern is if the School Board's position is that the CAC is just an advisory committee, and that the committee has no power, they are just accommodating by having another meeting. He stated there has been a lot of data and information that the School Board does not have a policy on how it goes about closing schools, as it seems to change arbitrarily year to year; the School Board's Capital Facility Plan, that each municipality approved, indicated that it was not going to close any schools, as late as September 25th; stated he would like Attorney Knox to work with the City of Titusville, and put the School Board on notice, because it has already said, in the first preliminary meeting, that it does not support the CAC recommendation of closing schools; and the School Board, because it did not go through the proper process, made the decision to have another meeting and say again that it is going to close the schools, as if the Board needs to accept that recommendation. He stated the School Board is looking for very little input from the community, and it concerns him.

Attorney Knox stated that would be a concern of the language of the contract, too, because the CAC is supposed to have the information necessary to review and make a recommendation of approval, and they have set the precedent for how that happened in the past by providing the information over a period of time the CAC has asked for; and if the School Board does not do it this time, then there could be some argument about that because the School Board cannot say it is going to have a meeting and not provide any information.

Commissioner Fisher inquired if Attorney Knox can be prepared, if it comes out at the CAC meeting on the 30th that it is not accepting that recommendation, to go through Chapter 164 and start the dispute process. Attorney Knox advised that would require the Board to pass a resolution asking for a dispute resolution with the School Board.

Chairman Anderson noted there are Board meetings on February 5th and 7th. Commissioner Fisher stated his position is if the CAC does not agree with the School Board's recommendation, that when the Board meets on February 5th, that Attorney Knox come back with a dispute resolution; and advised the Board should be prepared to vote on it on the 5th.

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Attorney Knox stated Planning and Development Director, Robin Sobrino, is on the CAC, and he will be in contact with her.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Chuck Nelson, Commissioner District 2
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

#### **ITEM II.A., REPORT BY HOWARD TIPTON, COUNTY MANAGER**

Howard Tipton, County Manager, advised last week the Commissioners received a letter from him outlining his support for the County's industrial park to be included in the Spaceport Territory Bill that has been filed by State Representative Tom Goodson; stated the Bill will also be filed on the Senate side by Senator Andy Gardner; and noted the Bill has the support of the delegation and Space Florida. He stated the Bill is important to both the TICO Airport Authority and the County's industrial park in maximizing the opportunity for economic development and marketability for the area; and asked the Board to approve the County's inclusion in the bill.

The Board approved Brevard County's inclusion in the Spaceport Territory Bill.

Mr. Tipton advised Item VII.C.1. is an item from the Florida Department of Corrections; the Department has asked that the item be pulled from the agenda; and stated the item is in regards to what properties would be considered surplus and would revert back to the County.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

#### **ITEM II.B., REPORT BY SCOTT KNOX, COUNTY ATTORNEY**

Scott Knox, County Attorney, stated there is an issue with the Department of Juvenile Justice (DJJ) that Shannon Wilson, Deputy County Attorney, is present to discuss.

Ms. Wilson stated the item relates to the 2008-2009 cost-sharing of the detention center; the Board approved entering into an administrative challenge process dealing with that cost-sharing; in the 2008-2009 time frame the DJJ sent reconciliation at the end of the year that Brevard County owes them approximately another \$504,000; the County entered into a challenge process at that time, and the staff at DJJ agreed with the County's challenges and credited the County approximately \$432,000 against the \$504,000; and County paid the difference between those two amounts and thought the issue was finished. She advised later, because of the challenges in a number of other counties, DJJ refused to finalize that process; approximately 13 to 14 counties entered into the administrative process and challenged it; and stated last year, Brevard County received a very favorable ruling from the administrative law judge. She stated earlier this month, staff received the decision of the secretary of the DJJ overturning that administrative law judge's decision; stated the remedy at this point to try to maintain the prior standing with that credit is to file an appeal; and staff is asking the Board for the authority to appeal.

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The Board authorized the County Attorney's Office to file an appeal against the Florida Department of Juvenile Justice for the 2008-2009 detention cost-sharing decision for Case No. 23-0072.

Chairman Anderson stated it has become a big issue statewide; stated he has had conversations with Sheriff Ivey; and it is time for the County to abandon the system and go out on its own. He stated it needs to be investigated; and he thinks the County could save money by going out on its own. Howard Tipton, County Manager, advised staff is currently in conversations with the Sheriff about that option; what Ms. Wilson is referring to, unfortunately, is some bills that go back; but going forward, the Legislature is looking to have the counties assume the juvenile process; and financially, it is quickly becoming the County's best interest to go out on its own.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Robin Fisher, Commissioner District 1
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

#### **ITEM II.D., REPORT BY CHUCK NELSON, DISTRICT 2 COMMISSIONER**

Commissioner Nelson advised the 18th Annual Homeless Veterans Stand Down event is coming up in the Cocoa area; the Board is being requested to provide SCAT (Space Coast Area Transit) passes for veterans who want to attend the event; and stated it is usually less than \$200.00.

The Board waived the required SCAT bus fare for those veterans traveling to the 18th Annual Homeless Veteran Stand Down event on March 23, 2013, at the National Guard Armory, located at 308 N. Fiske Boulevard, Cocoa.

Commissioner Nelson advised Commissioner Bolin Lewis and himself attended the pre-meeting for Space Day, which will be held on March 6, 2013; it is an opportunity for them to go to Tallahassee to meet with the Legislature to thank them for what they have done, as well as to tell them what the future holds for commercial space, NASA, and the Air Force; and it is worthwhile for all of the Commissioners to attend.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Chuck Nelson, Commissioner District 2
<b>SECONDER:</b>	Trudie Infantini, Commissioner District 3
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

#### **ITEM II.E., REPORT BY TRUDIE INFANTINI, DISTRICT 3 COMMISSIONER**

Commissioner Infantini stated in the interest of public disclosure, it has come to her attention that an item was voted on at the September 6, 2011, meeting in which she may have had a conflict of interest; the organization the Board voted to give a tax abatement to apparently has a contract with an employer of hers; and stated she was not aware of it at that time so she voted

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for it. She stated she is taking this opportunity today to publicly read into the record that she is aware of the disclosure and properly filing Form 8B Memorandum of Voting Conflict for County, Municipal and Other Local Public Officers.

**ITEM II.G., ANDY ANDERSON, DISTRICT 5 COMMISSIONER, CHAIRMAN**

Chairman Anderson stated Stan Retz is no longer the Board appointee for the Value Adjustment Board; and he would like to recommend Harry Santiago, Jr., to fill the vacant position. He noted Mr. Santiago is an appraiser with Metro West Appraisal.

The Board appointed Harry Santiago, Jr., as its Citizen Member for the 2013 Value Adjustment Board.

Chairman Anderson stated he had a pre-arranged meeting with the Florida Association of Counties, so he will not be able to attend Space Day with Commissioner Nelson. He stated last week he visited with the Washington Nationals; the support in the County for the Nationals has been amazing; the TDC, EDC, and all of the Chambers are involved; and the Nationals are very appreciative of the community. He stated there are still some items to be ironed out, and hopefully there will be a resolution soon.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEMS PULLED FROM THE CONSENT AGENDA**

Chairman Anderson advised there is a speaker for Item III.B.2., Agreement with Pine Island Preservation Society, Inc., Re: Friends Group for the Pine Island Conservation Area.

Commissioner Fisher advised Ron Swank will not be able to serve on the Contractors' Licensing Board, which was included in Item III.D.8, Appointments/Reappointments, Re: Citizen Advisory Boards. He further stated he would like to pull Item III.A.7., Agreement with City of West Melbourne and KB Home Jacksonville, LLC, Re: Proportionate Fair Share Mitigation, for discussion.

Commissioner Infantini advised she would like to vote nay on Items III.C.4., Approval, Re: Florida Department of Transportation Airspace Agreement for I-95 Welcome Center; and III.D.9., Approval, Re: Billfolder. She further stated she would like to pull Items III.A.11., Contract for Purchase of Easement Rights for Permanent Drainage Easement and Temporary Construction Easement with Silver Horseshoe, LLC, Re: Pine Island Conservation Area Stormwater Improvements Project; III.C.2., Approval, Re: Tourist Development Council (TDC) FY 2012-2013 Advertising Media Plan and Purchase Orders for Ad Placement, Production, and Promotion Costs over \$100,000; and III.C.3., Contract Extension with Communications Concepts, Inc., through 04/30/2013 for Internet Site Management and Maintenance Services with no Change in \$2,100 Monthly Fee, for discussion.

**ITEM III.A.1., RESOLUTION AND CONSERVATION EASEMENT WITH ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, RE: WEST COCOA SERVICE AREA 2, PHASE 2 (LAKE DRIVE, BURNETT ROAD TO GRAY ROAD)**

The Board adopted Resolution No. 13-010, and executed a Conservation Easement with SJRWMD for West Cocoa Service Area 2, Phase 2 (Lake Drive, Burnett Road to Gray Road).

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.3., CHANGE ORDER FOR POND EXPANSION, RE: CHAIN OF LAKES SOUTHERN EXPANSION STORMWATER IMPROVEMENT**

The Board executed a Change Order to award the North Pond Lobe additive alternate to the existing contractor, Wal-Rose Site Development Inc., for the Chain of Lakes Southern Expansion Project; and approved the associated budget change requests.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.4., FINAL PLAT AND CONTRACT APPROVAL, RE: BRESLAY DRIVE EXTENSION 09SD-00136 - THE VIERA COMPANY**

The Board granted final plat approval for Breslay Drive Extension - 09SD-00136, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits; and executed a Contract for the referenced project.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.5., FINAL PLAT APPROVAL, RE: MARKET CENTER SIGN TRACT 12SDM-00858 - THE VIERA COMPANY**

The Board granted final plat approval for Market Center Sign Tract - 12SDM-00858, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits; and authorized the Chairman to sign the final plat for the referenced project.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.6., PRELIMINARY PLAT/FINAL ENGINEERING APPROVAL, RE: VIERA TOWN CENTER APARTMENTS 12SD-00911 - THE VIERA COMPANY**

The Board granted preliminary plat and final engineering approval for Viera Town Center Apartments - 12SD-00911, subject to minor changes, as applicable, approval of site plan, and developer responsible for obtaining all jurisdictional permits.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.8., RESOLUTION AND COUNTY DEED WITH CITY OF MELBOURNE, RE: TRANSFERRING EASY STREET FROM TRIMBLE ROAD TO AURORA ROAD**

The Board adopted Resolution No. 13-011, and executed a County Deed with the City of Melbourne to transfer Easy Street, from Trimble Road to Aurora Road, to the City.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.9., RESOLUTION AND LOCALLY FUNDED OFF SYSTEM PROJECT AGREEMENT WITH FLORIDA DEPARTMENT OF TRANSPORTATION, RE: BABCOCK ROAD WIDENING AND INTERSECTION IMPROVEMENTS**

The Board adopted Resolution No. 13-012, and executed a Locally Funded Off System Project Agreement with the Florida Department of Transportation for S.R. 507/C.R. 507 (Babcock Road) widening and intersection improvements from Melbourne Avenue to Fee Avenue.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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**ITEM III.A.10., CONTRACT FOR PURCHASE OF EASEMENT RIGHTS WITH FIRSTBANK FLORIDA, RE: PERMANENT DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FOR A-LANE DRAINAGE IMPROVEMENTS PROJECT**

The Board executed a Contract for Sale and Purchase with FirstBank Florida for purchase of easement rights in the amount of \$22,550; accepted Permanent Drainage Easement and Temporary Construction Easement; and waived the survey requirements.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.B.1., MEMORANDUM OF AGREEMENT WITH GRISSOM PARK, LLC, AND NOTICE OF CONSERVATION EASEMENT WITH ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, RE: WETLAND MITIGATION PROJECT ON COUNTY OWNED PROPERTY NORTHWEST OF CHALLENGER MEMORIAL PARKWAY**

The Board executed a Memorandum of Agreement with Grissom Park, LLC, to allow the completion of a wetland mitigation project on County owned property located to the northwest of State Highway 407, otherwise known as Challenger Memorial Parkway in Cocoa, to satisfy the developer's mitigation permit conditions; and executed the Notice of Conservation Easement with St. Johns River Water Management District.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.B.3., ADOPTION, RE: FEDERAL TRANSIT ADMINISTRATION'S 2012 TITLE VI REPORT FOR SPACE COAST AREA TRANSIT**

The Board adopted the 2012 Title VI Update Report for Space Coast Area Transit as required by the Federal Transit Administration.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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**ITEM III.B.4., EXTENSION, RE: CONTINUING AVIATION ARCHITECTURE/ENGINEERING DESIGN CONSULTANT SERVICE AGREEMENT WITH HANSON PROFESSIONAL SERVICES, INC.**

The Board executed an Agreement to Extend Existing Contract with Hanson Professional Services, Inc., until November 30, 2013, for Continuing Aviation Architecture/Engineering Design Consultant Services.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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

The Board approved the Budget Change Requests as submitted.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.C.4., APPROVAL, RE: FLORIDA DEPARTMENT OF TRANSPORTATION AIRSPACE AGREEMENT FOR I-95 WELCOME CENTER**

The Board executed a 30-year Florida Department of Transportation Airspace Agreement, with an optional 5-year renewal, for a Welcome Center to be constructed at the North Brevard/Mims Rest Area located on southbound I-95; and stipulated that it is a Rent-Free Public Purpose Lease for the approximately 4,000 square-foot facility, and that the TDO is fully responsible for all construction, operation, and maintenance expenses.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
<b>NAYS:</b>	Trudie Infantini

**ITEM III.D.1., RESOLUTION, RE: AD VALOREM TAX EXEMPTION FOR PROJECT TRICOLOR**

The Board adopted Resolution No. 13-03, qualifying Project Tricolor as an eligible business under the County's Tax Abatement program; and authorized a public hearing to consider adopting an exemption ordinance.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.2., RESOLUTION, RE: QUALIFYING PROJECT TRICOLOR AS A QUALIFIED TARGETED INDUSTRY**

The Board adopted Resolution No. 13-014, qualifying Project Tricolor as a Qualified Targeted Industry.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.4., LEASE AGREEMENT WITH BAREFOOT BAY WATER AND SEWER DISTRICT, RE: LAND BEING USED BY EMERGENCY MANAGEMENT ON BEHALF OF 800 MHZ PUBLIC SAFETY RADIO NETWORK**

The Board executed a Lease Agreement with the Barefoot Bay Water and Sewer District for land being used by Emergency Management on behalf of the 800 MHz Public Safety Radio Network at 1148 Tequesta Drive, Barefoot Bay.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.5., ACCEPTANCE, RE: ANNUAL INVESTMENT PERFORMANCE REPORT FOR YEAR ENDED SEPTEMBER 30, 2012**

The Board accepted the Brevard County Annual Investment Performance Report for year-ended September 30, 2012.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Trudie Infantini, Commissioner District 3  
**SECONDER:** Mary Bolin Lewis, Vice Chairman/Commissioner District 4  
**AYES:** Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.6., APPROVAL, RE: PRECINCT LEGAL DESCRIPTIONS - ALTERED AND DDED**

The Board approved the revised Precinct Legal Descriptions for the changes to existing precincts due to annexations by the Cities of Melbourne, Rockledge, and West Melbourne.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.7., APPROVAL, RE: AT LARGE APPOINTMENTS**

No At Large Appointments at this time.

**ITEM III.D.8., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS**

The Board appointed/reappointed the following citizens to advisory boards: **Barbara Davis** to the Central Brevard Library & Reference Center Advisory Board, with term expiring December 31, 2013; **Pamela Grove** to the Community Action Board, with term expiring December 31, 2013; **Marcia Newell** to the Country Acres Advisory Board, with term expiring December 31, 2013; **Priscilla Griffith** to the Environmentally Endangered Lands Procedures Committee, with term expiring December 31, 2013; **Dan Rieter** to the Historical Commission, with term expiring December 31, 2013; **Milo Zonka** to the Investment Committee, with term expiring December 31, 2013; **Samir Patel** to the Planning and Zoning Board, with term expiring December 31, 2013; **Samir Patel** to the Transportation Planning Organization Citizens Advisory Committee, with term expiring December 31, 2013; **George Bovell and Sharon Savastio** to the Zoning Board of Adjustment, with terms expiring December 31, 2103.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.9., APPROVAL, RE: BILLFOLDER**

The Board approved the Billfolder as submitted.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
<b>NAYS:</b>	Trudie Infantini

**ITEM III.A.7., AGREEMENT WITH CITY OF WEST MELBOURNE AND KB HOME JACKSONVILLE LLC, RE: PROPORTIONATE FAIR SHARE MITIGATION**

Commissioner Fisher stated he would like to get a better understanding of the Agreement, as it is a little different than similar Agreements the Board has approved in the past with developers paying their fair share.

Mel Scott, Assistant County Manager, stated the Board may recall that a few weeks ago it heard challenges that an over-capacity roadway was presenting to a prospective developer; the agenda item represents how KB Homes of Jacksonville has followed locally adopted processes to address a deficient roadway so that their development can move forward; and the developer is doing it while ensuring that the public's roadway continues to function at an acceptable level. He stated the Agenda Report shows how KB Homes enlisted an engineering firm to conduct a professional traffic study; the traffic study, accepted by the local government, showed the KB Home's proposed Cypress Landings development would require improvements to the intersection of Hollywood Boulevard and Imagine Way to ensure the roadway functions safely and efficiently; following the traffic study's findings, KB Homes will fund its fair share of the needed roadway improvements; and lastly, by virtue of the Agreement, KB Homes will be ensuring that if impact fees are reinstated at some future date, that their fair share contribution to the public transportation system will be impact fee credit eligible. He advised KB Homes submits this 'pay as you grow' proposal similar to what has been seen in other developments and what has been seen in the Viera DRI; and noted West Melbourne's concurrency system is similar to the County's and is what triggered the conversation.

The Board executed a Proportionate Fair Share Mitigation Agreement with the City of West Melbourne and KB Home Jacksonville, LLC, for roadway improvements and traffic signal installation at Hollywood Boulevard and Imagine Way, and Imagine Way and Durham Drive; and authorized the Budget Office to execute any budget changes necessary to implement the proportionate share payment.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.A.11., CONTRACT FOR PURCHASE OF EASEMENT RIGHTS FOR PERMANENT DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT WITH SILVER HORSESHOE, LLC, RE: PINE ISLAND CONSERVATION AREA STORMWATER IMPROVEMENTS PROJECT**

Commissioner Infantini stated the Board is looking to purchase approximately one acre of property from an individual who owns 65 acres, and is delinquent in their taxes for the last two years; the owner owes approximately \$40,000 in back taxes; and they are willing to sell some of their property to the County for \$17,000. She inquired if the \$17,000 will go directly from one pocket to another pocket of Brevard County, such as the Tax Collector, or will it go to the individual who is not paying their property taxes.

John Denninghoff, Public Works Director, stated ordinarily when there is that type of closing, the owner has to satisfy outstanding liens, and the delinquent taxes would fall under that category. Commissioner Infantini inquired if there is a tax lien on it yet, as it has only been two years and not three years. She stated she would like to vote that the money not go to the owner, and that

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all \$17,000 go toward the back-taxes. Commissioner Fisher stated the Board cannot do that; and advised any mortgage or lien would have to be satisfied before the County could get a clear title. He stated the Board cannot dictate how the individual spends their money. Commissioner Infantini stated she is not in support of the sale if the individual does not use the money to pay the property taxes.

Scott Knox, County Attorney, typically what happens if the taxes are not paid is there will be tax certificates issued and somebody will bid to pay those taxes, and so the County will have the money for at least one or two of those years; and then the individual will have to settle with the tax certificate holders before the property free and clear to the County.

John Shantzen stated a developer has already plotted some very exclusive ranchettes with high-end horse areas; it is a valuable piece of property; and he believes the taxes will be paid, but unfortunately, the owner of the property died during the process and the son is now working with the developer. He stated the easement is needed for flood and pollution control of the Indian River Lagoon; and encouraged the Board to approve the easement and to purchase the easement so the project can continue.

The Board executed a Contract for Sale and Purchase of Easement Rights with Silver Horseshoe, LLC, in the amount of \$16,000 for the PDE and \$1,500 for the TCE, for a total of \$17,500, for the Pine Island Conservation Area Stormwater Improvements Project; accepted the PDE and TCE; and waived the survey requirement.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Chuck Nelson, Commissioner District 2
<b>SECONDER:</b>	Trudie Infantini, Commissioner District 3
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.B.2., AGREEMENT WITH PINE ISLAND PRESERVATION SOCIETY, INC., RE: FRIENDS GROUP FOR THE PINE ISLAND CONSERVATION AREA**

Darlene Hunt requested the Board's approval of the Agreement; stated there is a lot of public use on the 1,000 acres; the EEL Program is doing an excellent job in managing the property; and expressed appreciation to the EEL staff. She advised there will be an event held on February 9th called Pioneer Day, and there will be many activities planned, both at the Sam's House Nature Center and St. Luke's Church.

The Board executed an Agreement with the Pine Island Preservation Society, Inc., to serve as the Friends Group for the Pine Island Conservation Area.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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**ITEM III.C.2., APPROVAL, RE: TOURIST DEVELOPMENT COUNCIL (TDC) FY 2012-2013 ADVERTISING MEDIA PLAN AND PURCHASE ORDERS FOR AD PLACEMENT, PRODUCTION, AND PROMOTION COSTS OVER \$100,000**

Commissioner Infantini stated she would like to combine Items III.C.2. and III.C.3. with VII.F.1. Seeing no support, the Board voted on the Item III.C.2. as-is.

The Board approved the proposed FY 2012-2013 advertising media plan and authorized the Tourism Development Director and the County Manager, or designee, to negotiate advertising rates and execute agreements with the vendors; and approved staff to execute purchase orders to vendors for ad placement, production, and promotion costs over \$100,000 as recommended by the County Manager.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Robin Fisher, Chuck Nelson, Mary Bolin Lewis, Andy Anderson
<b>NAYS:</b>	Trudie Infantini

**ITEM III.C.3., CONTRACT EXTENSION WITH COMMUNICATIONS CONCEPTS, INC., THROUGH 4-30-2013, RE: INTERNET SITE MANAGEMENT AND MAINTENANCE SERVICES, WITH NO CHANGE IN \$2,100 MONTHLY FEE**

The Board approved a month-to-month Contract extension through April 30, 2013, with Communications Concepts, Inc., for the [www.visitSpaceCoast.com](http://www.visitSpaceCoast.com) internet site management and maintenance services with no increase in the \$2,100 monthly retainer fee.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM III.D.3., CONTRACT RENEWAL WITH MULTIBAND ENGINEERING AND WIRELESS SOUTHEAST, INC., RE: ANNUAL ANTENNA AND TOWER MAINTENANCE**

Commissioner Infantini she would like to see the item go out to bid rather than be continually awarded on a month-to-month basis to the same supplier.

Commissioner Fisher noted the Contract has gone out to bid; there is concern with the current supplier; and staff is just waiting to get through the process while the website is being finished.

The Board renewed the fourth and final renewal for the Annual Antenna and Tower Contract with Multiband Engineering and Wireless Southeast, Inc.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM IV., PUBLIC COMMENT, ST. BALDRICK'S FOUNDATION**

Garrett Lamp stated on behalf of the St. Baldrick's Foundation, he is present to ask for the Board's support in declaring Saturday, March 16, 2013, as St. Baldrick's Foundation Day in Brevard County. He advised childhood cancer is a serious issue and the number one disease killer of children in the U.S. and Canada; worldwide, a child is diagnosed with cancer every three minutes; and one in five children diagnosed in the U.S. will not survive. He stated the St. Baldrick's Foundation is a volunteer-driven charity committed to funding the most promising research to find cures for childhood cancer and to give survivors long and healthy lives; the Foundation funds more childhood cancer research grants than any other organization in the United States with the exception of the U.S. Government; St. Baldrick's funds are granted to some of the most brilliant childhood cancer research experts in the world and to younger professionals who will be the experts of tomorrow; and stated the awarded funds also enable hundreds of local institutions to participate in national pediatric cancer clinical trials, which are a child's best hope for a cure. He noted St. Baldrick's Foundation has funded more than \$101 million since 2005 in childhood cancer research grants and \$33 million in 2012 alone. He stated St. Baldrick's first shave on the Space Coast was held at Meg O'Malley's in 2011; the goal was to shave 50 heads and to raise \$25,000; over 100 heads were shaved and \$75,000 was raised in one afternoon; the second shave was held at The Avenue at Viera; the goal was to shave 150 heads and raise \$100,000; and 300 heads were shaved in one day, and over \$157,000 was raised for childhood lifesaving research. He stated the Brevard County Sheriff's Office and the Brevard County Fire Department have been the backbone and leaders for the event, raising over \$53,000 together last year, and over \$75,000 in the two events combined. He stated the Board's support and participation is vital in raising awareness locally about the need for further research; and in addition to crafting language for the proclamation declaring March 16, 2013, as St. Baldrick's Foundation Day, he would like to ask the Board to not only present that proclamation, but to participate in the event and shave in solidarity with children who are being treated for cancer in Brevard County.

Missy Elward stated she is from Indian River County and is a volunteer with St. Baldrick's; she went before the Indian River County Board of County Commissioners on January 21st; Commissioner Joe Flesher has been very supportive; and she presented a letter to the from the Indian River County Board of County Commissioners stating that some Commissioners as well as County Administrators will stand in solidarity on March 2nd and shave their heads for childhood cancer, and challenge Brevard County to do the same.

Chairman Anderson stated if the event does not coincide with the Space Symposium, he will participate; and inquired if Commissioner Bolin Lewis will draft the resolution for the event. Commissioner Bolin Lewis responded yes, she will take care of the resolution.

**ITEM IV., PUBLIC COMMENT, RE: ALLEN VAUGHN**

Allen Vaughn stated he is the president of the American Postal Workers Union, Space Coast Area Local; he covers the areas of Rockledge, Merritt Island, and Cocoa Beach north. He stated the post office has financial concerns it is dealing with; the process being used to

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address the concerns is to close offices; when offices are closed, good middleclass jobs go away; and stated the economy in Brevard County took a big hit when the Space Center shut down. He noted in Melbourne post offices were closed that put 40 middleclass workers out of jobs; in Cocoa Beach there was a movement to close the carrier annex which would have cost middleclass jobs; it presented a problem with the union contract and the union was able to stop that closure temporarily; and there was a movement to close Cape Canaveral, but Mayor Randels, along with the union, went to the District and were able to stop that closure. He pointed out in November the Titusville post office decided to close the Titusville Postal Store; according to postal regulations, they have to send out surveys and have a town hall meeting in advance of any closures, but not of that was done in Titusville; the Post Master of Titusville went to a City Council meeting in October and told them that he was looking for input before the postal store would be closed; but that was not true, as construction had already begun in the Titusville carrier annex on U.S. 1 to move all the postal store operations to the carrier annex. He noted he also just received notification that the Titusville Post Office wants to close the Indian River City office; if the Indian River City office is closed, then the only facility in Titusville will be on U.S.1; and anyone who has been to that facility knows there are approximately 30 parking spots, and on a busy day traffic will back-up on U.S.1. He noted the reason the postal store was opened to begin with was because of safety concerns of the people coming into that facility off of U.S. 1. He stated unfortunately, the union is not always able to stem the closures; it seems to be more of a political process; he has tried to contact Congressman Posey, Senator Nelson, and Senator Rubio, but he has not been able to get a meeting with any of his elected officials; when the postal store was closing he met with the City Council to ask for its help in getting in contact with his elected leaders, but was refused by the Council; stated each of the County Commissioners will have a post office in their districts close; and if unless the elected officials are notified, many middleclass jobs will go away.

**ITEM IV., PUBLIC COMMENT, RE: FRED MCMILLIAN**

Fred McMillian expressed appreciation to Commissioners Infantini and Fisher for keeping him informed on the progress of Space Coast Area Transit (SCAT); he is still concerned about the public transportation system, but he has faith in Brevard County; being a new resident in the area he is also impressed with the County Commission and the way it has handled business; and stated he lived in Broward County for over 40 years and experienced a lot of its local government, but he commends Brevard County on its activities and progress. He further noted that bikes need to be kept out of the buses, as there is not enough room for them and it is a safety issue that he is very concerned about.

**ITEM IV., PUBLIC COMMENT, RE: GERTRUDE WATERS**

Gertrude Waters inquired when the Jackson Street project will begin, as far as covering the ditches and adding a sidewalk.

Commissioner Nelson responded staff has taken a look at the project; it is an expensive project; the City of Cocoa was able to do some work on it because it had some extra pipe; but the County would have to purchase pipe in order to be able to finish it; and stated he will take a look at it, but the County has a lot of road needs right now, such as roads that have not been resurfaced in 50 years. Ms. Waters stated it is dangerous because the road is narrow. Commissioner Nelson stated he will have his aide contact Ms. Waters and his office will look at what the cost would be on the project.

**ITEM IV., PUBLIC COMMENT, RE: PATRICK KEEFE**

Patrick Keefe stated he is before the Board because the Seawall Ordinance is ridiculous; safety is not a factor in the Seawall Ordinance; his main complaint is that swales are required to be located behind seawalls; and the swales are dangerous. He stated he is currently completing a swale at the request of the Building Department and the homeowner is complaining; the homeowner lives in Commissioner Bolin Lewis's district; and he has given the homeowner the District 4 office phone number. He explained the Ordinance asks developers to capture one percent of the runoff off of the back of the house, which means 100 percent of the runoff in front of the house, and 99 percent of the runoff at the back of the house, drains into a canal through drainage ditches and pipes; and stated he has supplied the Board with a picture of what the County is asking for. He stated people are installing new seawalls and being punished by being made to catch one percent of runoff, while people who do nothing to their seawalls have everything run into canals. He noted the water ends up in the canals anyway; it makes no sense to have a swale anywhere in a yard if the runoff is trying to be caught in the backyard; the requirement asks for on-site engineering, but that is not being enforced because it is approximately \$1,000 to hire an engineer for water retention engineering; on an 80-foot seawall, that equals \$15 per foot; and stated the contractor, the plan reviewer, and the inspector are left to go off of opinion drawings, but everyone has different opinions. He stated he has been complaining about the issue for years; he met with Commissioner Pritchard the day the Ordinance was approved, and he told Mr. Brown that the Ordinance was unacceptable and to change it; and noted it has been modified, but it has not been changed. He stated he has a lot of elderly clients and if they are in their backyards and trip in the swale, fall and hit their head on the seawall and fall into the canal and drown, he wants something in writing from the County telling him and his insurance company that he will not be sued.

Ernie Brown, Natural Resources Management Office Director, stated there are a number of contractors that hire engineers to design the stormwater retention for the back lot impervious areas; there is a provision to approve for smaller lots, internally, if they submit it and put it on the plans that they do not have to incur that cost; but the challenge with the email the Board received today is that it is a much deeper swale than is required; there are other ways to construct it; a number of sites have constructed very shallow larger systems to collect the runoff from the back lot. He advised the County is under State and federal mandate to reduce nutrient impacts to the lagoon; when the Board approved the Surface Water Ordinance dealing with this specific issue, it was under the understanding that individual lot owners would take responsibility for their individual stormwater at the time of the re-fit, revision, or modification, to the property; and it is the individual property owner taking responsibility for their individual runoff as a retrofit project. He stated in this particular case, Mr. Keefe had submitted a drawing for a swale and built a berm; berms are acceptable, but the building inspector is obligated to inspect relative to the plans; and Mr. Keefe was asked to revise the plans if he wanted to keep the swale and demonstrate that it did capture the first one inch of runoff, which is the standard across the state for stormwater retention.

Commissioner Infantini stated it seems like it has been a problem in the past; she does not want the runoff to go into the lagoon, but at the same time she did not know if there was another alternative the Board could look at. Mr. Brown stated staff has explored creating a series of standards for contractors to employ without having to go to an engineer every time; and it is just a matter of constructing those standards and specs and getting them approved by the engineering community to ensure that they do meet the criteria.

Commissioner Fisher stated a building inspector should not have an opinion. Mr. Brown stated that it could be that the plans were not as clear as they needed to be, but he will be looking into that this afternoon. He advised the plans should depict a swale six feet wide and seven or eight inches deep. Mr. Keefe stated the problem is the County is not enforcing the site specific

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engineering because of the cost. Mr. Brown noted there is a provision in the Code that will allow him to approve small scale stormwater sites to avoid what Mr. Keefe is referring to; staff has accepted Mr. Keefe's sketches, but they may not be as detailed as necessary for the building inspector to definitively identify that.

**ITEM VI.A., BOARD DIRECTION, RE: OPTIONS FOR REGULATION OF INTERNET CAFES IN BREVARD COUNTY**

Robin Sobrino, Planning and Development Director, advised the Board had given staff direction in July to examine the potential for regulating internet cafes and to come back with a staff report; prior to that direction, it was anticipated that the State Legislature would be enacting its own legislation that the counties would be following suit with; and in the absence of that legislature, the Board asked staff to prepare some options. She stated staff has examined the trend statewide and have found that there have been a number of different perspectives that different jurisdictions have taken, everything from regulating internet cafes, to prohibiting them, and everything in between; and stated locally, there are several municipalities that have opted to regulate internet cafes as it relates to land use and operational standards. She stated staff is suggesting several different options for the Board's consideration: 1.) to regulate as a Permitted Use with Conditions in commercial and industrial zoning classifications, such as establish locational criteria, minimum parking requirements, and signage limitations along with operational requirements such as maximum number of machines, permit fees, bonding and other similar measures to ensure public safety and scale of such establishments; 2.) regulate as a Conditional Use Permit in commercial zoning classifications and permitted with conditions (as described in Option 1) in industrial zoning classifications; 3.) prohibit establishment of new enterprises and grandfather existing businesses as non-conforming uses; 4.) other options considered by the Board; and 5.), take no action at this time.

Commissioner Bolin Lewis stated she agrees with Option 1, Permitted Use with Conditions; and she does not feel the Board needs to review each individual application.

Commissioner Fisher inquired where the State stands on the issue, and if the board is doing something that the State could unwind later. Ms. Sobrino responded previously, there was the anticipation of action by the legislature to regulate these uses through a House Bill; the Senate Bill was to prohibit such uses; and right now, the Legislature is not consistent with what they want to do. She further stated since the Legislature has not chosen to take any action at this time, the Board directed staff to take the initiative to do something; there is potential that the Legislature could undertake this again this year and contemplate some regulations; but in most cases the discussion has been if there are regulations on a local level, then they would be exempt from applying any State Statutes if they were more restrictive.

Commissioner Fisher stated there are certain businesses that sell internet time; he is concerned about them doing what they are supposed to be doing legally; and inquired if they are monitored by the State. Ms. Sobrino replied as far as land use is concerned, staff feels it is appropriate in the zoning arena; however, when it comes down to the business practices of the operation to ensure that the machines function in the appropriate way, that would be the responsibility of the State to enforce. She advised if there was a local resident who had a concern about a local operation as it relates to those types of standards they would have to go to the State and file an appeal or grievance with them, but Planning and Development can certainly regulate the local land use considerations. Commissioner Fisher stated he is more worried about whether people are being taken advantage of than he is of the location.

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Chairman Anderson noted the State has regulatory compliance over somebody who is being unscrupulous; and stated from a local level, the County does not want the State telling it whether it can cite a certain business.

Commissioner Nelson stated the Legislature is getting ready to meet and the Board has no idea what they may or may not do; and stated there is a series of items that are in litigation, and to try to make a decision now when the Board does not know the outcome of some of the litigation, it may fall under the same trap. He stated he is inclined to see what the legislature does and bring the issue back in July or August to see what the State has done and if anything has worked its way through court.

Laurie Lee, Florida Game Promotions, stated the Legislature has formed specific committees to address all gambling issues; all the news out of Tallahassee is that they are going to take this year to study all the issues and not move forward on any kind of bills that relate to anything in their purview; and stated the Legislature will possibly look at something during the 2014 session. She advised there are some cases in litigation, although most of them have been cleared up; and stated the only cases in litigation involve jurisdictions that have enacted ban ordinances that have basically shut down existing businesses.

Chairman Anderson stated he does not have a preference either way. Commissioner Bolin Lewis pointed out that if the Legislature is not going to address it, it will be another year before the Board can address it. Commissioner Nelson noted the Board will at least have an idea of the Legislature's findings, as there will be reports from the committees. Commissioner Bolin Lewis stated she feels it would be better to move forward with some regulation than none, and the Board can adjust it along the way if the State offers any advice in the future. Commissioner Nelson stated he would like to see Legislative Intent to see what it is going to look like.

Commissioner Fisher stated he is more concerned with what happens inside the buildings than the location of them; the problem the residents are having is that there are different business models, and some seem to be pushing the envelope bordering on gambling; and he is worried about the residents being taken advantage of.

Chairman Anderson suggested during the process, staff have someone knowledgeable in Internet Cafes come before the Board with a presentation to get the Board up to speed on the subject.

The Board considered options for the regulation of Internet Cafes in Brevard County, and directed staff to bring back someone knowledgeable on the subject to make a presentation to the Board clarifying the differences in the various types of internet gaming style businesses, such as Internet Cafes and Internet Sweepstakes, prior to Legislative Intent.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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**ITEM VI.B., DIRECTION, RE: BREVARD COUNTY HURRICANE SANDY EMERGENCY BEACH BERM PROJECT**

Theodore Hesser, Indian Harbour Beach Club Board of Directors, stated the Club is aware of the damage caused by Hurricane Sandy; the Club's building's proximity is closer to the Beach than anyone else's; and the Club would like to take it upon itself to bring in sand, if possible. He stated he has heard that in the future, everyone will be assessed for providing the sand; and inquired if the Club does its own beach replenishment and it survives the hurricane season, will the Club be added to the assessment.

Ernie Brown, Natural Resources Management Office Director, advised Mr. Hesser that staff can get his club permission to replace its own sand this afternoon; and pointed out there has not been discussion on assessments or things of that nature. He stated under the Emergency Order, which has expired but is continued in the intent of the order, the fees were waived and the emergency placement of sand has continued.

Tuck Ferrell stated Hurricane Sandy caused a lot of dune erosion; he knows staff is working hard to do something about the dune situation; Sandy was a 10-day event, leaving the dunes in a vertical situation; that does not work for turtles, turtle nesting, shore birds, and it does not work for homeowners; and noted some homes are almost on the dunes and ready to fall into the ocean. He stated the tax base and the school system have to be looked at as well; if appraisals go down and the area loses tourists or homes, then the property will not be as valuable, which could affect the tax base; and stated if not fixed, there could be continued erosion.

Mr. Brown stated on December 6th the Board directed staff to pursue bids for beach nourishment and to pursue permits; and the issuance of the permits is anticipated within the next week or two. He advised the bids for the project were based on a scale: the full repair job, which was approximately a \$12 million estimate, actually came in to be approximately a \$10 million estimate based on the bids; and then a minimum film, which staff estimated to be approximately 100,000 cubic yards, is estimated to be a \$4 million project; and noted that covers both the mid- and south-reach beaches area, which is predominantly the Archie Carr area. He stated there is no identified source of funding for the effort, locally, federally, or at the State level; and noted there is some movement currently with the Florida Shore and Beach Preservation Association, which is seeking a dedicated appropriation to assist and cost share for the counties that were impacted by Sandy. He advised there are six counties on the east coast, with Brevard being the northernmost of them; all counties are very active in pursuing the supplemental appropriation; and noted it would have to happen in the Legislature, and it would take a great deal of effort. He suggested the most logical approach from the beach management perspective would be to continue those partnerships; FEMA has denied the County, but historically, they have been a partner; and now staff is looking to the State as a potential partner. He advised staff has options for the Board: 1.) Should the Board decide to act now, local funding would need to be identified to cover the entire project; and the award for the project would need to be issued by February 1st; 2.) Wait out the hurricane season with an expectation of getting some legislative support and going into a cost-share arrangement with the State and building as soon as the turtle nesting season opens; or 3.), Let the conversation close today and take no action at all.

Chairman Anderson inquired if there are any sponsors on the legislative appropriation, dealing with the six counties. Mr. Brown replied there are no sponsors at this time; the DEP has a beach program and an appropriation process, but that is very challenging; the problem is unique because FEMA has always been a partner in the past; and stated the south beaches is not on the State's radar, so it would have to be a special appropriation. He advised if the Board gives staff the green light, it would actively pursue that with its lobbyists; and noted the FSBPA is very active in pursuing this activity. Chairman Anderson stated he would like to see that process,

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and he believes there will be a sponsor. Commissioner Fisher inquired if the Board can ask its delegation. Mr. Brown stated it may be a strong recommendation to ask the Brevard Delegation if they desire to take the lead. Chairman Anderson stated if staff gives him some draft language he will write a letter to the Brevard Delegation.

The Board authorized the Chairman to send a letter requesting support by the Brevard Legislative Delegation regarding supplemental appropriations for the Brevard County Hurricane Sandy Emergency Beach Berm Project.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Trudie Infantini, Commissioner District 3
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

Mr. Brown stated the bids that staff went out for came back very strong; the lowest bidder is one of the best prices he has seen in almost a decade as it relates to sand prices; and requested the Board award the bid with a No Sand Option. He stated the bids that went out were for 100,000 cubic yards, with the understanding that the whole award would be contingent upon funding, and staff would put a No Sand Option in the contract so it could be awarded, but no sand could be put on the beaches unless funding actually came forward; and stated by doing that it would allow staff to capitalize now on the good pricing, because it could change in eight months after the legislature completes their business, and it also means staff would not have to go back through the bidding process.

Commissioner Bolin Lewis inquired how long that price will be good if the Board chooses that option. Mr. Brown replied the price could be held for up to three years, with some considerations that staff would have to build in some escalators for fuel prices and things of that nature.

Commissioner Fisher stated it does not seem like there is any harm in that; and inquired where the 100,000 cubic yards of sand comes from. Mr. Brown replied the lowest bidder actually has their own pit that qualified.

Mike McGarry, Natural Resources Management Office, stated the bidder has made arrangements to use existing commercial sand pits, but also have permits for a new sand pit, which is why by producing the sand themselves they were able to have such a competitive price.

The Board authorized the Contract award to the lowest responsive bidder for Bid #B-3-13-33 with the following contract changes: 1.) Adding a "No Sand Option"; 2.) Adding a "Subject to Funding Availability" clause; and 3.), Authorizing the Contract for up to three years with no cost increase except for fuel costs using accepted indexes such as CPI.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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**ITEM VII.A.1., LICENSE AGREEMENT, DOT PERMIT FM#427400-1-58-01, RE: LANDSCAPE MATERIAL STORAGE SITE AT FORTENBERRY STORMWATER PROJECT AND LANDSCAPE INSTALLATION ON COUNTY-OWNED PARCEL**

The Board executed a License Agreement in favor of ValleyCrest Landscape Development for a Landscape Material Storage Site at Fortenberry Stormwater Project, and landscape installation on a County-owned parcel.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Chuck Nelson, Commissioner District 2
<b>SECONDER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM VII.B.1., APPROVAL, RE: MEMORANDUM OF UNDERSTANDING WITH BREVARD COUNTY SCHOOL BOARD AND CANINE COMMANDOS**

The Board entered into a Memorandum of Understanding (MOU) with the Brevard County School Board and the Canine Commandos that will enable the Canine Commandos Program to be offered at the South Animal Care Center; and authorized the County Manager, or his designee, to approve subsequent annual extensions of said MOU.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>SECONDER:</b>	Chuck Nelson, Commissioner District 2
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM VII.C.1., DISCUSSION, RE: REQUEST FROM FLORIDA DEPARTMENT OF CORRECTIONS TO EXERCISE PARTIAL REVERTER OF A REVERTER CLAUSE**

The Board pulled the request from the Florida Department of Corrections to exercise partial reverter of a reverter clause, from the Agenda to return at a later date.

**ITEM VII.D.1., RECEIPT OF FINAL DISTRIBUTION, RE: MELBOURNE FEE AVENUE LIBRARY AS BENEFICIARY OF BROWN FAMILY TRUST**

The Board executed the Receipt of Partial Distribution acknowledging the sum of \$7,662.36 as final distribution to the Brevard County Libraries/Melbourne Fee Avenue Library as beneficiary of the Brown Family Trust.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Mary Bolin Lewis, Vice Chairman/Commissioner District 4
<b>SECONDER:</b>	Robin Fisher, Commissioner District 1
<b>AYES:</b>	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

**ITEM VII.F.1., DISCUSSION, RE: REALLOCATION OF LOCAL OPTION TOURIST DEVELOPMENT TAX REVENUE**

Commissioner Infantini stated there have been some discussions on whether the Washington Nationals are going to stay in Brevard County or leave; there was also some media coverage on where the money should go if they left; she and her staff did some research and received input from people in the community; and she found that funding the lifeguards out of the Tourist Development Tax may be a viable option. She stated the Tourist Development Council collects five cents for bed tax when people stay overnight at hotels; each penny has its own specific allocation as to where it can, or cannot, go; according to Florida Statutes, it appears that both the fourth and fifth cents of tax collected could go toward funding the lifeguards, as long as it is a service provided to the tourists and is promoted as such; and noted she found that other counties are using some of their tourist development tax collected promoting the fact that they have lifeguards on their beaches to the tourists. She stated there is no better way to promote tourism than with public safety; according to statistics, 75 percent of the saves of lifeguards are for tourists, not local residents; and she wanted it brought to the Board for discussion.

Chairman Anderson noted as long as the Board has a contract with the Washington Nationals the fourth cent is dedicated to them up to the threshold; and stated there is still a contract with them through 2017. Commissioner Infantini stated the Statute reads, "The tax revenue would be used to pay for debt service on the bonds issued to finance the construction or reconstruction"; and stated once that debt service is over it is no longer one of the outstanding allocations. Chairman Anderson stated the Board has contractual agreements and a taxpayer asset that is in need of repairs; and after that is done, the Board can have a discussion on the fourth cent.

Gerald Storrs stated there was a recommendation from the USLA (United States Lifeguard Association), which suggested adding 47 of the chair-type towers; currently, Brevard County has less than 20; and stated that is the kind of coverage Brevard County is lacking. He stated the facilities for lifeguards in Brevard County are pathetic; the lifeguard service is good, but it is short-staffed; and if the tourist tax money is applied, it will make up for what the Board knew needed to be done when the budget discussions were held.

Commissioner Fisher stated he thought he saw in the report that there was an Attorney General opinion on the issue; and requested clarification from staff. Attorney Knox advised the Attorney General weighed in, in the 1990's saying that it does not qualify for lifeguard expenditure; stated he understands Commissioner Infantini's point about how lifeguards help tourists, but it has never been litigated to find out what it means; and based on what he has seen, no one is certain if it covers lifeguards; and although there is an Attorney General opinion, it is just an opinion.

Commissioner Fisher stated in Attorney General Opinion 90-55, the Attorney General concluded that tourist development taxes may not be used for funding lifeguards, service, or governmental functions owned to the public at-large. Attorney Knox stated the Attorney General was clear that he did not think the tourist development tax should be used for lifeguards. He further stated from a legal point of view, it is pretty clear that the only authority right now says it cannot be used for that purpose; but it is like all other things in law, and if someone comes up with a theory that allows the court to say it is okay, then it can go in a different direction; but right now, it cannot be used for lifeguards. Commissioner Fisher pointed out that the money is obligated through 2017 anyway. Attorney Knox confirmed that the Board has an agreement with the Washington Nationals that provides for how the money is going to be expended and is committed. Chairman Anderson inquired if any change to that Ordinance would require a super majority vote. Attorney Knox replied, yes, and the other obstacle is the Legislature, which could change the uses.

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Commissioner Infantini reiterated that the Attorney General gave an opinion, and it is just an opinion, not actually a finding of fact or law. She stated that the Agenda item discusses both the fourth and fifth cent, not just the fourth cent; and it equates to approximately \$1.6 million or \$2 million. She stated she is concerned that the Board, after raising property tax rates by 30 percent in a two-year time frame, is going to go back to the residents and ask them to increase the fire assessment; and in an effort to thwart that off, she would like to divert some funds from the Fire Department and pull them from the Tourist Development Council, because it will overwhelmingly support the tourists.

Chairman Anderson stated the discussion about the fourth cent is off the table because the Board has a contract with the Nationals.

Howard Tipton, County Manager, advised the lifeguards are funded through General Fund dollars; and clarified there are no fire assessment dollars that go toward the payment of the lifeguards. Commissioner Nelson also pointed out that the General Fund cannot be used for the assessment because the assessment is only for the unincorporated areas. Commissioner Fisher inquired how the fire assessment fee is assessed. Attorney Knox replied it is based on a study that was done, and there is a statutory procedure the County follows.

Commissioner Infantini stated she is trying to avoid the assessment from going up, because the taxpayers she represents do want to have any higher assessments or tax rates.

Dave Netterstrom, Cocoa Beach Mayor, stated he agrees with Chairman Anderson's efforts to support the Washington Nationals; and stated it sounds like there may be an opportunity for other money to become available as the construction bonds get paid off on the stadium. He stated he believes the money should be reinvested back into something that creates a multiplier effect that can be a benefit throughout the County; he would like to consider a project beachside; a beachside project will draw more tourists and visitors to the area and it will also encourage visitors coming to Brevard already to stay longer, such as the passengers on the cruise ships; and if they stay in the area longer they will be spending a lot of money that will go throughout the County. He advised he is starting a resolution in Cocoa Beach and will do it jointly with Cape Canaveral, to make a formal request to the Board of County Commissioners to consider allocating some money to a beachside project, such as a municipal pier, a boardwalk, a surf park, or a destination beach resort.

Commissioner Infantini stated those are wonderful ideas that would generate more revenue than what the Board is currently receiving from the Washington Nationals; no one wants to see the Nationals leave, but she thinks the beachside projects mentioned by Mayor Netterstrom are good ideas; and stated she hopes to see the resolution.

Stockton Whitten, Deputy County Manager, advised the fifth cent would require a super majority vote to amend the plan, which is an outline of the expenditure of all of the five pennies.

Tom Williamson stated he is the President of the Cocoa Beach Hotel and Lodging Association, as well as the Chairman of the Tourist Development Council (TDC) this year. He noted that the Attorney General has, on numerous occasions, ruled that public safety issues are not a part of the statute that delineates what the tax can be used for; and the reason for that opinion is that it is not specifically stated as a use in the statute. He stated he does not want to confuse funding with something that is marketed; and stated the County should adhere to what the Attorney General's opinion has been.

Bob Baugher, Tourist Development Council, stated tourism does not cost the County anything; tourism makes money; without tourism in Florida there would be a state income tax; but because of laws that are passed by the majority, population centers benefit more than areas

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that generate; and explained that Cocoa Beach has a population of 11,000, and the sales tax money is distributed among the population. He stated the County owns the stadium and has a contract; water damage has always been a problem at that stadium; and stated everyone can agree or disagree on where the money could be of better use, but the bottom line is that the County is in a contract and it owns an asset. He stated right now, the beaches are still the number one economic generator in the County, and the second biggest generator is Port Canaveral.

Commissioner Fisher noted the Board already approved a \$1.9 million advertising budget, and a lot of that is related to the beaches and the Port, so there is a \$2 million return that is already coming back from that advertising.

Chairman Anderson stated it is obvious that the Port and Cocoa Beach are the major generators, but based on the two meetings he has had with the TDC, it is not parochial, as they look at the entire County.

Commissioner Nelson stated he would be opposed to using TDC dollars for operational things; the benefit of the \$2 million is that the County recaptures so much of that value from that effort; and the property taxes the hotels pay are so significant. He stated he would like to see more marketing done on the west coast of Florida to get those residents to come to Brevard County.

Commissioner Infantini stated she is not locked into funding the lifeguards with tourist tax money, she just wanted the Board to have a discussion; and stated if it means more money can be invested in Cocoa Beach then she supports it.

Commissioner Bolin Lewis stated she views the Washington Nationals as another business in Brevard County; they have employees who buy houses here; they go to the restaurants; and some of them retire in Brevard County.

The Board discussed reallocation of Local Option Tourist Development Tax Revenue, but took no action.

**ITEM VII.F.2., CITIZEN REQUEST BY JINGER KNOX, RE: BIENNIAL OPERATING PERMIT FOR AEROBIC SEPTIC SYSTEMS**

Jinger Knox stated she did not know where to go with her concern, because the Brevard County Health Department is a State agency, but the County Attorney's Office does the enforcement for them. She stated she is before the Board because of Resolution 12-219; the actual Florida Statute says that the biennial permit for aerobic septic systems should not cost more than \$100. She noted she thinks that was put into place as a maximum because it is a hindrance on some homeowners to pay that fee; not only for the maintenance entity to come out and change the filter every six months, which costs \$200 per year, but for the State come out and redundantly check the water from the maintenance entity that is licensed to do that job; and stated the Board of County Commissioners passed a resolution that added an extra \$50 fee that she does not think follows the Statute.

Ian Golden, Housing and Human Services Director, advised the fee Resolution passed by the Board also passed through the Housing and Human Services Department; the Resolution basically sets the fees that the Health Department is allowed to charge for different services; and the Resolution comes to the Board once per year. He added, the County has the ability to set local fees because the Statute itself does not expressly outlaw, or not allow, that to happen. He advised prior to 2002, the fee from the State was \$150 per year; after that date, the State

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moved to the \$100 every other year; Brevard County leads the state in the number of those systems; and there is a lot that goes into reviewing those systems.

Melissa Brock, Environmental Health Department Director, advised the Department's mission states that it is to protect, promote, and improve the health of all people in Florida through integrated State, County, and community efforts; and stated the ATU program is a good example of the partnership the Department has. She stated as for Florida Statute 154.01, the Department has a State and County core contract that is developed specifically for the promotion of the public's health, including the control and eradication of preventable diseases for the provision of primary health care for special populations. She stated there are a few levels to the State and County core contract; one is to address environmental health services, including the protection of health through the general public by monitoring and regulating activities in the environment which may contribute to the occurrence of the transmission of the disease; another level is that Environmental Health Services shall be supported by available federal, State, and local funds and shall include those services mandated on a State and federal level; and the last level is that the ATU program is mandated by the State. She explained Brevard County is unique in having a high number of ATU's; the predominate number of ATU's are in District 5 and the City of Palm Bay; in the 1960's the General Development Corporation developed lots less than .25-acre in Palm Bay before there was a central water system available; and there was a statute that stated the developer would be allowed to develop the lots on private wells and on-site sewage systems until the block density reached 30 percent, with the condition that after the 30 percent any future build out would be built with a central water system, but the developer went out of business and that never happened. She went on to explain that in the early 1990's Palm Bay was left with 66 percent of the area not being allowed to be built on because of Florida Statute restrictions, so the Board of County Commissioners at that time adopted an Ordinance that would allow the remainder of the lots to be built as long as the property owner applied for a variance from State rule and installed the ATU for sewage treatment; and everything was fine with that until the building boom happened from 2004 to 2006. She stated there are thousands of ATU systems installed in the County and the Department was swamped; Indian River County only has three ATU systems; and Brevard County has 2,400 ATU systems. She stated the Environmental Health Department had to seek assistance through a private vendor to use database specific to the management of ATU systems; the Department is in a situation where it is double-data entering the ATU system information; and advised there are ten different contractors the Department is getting service contracts from, and they are required to submit service inspections two times per year, so there are 5,000 inspection reports coming to the Department.

Commissioner Infantini stated she knows people who have the aerobic units, and they do not understand why they have to have a maintenance contract; and stated she would guess that most of these homeowners were not aware that they were going to be running into a \$200 per year annual contract, plus \$100 every other year, plus the County's \$50 per year. Commissioner Fisher noted that State law says they have to pay it. Commissioner Infantini stated even if it is State law, there are a lot of laws that are not worthwhile.

Jinger Knox advised Brevard County has let her take the training and become her own maintenance entity. Commissioner Infantini stated she is glad to know that is an option for homeowners.

Ms. Knox agreed that permitting and inspecting is a regulatory activity; as she reads the statutes, the only thing the County has the ability to have sliding fees by resolution are items of public health, not regulatory activities under that section; and stated that while she thinks the County has the right to make some fee schedules for the public health, she does not think this is one of them, and the County has overstepped its authority because it is going against State Statute.

Chairman Anderson noted the other issue with the situation in Palm Bay is the City Charter has also hampered the situation; when he was on the City Council, it tried to get voter approval for a special assessment, including running sewer and water lines, but it has failed every time.

Commissioner Fisher inquired if the Board has the authority to charge above State Statute. Attorney Knox responded the issue is that the \$100 limit is what the State can charge, not what the County can charge; the County does have authority in the area of health that is set forth in Statutes 125 and 154, and set forth in general law that says the County has any powers that are not prohibited by the State; and stated he does not see anything that prohibits the County from charging a \$50 fee for health services related to septic tanks. Ms. Knox stated the County is charging her that for the permit, so in order to issue the permit she has to pay the County a \$50 fee, which means the permit no longer costs \$100. She further stated if the County says she has to get a \$100 permit from the State, plus a \$50 permit from the County, it probably has the legal right to do that, but it is not right to take her to court to say that she did not get the State permit because she refused to pay the \$150 that was required.

Rick Strong, Environmental Health Department Attorney, stated he thinks the point Ms. Knox is trying to make is that the \$50 is part of the permit; and advised the \$50 is actually a service fee that the Department has to charge because there are so many ATU's in the County. He advised case law specifically states that if there is a County ordinance along with State Statute and they are in conflict, then the County cannot enforce the ordinance; however, this is not in conflict, it is in concert with the State Statute; and to define whether or not something is in conflict, one must violate one provision in order to comply with the other. He further explained that the State Statute and County Ordinance cannot co-exist at the same time, but that is not the case here; the \$50 is a fee that has been assessed by the County so that the Environmental Health Department can provide better services to Brevard County; and because there are so many ATU's, it takes a lot of his time that is not being calculated in the \$100 fee that is being assessed by the State for just the permit itself, so the fee is actually separate from the permit. He agreed that maybe it could be split separately, but the \$50 is actually not for the permit, it is a service fee for the Department to provide the inspections, enforcement, and all other things that come with having a high number of ATU systems.

Commissioner Nelson stated the bottom line is that the Environmental Health Department is trying to keep the public safe by having the systems inspected, and Ms. Knox, as the homeowner, agreed to do that. He stated he would be opposed to the County coming up with the additional money by lowering the fee by \$50 and then continuing to have to pay the Health Department to do the inspections, because then everyone pays for it as citizens, and not everyone made the agreement to put the system in. He advised from his perspective it is a performance issue; and he wants the systems to be safe because the reason for the inspections is because if they go bad, it is really bad.

Commissioner Infantini inquired how many of the systems had the Department found that are operating defectively. Ms. Brock replied approximately 2 percent or less that need additional follow-up to help the owners get into compliance with State requirements. Commissioner Infantini stated she would like to see those actual reports. She stated if she is correct in understanding, the reason why the extra \$50 is being charged is because the State came to the County and asked if it wanted to be in a partnership; and inquired what would happen if the County turned the responsibility back over to the State. Ms. Brock advised the reason why there are so many ATU's in the County is because of the Florida Statute restrictions; it is still a State requirement; through the partnership and based on the fact that Brevard County Ordinance requires so many ATU's, the Health Department needs that additional funding to help support the operational needs to run the program.

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Chairman Anderson stated any time the State does something it tends to be more expensive for the end-user; and stated he would like to know if there are nay realtors who are not explaining the process to potential home buyers.

The Board acknowledged the citizen request by Jinger Knox regarding Biannual Operating Permit for Aerobic Septic Systems, but took no action.

## **ADJOURNMENT**

Upon Board consensus, the meeting was adjourned at 12:31 p.m.

ATTEST:

\_\_\_\_\_  
ANDY ANDERSON, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
SCOTT ELLIS, CLERK