



**AGENDA REPORT**  
**April 10, 2018**

---

---

**SUBJECT:**

Amendment to Chapter, 35, Article II, Code of Ordinances of Brevard County, Florida

**FISCAL IMPACT:**

The fiscal impact of this this Ordinance that amends Chapter 35, Article II, Code of Ordinance of Brevard County, is twofold:

1. The allocation of funding equal to the difference, if any, between the County tax increment as calculated by Florida Statutes and the County's contribution to the CRA. If this amendment was applied in FY 2017-2018, \$124,706 would have been contributed to a County Fund for authorized infrastructure expenditures as outlined in the Ordinance.

With the expiration of the CRA 4 years earlier that previous Ordinances provided, the County's General Fund will receive these saving beginning in FY 2038-2039. There are to many variables in calculating these future savings, such as property values, ad valorem tax rates and the build out within the CRA. In FY 2017-2018, the County's General Fund contributed \$251,012 to the CRA.

**DEPT/OFFICE:**

County Manager

**REQUESTED ACTION:**

It is requested that the Board of County Commissioners discuss the attached proposed amendment to Chapter 35, Article II, Code of Ordinance of Brevard County, Florida with regard to the West Melbourne/Brevard County Joint Community Redevelopment Agency. Authorize the Chair to execute the amendment to Chapter 35, Article II, Code of Ordinances of Brevard County, Florida approved by the Commission.

**SUMMARY EXPLANATION and BACKGROUND:**

The Board authorized the County Manager to move forward with interlocal agreement negotiations with the Community Redevelopment Agencies (CRAs). The County has a Joint CRA with the City of West Melbourne known as the West Melbourne/Brevard County Joint Community Redevelopment Agency (CRA). This CRA was partly created through two Brevard County Ordinances, Number 2011-28 and 2012-19.

As a result of the negotiations with the City of West Melbourne, the City approved the following changes that require an amendment to Chapter 35, Article II of the Brevard County Code of Ordinances.

1. The City has agreed to limit expenses for administrative services provided to the CRA

to an amount not to exceed 5 percent of the total City and County tax increment.  
(Reference Section 35-54(5))

2. The County agrees to provide funding to benefit the CRA and provide for infrastructure improvements as follows:

a) The County's tax increment funding contribution to the CRA will be based the greater of (1) the amount of the City's contribution or (2) 50 percent of the County tax increment determined by section 163.387(1)(a), Florida Statutes. In no event will the County's contribution exceed the amount of the contribution to the CRA by the City. For example, in 2017-2018, the County's contribution to the CRA was \$251,012. The City's contribution to the CRA was \$126,306. Because the City's contribution was slightly more than 50 percent of the County's tax increment, the County would have contributed \$126,306 to the CRA in FY 2017-2018, if this amendment was in place during this fiscal year. (Reference Section 35-55)

b. Additionally, in a separate County Fund, the County shall annually set aside funding equal to the difference, if any, between (1) the County tax increment as determined by section 163.387(1)(a), Florida Statutes and the actual County's contribution to the CRA. These funds shall be used exclusively on maintenance, construction, reconstruction, lighting and/or capacity improvements to County roads located anywhere within the municipal limits of the City of West Melbourne. For example: In FY 2017-2018, 95 percent of the County's incremental taxes equal \$251,012. If the County contributed to the CRA as shown in the example above, the County would contribute \$124,706 (\$251,012-\$126,306) to the separate fund maintained by the County. (Reference Section 35-55)

3. The CRA shall expire on September 30, 2038 as opposed to its prior expiration date of July 17, 2042. (Reference 35-56)

4. The County's tax increment may not be pledged for indebtedness unless the debt is for certain approved infrastructure projects outlined in the Interlocal Agreement. The maturity of existing or future debts shall not extend beyond 15 years or June 19, 2038, whichever comes first. (Reference Section 35-52(8))

**ATTACHMENTS:**

**Description**

- ▣ **West Melbourne CRA Ord Redline version**
- ▣ **West Melbourne CRA Ord Clean ver**
- ▣ **W Melbourne CRA legal ad**



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

April 11, 2018

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2018-08, which was filed in this office on April 11, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

**ORDINANCE NO. 2018-08**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 35, ARTICLE II, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; SPECIFICALLY AMENDING SECTION 35-54(5) TO REDUCE EXPENDITURES OF REVENUES ON ADMINISTRATIVE EXPENSES; AMENDING SECTION 35-55 TO ADDRESS PERCENTAGES OF TIF PAYMENTS, COUNTY INCREMENT PAYMENTS AND CRA PAYMENTS AND ADDRESS EXPENDITURES; AMENDING SECTION 35-56 TO SHORTEN THE TERM; AMENDING SECTION 35-52 (8) TO LIMIT AUTHORIZATION TO INCUR INDEBTEDNESS.**

**WHEREAS**, Florida law empowers municipalities and counties to create a Community Redevelopment Agency to improve blighted and slum areas within the community and to alleviate the conditions created by said areas; and

**WHEREAS**, the Board of County Commissioners (the COUNTY) authorized the creation of the West Melbourne/Brevard County Joint Community Redevelopment Agency (the CRA) by Ordinance Number 2011-28 on August 9, 2011; and

**WHEREAS**, the City of West Melbourne (the CITY) subsequently created the CRA pursuant to CITY Ordinance No. 2012-19; and

**WHEREAS**, pursuant to section 163.387, Florida Statutes, the CITY, the CRA and the COUNTY have entered an interlocal agreement in 2018 with the intent to alter the term of the CRA, the percentage authorized for administrative expenses, and the provisions on how tax increment funding (TIF) is allocated;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Brevard County, Florida as follows:

Section 1. Chapter 35, Article II, Section 35-54(5), Code of Ordinances of Brevard County, Florida is hereby amended as follows:

The city and the community redevelopment agency shall not expend in any one community redevelopment agency fiscal year more than 5 percent of the total CITY

Officially filed with the Secretary of State on April 11, 2018

and COUNTY tax increment revenues raised pursuant to F.S. § 163.387, on administrative expenses. For the purpose of this condition, the term "administrative expenses" includes personnel costs (i.e., salary and fringe benefits) of community redevelopment agency staff, office equipment and supplies, operating overhead (office space, electricity, and utilities for office), postage, printing, or copying charges, travel costs, seminar costs, and similar direct expenses of the community redevelopment agency. Allocation of costs, in a community redevelopment agency construction or consultant contract for administrative costs of the contractor, or from the city's general funds would not be included within the 5 percent cap.

Section 2. Section 35-55, Tax Increment Financing Trust Fund, Code of Ordinances of Brevard County, Florida is hereby is amended to read as follows:

Subject to the COUNTY CRA payment expiration provision in Section 35-56, The West Melbourne Joint Community Redevelopment Agency's Tax Increment Financing Trust Fund shall be provided by both the city and county in accordance with F.S. ch. 163.387(1)(a), in every fiscal year between FY 2017-2018 and FY 2037-2038, provided, the amount of the COUNTY TIF payment shall in no event exceed the amount of TIF payment contributed to the CRA by the CITY. This provision shall not operate to reduce the COUNTY TIF payment below 50% of the COUNTY increment as determined by section 163.387(1)(a), Florida Statutes. Each year, the COUNTY shall set aside funds in the amount of the difference, if any, between: (1) the COUNTY increment as determined pursuant to section 163.387(1)(a), Florida Statutes; and (2) the actual COUNTY TIF contribution to the CRA. The COUNTY shall expend such funds solely and exclusively on the maintenance, construction, reconstruction, lighting of, and/or capacity improvements to, COUNTY roads located anywhere within the municipal limits of the City of West Melbourne. Provided further, that in no event shall the COUNTY continue to pay a tax increment into the CRA TIF after September 30, 2038.

Section 4. Section 35-56, Term, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

The CRA shall expire on September 30, 2038. In accordance with section 163.387(3)(b), Florida Statutes, notwithstanding any provision in section 163.387, Florida Statutes to the contrary, after September 30, 2038, the COUNTY shall no longer be required to contribute a tax increment of any amount to the CRA TIF.

Section 5. Section 35-52 (8), Delegation of Powers, Code of Ordinances of Brevard County, Florida is hereby is amended to read as follows:

The power to authorize the issuance of, and the power to issue, redevelopment revenue bonds, all set forth in F.S. § 163.385, except the CITY and CRA may not incur indebtedness pledging COUNTY tax increment funds as a source of repayment unless the proceeds of the debt are designated for use in a project described in paragraph 4 of the 2018 Interlocal Agreement between the CITY, CRA and COUNTY. The maturity date for any existing or future CRA or CITY indebtedness for which COUNTY tax increment funds have been pledged as a source of repayment, unless consented to by the COUNTY, shall not extend beyond a period of 15 years from the date of issuance or June 19, 2038, whichever comes first.

Section 6. Authority. Nothing in Ordinance No. 2011-28, this Ordinance or any interlocal agreement agreed to by the COUNTY shall be interpreted as modifying the authority of the Board of County Commissioners (hereinafter the “Board”) to either revoke its delegation of authority or to designate themselves as the redevelopment agency at any time the Board deems that is necessary for the protection of the health, safety, welfare or fiscal interests of the public or the redevelopment area. Notwithstanding the foregoing, no such revocation of the delegation of authority to the municipality and no such designation by the Board as the CRA shall: 1) impair any contract made by the CRA prior to the time when the Board shall have exercised or taken such action, or 2) affect the obligation of the CRA (or of the Board, if it designates itself as the CRA) to raise revenues through increment tax financing or other charges in the amounts necessary to comply with the CRA’s obligations in respect of any outstanding bonds or other evidences of indebtedness; or 3) affect the obligation of the CRA for the Board, if it designates itself as the CRA) under any outstanding bond, bond anticipation note, tax anticipation not, or other evidence of indebtedness. In the event that the Board revokes its delegation of authority or otherwise designates itself as the CRA, the Board shall take all necessary or appropriate action to protect the interest of any holders of bonds issued by the CRA. At any time that the City’s CRA shall request, the Board will consider the adoption of such resolutions as may be necessary from time to time for the CRA to issue bonds or other evidences of indebtedness.

Section 8. Severability. In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

Section 9. Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict herewith are hereby repealed.

Section 10. Effective Date. This ordinance shall take effect immediately upon its adoption and filing as provided by law. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

Adopted by the Brevard County Board of County Commissioners during regular session on the 10 day of April, 2018.

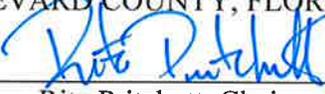
ATTEST:

  
Clerk - SCOTT ELLIS

BOARD OF COUNTY COMMISSIONERS

BREVARD COUNTY, FLORIDA

BY:

  
Rita Pritchett, Chair

As approved by the Board on April 10, 2018

Florida Today | Notice Public Hearing

AD#2820979, 3/29/2018 NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on April 10, 2018 at 5:00 p.m., in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL, 32940, will hold a public hearing on the following ordinance: ORDINANCE NO. 2018-\_\_\_ AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 35, ARTICLE II, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; SPECIFICALLY AMENDING SECTION 35-54(5) TO REDUCE EXPENDITURES OF REVENUES ON ADMINISTRATIVE EXPENSES; AMENDING SECTION 35-55 TO ADDRESS PERCENTAGES OF TIF PAYMENTS, COUNTY INCREMENT PAYMENTS AND CRA PAYMENTS AND ADDRESS EXPENDITURES; AMENDING SECTION 35-56 TO SHORTEN THE TERM; AMENDING SECTION 35-52 (8) TO LIMIT AUTHORIZATION TO INCUR INDEBTEDNESS. Interested parties may appear at the April 10, 2017 meeting and be heard with respect to the proposed ordinance. A copy of the ordinance may be inspected at the following locations: Office of Clerk to the Board of County Commissioners, Titusville, Florida North Brevard Library, Titusville, Florida Central Brevard Library, Cocoa, Florida Melbourne Library, Melbourne, Florida South Mainland Library, Micco, Florida A copy of the ordinance may also be viewed online at: <http://www.brevardcounty.us/CountyManager/DraftOrdinances>. Pursuant to Section 286.0105 Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will need to ensure that a verbatim record of the proceedings is made, at his or her own expense, which record includes the testimony and evidence upon which any such appeal is to be based. Such

person may provide a court reporter, stenographer, or a tape recorder for such verbatim record. In accordance with the Americans Disabilities Act, persons needing a special accommodation or an interpreter to participate in the proceedings, please notify the department sponsoring the meeting/hearing, or the County Manager's Office, (321) 633-2010, at least 48 hours in advance. TDD: 1-800-955-8771. Assisted Listening System receivers are available for the hearing impaired, & can be obtained from the Sound Technician at the meeting. This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Bright House Networks channel 499, Comcast Cable Communications channel 51 in North Brevard and channel 13 in South Brevard, and AT&T U-verse channel 99. SCGTV will also replay this meeting during the coming month. Check the SCGTV website for daily program updates <http://www.scgtv.org>.

**ORDINANCE NO. 2018-08**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 35, ARTICLE II, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; SPECIFICALLY AMENDING SECTION 35-54(5) TO REDUCE EXPENDITURES OF REVENUES ON ADMINISTRATIVE EXPENSES; AMENDING SECTION 35-55 TO ADDRESS PERCENTAGES OF TIF PAYMENTS, COUNTY INCREMENT PAYMENTS AND CRA PAYMENTS AND ADDRESS EXPENDITURES; AMENDING SECTION 35-56 TO SHORTEN THE TERM; AMENDING SECTION 35-52 (8) TO LIMIT AUTHORIZATION TO INCUR INDEBTEDNESS.**

**WHEREAS**, Florida law empowers municipalities and counties to create a Community Redevelopment Agency to improve blighted and slum areas within the community and to alleviate the conditions created by said areas; and

**WHEREAS**, the Board of County Commissioners (the COUNTY) authorized the creation of the West Melbourne/Brevard County Joint Community Redevelopment Agency (the CRA) by Ordinance Number 2011-28 on August 9, 2011; and

**WHEREAS**, the City of West Melbourne (the CITY) subsequently created the CRA pursuant to CITY Ordinance No. 2012-19; and

**WHEREAS**, pursuant to section 163.387, Florida Statutes, the CITY, the CRA and the COUNTY have entered an interlocal agreement in 2018 with the intent to alter the term of the CRA, the percentage authorized for administrative expenses, and the provisions on how tax increment funding (TIF) is allocated;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Brevard County, Florida as follows:

**Section 1.** Chapter 35, Article II, Section 35-54(5), Code of Ordinances of Brevard County, Florida is hereby amended as follows:

The city and the community redevelopment agency shall not expend in any one community redevelopment agency fiscal year more than 5 percent of the total CITY

and COUNTY tax increment revenues raised pursuant to F.S. § 163.387, on administrative expenses. For the purpose of this condition, the term "administrative expenses" includes personnel costs (i.e., salary and fringe benefits) of community redevelopment agency staff, office equipment and supplies, operating overhead (office space, electricity, and utilities for office), postage, printing, or copying charges, travel costs, seminar costs, and similar direct expenses of the community redevelopment agency. Allocation of costs, in a community redevelopment agency construction or consultant contract for administrative costs of the contractor, or from the city's general funds would not be included within the 5 percent cap.

Section 2. Section 35-55, Tax Increment Financing Trust Fund, Code of Ordinances of Brevard County, Florida is hereby is amended to read as follows:

Subject to the COUNTY CRA payment expiration provision in Section 35-56, The West Melbourne Joint Community Redevelopment Agency's Tax Increment Financing Trust Fund shall be provided by both the city and county in accordance with F.S. ch. 163.387(1)(a), in every fiscal year between FY 2017-2018 and FY 2037-2038, provided, the amount of the COUNTY TIF payment shall in no event exceed the amount of TIF payment contributed to the CRA by the CITY. This provision shall not operate to reduce the COUNTY TIF payment below 50% of the COUNTY increment as determined by section 163.387(1)(a), Florida Statutes. Each year, the COUNTY shall set aside funds in the amount of the difference, if any, between: (1) the COUNTY increment as determined pursuant to section 163.387(1)(a), Florida Statutes; and (2) the actual COUNTY TIF contribution to the CRA. The COUNTY shall expend such funds solely and exclusively on the maintenance, construction, reconstruction, lighting of, and/or capacity improvements to, COUNTY roads located anywhere within the municipal limits of the City of West Melbourne. Provided further, that in no event shall the COUNTY continue to pay a tax increment into the CRA TIF after September 30, 2038.

Section 4. Section 35-56, Term, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

The CRA shall expire on September 30, 2038. In accordance with section 163.387(3)(b), Florida Statutes, notwithstanding any provision in section 163.387, Florida Statutes to the contrary, after September 30, 2038, the COUNTY shall no longer be required to contribute a tax increment of any amount to the CRA TIF.

Section 5. Section 35-52 (8), Delegation of Powers, Code of Ordinances of Brevard County, Florida is hereby is amended to read as follows:

The power to authorize the issuance of, and the power to issue, redevelopment revenue bonds, all set forth in F.S. § 163.385, except the CITY and CRA may not incur indebtedness pledging COUNTY tax increment funds as a source of repayment unless the proceeds of the debt are designated for use in a project described in paragraph 4 of the 2018 Interlocal Agreement between the CITY, CRA and COUNTY. The maturity date for any existing or future CRA or CITY indebtedness for which COUNTY tax increment funds have been pledged as a source of repayment, unless consented to by the COUNTY, shall not extend beyond a period of 15 years from the date of issuance or June 19, 2038, whichever comes first.

Section 6. Authority. Nothing in Ordinance No. 2011-28, this Ordinance or any interlocal agreement agreed to by the COUNTY shall be interpreted as modifying the authority of the Board of County Commissioners (hereinafter the "Board") to either revoke its delegation of authority or to designate themselves as the redevelopment agency at any time the Board deems that is necessary for the protection of the health, safety, welfare or fiscal interests of the public or the redevelopment area. Notwithstanding the foregoing, no such revocation of the delegation of authority to the municipality and no such designation by the Board as the CRA shall: 1) impair any contract made by the CRA prior to the time when the Board shall have exercised or taken such action, or 2) affect the obligation of the CRA (or of the Board, if it designates itself as the CRA) to raise revenues through increment tax financing or other charges in the amounts necessary to comply with the CRA's obligations in respect of any outstanding bonds or other evidences of indebtedness; or 3) affect the obligation of the CRA for the Board, if it designates itself as the CRA) under any outstanding bond, bond anticipation note, tax anticipation note, or other evidence of indebtedness. In the event that the Board revokes its delegation of authority or otherwise designates itself as the CRA, the Board shall take all necessary or appropriate action to protect the interest of any holders of bonds issued by the CRA. At any time that the City's CRA shall request, the Board will consider the adoption of such resolutions as may be necessary from time to time for the CRA to issue bonds or other evidences of indebtedness.

Section 8. Severability. In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

Section 9. Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict herewith are hereby repealed.

Section 10. Effective Date. This ordinance shall take effect immediately upon its adoption and filing as provided by law. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

Adopted by the Brevard County Board of County Commissioners during regular session on the 10 day of April, 2018.

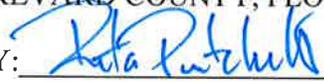
ATTEST:



  
Clerk - SCOTT ELLIS

BOARD OF COUNTY COMMISSIONERS

BREVARD COUNTY, FLORIDA

BY:   
Rita Pritchett, Chair

As approved by the Board on April 10, 2018