

Meeting Date
March 21, 2017



AGENDA	
Section	Unfinished Business
Item No.	V. B.

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Request guidance on FEMA Decision to not Fund Collection of Private Roads, authorize staff to return to the Board with Legislative intent and authorize staff to send a letter.
DEPT/OFFICE:	Solid Waste Management Department

Requested Action:

It is requested that the Board give guidance on the possibility of appealing FEMA's decision to not fund the collection of hurricane debris on private roads, authorize staff to return to the Board with a legislative intent to change the Solid Waste Code and authorize staff to send a letter to appropriate federal officials.

Summary Explanation & Background:

The Solid Waste Department activated disaster debris removal contracts for the collection of hurricane debris after the passage of Hurricane Matthew. The collection was conducted on public as well as private road right of ways throughout the unincorporated county as well as within those cities that activated an interlocal agreement for the removal of hurricane debris. On March 6, 2007 the Board directed the department to continue to provide emergency collection of debris on public as well as private roads with the understanding that FEMA may not contribute financially for these collections. In the past FEMA has paid for the collection of private roads with the documentation that had been provided to them to justify the same.

According to correspondence from FEMA, debris removal from private roads is not eligible for FEMA reimbursement as it is the responsibility of the individual property owner and not the local jurisdiction. However, in limited circumstances, when debris on private property is so widespread that threatens public health and safety or the economic recovery of the community, debris removal from private property may be eligible for reimbursement if the program's legal requirements are also met.

Brevard County requested federal cost share reimbursement under the Stafford Act, 42 U .S.C. 5121 et seq., 44 CFR 206.222, through the State Coordinating Officer, for the removal of residential debris resulting from Hurricane Matthew from right of ways on private roads in Brevard County. We provided FEMA with the official determination made by the Public Health Officer that disaster-generated debris in these designated areas constituted an immediate threat to life, public health, or safety, or to the economic recovery of the community at large; and documented that the Board had the legal authority and responsibility to remove the debris from these areas through various state law, county ordinances and emergency powers. However, FEMA determined that the County did not provide adequate proof that it had the authority to conduct debris removal from private roads and the request was denied.

The State has indicated that we could appeal the decision. The County Attorney has determined that the decision to appeal the denial should be made by the Board. We have been informed that the appeal must be made by the first week in April, and that the following information must be submitted to support the request:

1. Private property address
2. A photo of the debris at each address
3. The cubic yard calculation collected at each address
4. The location of final disposal for each address

Clerk to the Board Instructions:

Exhibits Attached: Agenda Report Dated March 6, 2007 with Clerk's memo

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension
Stockton Whitten 	Assistant County Manager	Euripides Rodriguez 

Continued:

Agenda – FEMA Appeal of Private Roads Decision

It is our opinion that it is not possible for the County to provide this level of detail (photos are not possible after the fact nor is an estimation of debris on each address) after the collection has already been made.

The Board could authorize staff to come back to the Board with legislative intent to draft an ordinance that would address the reasons for the rejection of this type of debris removal for future storm events. According to FEMA, Brevard County did not have the authority to collect the hurricane debris as the County's Emergency Ordinance was put in place after the storm hit and the solid waste disposal ordinances are part of our "uniform level of services and not a justification for entering private property to remove disaster-related debris."

The County Attorney also suggested that the Board authorize staff to send a letter to appropriate federal officials (copy to the White House) regarding the factual circumstances of FEMA's rejection of this cost and the unreasonable regulations.

Fiscal Impact:

It is estimated that with this action \$359,930.22 of the \$11,326,572.18 collection cost will not be reimbursable from FEMA for debris collected from private roads.



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

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

March 22, 2017

MEMORANDUM

TO: Euripides Rodriguez, Solid Waste Director

RE: Item V.B, Board Direction for Federal Emergency Management Agency (FEMA) Decision to Not Fund Collection of Private Roads; Authorize Staff to Return to the Board with Legislative Intent; and Authorize Staff to Send Letter

The Board of County Commissioners, in regular session on March 21, 2017, approved appealing FEMA's decision to not fund the collection of hurricane debris on private roads; directed staff to return to the Board with Legislative Intent to draft an ordinance addressing the reasons for the rejection of this type of debris removal for future storm events; and authorized you to send a letter to appropriate Federal Officials regarding factual circumstances of FEMA's rejection of this cost and the unreasonable regulations.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for Donna Scott
for Tammy Rowe, Deputy Clerk

/cmw

cc: Interim County Manager Abbate
County Attorney
Finance
Budget

MAR 15 2007



TAMARA J. RICARD, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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

March 7, 2007

MEMORANDUM

TO: Euripides Rodriguez, Solid Waste Management Director

RE: Item VIII.A.4., Staff Direction for Collection of Debris from Private Roads During
Emergency Conditions

The Board of County Commissioners, in regular session on March 6, 2007, approved Option 1, to continue to collect all debris from streets that receive normal collection services during non-emergency situations.

Your continued cooperation is always appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tamara Ricard, Deputy Clerk

/jj

Meeting Date
03/06/07



AGENDA	
Section	New Business
Item No.	

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT: Request direction from the Board of County Commissioners regarding the collection of debris from private roads during emergency conditions.

DEPT. / OFFICE: Solid Waste Management Department; Euripides Rodriguez, Director; 633-2042

Requested Action:
 It is requested that the Board of County Commissioners provide direction to the Solid Waste Management Department regarding the collection of debris from private roads.

Summary Explanation & Background:
 During emergency situations, such as hurricanes, the Solid Waste Management Department is tasked with coordinating and funding the collection of debris generated by the event. In a declared emergency, FEMA pays 75% of the cost, the state pays 12.5%, and the remaining 12.5 % is paid by the local jurisdiction. FEMA has ruled that collection efforts on private roads will not be considered an eligible cost; and FEMA will not reimburse the local jurisdiction for this cost. This rule specifically relates to collection of debris from public right-of-ways.

Brevard County has the responsibility for collection of garbage, yard waste, and recycling during non-emergency conditions for all citizens in the unincorporated areas of the County. This includes private roads that are able to sustain the traffic of heavy vehicles, as well as public roads. During prior emergency events, the Department has collected all debris regardless of the type of road on which the debris is located. This was done for two main reasons: 1. The citizens pay for the normal collection. 2. The local share portion has been paid by all properties in the unincorporated areas of the County.

The Department is seeking direction from the Board on how the Department should proceed in the future. The two alternatives are listed below:

1. Continue to collect all debris from streets that receive normal collection services during non-emergency situations.
2. Collect debris only from those streets that are eligible by FEMA guidelines (private roads are excluded from collection).

Individual municipalities will provide guidance to the Department as they activate their interlocal agreements on an individual disaster event.

Fiscal Impact:
 The financial impact will change according to the intensity of the disaster event, as well as the area impacted. For example, the fiscal impact of the 2004 Hurricanes was \$472,861.00, while the impact for the 2005 Hurricane was \$0.

Vision Statement:
 Providing for the health, education and social needs of our citizens.

Exhibits Attached:

Contract /Agreement (If attached): Reviewed by County Attorney		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
County Manager's Office Peggy Busacca, County Manager		Department: Solid Waste Management Department Euripides Rodriguez, Director	