



AGENDA REPORT
April 24, 2018

SUBJECT:

Jetty Park Board Discussion

DEPT/OFFICE:

District 3

REQUESTED ACTION:

Board discussion of options regarding Jetty Park.

SUMMARY EXPLANATION and BACKGROUND:

The County currently owns approximately 9.6 acres within Jetty Park, located in Port Canaveral. A portion of this property was acquired through the County's power of eminent domain. The total acquisition costs of the property is estimated to have been approximately \$862,950.

The Port's lease of this County property expired on December 31, 2015. Since this time, the County has allowed the Port to continue its activities as hold-over tenants.

On March 9th, 2018, County Manager Frank Abbate sent a letter to the Port CEO, Captain John Murray. In this letter, Mr. Abbate reiterated a potential compromise on behalf of the County to sell this property to the Port for only its costs of acquisition. Mr. Abbate requested that the Port reply to his letter by the first week of April.

The Port has not provided a written reply to this offer of compromise.

It is requested that the Board discuss its options in order to protect taxpayer interests moving forward.

ATTACHMENTS:

Description

- **Letter**



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April 25, 2018

M E M O R A N D U M

TO: Commissioner John Tobia, District 3

RE: Item V.C., Jetty Park Board Discussion

The Board of County Commissioners, in regular session on April 24, 2018, directed the County Attorney's Office to bring back options to the Board to begin taking corrective actions to secure taxpayers interest in the property at Jetty Park; and directed the County Manager to provide the hold-over tenant notice of this direction.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe, Deputy Clerk

cc: County Attorney
County Manager



BOARD OF COUNTY COMMISSIONERS

County Manager's Office
2725 Judge Fran Jamieson Way
Building C, Room 301
Viera, Florida 32940

March 9, 2018

Captain John Murray, Port Director/CEO
Canaveral Port Authority
445 Challenger Road, Suite 301
Cape Canaveral, FL 32920

Dear Captain Murray:

I'd like to take this opportunity to respond to your February 16, 2018 letter and the subsequent comments made by our respective elected officials by specifically addressing the valuation issue.

As I'm confident that you are aware, in regard to the Port's expired lease of the County's 9.6 acres of Jetty Park, there are multiple County Commissioners who do not favor a lease for nominal consideration. For that reason, since the property was purchased with Beach and Riverfront bond funds, I continue to offer a compromise to the Port by asking for the amount the County spent to acquire the property—which is roughly one-third of the land value that it has with access. I also proposed to reinvest those funds in beach improvements that would benefit Brevard taxpayers and visitors.

As to the valuation issue, I would like to point out the County's position. The County would take the position that the property has a value, at a minimum, of the amount the County paid for the property. Moreover, under the compatible use doctrine, the County has always had the power to condemn an access easement over existing Port roads servicing Jetty Park to the benefit of the County's portion (9.6 acres of Jetty Park). Should the Port attempt to prevent access to Jetty Park over Port roads, it is reasonably probable that the County would acquire access using its eminent domain powers. In those circumstances, the fair market value of the property is at least 12 times higher than the fair market value of the property without access. I trust that you concur that the aforementioned course of action would not be in the best interest of the Port, the County or our citizens.

That being said, I strongly believe the best way to resolve the issue would be for the Port Commissioners to be provided the opportunity to consider the compromise proposal I submitted which for the present remains on the table. As an aside, in reference to the Port's preference for a nominal lease, under Sec. 2-247 of the County Code of Ordinances entitled Non-competitive lease or sale of county property, a supermajority vote of the Commission would be required. I hope we both can agree that is not a viable option.

The Board of County Commissioners has remained steadfast in its focus to prioritize infrastructure improvements within the financial resources available to the Board. Recovering taxpayer investments for the property in question allows the Board to fund needed infrastructure

improvements in our beach and riverfront communities. The Port, which continues to thrive thanks to the vision and efforts of Port Commissioners and staff, will not only benefit from these improvements but will further achieve the goal of not utilizing taxpayer funds to enhance Port improvements and expansion. It would also be consistent with the Port's vision to provide additional recreational opportunities for our community to enjoy without the need for additional taxpayer funds. In the end, we share these common interests that hopefully will result in a win-win outcome.

In closing, the current offer provides for the transfer of the County's 9.61 acres of County property adjacent to and directly south of Jetty Park for the County's acquisition costs, \$862,950.00. I remain confident that as part of this transaction, the Board will reinvest the reimbursement of these Beach and Riverfront dollars in needed beach infrastructure improvements benefitting County residents and visitors. This resolution would demonstrate we are good partners working together looking after what's best for our taxpayers and visitors. I look forward to your thoughtful consideration and to working with you toward a timely and amicable resolution. Toward that end, I respectfully request a reply by the first week of April.

Best Regards,



Frank Abbate
County Manager

cc: Port Canaveral Commissioners:
Commissioner Wayne Justice, Chairman
Commissioner Micah Loyd, Vice Chairman
Commissioner Thomas Weinberg, Secretary/Treasurer
Commissioner Jerry Allender
Commissioner Bob Harvey

Brevard County Board of County Commissioners
Commissioner Rita Pritchett, Chair
Commissioner Kristine Isnardi, Vice-Chair
Commissioner Jim Barfield
Commissioner John Tobia
Commissioner Curt Smith

Harold Bistline, Council to Canaveral Port Authority Board
Scott Knox, County Attorney