

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 February 3, 2015 at in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Robin Fisher	Chairman/Commissioner District 1	Present	
Jim Barfield	Vice Chairman/Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Andy Anderson	Commissioner District 5	Present	

INVOCATION

The invocation was provided by Pastor Matt Stallbaum, East Coast Christian Center, Merritt Island.

PLEDGE OF ALLEGIANCE

Commissioner Smith led the assembly in the Pledge of Allegiance.

APPROVAL OF MINUTES

The Board approved the December 9, 2014 and January 6, 2015 Regular meeting minutes.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM I.A., RESOLUTION, RE: RECOGNIZING FEBRUARY 2015 AS BLACK HISTORY MONTH IN BREVARD COUNTY

Commissioner Fisher read aloud, and the Board adopted, Resolution No. 15-008, recognizing February 2015 as Black History month in Brevard County.

Willy Smith, Central Brevard Branch of the NAACP, stated this is a historic day, and it is a stepping stone to helping to bridge disparities that exists in the communities.

William Garry, North Brevard Branch of the NAACP, stated he is privileged and proud to be present this morning to accept this Resolution on behalf of all branches and all citizens of Brevard County as they celebrate the contributions of African Americans in the great United States.

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James Minus, President of South Brevard Branch of the NAACP, expressed his appreciation to the Board for the Resolution; and he stated he appreciates the Board celebrating the spirit of this season.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM I.B., RESOLUTION, RE: RECOGNIZING THE CENTRAL FLORIDA MOMMY'S CLUB

Commissioner Anderson read aloud, and the Board adopted, Resolution No. 15-009, recognizing the Central Florida Mommy's Club.

Vanessa Scott expressed appreciation to the Board for the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM I.C., RESOLUTION, RE: RECOGNIZING THE BREVARD COUNTY SCHOOL CROSSING GUARDS

Commissioner Smith read aloud, and the Board adopted, Resolution 15-010, recognizing the Brevard County School Crossing Guards.

A representative of the School Crossing Guards expressed her appreciation to the Board for letting her serve the children of Brevard County; and she stated it is a wonderful job.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Vice Chairman/Commissioner District 2
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM I.D., RESOLUTION, RE: SUPPORTING THE REQUEST OF THE CITY OF WEST MELBOURNE FOR A STATE LEGISLATIVE APPROPRIATION TO FUND A PORTION OF WEST MELBOURNE COMMUNITY PARK IMPROVEMENTS - FIELD OF DREAMS PARK

The Board adopted Resolution No. 15-011, supporting the request of the City of West Melbourne for a State Legislative Appropriation to fund a portion of West Melbourne community improvements - Field of Dreams.

Mayor Hal Rose, City of West Melbourne, expressed his appreciation to the Board for the Resolution.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Anderson, Commissioner District 5
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Barfield, Infantini, Smith, Anderson

ITEM I.E., RESOLUTION, RE: EMERGENCY OPERATIONS CENTER AND COMMUNICATIONS CENTER

Commissioner Barfield read aloud, and the Board adopted, Resolution No. 15-012, requesting the Legislators to recognize the significance of this County, and the private and public assets within its borders, to the State and Nation, and to identify funding with which to construct a facility that would enhance local and regional public safety, as well as national security, for a new Emergency Operations Center and Communications Center.

Kimberly Prosser, Emergency Management Director, expressed her appreciation to the Board for its support regarding public safety; and she stated the Sheriff's Office, Fire Rescue, and all of the other partners appreciate it as well.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Jim Barfield, Vice Chairman/Commissioner District 2
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Fisher, Barfield, Infantini, Smith, Anderson

ITEM II.A.1., RESOLUTION AND RELEASE PERFORMANCE BOND, RE: STROM PARK PHASE 2

The Board adopted Resolution No. 15-013, authorizing the release of the Contract and Surety Performance Bond with The Viera Company dated August 5, 2014, for Strom Park, Phase 2.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Trudie Infantini, Commissioner District 3
SECONDER: Andy Anderson, Commissioner District 5
AYES: Fisher, Barfield, Infantini, Smith, Anderson

ITEM II.A.2., RESOLUTION AND RELEASE PERFORMANCE BOND, RE: STROM PARK, PHASE 2A

The Board adopted Resolution No. 15-014, releasing Contract and Surety Performance Bond with The Viera Company dated December 9, 2014, for Strom Park, Phase 2A.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Trudie Infantini, Commissioner District 3
SECONDER: Andy Anderson, Commissioner District 5
AYES: Fisher, Barfield, Infantini, Smith, Anderson

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ITEM II.A.3., TERMINATION OF LEASE AGREEMENT WITH HARMONY FARMS, INC., RE: PROPERTY LOCATED ON SOUTH CENTRAL WASTEWATER TREATMENT PLANT SITE, PARCEL ID: 26-36-18-00-00004.0-0000.00

The Board authorized the Chairman to sign a Letter terminating the Lease with Harmony Farms, Inc.; and said termination will be effective upon receipt of written consent to termination/waiver of notice from Harmony Farms, Inc., or 30 days, whichever is earlier.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM II.C.1., APPROVAL, RE: BUDGET CHANGE REQUESTS

The Board approved the Budget Change Requests, as submitted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM II.D.1., APPROVAL, RE: WRITE-OFF UNCOLLECTIBLE EMERGENCY MEDICAL SERVICES (EMS) ACCOUNTS RECEIVABLE FY 13/14

The Board approved request to write-off FY 2013-2014 uncollectible accounts receivable for Appropriate Accounts for a Financial Write-Off in the amount of \$6,597,599.98; and Medicare/Medicaid/Champus Contractual Write-Off in the amount of \$6,455,806.58.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM II.D.2., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS

The Board appointed/reappointed **Jim Clevenger** to the Contractors' Licensing Board, with term expiring December 31, 2015; **Bill Klein** to the Community Action Board, with term expiring December 31, 2015; **Rick Bauer** to the EEL Program Recreation and Education Advisory Committee, with term expiring December 31, 2015; and **Monique Miller** to the Zoning Board of Adjustment, with term expiring December 31, 2015.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM III., PUBLIC COMMENTS

Pamela LaSalle stated she is an animal welfare advocate; and she is interested in the quality of their lives. She pointed out there is a movement to keep animals alive; she does not like their slogan they live by; the guidelines presented to her by animal care centers states that animals can only be surrendered Monday through Friday from 11:00 a.m. until 12:00 p.m., and an appointment has to be made to do that; and that is also for the owner to request to euthanize the animal, which they are charged \$50. She stated they should not be able to charge for that; and she does not want people who have an animal who is suffering to keep it because they cannot afford the \$50. She added, the Board does control the Ordinances. She went on to say along the lines of animal welfare, she does not think the feral cat Policy in the County is the correct one to take; it is very inhumane; and it is unsafe for the animals and to humans due to the many diseases the colonies cause. She stated the Feral Cat Ordinance was not given a fair chance last time; she is not sure it was ever finished when it came up a few years ago; she thinks it was sent back to the Animal Advisory Board (AAB), which has been dissolved; and she asked the Board to consider changing the Feral Cat Ordinance.

ITEM IV.A., RESOLUTION, RE: PETITION TO VACATE PART OF A PUBLIC UTILITY AND DRAINAGE EASEMENT - WEST AVENUE AND ARON STREET - PORT ST. JOHN UNIT ONE - KEERTHI KRISHNA, LLC

Chairman Fisher called for a public hearing to consider a resolution vacating part of a Public Utility and Drainage Easement in Port St. John Unit One.

There being no comments or objections, the Board adopted Resolution No. 15-015, vacating part of a Public Utility and Drainage Easement on West Avenue and Aron Street, Port St. John Unit One, as petitioned by Keerthi Krishna, LLC.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B., PUBLIC HEARING, RE: TRANSMITTAL OF COMPREHENSIVE PLAN PACKAGE 2015 - 1 PLAN AMENDMENTS

Chairman Fisher called for a public hearing to consider transmittal of Comprehensive Plan Package 2015 - 1 Plan Amendments.

Robin Sobrino, Planning and Development Director, stated this Item is the first Comprehensive Plan Transmittal Package for 2015; it consists of two applications; the first one is in the name of Matthews Development, and it requests a text amendment to changing that in the Transportation Element to allow for an additional limited access driveway cut to the Pineda Causeway, just before the Pineda Extension; and the second amendment is in the name of

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George and Barbara Ogle, and it is a request to change the Future Land Use Map (FLUM) on Merritt Island for this 20-acre parcel from Residential 1 to two and one-half to Residential 1.

Gordon Nelson, member of Pineda Presbyterian Church, stated Pineda Presbyterian Church has 15 acres of land on the west side of Wickham Road, diagonally across from the parcel that is under discussion; their parcel, plus the 4.6 acres of the Zeppieri's on the corner makes the 20-acre parcel; interestingly they received no notice of this hearing; they support the ability of a property owner to appropriately utilize their property; but the issues of safe access, traffic needs, and perhaps of particular concern on the northeast corner may not be readily resolved. He went on to say they hope that today's action will also begin a process which will allow resolution of access issues on the Pineda Causeway, immediately west of Wickham Road; collective action by the County and The Viera Company have so far precluded access for responsible commercial development on the 20 acres; and that use would add significantly to the tax rolls. He stated they look forward to a conversation with each Commissioner on the history, the issues, and how the County can advance access and thus development along the Pineda Causeway, just west of Wickham Road.

Commissioner Infantini inquired if he is looking to have right in, right out access using the Pineda Causeway Extension onto that 20 acres. Mr. Nelson replied affirmatively, and they have a letter from the County which grants a median cut of 800 feet from the traffic light, west of Wickham Road; and he stated they are currently in the position, because of the interaction of the County and The Viera Company, of being denied access. Commissioner Infantini inquired if they would be willing to put in a deceleration lane so that if a person were on the Pineda Extension heading west, he or she would be able to pull over into a deceleration lane to access the property. Mr. Nelson responded affirmatively.

Commissioner Smith inquired if Mr. Nelson would explain the 40-foot restriction that is causing everyone the heartburn. Mr. Nelson explained when the Pineda Causeway routing was finally chosen, however it happened, between as one looks south from their property, the County owns 100 feet in between the County land and the road, and there is a 40-foot control strip that was retained by The Viera Company; and it is the inability to cross that control strip that prohibits their development.

Stockton Whitten, County Manager, pointed out Mr. Nelson's comments does not affect what the Board is reviewing today.

John Denninghoff, Public Works Director, stated when the Pineda Causeway was being realigned and extended, one of the principle purposes of it was to provide additional capacity and access to I-95 from Wickham Road; the idea was to maximize that capacity, thus drawing traffic off of Wickham Road and U.S. Highway 1; side friction is what is commonly referred to as the effect of driveways that are on roads that causes the slowdown of the traffic that utilizes those roads; and the driveways provide access to the adjacent properties, which is an important aspect of all roads. He went on to say in the case of Pineda Causeway, the desire by The Viera Company and A. Duda and Sons, who provided the right-of-way for the extension of Pineda Causeway, west of Wickham Road, was to maximize that capacity as well; the reasons they had for that was that to the degree this road was suitable for a lot of traffic coming off of Wickham Road, which was a desirable thing for the purposes of their development of Regional Impact; and it maximized the benefit of the Pineda Extension and provided additional capacity for their development. He noted as a result of that they did retain a strip of property along the north side of the first 1,000 feet or so of the Pineda Extension, west of Wickham Road; they did provide an easement to the County to be able to utilize that for public transportation purposes for the road if needed, and it did for purposes of retention areas and flood plain compensation; and right at Wickham Road, staff put part of the roadway on a portion of that easement area. He advised the Board subsequent to the construction of the road, or as they were approaching construction

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of the widening to four lane the road, the Pineda Presbyterian Church approached The Viera Company as well as the Board and asked for the ability to be able to put a driveway on the Pineda Extension; The Viera Company indicated they would grant an easement across that for the church for church purposes; the County agreed to allow a driveway for church purposes onto the Pineda Extension; the reason the church purposes was limited was that church purposes typically do not have much in the way of traffic during peak hour traffic times when the congestion on the roadway is the highest; and church purposes would not interfere with the desired effect of the road, which would be to maximize the capacity. He noted that was something that was acceptable to A. Duda and Sons and The Viera Company, as well as the Board; thus, the drawing the Board has before it today is part of the Comprehensive Plan Amendment, currently shows a driveway location for the Pineda Presbyterian Church on that map; they have the ability to do that today if they come up with a plan that will allow the connection from an engineering and safety perspective; what they do not have is the ability to join up with the Zeppieri parcel or to sell their property for commercial purposes and still have that driveway connection; and the reason for that is the commercial purposes would have a conflict in the terms of when the traffic would take place as compared to a church. He pointed out that is the limitation; the Church can still use their property for church proposes; The Viera Company would still have to formally issue an easement, as that was never done; and the County would have to review its plans and issue a permit for that purpose. He noted regarding the Zeppieri parcel, which is a little bit under five acres with frontage on Wickham Road just as it had before the Pineda Causeway was extended, they still have the same access on to Wickham Road they had the entire time; what they do not have is access onto the Pineda Causeway because they do not have frontage on Pineda Causeway; and that is owned by The Viera Company. He stated if The Viera Company wants to allow that they can, and it may end up being a Comprehensive Plan Amendment which would come before the Board. He advised the Board the Item before it today is on the northeast corner of the intersection of the new Pineda Extension and Wickham Road; and the difference here is there is no strip to be dealt with, the proposal the developer is making is to provide a right turn lane and right-of-way necessary that will then allow a better free flow of traffic on the realignment portion of the Pineda Causeway, and counter the negative effect of any driveway they would put on Pineda Causeway; and it is a balancing effect. He noted that is the difference between the request before the Board today and the comment heard about the Pineda Presbyterian Church.

Commissioner Smith inquired if the primary difference between the property in question here which is on the east side of Wickham Road and the one on the west side of Wickham Road, they both have Pineda Causeway on their sides and both would like access, because one has the The Viera Company standing in their way, so that big parcel is not garnering any taxes for the County simply because of the 40-foot strip. Mr. Denninghoff replied the strip is a major factor that is opposing that; he stated in addition to The Viera Company and A. Duda and Sons giving the okay for something other than a church is the Board would need to decide the benefits of that driveway would outweigh the negative effect of that driveway based on whatever the use of the property is going to be; and he does not know of the way for them to reasonably be able to provide improvements to the transportation network in place today that would offset the negative impact of their driveway if it was not for church purposes. He noted on the east side they did have a way to provide a counter-balancing effect to their negative impact; they had the ability to provide that right turn lane, they owned the property to build the right turn lane on; and they are building up the infrastructure the public has to use in return for having access they previously did not have a right to. He noted he has spoken to various representatives of the properties or potential developers over the years, and he always told them if they could propose something, get creative juices going to come up with a proposal that would provide some improvements that would counter the negative impacts of having that driveway for something other than church purposes, the County would be open and receptive to evaluating that; and if staff could see it balanced it out or made it better, they would be enthusiastically supportive of it.

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Commissioner Smith inquired if the owners of that property on the west side had their folks sit down with Mr. Denninghoff's folks, and they would come out with some meeting of the minds that would make the County happy as far as traffic, the only hurdle left would be The Viera Company and A. Duda and Sons strip. Mr. Denninghoff replied affirmatively, but they would also have to come before the Board to make a Comprehensive Plan Amendment as well.

Chairman Fisher inquired if there is a residential subdivision to the north of that property in question. Mr. Denninghoff responded on the west side, north of the church property, is Windsor Estates. Chairman Fisher inquired if part of this reason for the strip The Viera Company had a concern was that housing development dropping out on Pineda Causeway that way. Mr. Denninghoff responded he believes that is part of it; the bottom line is they did not want a large amount of traffic coming out on the Pineda Causeway beyond what they had already agreed to, which was part of the development that surrounds the Pineda Causeway right now.

Commissioner Smith stated he heard Home Depot wanted to put their business there; and they chose a different spot because they did not want to go through the hassle. He stated if this in fact the case, there is a big parcel of land that people want to sell the property, and they cannot because of the 40-foot strip. He went on to say the problem with the traffic can probably be overcome by thinking outside the box.

There being no further comments, the Board approved Comprehensive Plan Amendment 2015 - 1.1, a proposal initiated by Matthew Development LLC, to amend Part IX, the Transportation Element to amend Policy 3.8, Map 2A, to permit a limited access driveway on the Pineda Causeway to a parcel of land located on the northeast corner of the Pineda Causeway and Wickham Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

Kim Rezanka, Attorney with Dean Mead, representing George and Barbara Ogle, stated the owners have 20.63 acres of property in North Merritt Island at Church Road and North Tropical Trail; the Ogle's have owned this property since 1976; in 1978 they purchased it as a retirement investment; and in 2005 they decided it was time to move forward and sell the property. She went on to say they had a contract with a developer to develop houses in that 20.63 acres that came before the Board for a rezoning; they already had Residential 2; and they were asking to change the AU zoning to allow 18 units, but it turned out to be 14 units. She advised they were approved in 2006 by the Board after having been tabled five times due to the Small Area Study in the North Tropical Trail area; they were approved for RR-1 zoning and the Binding Development Plan limiting the 21 acres to 14 units; they did not realize that had changed until recently when they came to their office to see if they could get more than 14 units to the acre; and the Comprehensive Plan had been changed in 2009 based upon the Small Area Study that was adopted by the Board in September 2007. She pointed out the Small Area Study was adopted in 2007; when it was adopted, it did not have the proper zoning or recognize the Binding Development Plan had been put on this property; and from her perspective, it looks like they were just overlooked in the Small Area Study. She stated the Board relying on that Small Area Study adopted the Comprehensive Plan Amendment in 2009; her clients did not realize the Comprehensive Plan had been changed, because they had gone through six public hearings to get the Binding Development Plan and the change in zoning to 14 units; and now the Future Land Use is 1 to 2.5, and they are asking it to go to Residential 1. She noted the

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Ogle's just want what they thought they had, which was 14 units on the 20.63 acres. She advised the Board she has nothing to present to the Board today as everything is in its packet; and she explained what was included in the packet provided to the Board. She stated since 2005, 2006, and 2007, things have changed; the traffic has decreased on Tropical Trail; many improvements have been put in the North Tropical Trail area; they have put in the Pine Island reservoirs, and put in pumps; and they have addressed a lot of those flooding concerns. She went on to say this is just asking for the Comprehensive Plan Amendment to allow 14 units to the acre, to allow development to go forward; they still have to go through the site plan and platting; and there will be other opportunities for people to weigh in to make sure this development causes no problems. She noted this application was prompted because a request of interpretation in the zoning by her office to the County; the packet includes the letter from the Planning and Zoning Department dated October 17, 2004, to their office; it says no development can be approved on this land because the zoning and Binding Development Plan is inconsistent with the Future Land Use; and the Ogle's are not able to do much of anything until that issue is resolved. She stated they are asking to go from eight units to the acre to 14 units; it is only an increase of six units; they do not want the 20 referenced in the staff report; and all they are asking for is what the Ogle's thought they had when they got the Binding Development Plan. She pointed out the Ogle's intend to sell the property; they are ready to retire and move on; and all of that access issue will be discussed in the subdivision process. She stated the issues with the Local Planning Agency (LPA) was the North Merritt Island Special District Board was concerned that they did not have a chance to review this; Commissioner Barfield is going to address that; but there were no concerns about this issue other than flooding, which will be addressed. She asked the Board for its approval of an amendment to the Comprehensive Plan from 1 to 2.5 acres Residential 1.

Commissioner Barfield stated he reviewed everything with this case; there was a Binding Development Plan done, which is basically a contract between the County and the owners; and he does not think there is any objections.

There being no further comments, the Board approved Comprehensive Plan Amendment 2015 - 1.2, a proposal initiated by George and Barbara Ogle, Trustees, to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from Residential 1:2.5 to Residential 1 for approximately 20.63 acres on the north side of Church Street west of the intersection of North Courtenay Parkway.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Vice Chairman/Commissioner District 2
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

Commissioner Barfield stated the North Merritt Island Dependent Special District did not get a chance to review this; it is not required; but he thinks it is something they should do before it goes to a Comprehensive Plan.

Robin Sobrino, Planning and Development Director, stated the enabling Ordinance for the North Merritt Island Dependent Special District excludes Comprehensive Plan requests from being considered by the North Merritt Island group; that is in line with State Statute that requires that the only recommending body to the Commissioner to consider a Comprehensive Plan Amendment is the Local Planning Agency (LPA) because it must also have a member of the School Board; she believes what Commissioner Barfield is suggesting now is a more informal

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process that would go outside of the State Statute, like a courtesy review at that level; and he is taking this as perhaps legislative intent for staff to get that Ordinance changed.

Chairman Fisher advised the North Merritt Island Dependent Special District is an advisory board; it is not their decision; and they are a recommending body for rezoning applications.

Commissioner Barfield stated he wants to request staff to come back for legislative intent.

The Board directed staff to come back to the Board with legislative intent regarding involving the North Merritt Island Dependent Special District the ability to review Comprehensive Plan changes in the future before coming before the Board for its consideration.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Vice Chairman/Commissioner District 2
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM VI.F.2., DISCUSSION, RE: INDIAN RIVER LAGOON NATIONAL ESTUARY PROGRAM INTERLOCAL AGREEMENT

Commissioner Smith stated this involves the Indian River Lagoon National Estuary Program Interlocal Agreement; the background of this is that the National Estuary Program is part of a national network of 28 estuary programs established by the Federal Clean Air and Water Act and administered by the United States Environmental Protection Agency; it was designated in 1990, and formally established in 1991; and the structure fund policy and procedures of St. Johns River Water Management District (SJRWMD) has limited the ability of the Indian River Lagoon National Estuary Program to accept gifts, aid, or bequest, and to advocate for the Lagoon. He went on to say the SJRWMD is handcuffed from doing much for the Indian River Lagoon; this Interlocal Agreement is designed to free up and create a new board that would have the ability to raise funds and legislate for the purpose of cleaning up the Lagoon; the attached proposed interlocal agreement which sets to create a new independent organization responsible for the Indian River Lagoon National Estuary Program was drafted; this draft was approved by the Indian River Lagoon National Estuary Program advisory board on December 15th, which he was part of. He stated during that approval process, the advisory board went through the agreement section by section and approved each section unanimously, with the exception of continued opposition by Indian River County's representative. He advised if established, this board will be responsible for drafting bylaws of budget, soliciting further funding for the Indian River Lagoon projects, and administering funding for projects throughout the five county region; there is a \$50,000 annual contribution per county mandated for membership on the new board; once this board is established, then there would be contributions of \$500,000 from both SJRWMD and the South Florida Water Management District, as well as \$250,000 from Florida Department of Environmental Protection; the United States Environmental Protection Agency has also personally funded the National Estuary Program at about \$500,000 annually; they were present at the December 15th advisory board meeting; and they also expressed interest in further supporting this endeavor. He noted these folks were charged in putting this interlocal agreement for the purpose of getting the ball moving to clean up the Indian River Lagoon; there has been a lot of talk for a lot of years about cleaning up the Lagoon; he has lived on the Indian River Lagoon for about 28 years; he has seen it constantly decay and degrade; and this group has decided it is time to take the bull by the horns and get something done.

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Cristina Berrios, Assistant County Attorney, stated she was the representative for the County Attorney's Office at the meeting for the Indian River Lagoon advisory board; she started in this process in November at the meeting of the design team, which was a sub-committee which was established by the advisory board to come up with the actual draft of the agreement; present today is a representative hired by the South Florida Management District to put together all of the different drafts and opinions associated with the agreement; and also present is a representative of the SJRWMD. She went on to say effectively the reason behind the agreement was to try to get an organization that was running and ready to solicit funding from the State, because the legislative session has begun and there is money to be gained to help clean up the Lagoon; the agreement establishes an organization that would serve as the National Estuary Program (NEP) sponsor; and that organization would then establish itself with more structure, bylaws, the budget, and all of those other items that would be coming forward.

Chairman Fisher inquired why the Indian River Council rejected the agreement. Ms. Berrios replied the Indian River Lagoon County Council was against the process that the agreement went into; their representative was the only one out of the eight entities to stand in opposition to the agreement; she believes there was a difference in vision; they wanted the Indian River Lagoon IOA to establish the organization as a whole from how the budget was going to be run, to the bylaws, and everything in the actual interlocal agreement; and the other entities wanted to establish an organization that could with their guidance establish those things after the fact. She pointed out Indian River County wanted to have a more binding IOA in terms of how the entity was to be run.

Commissioner Smith stated from his perspective Indian River County was more interested in the process of how this was going to work rather than to get the ball rolling; they were also concerned about representation; they did not want anyone else to have a vote besides the five counties involved; they objected to the people with money should not have a vote; and that is the SJRWMD, South Florida Water Management, and the FDEP should not have a vote. He stated these people are willing to help give money and raise the money on the State and federal level, as well as bring the expertise of the folks who cleaned up the Chesapeake Bay and Tampa Bay.

Commissioner Barfield stated he is a representative for the Board for the five county coalition; they were asking for regulatory people with elected officials, which sounds to him like it should be that way; Indian River County really wanted to go much further than is required to make this agreement get started; and what they really wanted a complete organizational structure and budget.

Ms. Berrios stated Indian River County wanted everything hard coded, which would make the agreement very difficult to amend.

Commissioner Barfield stated in the private sector it would to incorporate and then write the bylaws. Ms. Berrios stated that is exactly what is trying to be done.

Commissioner Infantini stated she appreciates the Indian River County Council wanting to have a budget, but at the same time she is concerned having a certain amount of money flowing in without knowing how much money is needed; and she feels it is in advance of what is needed. She went on to say at this point she thinks the Board is in agreement, and she is not sure if there needs to be anymore speakers.

Commissioner Anderson inquired what happens if Indian River County opts out of the interlocal agreement. Commissioner Smith replied the process was designed so that each of the counties would have skin in the game; the powers that be that are trying to get this whole process moving forward, do not want bickering at the county level; and they want the counties to work

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together for the common purpose. He stated with Indian River County kind of being on the fence, the discussion has centered around the City of Vero Beach, because they have said they would love to represent Indian River County; and that is something to be considered.

Chairman Fisher stated for the record, the Board is talking about Indian River, Martin, St. Lucie, Volusia, and Brevard Counties. Ms. Berrios advised the Board that Palm Beach County does have a part of the Lagoon, about five miles, but they are out of this entire process. Chairman Fisher inquired if the recommendation is stormwater assessment fees are used to fund the \$50,000 annual commitment; and is this forever or only for a period of time. Ms. Berrios responded there is a termination clause where the County can leave the Indian River Lagoon Council; any money put in for that year would still be the Indian River Lagoon's money; and there is a soft sunset clause where every five years only a majority of the members is needed to dissolve the Council.

Scott Knox, County Attorney, stated on the stormwater fees being used to pay for the membership fee, the Stormwater Ordinance would need to be tweaked a bit; and the funds would have to come from somewhere else pending the tweak of the Ordinance, and then they can be paid from stormwater fees.

The Board approved Option 2, to join Martin County in approving the Interlocal Agreement; this action may include advance approval of any changes to the Interlocal Agreement that directly seeks to resolve Indian River County's rejection of the Interlocal Agreement; Option 2 demonstrates Brevard County's support for the Indian River Lagoon Council going forward into the February 11, 2015, Advisory Board meeting, whether or not Indian River County has decided to continue its opposition to the Interlocal Agreement; authorized the County Attorney to amend the Stormwater Ordinance in order to allow for funding of the membership fee; and authorized the County Manager to figure where else the membership fee funding is to come from, pending the tweaking of the Stormwater Ordinance.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Vice Chairman/Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM V.A., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: ORDINANCE PROHIBITING COUNTY COMPENSATION TO FORMER COMMISSIONERS FOR A PERIOD OF TWO YEARS

Richard Charbonneau stated he was present last week when this was discussed before; he saw the proposed ordinance and it does not seem to follow what the resolution said; and it seems like a few things are left out. He urged the Board to go back to the same language that was in the resolution. He went on to say it seemed before it was set up so Commissioner Nelson or Commissioner Bolin Lewis could not take a job anyplace if that job had to do with the 50 percent rule; the way he reads the ordinance, it could because they are not included in the ordinance the way the resolution was written.

Chairman Fisher stated he does not think the Board was singling out Commissioners Nelson or Bolin Lewis, but a former Commissioner, whoever that would be, is what it means.

Commissioner Infantini stated for the viewing public, what is being discussed right now is the policy the Board approved at the last meeting where former County Commissioners leave office

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cannot become employed by an agency or organization where 50 percent of their funding comes from the County; and now it is being turned into an ordinance as recommended by the Florida Statutes. She went on to say what Mr. Charbonneau is referring to is the ordinance verbiage on the first page on the left hand side does not agree with the wording in Section 1.A; and Section 1.A says that no County Commissioner in office at or after the date of adoption of this ordinance, which then says anyone who is in office prior to today, this does not apply to them. She pointed out the wording should be no County Commissioner would make contract for the employment; and 'at or after the date of adoption' needs to be take out, because that eliminates the two people who could potentially become employed.

Scott Knox, County Attorney, advised the Board it is actually covered in Subsection E further in the ordinance; it says, for two years after a former Commissioner left office, the provisions prohibiting the contract kick in.

Mr. Charbonneau read aloud, "You go nowhere by accident. Wherever you go God is sending you. Wherever you are God, has sent you there. He has a purpose for putting you there. Christ who indwells in you that is something he wants you to do. Through you, wherever you are, believe this and go in grace, and his loving power."

Commissioner Anderson stated he wants to make sure everyone is clear, the Board is not voting on an ordinance today, it is legislative intent and permission to advertise so the Board can vote on the ordinance as required by State law. He stated it can be tweaked in the public hearing process when the ordinance is heard.

Cheryl Lankes stated she is present regarding the same ordinance; she wanted to follow through and make sure the policy went through with the original intention, and it did not exempt anyone, especially in regard to Merritt Island Redevelopment Agency (MIRA); there was a flurry of activity after the last meeting; and she was amazed how many people actually follow what is going on in these meetings. She noted it was not a mean spirited type of agenda; and the will of the people needs to be best represented by a good decision by this Board.

Diana Schommer pointed out if the current language is left that it is saying 'no County Commissioner in office or as of the date of adoption of this ordinance', then Part E, the former Commissioner would be referring to somebody who was a Commissioner now; they become former after they are out of office; and she still believes the language needs to be changed. She stated she reviewed that section of the meeting three times; the intent was very clear as to what was meant; this lead document does state what was done then correctly; and it is just the ordinance does not follow that. She advised the Board she attended the MIRA meeting because she is curious about the Community Redevelopment Agencies (CRA); right now MIRA is paying an interim director \$90 per hour for 80 to 120 hours per month; by looking as an effective work year as having 2,080 hours in it, that is a salary of \$187,200 per year; they were given a budget of \$750,000; and close to a third or more of the budget would go to most of the expenses, leaving approximately \$500,000 to be given away in the form of grants to businesses; and she thinks that is not a good percentage ratio. She pointed out there are 21 CRA's listed in Brevard County; they were given \$3.5 million of taxpayer funds coming out of the General Fund; this does not include the North Brevard Economic Development Zone (NBEDZ), which was given over \$3.23 million, for a staggering total of \$6.7 million out of the General Fund; and she thinks it is enough money to merit at least some oversight on how the money is spent.

Attorney Knox stated if the change is made that was suggested, the exact opposite result would occur than what was anticipated; if the Board restricts the applicability of this ordinance to Commissioners, it would not include people who are now former County Commissioners; and

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that is why Subparagraph E was added to this so both current Commissioners and former Commissioners were covered.

Commissioner Anderson stated when staff comes back with the draft ordinance and options, there are probably other counties that have something similar in place, so that 50 percent, he is not saying he is opposed to that, but he wants to see how other counties handle that situation; and if a Commissioner wants to do some kind of pro bono or nonprofit charities and lobby the legislature, that he or she is not precluded from doing that.

Commissioner Barfield stated the policy was unenforceable so that is why it needs to be an ordinance; he would like to carry the ordinance a little bit further; he would like to consider taking the 50 percent out and not having any revenues; it opens up a lot; and he inquired if that means 49 percent a person is ethical and 50 percent he or she is not. He inquired how that is enforced. He went on to say the Board needs to do this right, and not put a number of 50 percent on it.

Commissioner Infantini stated if it is not any funds, virtually any employment outside of working for the County Government would be excluded; she would no longer be able to maintain her position at Florida Technology because some funds go there; and if the Board wants to change that 50 percent down to five percent of County funding, that would be fine with her. She noted that was not the intent; the intent is anything the Board has the material ability to influence the funding of which, that was the goal; it was if it had a major impact of the funding of an organization; and she is not in favor of that. She pointed out she is not comfortable with the wording of Section 1.A, but this is just legislative intent to move forward.

Commissioner Anderson advised the Board he worked for Harley Davidson for a short while; the Sheriff's Department purchases motorcycles from the local dealer ship; and if he wanted to go back to work there, it would preclude him from doing that. He stated it will prohibit good people from running for Commissioner later on, because he or she would know after they finished their terms, they would not be employed in Brevard County.

Commissioner Barfield pointed out for two years.

Commissioner Anderson stated the Boy Scouts gets funds from the United Way; and he could not go to work for the Boy Scouts of America.

Commissioner Barfield noted he wants it to be zero funds, but the Board needs to look at it.

Commissioner Infantini stated by changing this she was trying to give some type of guidance without being overly burdensome.

Commissioner Smith stated he would like Attorney Knox's opinion of what his thoughts are of the concerns being raised.

Attorney Knox replied there are legitimate concerns on each side; it would be a period of two years a former Commissioner would be shut out of working by going with no limit contribution from the County and the private entity; and it is a policy call of where the Board wants to put that line. He went on to say what he has in mind in talking about funding an agency is something like the contributions the County gives to charitable organizations every year; he does not think buying something from Harley Davidson constitutes funding; and there is a distinction there.

Chairman Fisher stated as he said last meeting, this concern of approving an ordinance and not really thinking through the whole issue, and this may make people start thinking about their careers a little bit more now. He noted he thought the State law was pretty clear of what a

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person could do; and he does not know why anyone would hire someone who could not interact with the Board.

The Board approved legislative intent and granted permission to advertise an ordinance pertaining to prohibiting any current or former County Commissioner from being compensated as an employee, consultant, lobbyist, or contractor for any legal entity that receives 50 percent or more of its revenues from Brevard County for a period of two years.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM VI.A.1., RESOLUTIONS AND COUNTY DEEDS, RE: TRANSFER PROPERTIES TO THE CITY OF WEST MELBOURNE

The Board adopted Resolution Nos. 15-016 and 15-017, and executed County Deeds to transfer the right-of-ways for portions of Helen Street, Stacia Strife Way, D Avenue, and Feast Road, and to transfer a County-owned surplus parcel north of Helen Street and west of Minton Road to the City of West Melbourne.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM VI.C.1., ACCEPTANCE OF LIST OF CANDIDATES AND RECOMMENDATIONS, RE: SELECTION FOR SPECIAL MAGISTRATE SERVICES

Stockton Whitten, County Manager, stated this is the Board's approval to enter into negotiations with the two listed individuals.

Leslie Rothering, Purchasing Department, stated this Item is requesting the Board to accept the candidates to perform the Special Magistrate services for resolution of Code, Contractor Licensing, Nuisance Abatement, and Vested Rights issues; to accept the Selection Committee's recommendations for Stewart Capps to serve as the primary Special Magistrate for the Code Enforcement cases, and Stanley Wolfman to serve as the primary for the Contractor Licensing; and Mr. Capps and Mr. Wolfman would also act as each other's alternates in the event there is a conflict. She went on to say in addition, she wants to advise the Board if approved, Purchasing would not proceed with finalizing the contracts; the protest period ends tomorrow at 5:00 p.m.; and if this is approved, they would not finalize those contracts until after that time.

The Board accepted the list of candidates to perform Special Magistrate services for resolution of Code, contractor licensing, nuisance abatement, and vested rights issues; and accepted the recommendations of the Selection Committee, consisting of Assistant County Manager Valdengo, Insurance Director Jerry Visco, and Central Services Special Projects Coordinator IV Carl Tucker, assigning Stewart B. Capps as primary Special Magistrate for Code Enforcement and Vested cases and alternate for Contractor Licensing and Vested Rights cases, and Stanley Wolfman as primary Special Magistrate for Contractor Licensing and Vested Rights cases and

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alternate for Code Enforcement cases; and authorized the Chairman to execute the contracts with selected attorneys.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM VI.E.1., RESOLUTION, RE: ADOPTING THE USE OF SPACE INTERLOCAL AGREEMENT BETWEEN THE COUNTY AND THE CITY OF COCOA BEACH

The Board approved Interlocal Agreement with City of Cocoa Beach for use of space to house a rescue unit in a City-owned fire station.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM VI.E.2., BOARD DIRECTION, RE: SAME-SEX ELIGIBILITY FOR BENEFITS UNDER THE BOARD'S EMPLOYEE BENEFITS PROGRAM

Frank Abbate, Human Resources Director, stated in light of a Federal District Court decision addressing same-sex marriage in Florida that impacted the State's definition of marriage, staff spoke with the County Attorney's Office and they have provided a through memorandum of law addressing same-sex employee benefits as it relates to the County's group health insurance program; there were a variety of options that were provided as part of that memorandum; and staff is seeking direction from the Board in terms of how it would want staff to proceed.

Commissioner Anderson inquired how many requests there have been. Mr. Abbate replied at least two. Commissioner Anderson stated he will wait to see what the U.S. Supreme Court decides on the issue.

Scott Knox, County Attorney, stated the most conservative legal approach to keep the Board's liability as low as possible is Option 4, which basically says the Board opens up the door for open enrollment for a period of time to allow same-sex couples to apply for it; and if the Supreme Court rules that same-sex marriage as defined in Florida is okay, then it will revert to where it is now without having to come back to the Board.

Chairman Fisher inquired what the exposure is. Attorney Knox replied if someone who would have qualified had during the open enrollment period does not qualify, because the Board is waiting for the Supreme Court to rule, it turns out someone who did qualify and got sick during that period of time and they are not covered, the County could be exposed because it did not follow the law.

Commissioner Smith inquired if that is retroactive. Attorney Knox advised if a person gets hurt during that period of time, it would be retroactive because the claim would have arose during the time they actually would have been covered, but they were not covered, because of the action of the Board. He went on to say the issue is whether or not it is mandatory; he personally thinks

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that the Federal District Court Judge does not have jurisdiction in this particular District; but the Attorney General is taking a position to basically follow the Federal District Judge decision throughout the State.

Chairman Fisher inquired if the Board chooses Option 4, is that effective January 1st of the next open enrollment. Mr. Abbate advised the Board what staff is looking at is what the appropriate definition of spouse; potentially applicability is back to January 6, 2015; if the County does not do it and waits until the end of the year and someone would be sick during the year; if the Board chooses not to offer it at this time, the potential people who will come back and ask to pay the premium retroactively are those who had more medical claims in excess of what that premium would be. He pointed out that is the potential liability; it could be a very significant amount; and that is the risk that is potentially there if the Board does not choose Option 4.

Attorney Knox noted there is defense to it obviously due to the fact the Board does not know what the state of the law is right now; but the Federal Courts are all over the place on this; and it is really hard to predict what to do.

Chairman Fisher inquired what the State is doing. Attorney Knox replied the State Attorney General said until the issue was decided everyone is on their own.

Mr. Abbate stated the State is providing the benefit as an employer beginning January 6th.

Commissioner Smith stated if this was his business he would wait for the U.S. Supreme Court to decide the issue on principal; this is taxpayer and County money; the prudent thing to do is adopt Option 4 and provisionally cover these people; and that way the County is covered either way.

Commissioner Infantini stated she agrees with Commissioner Smith.

The Board approved Option 4, to provisionally cover non-employees spouses of same-sex marriages, retroactively to January 6, 2015, until such time as the Federal Courts ultimately decide the issue.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Robin Fisher, Trudie Infantini, Curt Smith, Andy Anderson
NAYS:	Jim Barfield

ITEM VIII.A., REPORT, RE: COUNTY MANAGER STOCKTON WHITTEN

Stockton Whitten, County Manager, stated staff will be working to reschedule the March 12, 2015, Tourism Development Workshop; it is Tourism Week in Tallahassee; and Eric Garvey, Tourism Development Office Director, will be up there along with some of the Tourist Development Council (TDC) Members.

The Board reached consensus to cancel the March 12, 2015, Tourist Development Workshop.

Venetta Valdengo, Assistant County Manager, stated she wants to invite the Board and the public to the Second Annual Black History Month celebration to be held February 18, 2015; it

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will be at the Viera Government Center; there will be lunch available from Lloyd's Have Mercy for \$6; there will be a gospel choir singing from Reverend Dames Church in Titusville; and it should be a great day. She went on to say on March 18, 2015, there will be a Women's History Month celebration; a resolution will be brought forward; there is a roundtable discussion planned in the Commission Room; and she believes Carol Craig has been confirmed, along with a Holocaust survivor.

ITEM VIII.D., REPORTS, RE: COMMISSIONER CURT SMITH, DISTRICT 4

Commissioner Smith expressed his appreciation to John Denninghoff, Public Works Director, and his staff; Richard Brooks who spoke last week said he sees in government in general there is little oversight and costs taxpayers more money; Mr. Brooks was quite impressed that the Board listened to him; and with further input from Mr. Denninghoff and Mel Scott, Assistant County Manager, explaining the strict guidelines Brevard County operates under, he said they were surely a credit to the County as a business entity.

Commissioner Smith stated the Golf Cart Ordinance that was discussed several weeks ago, he has gotten a number of letters from affected people; there are no signs put up to date in Viera; and he does not know what recourse the Board has.

Stockton Whitten, County Manager, stated he thinks that was part of the Ordinance, and to let staff to see what can be done.

Commissioner Smith stated he put a notice on the Agenda today that he pulled regarding the manatee issue; he was prevailed up by others that suggested a better way to go about this would be seeking the science of these issues and what the sustainability factor is; it is an emotional issue; and when emotion gets involved, facts go out of the window. He noted his one concern is that 10-15 years ago when he was involved with this debate that facts were not considered by the State in his opinion; he is going to seek the State's help using facts; he spoke to Virginia Barker, Natural Resources Management Office, about this extensively; and they are going full speed ahead using facts.

ITEM VIII.E., COMMISSIONER ANDY ANDERSON, DISTRICT 5

Commissioner Anderson stated some of the Board may have received an email from a former Sheriff's employee who was thinking outside of the box the Board is dealing with retirement insurance to enter into the State insurance program; his name is Dale Young; and he would like staff to investigate the legislature to allow that to happen.

Stockton Whitten, County Manager, stated Frank Abbate, Human Resources Director, is working on that issue.

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Upon consensus of the Board, the meeting adjourned at 11:04 a.m.

ATTEST:

ROBIN FISHER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

SCOTT ELLIS, CLERK