

Meeting Date
October 24, 2017



AGENDA	
Section	Public Hearing
Item No.	IV D

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING RE: 30 DAY EXTENSION OF TRANSPORTATION IMPACT FEE MORATORIUM PROJECT COMPLETION DATE. (DISTRICTS 1-5)
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT

Requested Action:

It is requested that the Board consider approval of an amendment to Ordinance 09-08E, which imposed the transportation impact fee moratorium on March 1, 2009, to extend the date by which a construction project must receive either a temporary or permanent certificate of occupancy from December 31, 2017 until January 31, 2018 due to the impact of Hurricane Irma. If approved, it is requested that the Chairman be authorized to execute the Ordinance on behalf of Brevard County and that the Budget Office be authorized to implement all necessary budget changes.

Summary Explanation & Background:

The Board of County Commissioners approved Ordinance 09-08E on March 5, 2009 creating the transportation impact fee moratorium on residential and commercial construction. The Board subsequently extended the moratorium several times by amending the original ordinance. The final extension was approved by the Board through Ordinance 14-36 on December 16, 2014 and established December 31, 2016 as the date by which a building permit needed to be obtained and December 31, 2017 as the date by which a temporary or permanent certificate of occupancy needed to be obtained.

The damage and disruption caused by Hurricane Irma in Brevard County may have made it difficult or impossible to complete certain residential and commercial construction projects by December 31, 2017 resulting in some property owners being forced to make unanticipated transportation impact fee payments.

Adoption of this ordinance would extend the date by which a temporary or permanent certificate of occupancy needs to be obtained by thirty (30) days to prevent many property owners from missing the deadline due to circumstances beyond their control.

Fiscal Impact: FY17/18 – It is unlikely that adoption of this ordinance will create an adverse fiscal impact to Brevard County.

Staff Contact: Stephen M. Swanke  
 (321) 633-2069, extension 52739

Clerk to the Board instruction:

Exhibits Attached: Draft Ordinance

Contract /Agreement (If attached): Reviewed by County Attorney Yes  No  PR

County Manager Frank Abbate	Assistant County Manager John Denninghoff Interim Assistant County Manager Jim Liesenfelt	Department Director / Extension Tad Calkins Planning & Development Department Ext. 5-2069 
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## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

October 25, 2017

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. 17-25, which was filed in this office on October 25, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



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

October 25, 2017

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Zoning Director                      Attn: Steven Swanke  
**RE:** Item IV.D., Ordinance for 30-Day Extension of Transportation Impact Fee Moratorium  
Project Completion Date

The Board of County Commissioners, in regular session on October 24, 2017, adopted Ordinance No. 17-25; authorized the Chairman to extend the transportation impact fee moratorium project completion date for 30 days, the date by which a construction project must receive either a temporary or permanent certificate of occupancy from December 31, 2017, until January 31, 2018, due to the impact of Hurricane Irma; and authorized the Budget Office to implement all necessary budget changes. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

Encls. (1)

cc: Assistant County Manager Denninghoff  
Finance  
Budget

ORDINANCE NO. 17-25

AN ORDINANCE OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING ORDINANCE NO. 09-08E IMPOSING A TWO YEAR MORATORIUM ON THE COLLECTION OF TRANSPORTATION IMPACT FEES FROM RESIDENTIAL OR COMMERCIAL PROJECTS; PROVIDING FOR AN EXTENSION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN AREA EMBRACED; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, that:

SECTION 1. Sections 1, 2 and 4 of Brevard County Ordinance 09-08E are hereby amended by extending certain deadlines contained in sections 1, 2 and 4 as set forth in the underlined provisions below. The recitals in Ordinance 09-08E and sections 1 through 4 of that ordinance, including the remainder of sections 1, 2 and 4 not modified by this ordinance, are hereby ratified in full, and shall remain in full force and effect, as set forth below.

"WHEREAS, a deep economic recession has recently gripped the United States and Brevard County; and

WHEREAS, the recession has caused many citizens in Brevard County to lose their jobs through layoffs, corporate contraction and corporate insolvency; and

WHEREAS, the County Commission finds that the construction industry in Brevard County has been particularly hard hit by the recession; and

WHEREAS, the Brevard County Board of County Commissioners has determined that putting its citizens back to work is a high priority for every level of government, including county government; and

WHEREAS, the County Commission has determined that the removal of certain regulatory and economic impediments to new commercial development is one way in which County government can join State and Federal government in strategies designed to stimulate the local economy; and

WHEREAS, the alarming loss of real estate and development related jobs in the county and the prospect of additional future layoffs at the Kennedy Space Center have created the need for immediate action to help open up new job opportunities, especially jobs related to the construction of commercial projects; and

Officially filed with Secretary of State 10/25/17

WHEREAS; the Board finds that the quickest and most effective economic stimulus that the County can provide is to incentivize new commercial development projects by removing the county imposed development costs represented by transportation impact fees in order to enhance opportunities for financing and the economic feasibility of new commercial projects; and

WHEREAS, the Board finds that the size and complexity of certain commercial development projects may require additional time to complete; and

WHEREAS, specific authority for this ordinance includes , but is not limited to Article VIII, Section 1, Florida Constitution of 1968 and Chapters 125, Florida Statutes; and

WHEREAS, the Brevard County Board of County Commissioners finds that based on the foregoing reasons for the moratorium on commercial transportation impact fees, this ordinance will promote the public health, welfare, safety aesthetics and economic order of the county; and

WHEREAS, impacts of Hurricane Irma on Brevard County has delayed the timely completion of certain construction projects within the County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, that:

#### SECTION 1. FINDINGS, PURPOSE AND DECLARATION.

a) The recitals set forth above are hereby incorporated as findings of the Board of County Commissioners relating to an economic emergency in Brevard County and Board of County Commissioners hereby declare that such an emergency exists.

b) In order to establish an incentive for construction projects, beginning March 1, 2009, the Board of County Commissioners of Brevard County, Florida hereby declares and imposes an eight year, ten month moratorium on the collection of transportation impact fees for any residential or commercial construction project for which a property owner applicant receives from Brevard County or participating municipality 1) a building permit within ninety four months from the beginning date of this moratorium and 2) at least a temporary certificate of occupancy within one hundred ~~six~~ seven months from the beginning date of this moratorium, unless the latter date is extended by the Brevard County Board of County Commissioners. The County Manager is authorized to grant a one year extension of the deadline for obtaining a temporary certificate of occupancy to a developer of any commercial project exceeding 20,000 square feet in size that otherwise meets the requirements for exemption from transportation impact fee payment as provided for in this ordinance. This moratorium shall also apply to any owner or applicant who has submitted a complete application for a building permit prior to March 1, 2009 but has not, as of the effective date of this ordinance, received a temporary or permanent certificate of occupancy.

## SECTION 2. APPLICABILITY AND REFUNDS

Except as otherwise provided in this ordinance, any permitted construction project for which a building permit has not been issued by Brevard County or participating municipality by December 31, 2016, as well as any project which has not received at least a temporary certificate of occupancy by January 31, 2018, or any project that has received a building permit prior to March 1, 2009, or upon a majority vote of a city council where any city building permit is issued, for a project that exceeds an average daily trip generation rate of 1,200 trips within a municipality that participates in the transportation impact fee program and for which the municipality requires concurrency approval and payment of transportation impact fees as a condition precedent to obtaining a building permit will be required to pay transportation impact fees unless either of these deadlines is extended by the Brevard County Board of County Commissioners. Refunds shall be made to owners or developers of property who qualify for exemption under this moratorium ordinance but have already paid transportation impact fees.

## SECTION 3. NOTICE WAIVED

At least four-fifths (4/5ths) of the membership of the Board of County Commissioners of Brevard County, Florida, hereby declares that an emergency exists and that immediate enactment of this ordinance is necessary to meet such emergency, and in accordance with Section 125.66(3), Florida Statutes, waives all notice requirements.

## SECTION 4. SUNSET PROVISION

This ordinance will sunset and effectively be repealed on December 31, 2016 unless a majority vote of the Board of County Commissioners determines that the economic conditions of the county warrant continuation of the moratorium.

## SECTION 2. SEVERABILITY

If any provision of this ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

## SECTION 3. AREA EMBRACED

This ordinance shall take effect in the unincorporated area of Brevard County, Florida and in any municipality which is described in Section 62-817 of the Code of Ordinances of Brevard County, Florida, unless such a municipality has adopted or in the future adopts an ordinance electing to establish transportation impact fees, thereby opting out of the provisions of this moratorium ordinance.

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Department of State within 10 days of the date of adoption, as provided by Section 125.66(3), Florida Statutes.

SECTION 5. INCLUSION IN THE CODE OF ORDINANCES

This ordinance shall be included and made a part of the Code of Ordinances of Brevard County, Florida, and the editors of the Code of Ordinances shall have the authority to re-number or re-letter any section in this ordinance to conform to the format used in the Code of Ordinances. Any editorial changes to the section numbers or section titles in this ordinance shall be deemed and interpreted as a non-substantive editorial change that have no effect on any substantive provision in the ordinance.

DONE, ORDERED AND ADOPTED, in regular session, this twenty fourth day of October, 2017.

ATTEST



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA



RITA PRITCHETT VICE CHAIRWOMAN  
(as approved by the Board on October 24, 2017)

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Tobia, John, Joseph	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Brevard County Board of County Commissioners
MAILING ADDRESS 890 Vignoles Ave. NE, No. 5	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY Palm Bay Brevard	<input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED Oct. 24, 2017	NAME OF POLITICAL SUBDIVISION: Brevard County
	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, John Tobia, hereby disclose that on Oct. 24, 20 17 :

(a) A measure came or will come before my agency which (check one or more)

- Inured to my special private gain or loss;
- Inured to the special gain or loss of my business associate, \_\_\_\_\_;
- Inured to the special gain or loss of my relative, \_\_\_\_\_;
- Inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- Inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Measure: V A (Public Hearing Re: 30 Day Extension of Transportation Impact Fee Moratorium Project Completion Date)

Nature of Conflict: Should a home I am in the process of constructing, located at 4075 S. Highway US1 in Grant-Valkaria, not be completed by Dec. 31, 2017, this measure would result in an exemption from Transportation Impact Fees and a reduction in property taxes, which would be a financial benefit.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

10/26/17  
Date Filed

[Signature]  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

IVD  
SAMY  
PLEASE ADD THIS

Clean Copy

LINED  
COPY

ORDINANCE NO. 17-\_\_

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"WHEREAS, a deep economic recession has recently gripped the United States and Brevard County; and

WHEREAS, the recession has caused many citizens in Brevard County to lose their jobs through layoffs, corporate contraction and corporate insolvency; and

WHEREAS, the County Commission finds that the construction industry in Brevard County has been particularly hard hit by the recession; and

WHEREAS, the Brevard County Board of County Commissioners has determined that putting its citizens back to work is a high priority for every level of government, including county government; and

WHEREAS, the County Commission has determined that the removal of certain regulatory and economic impediments to new commercial development is one way in which County government can join State and Federal government in strategies designed to stimulate the local economy; and

WHEREAS, the alarming loss of real estate and development related jobs in the county and the prospect of additional future layoffs at the Kennedy Space Center have created the need for immediate action to help open up new job opportunities, especially jobs related to the construction of commercial projects; and

WHEREAS; the Board finds that the quickest and most effective economic stimulus that the County can provide is to incentivize new commercial development projects by removing the county imposed development costs represented by transportation impact fees in order to enhance opportunities for financing and the economic feasibility of new commercial projects; and

WHEREAS, the Board finds that the size and complexity of certain commercial development projects may require additional time to complete; and

WHEREAS, specific authority for this ordinance includes , but is not limited to Article VIII, Section 1, Florida Constitution of 1968 and Chapters 125, Florida Statutes; and

WHEREAS, the Brevard County Board of County Commissioners finds that based on the foregoing reasons for the moratorium on commercial transportation impact fees, this ordinance will promote the public health, welfare, safety aesthetics and economic order of the county; and

WHEREAS, impacts of Hurricane Irma on Brevard County has delayed the timely completion of certain construction projects within the County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, that:

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b) In order to establish an incentive for construction projects, beginning March 1, 2009, the Board of County Commissioners of Brevard County, Florida hereby declares and imposes an eight year, ten month moratorium on the collection of transportation impact fees for any residential or commercial construction project for which a property owner applicant receives from Brevard County or participating municipality 1) a building permit within ninety four months from the beginning date of this moratorium and 2) at least a temporary certificate of occupancy within one hundred ~~six~~ seven months from the beginning date of this moratorium, unless the latter date is extended by the Brevard County Board of County Commissioners. The County Manager is authorized to grant a one year extension of the deadline for obtaining a temporary certificate of occupancy to a developer of any commercial project exceeding 20,000 square feet in size that otherwise meets the requirements for exemption from transportation impact fee payment as provided for in this ordinance. This moratorium shall also apply to any owner or applicant who has submitted a complete application for a building permit prior to March 1, 2009 but has not, as of the effective date of this ordinance, received a temporary or permanent certificate of occupancy.

## SECTION 2. APPLICABILITY AND REFUNDS

Except as otherwise provided in this ordinance, any permitted construction project for which a building permit has not been issued by Brevard County or participating municipality by December 31, 2016, as well as any project which has not received at least a temporary certificate of occupancy by ~~December 31, 2017~~, January 31, 2018, or any project that has received a building permit prior to March 1, 2009, or upon a majority vote of a city council where any city building permit is issued, for a project that exceeds an average daily trip generation rate of 1,200 trips within a municipality that participates in the transportation impact fee program and for which the municipality requires concurrency approval and payment of transportation impact fees as a condition precedent to obtaining a building permit will be required to pay transportation impact fees unless either of these deadlines is extended by the Brevard County Board of County Commissioners. Refunds shall be made to owners or developers of property who qualify for exemption under this moratorium ordinance but have already paid transportation impact fees.

## SECTION 3. NOTICE WAIVED

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## SECTION 4. SUNSET PROVISION

This ordinance will sunset and effectively be repealed on December 31, 2016 unless a majority vote of the Board of County Commissioners determines that the economic conditions of the county warrant continuation of the moratorium.

## SECTION 2. SEVERABILITY

If any provision of this ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

## SECTION 3. AREA EMBRACED

This ordinance shall take effect in the unincorporated area of Brevard County, Florida and in any municipality which is described in Section 62-817 of the Code of Ordinances of Brevard County, Florida, unless such a municipality has adopted or in the future adopts an ordinance electing to establish transportation impact fees, thereby opting out of the provisions of this moratorium ordinance.

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Department of State within 10 days of the date of adoption, as provided by Section 125.66(3), Florida Statutes.

SECTION 5. INCLUSION IN THE CODE OF ORDINANCES

This ordinance shall be included and made a part of the Code of Ordinances of Brevard County, Florida, and the editors of the Code of Ordinances shall have the authority to re-number or re-letter any section in this ordinance to conform to the format used in the Code of Ordinances. Any editorial changes to the section numbers or section titles in this ordinance shall be deemed and interpreted as a non-substantive editorial change that have no effect on any substantive provision in the ordinance.

DONE, ORDERED AND ADOPTED, in regular session, this twenty fourth day of October, 2017.

ATTEST

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

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Scott Ellis, Clerk

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Curt Smith, Chairman  
(as approved by the Board on October 24, 2017)