

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, April 18, 2023

9:00 AM

Regular

Commission Chambers

A. CALL TO ORDER 9:04 AM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, and Commissioner District 4 Rob Feltner

Absent: Commissioner District 3 John Tobia

C. PLEDGE OF ALLEGIANCE

Commissioner Feltner led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

The Board approved the minutes from March 7, 2023 Regular Meeting and March 21, 2023 Regular Meeting.

Result: APPROVED

Mover: Tom Goodson

Seconder: Rob Feltner

Ayes: Pritchett, Goodson, and Feltner

Absent: Tobia

E.2. Resolution proclaiming Thursday, May 4th, 2023 as A Day of Prayer in Brevard County.

Chair Pritchett read aloud, and the Board adopted Resolution No. 23 034, proclaiming May 4, 2023, as A Day of Prayer in Brevard County.

Loretta Dozier, Dove Bible Club, thanked the Board for the resolution for the National Day of Prayer for the last several years; and she shared a pamphlet of some of the prayer events that will take place in Brevard County.

Result: ADOPTED

Mover: Rob Feltner

Seconder: Tom Goodson

Ayes: Pritchett, Goodson, and Feltner

Absent: Tobia

E.1. Resolution acknowledging April 2023 as Parkinson's Disease Awareness Month

Commissioner Feltner read aloud, and the Board adopted Resolution 23 035, acknowledging April 2023 as Parkinson's Disease Awareness Month.

Janice Moia thanked the Board for recognizing Parkinson's Awareness Month; she shared there are organizations like the Parkinson's Foundation, the Michael J. Fox Foundation, the Americans Parkinson's Disease Association, and local support groups all around the County; there is proof that boxing actually decreases and slows the progression of Parkinson's disease; and she suggested Rock Steady Boxing which has been around for 16 years.

Result: ADOPTED

Mover: Rob Feltner

Seconder: Tom Goodson

Ayes: Pritchett, Goodson, and Feltner

Absent: Tobia

- F.11. Legal Services Retainer Agreement with Weiss Serota Helfman Cole and Bierman, Re: Eminent Domain Services for Brevard County v. Altman, et al.; Case No. 05-2023-CA-15474

Sandra Sullivan asked the Board if there has been a legal opinion done on whether the County should be moving forward with this case, given that on the sand re nourishment of the mid reach in 2020, the Federal permit by Fish and Wildlife Service, the National Oceanic and Atmospheric Administration (NOAA), and Environmental Protection Agency (EPA) weighing in, it took many years to get it, said that a sand re nourishment could not be done on Reach 6 or Reach 4; Reach 6 is where she lives, between Patrick and Hightower; and that full beach re-nourishment was done violating the permit. She added, at this point, she thinks it is very prudent, before the County spends additional monies on a lawsuit to determine whether Federally it can even move forward, because it buried on Reach 6, over 40 percent of the aerial extent of the reef, which the mitigation area does not account for; there has been no monitoring to determine the extent of the damage for that; and she urged, before the Item is approved, to do a legal opinion on whether it can even move forward.

- F.13. Acknowledge Receipt of FY 2021-2022 Redevelopment Agencies Annual Reports for the Fiscal Year Ending September 30, 2022

Ms. Sullivan stated her next comment is about the Community Redevelopment Agencies (CRA), and she is very disappointed that Commissioner Tobia is not present; back in 2013, an agreement was signed for Satellite Beach to repay what was termed in documents, as illegal use of CRA funds, violating State statutes, and to repay that out of the future CRA funds, which is not really repaying it; the documents say that they were insolvent and she provided a copy showing Mindy Gibson bragging about that, essentially a bailout; and that was supposed to be paid off in 2019. She asked why the CRA, which sunset in 2018, is still active; she asked why are the taxpayers of Brevard effectively paying, in Mindy Gibson's own words, and on the verbatim copy of the minutes from that meeting in 2013, putting money into a city's fund, so they can use that money from the fund to pay for city expenses; under Florida Statute 163.3703 prohibits the use of the CRA monies to pay for government operations; with it going into that fund, they can use that for government operations; essentially, this was a bailout; and it is very offensive as a taxpayer in Brevard to look at the County continuing beyond the seven years and still allowing them to put the money into this fund. She added it says the State was involved and they were facing insolvency; she would like to know, just to follow up; and in a recent meeting, the County Manager indicated that Satellite Beach wanted to close out their CRA.

Chair Pritchett interjected and stated the Board made it so they were not allowed to do any more CRA activities; it was extended so they could finish paying off their debt; and that is what was done at the time.

Ms. Sullivan remarked that was supposed to be paid off in 2019; and this CRA is extended to 2026.

Chair Pritchett asked that Ms. Sullivan not yell at her; she mentioned if she wanted to call, she would get some answers, but they are not allowed to do any more activity; and as far as the other one, it is already in the hands of legal.

- F.1. Time Extension Request for the City of Indian Harbour Beach Muck Removal and Interstitial Water Treatment Save Our Indian River Lagoon Project (District 4)**

The Board approved and authorized the Chair to execute Amendment 1 to the SOIRL 19-72 Agreement with City of Indian Harbour Beach for Muck Removal and Interstitial Water

Treatment.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.2. Final Plat and Contract Approval, Re: Village 2, Neighborhood 2

Developer: The Viera Company District 4

The Board, in accordance with Section 62 2841(i) and Section 62 2844, granted final plat approval and authorized the Chair to sign the final plat and Contract for Village 2, Neighborhood 2, Developer: The Viera Company, subject to minor engineering changes as applicable, and developer responsible for obtaining all other necessary jurisdictional permits.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.3. Revision to Board Policy BCC-52, "Approval of Binding Development Plans"

The Board approved a Revision to Board Policy BCC 52, "Approval of Binding Development Plans."

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.4. Legislative Intent and Permission To Advertise Amendments to Section 2-173, "Enforcement Procedure," Brevard County Code of Ordinances

The Board approved legislative intent and permission to advertise an amendment to Sec. 2-173, Brevard County Code of Ordinances, in order to align it with Florida Statute 162.06, which makes it unlawful for the County to conduct an investigation based on certain anonymous Code Enforcement complaints.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.5. Adopt Resolution and Release Performance Bond: Pineda Boulevard West Extension, Segment E - District 4

Developer: The Viera Company

The Board approved and adopted Resolution No. 23 036, releasing the Contract and Surety Performance Bond dated October 12, 2021, for Pineda Boulevard West Extension, Segment E – Developer: The Viera Company.

Result: ADOPTED

Mover: Rob Feltner

Seconder: Tom Goodson

F.6. Approval, Re: Donation of Temporary Construction Easement from Larry B. Guthrie and Sun K. Guthrie for the 950 North Tropical Trail Drainage Improvements Project - District 2.

The Board accepted donation of Temporary Construction Easement from Larry B. Guthrie and Sun K. Guthrie for 950 North Tropical Trail Drainage Improvements Project.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.7. Approval, Re: Dedication by Warranty Deed for Tract LS-1 of Island Forest Preserve and Bill of Sale from IFP Development, LLC, for the benefit of Lift Station R-14 - District 2

The Board accepted dedication by Warranty Deed for Tract LS 1 of Island Forest Preserve and Bill of Sale from IFP Development, LLC, for the benefit of Lift Station R 14.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.8. Approval, Re: Donation of Drainage Easement and Temporary Construction Easement from Glenn A. Yarkin and Christine A. Yarkin for the 880 Sandgate Street Ditch Stabilization project - District 2.

The Board accepted donation of Drainage Easement and Temporary Construction Easement from Glenn A. Yarkin and Christine A. Yarkin for the 880 Sandgate Street Ditch Stabilization Project.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.9. Approval, Re: Quit Claim Deed from Daniel Clifford Long to Convey Any Interest in the Kathren T. Knoepfel Revocable Living Trust related to the County Owned Range Road Drainage Ditch - District 1 and 2.

The Board accepted Quit Claim Deed from Daniel Clifford Long to convey any interest in the Kathren T. Knoepfel Revocable Living Trust related to the County Owned Range Road Drainage Ditch; and approved and adopted Resolution No. 23 037, designating the existing drainage ditch as a County right of way.

Result: ADOPTED

Mover: Rob Feltner

Seconder: Tom Goodson

F.10. Board Approval: Interlocal Agreements Between Brevard County and the Cities of Cocoa Beach and Titusville for Automatic Aid

The Board approved and authorized the Chair to execute Interlocal Agreements with City of Cocoa Beach and City of Titusville for automatic aid; and delegated the County Manager the authority to execute amendments or renewal options as outlined in the Agreements.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.11. Legal Services Retainer Agreement with Weiss Serota Helfman Cole and Bierman, Re: Eminent Domain Services for Brevard County v. Altman, et al.; Case No. 05-2023-CA-15474

The Board approved and authorized the Chair to execute Legal Services Retainer Agreement with the law firm of Weiss, Serota, Helfman, Cole, and Bierman for the provision of eminent

domain services in the case of Brevard County v. Altman, et al.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.12. Approval of Resolution to Amend Real Estate Contract for the Purchase Property in County Owned Commerce Park in Titusville

The Board approved and adopted Resolution No. 23-038, allowing for the amendment to a real estate contract for the purchase of industrial land (approximately 11.89 acres) in the County owned Spaceport Commerce Park in Titusville for \$416,150 from the entity known as North American Properties Florida, LLC; and authorized the Chair to execute the Amendment 1 to Option Contract and all documents in connection thereof.

Result: ADOPTED

Mover: Rob Feltner

Seconder: Tom Goodson

F.13. Acknowledge receipt of FY 2021-2022 Redevelopment Agencies Annual Reports for the fiscal year ending September 30, 2022

The Board acknowledged receipt of FY 2021 2022 Redevelopment Agencies Annual Reports for the Fiscal Year ending September 30, 2022.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.14. Bill Folder

The Board acknowledged receipt of the Bill Folder.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

F.15. Subsequent Local Workforce Development Area (LWDB) Designation, Re: Brevard Workforce Development Board, Inc.

The Board approved and authorized the Chair to execute the CareerSource Brevard (CSB) Application for Subsequent Local Workforce Development Area Designation which will be transmitted to the State of Florida, Department of Economic Opportunity, as required.

Result: APPROVED

Mover: Rob Feltner

Seconder: Tom Goodson

G. PUBLIC COMMENTS

Sandra Sullivan stated she went to the first meeting of the Ad Hoc committee for Satellite Beach on their parking and they had a handout on different systems they are looking at; she made a comment as to why they would not consider in the area, like the end of streets, as Satellite Beach only parking; the City Manager made a point which made it clear she understood this point, that they cannot do that because of the sand re nourishment dollars being needed; under the legal opinion, which she emailed to the Board, by the County, the State regards any parking spaces used to get the sand re nourishment dollars, as being no differential in fee; and the way the County does the sand re nourishment is as an umbrella of

Brevard County, but the cities can do it individually. She added there must be interlocal agreements with each of the cities; this no differential fee does not just apply to the former County Parks, it applies to all of the areas; she dug into the documents on line for the funding from the State and found that numbers were fudged for the number of parking spaces; one can go through Google Earth Pro or visit the Park and count the parking spaces; and she was like, this is not correct, because of Reach 6 and Reach 4 not being allowed to have a sand re nourishment, most of the parks in that area were removed, but, oddly, not Hightower and Pelican. She stated Pelican is in Reach 4 and Hightower is in Reach 6; she questions the connection of Natural Resources and working with Satellite Beach to skew the number to get more money than what is allowed for; with the concerns of the budget, the sand re nourishment on these areas, it raises a legal issue for the County and whether there is a clawback; she provided the Board with the legal opinion and stated there is a bigger issue here in that all of the parking spaces need to be no differential, whether it is a former County Park or not; and that is the bottom line.

H.1. Public Hearing and Approval: RE: Substantial Amendment to Fiscal Year 2021-2022 Community Development Block Grant (CDBG) Annual Action Plan (\$106,481 - District 1)

Juanita Jackson, Housing and Human Services Deputy Director, stated Item H.1. is a substantial amendment to the FY 2021 2022 Community Development Block Grant (CDBG) action plan to identify specific projects within the approved infrastructure activity; those two projects are road resurfacing and installation of three speed humps on Mitchell Avenue from Main Street north to Cypress Avenue, for \$80,643; the second is road resurfacing and installation of six speed humps on Orange Avenue from Main Street north to Wiley Avenue for \$25,838; they have received two comments, one does not relate to the projects, and the other comment asked if the speed humps are necessary and if the community was asked; and the answer is yes.

Chair Pritchett stated she wanted to publicly say thanks for all Ms. Jackson did to help with this; it is in a targeted area and has been an ongoing need for a long while; and the whole community is joyful that this is happening.

The Board held a public hearing to consider input from the public regarding the Substantial Amendment; approved the Substantial Amendment to the FY 2021 2022 CDBG Annual Action Plan of \$106,481; authorized the Housing and Human Services Director to perform any action necessary for the successful implementation and completion of the activities identified in the Substantial Amendment, such as acting as signatory on any required United States Department of Housing and Urban Development documents and coordination with other County Departments (for example, Public Works Road and Bridge) to conduct bids and complete construction; and authorized the County Manager to execute all necessary Budget Change Requests.

Result: APPROVED

Mover: Rob Feltner

Secunder: Tom Goodson

Ayes: Pritchett, Goodson, and Feltner

Absent: Tobia

K.2. Morris Richardson, County Attorney, Re: Board Report

Morris Richardson, County Attorney, stated pursuant to Chapter 164 Florida Statutes and BCC

97, he would request that Chair Pritchett set a special meeting of the Board of County Commissioners to take place on Monday, May 1, 2023, at 10 a.m. in the fellowship hall at the First Baptist Church of Malabar; the purpose of the meeting is a joint meeting of the Board of County Commissioners and the Town Commission of the Town of Malabar to consider issues between the County and the Town relative to the maintenance of the Malabar Scrub Sanctuary and the threatened Florida Scrub Jay, the only bird endemic to the State of Florida; and the meeting is required by Florida law under Chapter 164.

Chair Pritchett replied yes, the Board will call that as a special meeting.

K.3. Tom Goodson, Commissioner District 2, Vice-Chair, Re: Board Report

Commissioner Goodson stated at a previous meeting, the Board approved for District 5 to pay three full time people; it was brought up that a District 2 staff member, Fritz VanVolkenburgh, made these recommendations, but if the minutes were read, he did not make them; District 2 has more unincorporated areas than the District 5 area has; he mentioned he has two part time and one full time employee; he is not complaining about District 5, he is just cleaning up the record to indicate that this was not something that was promoted by Mr. VanVolkenburgh; and if the Board wants to keep three full time people down there, at the taxpayer's expense, when they do not have a Commissioner... He added if you read the minutes, it talks about District 2 not having a Commissioner and not having to work on Commissioner's research and all that; this is just to clean the record up; and if there is any other discussion, he is willing to have that conversation now.

Chair Pritchett commented she thinks there might have been a few other things at the time, but she does not necessarily disagree with him; she thinks that if Mr. VanVolkenburgh had thought differently at the time, it would have weighed on her heavily too; she does not disagree that District 2 has a lot of the unincorporated and after District 1 he is next on the block; and they spent a lot of time doing concierge for people because they like to call them up first, which is wonderful. She asked Frank Abbate, County Manager, if he has had time to reach out to the District 5 staff and check in on what the system is right now, going forward; she stated this could be something she would not disagree on evaluating it in a little while; she is a little hesitant to change it right away, as she was kind of hoping someone would be appointed pretty quickly; and she asked Mr. Abbate since they are actually his staff now.

Mr. Abbate replied he has spoken with them and he thinks they are operating effectively, the three of them in the office on a daily basis.

Chair Pritchett remarked she thinks the last time the Board did this they were assigned to District 2 but they worked for Mr. Abbate from that point; she mentioned she is sure the District 5 staff is checking in with Mr. Abbate to see if he has any other assignments for them; she does not mind holding this out for a little while; and the District 5 staff can let the Board know if there is anything it needs to do as well.

Commissioner Feltner stated he would say the same as he said last time, he thinks that as soon as the session is over with, the Governor will make an appointment; that is the first Tuesday in May; that time is quickly approaching, so he thinks that if there were any decision that needed to be made long term, it could possibly be done after that time; but he feels confident that there will be a new Commissioner in the next few weeks.

Commissioner Goodson remarked if he knew anything about the Governor, he is not going to appoint someone that is going to hurt him in the Presidential race that could have taken a vote in Tallahassee or here in Brevard County.

K.6. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report

Chair Pritchett mentioned that Sandra Sullivan made her think about this; she thinks it might be expedient for County citizens if they have a residence in the Satellite Beach area, that the Board just went ahead and kept it public for the residents on those parks in Satellite Beach; maybe the Board could send out a letter, information, or a news blast to let them know that all they have to do is pick up a pass; and they are allowed to park there as well.

Commissioner Feltner remarked that he does not think they are done with the final product; and he asked if that was correct.

Morris Richardson, County Attorney, replied they passed their ordinance on second reading; they have not implemented it yet, as it will be several months prior to implementation; right now they are not collecting parking fees; he thinks their timeline is five or six months out before they start collecting fees at the various locations; but they have passed their ordinance with their intent to implement the plan.

Chair Pritchett asked if it is running smoothly.

Attorney Richardson replied he is monitoring it and his office and Don Walker, Communications and Space Coast Government Television Director, are following it closely; and they will send out the notices.

Commissioner Goodson stated he had something for the Board and the County Manager to think about; he would like to consider moving the Planning and Zoning meetings to two hours before the Commission meeting, giving ample time for everybody to come to the Planning and Zoning; then there would be a time certain on the Commission meeting; occasionally they run longer than two hours and one of two things could be done, continue and finish it or postpone it until after the Commission meeting; and he does not know which way, but he would like for that to be considered by the County Manager and to get back to the Board.

Chair Pritchett asked the County Manager if he was good to get back to the Board with the logistics of that.

Frank Abbate, County Manager, replied it is up to the Board; he would be happy to modify the schedule moving forward if that is what the Board would like; and he did not think there would be any issues with that.

Upon consensus of the Board, the meeting adjourned at 9:39 a.m.

ATTEST:

RACHEL SADOFF, CLERK

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA