

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Tuesday, August 25, 2020**

**9:00 AM**

**Regular**

**Commission Chambers**

**A. A. CALL TO ORDER 9:00 a.m.**

Rollcall

**Present:** Commissioner District 1 Rita Pritchett, Commissioner District 2 Bryan Lober, Commissioner District 3 John Tobia, Commissioner District 4 Curt Smith, and Commissioner District 5 Kristine Isnardi

**B. B. MOMENT OF SILENCE**

Chair Lober called for a moment of silence.

**C. C. PLEDGE OF ALLEGIANCE: Commissioner Rita Pritchett, District 1**

Commissioner Pritchett led the assembly in the Pledge of Allegiance.

**D. D. MINUTES FOR APPROVAL: April 30, 2020 Special Meeting; May 19, 2020 Regular; May 28, 2020 Zoning**

The Board approved the August 30, Special meeting minutes, the May 19, Regular meeting minutes, and the May 28, Zoning meeting minutes.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F. CONSENT AGENDA (The entire Consent Agenda will be passed in one motion to include everything under Section F.)**

**F.1. Sovereignty Submerged Lands Lease with Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, Re: Griffis Landing**

The Board executed and approved the Sovereignty Submerged Lands Lease with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida modified to add fueling as an amenity at Griffis Landing.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**North Brevard Economic Development Zone**

**F.2. Approval of Resolution and Real Estate Contract for sale of industrial property in county-owned business park in Titusville. District 1**

The Board adopted Resolution No. 2020-083, conveying real property interest in a parcel within the Spaceport Commerce Park to Engineered Bonding Solutions, Limited Liability Company, d/b/a Acra Lock; and executed and approved the Contract for Sale and Purchase with Engineered Bonding Solutions.

**Result:** ADOPTED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**Planning and Development**

**F.3. Final Plat and Contract Approval, Re: Viera Boulevard Commercial Center II, (20FM00001) (District 4)**

**Developer: The Viera Company**

The Board executed and granted Final Plat and Contract Approval for the Viera Boulevard Commercial Center II – The Viera Company.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.4. Approval RE: Transportation Impact Fee Technical Advisory Committee for the Central Mainland Benefit District Project Funding Recommendations (Districts 1, 2, and 4).**

The Board approved the project funding recommendations in the amount of \$325,000 as prepared by the Transportation Impact Fee Technical Advisory Committee for the Central Mainland Benefit District on July 14, 2020; authorized the Chair to execute the Transportation Impact Fee Disbursement Agreement with the City of Cocoa; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing these appropriations.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.5. Approval RE: Library Impact Fee Advisory Committee Project Funding Recommendations (Districts 1 through 5).**

The Board approved the project funding recommendations in the amount of \$150,000 per Fiscal Year for the next three Fiscal Years as prepared by the Library Impact Fee Advisory Committee on July 16, 2020; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing these appropriations.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.6. Approval RE: Correctional Facilities Impact Fee Advisory Committee Project Funding Recommendations (Districts 1 through 5).**

The Board approved the project funding recommendations in the amount of \$151,399.83 as prepared by the Correctional Facilities Impact Fee Advisory Committee on July 15, 2020; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing these appropriations.

**Result:** APPROVED

**Mover:** John Tobia  
**Seconded:** Bryan Lober  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.7. Approval Re: Disbursement of Educational Facilities Impact Fees (Districts 1 - 5).**

The Board authorized the disbursement of Educational Facilities Impact Fees in the amount of \$9,196,434.91 to the School Board of Brevard County in accordance with the terms of the Interlocal Agreement; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing this disbursement.

**Result:** APPROVED  
**Mover:** John Tobia  
**Seconded:** Bryan Lober  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.8. Approval RE: Transportation Impact Fee Technical Advisory Committee for the Merritt Island/North Beaches Benefit District Project Funding Recommendations (Districts 2 and 4).**

The Board approved the project funding recommendations in the amount of \$1,854,789.16 as prepared by the Technical Advisory Committee for the Merritt Island/North Beaches Benefit District on August 7, 2020; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing these appropriations.

**Result:** APPROVED  
**Mover:** John Tobia  
**Seconded:** Bryan Lober  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.9. Approval RE: Transportation Impact Fee Technical Advisory Committee for the South Mainland Benefit District Project Funding Recommendations (Districts 3, 4 and 5).**

The Board approved the project funding recommendations in the amount of \$112,000 as prepared by the Technical Advisory Committee for the South Mainland Benefit District on August 10, 2020; authorized the Chair to execute the Transportation Impact Fee Disbursement Agreement with the Town of Malabar; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing these appropriations.

**Result:** APPROVED  
**Mover:** John Tobia  
**Seconded:** Bryan Lober  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.10. Approval RE: Transportation Impact Fee Technical Advisory Committee for the North Mainland Benefit District Project Funding Recommendations (Districts 1 and 2).**

The Board approved the project funding recommendations in the amount of \$2,794,322.84 as prepared by the Technical Advisory Committee for the North Mainland Benefit District on August 17, 2020; authorized the Chair to execute the Disbursement Agreement with the City of

Titusville; and authorized the Budget Office to execute any Budget Change Requests necessary for implementing these appropriations.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

### **Public Works Department**

**F.11. Approval Re: Temporary Construction Easement from Jacob Aaron Corporation for the W20 Force Main as part of the West Cocoa Utilities Improvement Project - District 1.**

The Board approved and accepted the Temporary Construction Easement from Jacob Aaron Corporation for the W20 Force Main.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.12. Approval Re: Donation of Drainage Easement from Carlos and Sandra Springfield to Support the Scottsmoor Denitrification Bioreactor Project- Wheeler Road - District 1.**

The Board approved and accepted the Drainage Easement from Carlos and Sandra Springfield to support the Scottsmoor Denitrification Bioreactor Project – Wheeler Road.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.13. Approval Re: Donation of Drainage Easement from Amanda and Binh Le for the West Hall Road Outfall Project - District 2.**

The Board approved and accepted the Drainage Easement form Amanda and Binh Le for the West Hall Road Outfall Project.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.14. Approval Re: Execution of Two Perpetual Easements Previously Donated by Brevard County to Florida Department of Transportation for the Northerly Segment of St. Johns Heritage Parkway Project - District 5.**

The Board approved and authorized the Chair to execute the Donation of Property to the FDOT for the SJHP Project.

**Result:** APPROVED

**Mover:** John Tobia  
**Seconded:** Bryan Lober  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.15. Adopt Resolution and Release Performance Bond: Viera Town Center I, Phase 2 - District 4**

**Developer: The Viera Company**

The Board executed and adopted Resolution No. 2020-084, releasing the Contract and Surety Performance Bond dated December 4, 2018, for Viera Town Center I, Phase 2 – The Viera Company.

**Result:** ADOPTED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.16. Adopt Resolution and Release Performance Bond: Viera Town Center III - District 4**

**Developer: The Viera Company**

The Board executed and adopted Resolution No. 2020-085, releasing the Contract and Surety Performance Bond dated December 4, 2018, for Viera Town Center III – The Viera Company.

**Result:** ADOPTED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.17. Adopt Resolution and Release Performance Bond: Egret's Landing, Phase 4 - District 2**

**Developer: Egret's Landing MI, LLC**

The Board adopted and executed Resolution No. 20-086, releasing the Contract and Surety Performance Bond dated December 10, 2019, for the Egret's Landing, Phase 4 – Egret's Landing MI, LLC.

**Result:** ADOPTED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.18. Termination of Lease with City of Cocoa RE: Community Action facility located at 400 S. Varr Avenue, Cocoa**

The Board approved early termination of the lease with the City of Cocoa for leased facility used by the Community Action Team at 400 South Varr Avenue, Cocoa.

**Result:** APPROVED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.19. Adopt Resolution and Release Performance Bond: Panther Ridge, Phase 3 - District 1**

**Developer: D.R. Horton, Inc.**

The Board adopted and executed Resolution No. 20-087, releasing the Contract and Surety Performance Bond dated March 24, 2020, for Panther Ridge, Phase 3 – D.R. Horton, Inc.

**Result:** ADOPTED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.21. Approval, Re: County Deed and Resolution for the St. Johns Heritage Parkway Intersection and Babcock Street Transfer to the City of Palm Bay - Districts 3 and 5.**

The Board adopted and executed Resolution No. 20-088, authorizing the conveyance of County property; and approved the County Deed for the St. Johns Heritage Parkway Intersection and Babcock Street transfer to the City of Palm Bay.

**Result:** ADOPTED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.22. Approval, Re: Dedication of Utility Easement from Bayswater Development Corporation for the Wave Crest Townhomes Sewer Permit Application Process - District 5.**

The Board approved and accepted the Utility Easement for the Wave Crest Townhomes Sewer Permit Application process from Bayswater Development Corporation.

**Result:** APPROVED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.24. Approval RE: Local Agency Program Agreement and Resolution with the State of Florida Department of Transportation for the Countywide Intelligent Transportation System Operations Project FPN 428930-1-88-01- All Districts**

The Board adopted Resolution No. 20-089, approving the Chair to execute the Local Agency Program (LAP) Agreement with FDOT for the Countywide Intelligent Transportation System (ITS) Operation Project FPN 428930-1-88-01; and approved any necessary Budget Change Requests associated with it.

**Result:** ADOPTED

**Mover:** John Tobia

**Seconded:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**Fire Rescue**

**F.27. Approval, Re: Renewal of Certificates of Public Convenience and Necessity (COPCN)**

The Board approved the Renewal of Certificates of Public Convenience and Necessity; and authorized the Chair to execute the COPCN with Brevard County Fire Rescue (ALS, BLS, and ALS Non-Transport), Cape Canaveral Volunteer Fire Department (ALS), Coastal Health Systems of Brevard, Inc. (ALS and BLS), Kennedy Space Center (ALS and BLS), Canaveral Space Force Station (ALS and BLS), City of Palm Bay (ALS), Health First-Holmes Regional Medical Center, Inc. d/b/a First Flight (ALS), City of Titusville (ALS), City of Cocoa (ALS), City of Cocoa Beach (ALS), City of Melbourne (ALS) City of Satellite Beach (ALS), City of Indialantic (ALS), and City of Rockledge (ALS), for the 2020-2023 renewal period.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.28. Approval, Re: Interlocal Agreement with the City of Palm Bay for Automatic Aid, E-911 Dispatch Services and Facility Use.**

The Board approved the Interlocal Agreement with the City of Palm Bay for Automatic Aid, E-911 dispatch services and facility use.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.29. Agreement with Coastal Health Systems of Brevard, Inc. for Inter-Facility and Marchman/Baker Transport Services.**

The Board approved the Agreement with Coastal Health Systems of Brevard, Inc. (CHSB) for non-emergency inter-facility and Marchman/Baker transport services; authorized the Chair to execute the new Agreement; and authorized the County Manager, or his designee, to execute any subsequent amendments and/or renewals upon the review and approval of the County Attorney's Office and Risk Management.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**Support Services Group**

**Budget**

**F.30. Acknowledge Receipt of the Tax Collector Recapitulation and Errors and Insolvencies Reports.**



The Board acknowledged receipt of the Tax Collector Recapitulation of the Tax Roll (DR-502) and Errors and Insolvencies Report (DR-505) for the 2019 tax year.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.31. Approval of Budget Change Request**

The Board approved the Budget Change Request.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**Miscellaneous**

**F.34. Appointment(s) / Reappointment(s)**

The Board appointed/reappointed Rebecca Shireman to the Tourist Development Council and Alison Colvard to the Housing Finance Authority, with said terms expiring December 31, 2022.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**Tourism Development Department**

**F.25. Approval of Tourist Development Council (TDC) Proposed FY2020-21 Marketing & Media Plan and Approval for the TDO Director to Make Vendor Selections, Negotiate and Execute Agreements with Media and Advertising Vendors Up To and Over \$100,000.00...End**

Peter Carnesale expressed his appreciation to Chair Lober and Commissioner Smith for their advice at the last meeting. He stated he is now on a different subject; his problem with this is the way it is phrased, it says vendors up to and over \$100,000; to him that means giving a blank check to the Tourist Development Council (TDC); if they would take out of their requirements he believes they should have just requested the removal of the paragraph that required a limit; and he has no problem with raising a limit if it has been in there awhile because prices have gone up but he has a problem with just signing off on a blank check. He added he feels that giving a blank check means there is no longer any control.

Commissioner Pritchett advised she had asked about that as well; the framework she received as they submitted this proposal, and they cannot be outside of that proposal for just one, so she thought it read a little funny; she went through what the TDC is proposing; and she thinks it has to be within what they have submitted for this budget cycle, so nothing can be an outlander.

Chair Lober asked Peter Cranis, Tourism Development Office Executive Director, to provide the Board a brief explanation; and he noted he spoke with Mr. Cranis about this, but it does not do

much for the public.

Peter Cranis, Tourism Development Office Executive Director, stated this is a bit of a legacy item in terms of being able to allow flexibility for the Tourist Development Office to move as the market moves; when it is buying media, truthfully in a time like now being uncertain, it provides the flexibility to shift dollars from one area to another, cease spending in an area, or increase spending as they see the market improve; as Commissioner Pritchett alluded to, there is a detailed marketing plan behind this, it is not a blank check; it is defined as far as what is allowed and what is not allowed to be spent on; the vendors are listed; and the County Attorney's Office, Risk Management Department, and the Purchasing Department have to sign off on any contracts. He continued by saying it is all contracted, they are not just flying loose and free, they are flying within the auspice of the purchasing process; the only change is the amount of money because when buying media, as people know media is very expensive and a lot of the contracts are for over \$100,000; and this allows them the flexibility to do that contracting.

The Board approved the proposed Marketing and Media Plan for FY2020-21 from the Tourism Development Office in the amount of \$4,361,557 including the selection of the media vendors approved by the Marketing Committee and the TDC, with the TDO Marketing and Media Plan to remain flexible, strategically built through seasonal campaigns and marketing partnerships, as the market demands may cause changes to the plan throughout the Fiscal Year; approved to provide the Tourist Development Office Director the ability to select media and advertising vendors without a bid process, waiving Procurement Policy in accordance with BCC-25; authorized the Tourist Development Office Director to negotiate and execute agreements with such vendors, upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services in accordance with AO-29, up to and exceeding \$100,000; and granted the Tourist Development Office Director the ability to receive revenue from cooperative advertising partners and grants from organizations such as the Florida Sports Foundation.

**Result:** APPROVED

**Mover:** Kristine Isnardi

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**F.26. Approval, Re: Extension to the multi-year grant agreement to the Brevard Zoo Aquarium project, formerly entitled Indian River Lagoon Conservation Campus & Aquarium.**

Chair Lober advised there is one comment card; and he inquired if Commissioner Tobia would like to hear that first.

Commissioner Tobia replied sure.

Keith Winsten advised he is only there for questions.

Commissioner Tobia stated he has questions for Mr. Winsten.

Chair Lober called Mr. Winsten to the podium.

Commissioner Tobia thanked Mr. Winsten for sending the letter and he apologized for not getting back with him prior, but he is sure these are softball questions. He stated his understanding is the design for phase one of the project is \$80 to \$90 million range; and he

inquired if that is still correct.

Mr. Winsten replied yes, the most recent estimate came in at \$85 million.

Commissioner Tobia asked to this point, how much of that \$85 million has Mr. Winsten raised.

Mr. Winsten responded he currently has \$24 million including the \$10 million that is currently committed by the Tourist Development Commission (TDC).

Commissioner Tobia asked for clarification that it is currently \$24 million inclusive of the \$10 million.

Mr. Winsten responded affirmatively.

Commissioner Tobia stated his understanding is the County is the last in; and he inquired if that is correct.

Mr. Winsten replied no it is not specified as last in.

Commissioner Tobia stated either way it sounds like less than a third; the agreement the County had with him called for ground breaking he believes by the end of next month; and he inquired what stage of construction Mr. Winsten is currently in.

Mr. Winsten advised he is at no stage of construction and that ground breaking would be the very first part of that.

Commissioner Tobia inquired if any property has been acquired.

Mr. Winsten stated as he mentioned in the letter, everything stopped when COVID-19 hit; that included finalizing the work with the Port; they were near to completion on a contract; they mutually decided they had other things to worry about; the Port had an outside firm working on it; it stopped that contract, as the Board knows the Port is having some financial challenges as is he; and he noted that agreement is close but not complete.

Commissioner Tobia stated at the September 18 meeting, Mr. Winsten said, "I welcome this two year deadline to these funds to make sure we can lift fast as well as heavy."; the deadline for beginning construction for the aquarium arrives next month; and clearly as Mr. Winsten stated, they are not ready for construction, and they have not even secured a site. He went on to say while he understands the zoo would like to build this aquarium, he believes the Board needs to have bigger priorities; even Mr. Winsten has mentioned through emails that feeding animals of the zoo is probably a priority; the Board has priorities here too; and he thanked Mr. Winsten for coming. He noted he is going to provide some alternatives; the Board is looking at significant short falls as well over the next couple years and this is one example of discretionary projects whose funding can be repurposed to make up for that; Commissioner Pritchett had said the Board needs to sharpen pencils and this is the opportunity to this; and the Board can take up this \$10 million over a period of time and free up General Funding through reallocation of Tourist Development Tax (TDT) for beachfront parks. He went on to say the same money that is going towards this zoo, that may or may not happen, could be used to fund the County's beachfront parks, thus freeing up money for General Fund to make up for revenue loss; reallocation of TDT to increase funding towards marketing, it is very important that the County get people here; if the County had a more robust marketing budget it can raise more TDT dollars; and potentially down the road invest in projects like the aquarium. He added that is a

present need not a future need; therefore, he is going to make a motion to reject the request for extension that is proposed by East Coast Zoological Society of Florida, as this is the second or third opportunity that the Board can take to reprioritize funds to make up for budget shortfalls that are impending, instead of an aquarium that was scheduled to begin but has apparently not collected a third of the funding needed, gotten the land necessary, nor began construction.

Chair Lober stated he is kind of struggling; he does not see any lights but he is struggling on whether or not to second that motion; he spoke with Mr. Winsten last week at some length over some concerns that he has at which Mr. Winsten did a very good job of addressing; one of the things that he has been thinking about over the past several days, or longer, is whether a three year extension is not just too much; if the initial amount of time that was allocated for fund raising was less than that, and he understands that COVID-19 puts everyone in a bad spot, or most everyone in a bad spot, he just does not know that he is comfortable with three years; he mentioned he could get behind a year and he might be able to get behind 18 months; but, anything any longer than that he just does not see himself signing on to. He went on to say he just does not want to have the County funds obligated for that period of time because he does not know what is going to come up between now and then; there may be a better option and there may be no other options, he really does not know; if someone comes up with a plan that is sufficiently specific that appears to be better than this, that there is enough detail to be able to consider, he would be happy to consider that as well; and, he is not going to scrap this without knowing to a real good degree of specificity what the alternative is that the money can be used for. He further stated he knows there have been some items that were just mentioned and those may be great ideas, he just does not have the specifics for them; and he advised he is not going to support extending this for three years, but if someone wants to make a motion to extend it for a year or 18 months he would get behind it.

Commissioner Pritchett stated statistically after a community gets hit financially the government follows about two years; she thinks two years might be appropriate; this is staying in a Reserve Fund; she would not even necessarily want the County to dip into it until something came up; that will give them a couple years to come back with a plan; and right now the County has not even finalized this budget coming up, so it provides an adequate period of time. She stated she thinks two years is a good number just from watching how the County has had to deal with budgets, government wise; after the community has been hit the government seems to stay fine for a couple years and then they seem to do some struggling; and she reiterated she thinks two years may be a good time period without tying the County's hands.

Chair Lober advised if it is important to Commissioner Pritchett, he will support the two years; he thinks it is a little long; but, he will do it if she would like.

Commissioner Isnardi stated she is in support of the project; she has talked in length with Mr. Winsten about it; she can agree to the two years if that is where the Board is headed; and the Board can always reevaluate. She further stated the fact that there has already been \$24 million invested, of private money, tells her that the community wants this; she thinks it is a good project; the County invests millions every year in marketing; and therefore, she thinks the Board is doing the right thing with that. She noted she does not think the County is lacking; she thinks that is what these funds were designed for; this is not coming from people's salaries, employees, or services, it is coming from Tourism tax, so she is in support; and she is okay with the two-year extension, then the Board can reevaluate. She stated if Mr. Winsten is half way to the point, secured the land, and ready to break ground, then it is even closer.

Commissioner Tobia stated Commissioner Isnardi may have mentioned it; he may have been confused if she mentioned \$24 million in private money; and he asked if it is \$24 million in

private money or if it is \$14 million in private money plus \$10 million promised.

Mr. Winsten stated to be exact it is \$24,026,000 because they were about to pull the trigger.

Commissioner Tobia advised he does not care about \$26,000, he asked if that is inclusive of the \$10 million.

Mr. Winsten replied it is inclusive of the \$10 million.

Commissioner Tobia advised \$14 million is a lot of money, but it is not \$24 million.

Commissioner Isnardi stated okay.

Commissioner Tobia stated it is more than half but not a whole bunch; he does not know why the County has deadlines; there is a two year deadline and now the Board is talking about an extension of two years and if he does not reach it in two years, he can come back and ask for more time; he thinks the Board should do one of two things here; either vote this down and say there is no more time or give Mr. Winsten a chance to come back; he does not know why the Board gives him a timeline; he asked why the Board does not just say they will give him this money for 20 years, if it is going to set an arbitrary deadline, a second one, and it does not matter; he thinks the Board should either go with nothing, which does not sound like the case, or why two years if he is just potentially going to come back, although it is outside of his control because obviously he does not know what the private funding is going to be, there could clearly be some implications here; and he noted he would support either no deadline whatsoever or just end it as it is.

Chair Lober stated if Mr. Winsten comes back in two years and there is not something incredibly extenuating, he probably will not give him another extension; he is advising him of that right now so he can operate with that being understood; he may have enough votes anyway, and if it makes him the bad one then it does, but he will only give it to him this one time; and he agrees with Commissioner Tobia that there has to be a point in having deadlines. He noted hopefully Mr. Winsten will be able to accomplish this in two years; and he asked Mr. Winsten if he had any comments.

Mr. Winsten stated obviously this is tourism funds and it comes out of the capital tourism part of it which is capital, it is not competing with marketing, it is competing with other capital projects; the TDC unanimously extended this because of the value they put on this project in driving tourism; it is all about the tourism tax, all about more heads in beds, 50,000-plus bed nights per year, and they have a track record of providing that; it is a major project and that is the excitement that he thinks the TDC sees in it, from hoteliers to restaurants, to tourists and everybody else; those projects do not get completed overnight; and there is huge uncertainty here with COVID-19. He further stated to look at projections for theme parks, it is going to be multiple years before they return; the other interest here is giving the TDC's capital funds time to buildup; none of those monies are coming to him until they break ground; it is extended over eight years at \$1.250,000 per year; they want it in the future they do not want it now because the funds are harder to come by under the current; and that is why everyone thought three years was the appropriate amount of time. He added the reason he likes three years is because it either gives him the chance to get it done or not; two years is tight and he will not know if it is going to be another year before recovering from COVID-19; if anyone takes a look at what the recoveries are, it is not until 2022 that most people are projecting the return to theme parks; as much as he appreciates the concept and the idea of the limited, three years is the number that actually says this is going to work or not; and at that point no money has been

spent from the County, that money is going into the future anyway, so it is not like it has been held up, it is simply not spent. He advised the Board that he would humbly ask that it stick to the original and either they are breaking ground or not coming back; there are other significant funds they know of that are ready to commit, but this also matters because people are going to say that is a short leash and are they less willing to invest because they may take a look at who is voted into the County; and he obviously appreciates the two years with no extension, but the original request for three years was thought out for very good reasons, it worked for the TDC, it also works for when the Save Our Indian River Lagoon (SOIRL) tax ends and the aquarium is in place to drive money, which it does, into the Lagoon as the SOIRL tax ends. He requested to keep the three years, as Commissioner Tobia suggested give them either the one they want or essentially kill the project; and that would be his request, at three years it is either get it done or go home; and at two years he may have to come back and say he is at X percent and they would have this debate again, when lots of people have put in more money, more time, and more energy.

Commissioner Pritchett stated the Board can reevaluate in just a couple years, but the climate right now, it was discussed to stay status quo because the Board does not know where the County is going to land when it is done; the Lagoon funds are being hit and the tourist tax is being hit; when the County did capital projects it was 24 months to get projects done; and she thinks that is fair. She advised she does like this project and if the environment is getting to where it is healthier and the County figures out what it is doing, or Mr. Winsten has more finances coming in, but she thinks two years is a fair period of time right now; and she noted she is not against this, she is for this project. She further stated if Mr. Winsten is saying he will not do it for 24 months it would make her heart sad.

Commissioner Smith stated he likes the project and he thinks it would be terrific for the County on many levels; it is going to bring people in and increase the tourist tax; it is about heads in beds; the County is in uncertain times and no one knows what next month is going to look like much less what two years, three years, or five years is going to look like; if Mr. Winsten is saying at the end of three years, if he cannot produce numbers then he is willing to walk away, if he comes back in two years and says he has made significant progress, he cannot imagine this Board would not give him another year; and his concern is something that Mr. Winsten said, if he thinks some donors may be unwilling to make the commitment because it is only two years or three years, to him that is troubling. He asked if people make a commitment and then this goes south in two years will these people get their money back.

Mr. Winsten replied yes.

Commissioner Smith stated that should alleviate their concern and he would encourage them if they are listening or if they are going to listen to Mr. Winsten, that if anything by them getting involved early, that solidifies he thinks, the rest of the people on this Board to get behind Mr. Winsten; and that is what his tact would be, so he will support the two years.

Commissioner Tobia stated it sounds like he is going down with the ship; he wants to point out again what Mr. Winsten said because clearly people did not hear it when he just said he wants to stick with the original; he quoted Mr. Winsten, "I welcome this two year deadline for these funds to make sure that we live fast as well as heavy."; now he is asking for three years past the original two; he said looking at this \$85 million, less than 20 percent of that has been raised from private sources; he knows COVID-19 has come over the last six months, so for three quarters of the time, he has raised less than 20 percent; this is Dead on Arrival (DOA) and the Board needs to put a fork in it right now; Mr. Winsten pointed out these are capital funds and he is absolutely correct; and what Mr. Winsten did not mention, but he did, is the Board can

switch the allocation of those capital expenses into marketing per State Statute. He noted this is very important; he is not doubting that an aquarium would bring people into Brevard County, when it gets built in 15 or 20 years, but the Board needs to be concerned about next year or the year after or the year after that, at which time the Board would be lucky to see it even break ground; these monies can, through action of the Board, be switched into marketing that can be used as soon as those monies become available; and obviously the County does not have this \$10 million but it has appropriated this \$10 million. He continued by saying as that money does come in, the Board has the ability to turn around and draw more people to the County and if the Board does that and it is successful maybe the Board goes back and switches the capital allocations; meanwhile it does not preclude Mr. Winsten from continuing to fund raise with the project, no deadline over his head, just no \$10 million; if he was \$15 million away and the Board was part of it, maybe he would have an argument; but, this is less than 33 percent to the finish line. He further stated the Board needs to be honest, maybe it is time for Mr. Winsten to take care of the animals at the zoo right now and stop worrying about a project that has very little likelihood of ever coming to fruition; he is saying this because he imagines at some point down the road, in two or three years, Mr. Winsten is going to come back and he wants to be on the record very clearly, as he said, "I welcome this two year deadline."; and he wants to be clear that he does not support this project and clearly neither do the donors.

Chair Lober stated as far as donors getting their money back if this project does not go forward in a certain amount of time, Mr. Winsten mentioned something about he has to live by the wishes of the donors, and he inquired if Mr. Winsten is obligated to give the money back; and he mentioned he has never heard of someone donating money to a 501(c)(3) and then asking to have it returned.

Mr. Winsten replied it all depends on the donor and their wishes; and every donor can craft it as they so choose.

Chair Lober asked as far as anything Mr. Winsten has received thus far, would he be obligated to return the money if it does not get constructed in the next 24 months.

Mr. Winsten advised he wants to point out one thing, he did not pull the trigger, they had initial gifts, and to clarify the record, they were just about to pull the trigger on the fund raising when COVID-19 hit; in terms of his track record, people work to a point and then have their ducks in a row before they start the fund raising, they do not simply just do it as it goes along; they had a major gift that came in and they have a bunch of small gifts they call over the transom, they did not ask for them; and he has not checked with those donors, but the smaller gifts that came in, he does not know what they would do. He pointed out the major giver who catalyzed the program, their wish is to make the aquarium, if not they are open to conversations of giving it to the zoo; and really every gift, and everyone is handled differently, individually.

Chair Lober stated he is sorry to keep pressing the point, but he is trying to get a better understanding which he has not gotten up to this point; and he inquired when Mr. Winsten says he would have to check with the individual donors, is he talking about those that have already given money.

Mr. Winsten responded affirmatively.

Chair Lober asked for clarification that Mr. Winsten does not know whether he is contractually obligated or his organization is, to return the money if they request it.

Mr. Winsten explained their contractual obligation with every donor, if they say they giving

money for the aquarium, is if the aquarium cannot be done, he has to go back to the donor and ask if they are okay with a different option.

Chair Lober advised he does not understand and asked Mr. Winsten to give him a little more detail what he means by are the donors okay with the option.

Mr. Winsten continued to explain with every possible donation, if they were to build an X exhibit and they decide not to build it, they go back to the donors who gave for that exhibit, unless they say it is for general operating support; they work with every donor; whatever they say they are giving the money for either he or his organization delivers, for anything, or they go back and ask if the donor is okay if they use that money for something else.

Chair Lober stated he does not think the Board is talking about using it for different purposes; he is talking about donors bailing because they get instead of a two-year deadline potentially a three-year deadline.

Mr. Winsten noted no, that was not his concern, his concern was a donor saying they do not know if the County is going to support this so they do not give in the first place; and it is not that.

Chair Lober stated in terms of folks who have already given, to Mr. Winsten's understanding, whether this gets built in two years, three years or 10 years from now, there is no legal obligation on his organizations part.

Mr. Winsten advised it is about future gifts that he was referring to.

Chair Lober stated that is understandable.

Commissioner Pritchett stated she wanted say if they gave it to the zoo, they would not have to return it but if they gave it specifically to the aquarium and the Board pulls the aquarium, they must return the funds.

Chair Lober commented that makes sense.

Mr. Winsten advised that is what he was talking about; and for future fund raising he wants to give quality plans and options, it is not about current gifts.

Chair Lober stated he will throw one other thing out there, just for Mr. Winsten to look at with his board; and he knows that the current plan to his understanding involves \$1 going to the National Estuary Program (NEP) for each admission.

Mr. Winsten advised for each paid admission.

Chair Lober repeated for each paid admission, which he does not expect them to pay \$1 if they are comping someone's ticket, that does not make any sense; rather than \$1, since they have no idea what the admission is going to be, he would like Mr. Winsten to look at making it a flat percentage so that it would scale up or down as the admission price changes; but if the admission is \$30 and it is \$1, whether they want to set it at something be it three or three and a half percent, something to tie it so 10 years from now, it is not a fraction of the value that it is on the front end.

Mr. Winsten implied he understood.



Chair Lober went on to say it is just something to look at and he is not making it a condition of his vote today, but if Mr. Winsten comes back and asks for an extension, if that is not already in place he would not consider giving an extension without having that, based on a flat percentage as opposed to a dollar value. He advised Commissioner Tobia's motion dies for lack of a second; and he believes Commissioner Pritchett was going to make a motion to extend this for two years.

The Board approved extending the time of funding for the Brevard Zoo Aquarium Project for an additional two years to October 2022, if construction begins by September 18, 2022, for the first of eight payments in the amount of \$1.25 million, that will be made after all secured matching funds, final master plan, financial statements, and compliance with the Tourism Development Council Statute.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Smith, and Isnardi

**Nay:** Tobia

### **Central Services**

#### **F.32. Rejection of Request for Proposal P-4-20-15; Advertising on County Traffic Control Cabinets**

Commissioner Isnardi stated first she wants to hear a little more about why it was rejected.

Commissioner Tobia stated first of all he wanted to thank staff, he thinks given the information they were presented with, they did a very good job and in all honesty he thinks they made the correct decision; this is concerning wraps on those boxes, the amount of derivation they got was \$10,000 or roughly in revenue for controls being given up, he thinks that was the appropriate decision; had he been sitting on that board he would have made the exact same one; he thanked the Selection Committee for their time and effort; and he fully agrees with them. He went on to say, however, more information has come forward and he is going to make a motion in just a second; there was only one respondent here, therefore, the motion would be to enter into negotiations with the only respondent, that being On Street Media, with the expressed additional terms of a minimum guarantee of \$50,000 in revenue; it would be contingent on the company securing the rights through four Florida Department of Transportation (FDOT) boxes in the County; he thinks it becomes a different proposition if the County is guaranteed \$50,000; and he thinks that may be a viable option to work with. He continued by saying if the company is not interested in going in that direction, then he thinks the County should totally walk away; and he thinks \$50,000 is a starting point that may be a viable option for the County to look at.

Commissioner Isnardi stated before Commissioner Tobia spoke she wanted to say something similar; she wanted to find out not only why staff rejected this because she figured that information would be out to the public, is the concern with revenue; she wanted the Board to move forward at least to explore the option of possibly coming up with a revenue agreement because she thinks this is great; it is a great opportunity for the County to capture some revenue that it has not before; it works in other municipalities and other counties; and she thinks it is something that the County should definitely pursue instead of just rejecting altogether. She went on to say if what they come up with is not an agreement that staff can live

with or maybe perhaps staff can bring it back to the Board as far as options go; she does like the idea of the minimum and if staff is able to negotiate more than that, she is all for it; and she would like this to go back to the table for sure.

Commissioner Smith asked Commissioner Tobia where he came up with the \$50,000, and what that is representative of.

Commissioner Tobia answered the \$10,000, and staff did an amazing amount of work on this and he looked at the tail end of this rather than being involved in the process for numerous reasons; they looked at boxes in another municipality that did not have the traffic flow and the revenue potential, so County staff took the most conservative approach, and he thinks that is the right way to go; and speaking with the company afterwards, it is very apparent that they think they can do quite a bit better and the way they enforce that is not by taking them at their word that they think they can draw 30, 40, or 50 percent more than what other municipalities are offering, but by providing a revenue guarantee. He continued saying if the County has that revenue guarantee, he thinks that probably leaves the County in a situation with minimum guarantee, where it starts at this point; and as revenue grows the County potentially has an ability to make quite a bit more.

Commissioner Smith inquired if that is going to tie in a percentage so that the County gets \$50,000 minimum and then a percentage over and above.

Commissioner Tobia advised he would leave that to the negotiating committee; he thinks Steve Darling, Central Services Director, has a better handle on this; hopefully it would be they need that \$50,000 threshold and then at a certain percentage over that \$50,000 as revenues would grow, hopefully so to would the County's; but if they were under, then the County has the guarantee of the \$50,000; and in his opinion he thinks that would be worth going forward. He mentioned the \$10,000 they came up with, he thought was fair, but not worth going forward, so that is why he thinks the \$50,000 is worth sending it back.

Commissioner Smith asked him to make the motion to move this along so the Board does not get half-an-hour or forty-five minutes.

Chair Lober advised there is a little more commentary too.

Commissioner Tobia advised his motion is to enter into negotiations with On Street Media with the expressed additional terms of minimal guarantee of \$50,000 revenue, and the contract would be contingent on the prospect securing the rights to the FDOT boxes in the County.

Commissioner Pritchett stated that is a pretty, creative idea because they thought they could bring in \$60,000, so she likes it; and she asked why does the County not place a little variable into it also so that any percent over the \$50,000 they go back to the 20 percent if it is more.

Commissioner Tobia stated he is pretty sure Mr. Darling will handle that.

Commissioner Pritchett advised that the Board is making this motion.

Commissioner Tobia advised he has no problem with that, he does not want to give Mr. Darling too much direction.

Commissioner Pritchett stated that is kind of what they said they would do, but she likes his idea of the \$50,000 minimum.

Chair Lober stated he is not going to twist anyone's arm to do differently than they think is appropriate by any means, but he did not like the idea when it first came up; the idea of sticking something that is intended to capture the attention or a driver at intersections and really focusing on the busiest of intersections, where the highest traffic flow is, he does not mind if there is private enterprise that has billboards that are properly permitted up there, that is certainly their right to do that; he just does not know that the County should be adding to that potentially competing with private enterprise by putting up its own advertisements and further distracting folks that quite frankly, are already distracted enough with all the different gadgets they have in cars; he understands there is a balance to be had, but in his mind, it just does not weigh out; and he will respect everyone's votes, but he is not going to support it for that reason.

The Board approved to enter into negotiations with On Street Media, Inc. with the additional terms of a minimum guarantee of \$50,000 in annual revenue, contingent upon On Street Media Inc. securing the rights to the Florida Department of Transportation (FDOT)'s Traffic Control Cabinets in the County.

**Result:** APPROVED

**Mover:** John Tobia

**Seconder:** Curt Smith

**Ayes:** Pritchett, Tobia, Smith, and Isnardi

**Nay:** Lober

Rejection of Request for Proposal P-4-20-15; Advertising on County Traffic Control Cabinets

Frank Abbate, County Manager inquired if the minimum of \$50,000 was annual.

Commissioner Tobia responded yes.

Chair Lober stated he thinks everyone contemplated that and asked if anyone on the Board has any concerns.

**County Attorney**

**F.33. Request for Executive Session: Brevard County v. Fineberg, et al, Case No 05-2013-CA-023226**

Chair Lober advised he had asked to have this one pulled; rather than the Board having an Executive Session that quite frankly he does not know if the Board needs to have, he would just ask for a motion to authorize staff and the Chair to sign and execute any necessary documents to set this globally for an amount of \$57,123.53 inclusive of all costs and fees.

Commissioner Pritchett advised she makes that motion.

The Board authorized the County Manager and the Chair to sign any necessary documents to settle globally for an amount of \$57,123.53, inclusive of all costs and fees in the case of Brevard County v. Fineberg, et al for Case No. 05-2013-CA-023226.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Seconder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**G. PUBLIC COMMENTS**

Michael Bramson, President of Brevard County Firefighters Union, stated with everything going on right now he is there to speak on what is going on in the oceans right now; first of all, everything in Fire Rescue is as best as people can imagine; a lot of the support from the Board has gone through in how they deal with COVID-19 with the firefighters which is fantastically appreciated by everybody who is out there doing what they do; they have a new person in Emergency Management, Interim Director, John Scott; they have yet to have an event to test the trials of what is going on with the new people in place; but they have heard fantastic things and are excited about what is going on. He went on to say that brings him to why he is there, in the history of Florida there has always been an anticipation of what to do during an emergency; now there are a couple of things to declare a State of Emergency, a lot of things being compounded; what he is asking the Board, County Manager, the Emergency Operations Center (EOC), the public safety Group, and the citizens and visitors of Brevard County is to pay attention to what is going on; when there is an event and an opportunity for evacuations, stay in place, get fuel, or go shopping, they need to understand the weight of that and hopefully they can do what is right for the citizens of Brevard; and if the people are safe and can perform best practices to be safe, that in turn will make a safer environment for response and allow the firefighters to do their jobs. He noted that COVID-19 compounded with a natural disaster has been observed in North Carolina, Louisiana, and Texas with all the things going on; it is basically organized chaos; if they perform best practices up front that will help the firefighters perform their job just in case something happens on the back end; it is more of a recognition that it is the peak of hurricane season; Florida has broken many records with these storms, it has been done before with four storms sitting off the coast before, they know what to do and how to do it; and they just need the help of Brevard County to make sure they can actually execute what is asked of them to do. He congratulated the EOC; he stated Mr. Scott is doing a pretty good job; he is happy to see what things are happening out of there; and asked for everyone to stay safe.

Charles Tovey stated before Chair Lober starts the clock he wanted to mention that there is congestion at the table and when someone comes on time or early there is a line to where people cannot get to the Agendas or the cards; he is in a hardship position, he lost his phone because of the harassment of somebody and nobody can help him although he went to the Commissioner and the Sheriff's Office; and he is still taking calls, he lost his phone, and he does not have access to everything.

Chair Lober asked Sally Lewis, County Manager's Office, to give Mr. Tovey some cards to take with him.

Mr. Tovey mentioned he had them ahead of time and he was there last week; it is selective enforcement about the rules; he understands Ms. Lewis has a lot, but if her assistants could process the cards and the Agenda that would leave Ms. Lewis to do her job.

Chair Lober stated he will talk to staff about it.

Mr. Tovey stated there is always congestion and there is a six-foot rule, a law that people do not abide by; there are 30 people in front of him; and even though someone comes first they have to go through all those people just to turn the corner.

Chair Lober reiterated he will address it with staff, but he has to start the clock.

Mr. Tovey went on to say Chair Lober has always been kind to him and he appreciates that; he wrote about the Lagoon on his card; he is almost finished and he will have all the information;

he has been waiting on a conclusion, so he will have all the information and turn it on; the other thing he had on his card was about his property because the Sheriff will not keep anybody off of his property and stop them from destroying it; he has to just sit there and figure how he can keep these people off of it; they have this and that, so he reverted back to his childhood days and he remembered Mario Brothers; they have to ring the bell in order to get the accomplishment done; he mixed everything up and it is cluttered so people do not freely walk on his property and do anything they want, while the Sheriff and his deputies tell him, threaten him that he is acting irrational, while they destroy his property; and a bulldozer chased him on his own property, he has a video, but it is okay. He went on to say that is just like the harassment phone calls on his mom's phone that he had to use because he has been displaced from the Board of County Commissioners, the County Attorney, and Carol McCormack the Mayor of the Town Palm Shores. He mentioned that was the state of the property; the next thing he was going to say was his religious rights; he asked why he is not doing anything about the hardship and all the stuff the people cause him; he has not overcome that because of his religious rights; and his faith, not his religion, his faith there is a parable about cleaning the house and if people clean their house and do not fill it with good stuff, then seven times the amount of stuff that is cleaned out comes back and fills the house with bad stuff. He noted there are a lot of issues and a lot of reasons that people do not understand and people do not care; he is an individual and he has religious rights and he has unalienable rights; people all walk over for the selective enforcement of their jobs and it is not okay; what he wanted to say was speak on F.2., about giving all the proper Brevard County taxpayer properties away; they give it away for \$2; and then the guy they give it to sells it for \$1 million. He continued by saying the County is running out of land, it has no money, people are begging for money for this and that and the County cannot do it, but it is giving property away for \$2; but he gets it, he understands. He advised he has lots of stuff he could speak on but he tries to adhere and play by everybody's rules, and then they change suddenly when it is his turn; he will save more for later; the Lagoon is all the way finished, he is writing down and providing the information; and he asked the Board to excuse his disposition, and explained it is a symptom.

Sandra Sullivan stated she has been up there before talking about the Hightower Preserve; she just wanted to give a follow-up, she has spent considerable time on the Clerk of Court site; she looked up the Preserve Agreement that is in the documents there, the Book and Page that it references includes the property that the County owned at that time, that was purchased, she thinks in 1993 by the County for \$18,000, that is Hightower Park; as part of the Preserve Agreement it was agreed that the County would lease that and it would be annexed into the City, so there are some issues; that Park does come up under the Preserve Agreement; and additionally, she wanted to inform the Board that the City of Satellite Beach has on their Agenda to put in paid parking with certain spots, free parking with a City decal to reserve the spots for the City. She continued to say in the Agreement with the County there is no differential with the parking because that was a County Park, it is for County residents; that right is in there; and she is asking the County because of the egregious violations of that Preserve and the County's covenants that the County move under those covenants to take back that Park for the protection of the County residents. She mentioned they are very concerned about the impact; that Preserve was created to be a dark and undisturbed beach for the preservation of endangered green sea turtles, hence the hat; that Preserve Agreement has clauses in there to protect the adjacent properties for height limitations which were specified as part of the agreement in the implementation with changes to the Comprehensive Plan and also with land use restrictions; both of them, the management agreement specifically says, limits human activity; a hotel has a 1.3 intensity usage; and it violates the City's own Comprehensive Plan by 30 percent and is going to put high intensity usage that University of Central Florida (UCF) has determined in comparing to another area, that it will affect the sea turtle nesting. She further stated there was a meeting Friday with Patrick Air Force Base (PAFB) with the

Assistant Secretary of Defense, she was invited to that meeting in May, but somehow it got changed, but she thinks maybe Commissioner Smith could give an update on that meeting which was very important, discussing PFAS contamination coming off the Base, particularly Cocoa Beach and the enforcement of the 70 parts per trillion health advisory of the ground water and it is getting into the air; and what the Base proposed to address that.

#### **H.1. Resolutions RE: Adoption of Solid Waste Special Assessments, Fees and Charges and Ratification, Confirmation and Certification of the Solid Waste Special Assessment Rolls**

Chair Lober called for public hearing on the adoption of Solid Waste special assessments, fees, and charges and ratification, confirmation, and certification of the solid waste special assessment rolls. He stated as the Board addresses this Item he is hoping to have staff just give a little more clarity on what has happened; he has spoken with the County Manger, Frank Abbate and Don Walker, Communications and SCGTV Director, as well about this; he thinks the County has done some things well and he thinks it has done some things poorly; one of the things it has not done as well as he had hoped is reaching out to the people who live and work here to let them know what specifically occurred with respect to trash rate increase; the fact is a lot of people who have approached him, that have been the most upset about the increase were under the impression that this did not go out to bid, that the Board simply handed it to a company, or selected a company through some other method or no method at all perhaps; however the fact is, this was competitively bid and it did go to the lowest bidder that had any ability to perform on the contract; and it was negotiated down by a high digit number over and above the low bid that was made. He continued to say he knows Mr. Walker has put together something that he has asked him to review and quite frankly he has not had a chance to review it this weekend to do a little more in the way of public outreach to get that across; the fact is, he can tell people, those that who supported the increase did not support it because they did not want anyone to pay more to have their trash collected, it was supported because it was the cheapest option that was available to the County in order to have the trash continue to be collected; to maintain the same level of service that everyone is used to, is who the Board went with; even had they gone down to once a week pick up, instead of twice a week pick up, which a lot of people were opposed to, there still would have been a double digit percentage increase over and above what was being paid for twice a week pick up that the County has had for some time now; therefore, and unfortunately, the County is in a position where it did not really have a choice if people want the trash to continue being collected. He went on to say it would be the same as if we had the price of asphalt going up and we had to pay the price for asphalt; if that goes up around the area, the Board may not have an alternative but to pass those costs along, there is no other realistic way of paying for that, that is equitable; and with that, he does not know if staff wants to chime in just a little bit in terms of how the process went before he goes on to public comment, because he does not just want people to get up here wasting the bulk of their three minutes talking about how this should have been bid, when it in fact was bid.

Euripides Rodriguez, Solid Waste Management Director, stated the current Contract ends September 30, 2020; it had a three-year extension on it; that three-year extension was by mutual agreement; some time ago Waste Management indicated that they did not want to use the three-year agreement; at that time, staff came back to the Board and the alternatives were to go out for Request for Proposal (RFP), and it was the only alternative the County had at that point in time; the Board directed staff to go out for RFP; and it also directed staff to look at different options within those RFPs to break the County into two to have one-time collection a week for garbage and to also see what was the affect to limiting yard waste. He went on to say staff went out for RFP and they saw that Republic Services had submitted one, Waste Management had submitted one, and so had FCC; out of all of those, Waste Management was the lowest one; staff looked at the different alternatives and there was no difference in limiting

yard waste; it was the same price limiting yard waste as unlimited yard waste; obviously the limit of 10 cubic yards was not a game-changer; and staff also looked at the difference in once a week versus twice a week and one time a week would have resulted in an increase of the payment to Waste Management of 18 percent. He further stated the Board looked at that, had a meeting regarding that and heard the citizens, and it decided to go with twice a week; he thinks it was based on the output from the citizens in general; then staff did some negotiations with Waste Management, they started with the 49 percent increase, and ended up with a 39 percent increase; again, there was no other alternative but to go out for RFP; and at that point in time, they also, had the contract been approved, the next step would have been to go out for the public hearing, and the public hearing requires staff to send out letters. He mentioned those letters were sent out August 4; the letter included in the first paragraph, second sentence, in which staff stated that the result of this competitive process were the proposed fees; staff did try to convey as much information as they could with the letter, and the letter did say it was a competitive process; and nevertheless, as a result of the phone calls, emails, and letters they received, it was not clear enough. He noted there is a week point and he will admit to it; however it was there and it was in all the processes; out of all the phone calls staff received, 160 calls were broken up as follows: four calls were for the raise, 76 were against, and 80 of them, half wanted clarification on what staff meant exactly by the letter; and therefore, staff obviously has to work a little bit more on the letter.

Chair Lober stated he is not picking on Pam Bay for one reason or another, he believes it was just in the news not too long ago, and he asked Mr. Rodriguez what their percentage increase was, because he knows they just went out to bid as well in the recent past.

Mr. Rodriguez answered he believes it was around 50 percent, but it ends up being that Palm Bay, if he is not mistaken, will pay around \$25 per month; and the County is going to be paying almost \$16 per month.

Chair Lober inquired so the County is already at a better rate.

Mr. Rodriguez agreed.

Chair Lober advised his goal is to try to get across the fact that this is not something that is unique to Brevard County's collection contract.

Mr. Rodriguez stated just by looking at those two results, and he is one of the two people whose Contract first expires in Brevard County, he would not be surprised to see that wave of increases go throughout the entire Contracts, not only that Waste Management has, but Waste Pro has in Brevard County.

Chair Lober asked out of the 160 who called about the letter, did any of them have a feasible suggestion or something that might work that would provide the County an alternative, because that is the thing, he is looking at what the County's alternative is, and letting trash pile up he does not believe anyone would suggest as a reasonable alternative; and he reiterated if anyone has had an idea that the County could implement on a Countywide scale.

Mr. Rodriguez advised the alternative suggestion was to go out for RFP which staff did, also to reduce the service to once a week; he thinks there was some expectation that it would cut the price in half, which it really does not because of capital investments and all that stuff; and other than that it was just too high.

Chair Lober stated just to get it across again, he knows Mr. Rodriguez has hammered on it, but

he wants to hit on it one more time, even if they were to degrade service from twice a week pickup to once a week pick up, there would still be roughly a 20 percent increase in the cost to have it picked up; and he inquired if that is correct.

Mr. Rodriguez stated it would probably be a little bit more because of the overhead on it, but Chair Lober is about right; and it would be in the very, very low 20s.

Chair Lober stated the County itself, to his understanding, this increases that is simply being passed along, the County is not gaining financially for this increase; and he inquired if that is correct, and that it is just the County's cost being passed along to the taxpayers.

Mr. Rodriguez commented the County has set up the collection as a separate fund; it is an enterprise fund in which the money cannot be used for anything other than the intended purpose which is to support the collection service; there are several expenses in there; there is not one single employee in there; there is no operating supplies or anything like that, it is the contractor, it is the payment to the Tax Collector for helping the County collect the money or for collecting the money for the County period, there is a payment to the Property Appraiser for the use of their database, and there is an overhead cost allocation payment which is normal in enterprises that are above a certain size; other than that there is no other expense; there is a reserve for hurricanes of \$1.4 million; and there is a reserve for not quite two months of payment. He went on to say that reserve is used for, the Contract starts on October 1, 2020, and the money from the taxes start flowing around in November, so it is to bridge that gap.

Chair Lober stated he appreciates it.

Mr. Rodriguez added that is all the cost that is in there.

Gregory Sakala stated he lives in Merritt Island near the airport and that he has lived at that address for like 25 years; this is not what people expect; the service that he has been getting from Waste Management has been degrading badly over the last six years; for the first 18 years or so he rarely had to call Waste Management about a missed pick up; about six years ago that turned to about once every other month; about four years ago it was about every six weeks; the last couple years it is like monthly; the last 18 months it has been like once every three weeks; and the last six months it likely weekly. He noted he has called Chair Lober's office three times about this and he has been passed off to Brevard County Waste services; he gets, "We'll get back to you" and he never hears anything back; he called Waste Management and they tell him they will have the route supervisor contact him or they will have a manager contact him, but nobody ever contacts him; and that is what he is there to complain about. He noted currently he is only paying about \$2.00 to about \$0.70 a week for pick up, and that is a good deal; even with a rate increase to be \$3.75 a week, that is still a good deal; even in 2027 at \$4.50 a week, he is not complaining; he does not mind not complaining if he gets what he is paying for, but he is not; for example, there was a holiday on Monday and there was no pick up, and on Thursday there was no pick up; he called them about it on Friday because of no pick up; Monday comes around and still no pick up; and he calls again and he finally was picked up on Thursday. He went on to say it is the garbage pick up that he is having problems with, yard waste is good, the recycling is good, but it is the garbage pick up; he thinks it is ridiculous having to have a garbage can sit out on the street for a week and one-half before it is picked up; and that is his complaint. He noted he is not at all opposed to this rate increase, everything goes up; and he does think a 66 percent increase over six years is a little bit much but that is life.

Chair Lober asked Mr. Rodriguez to give the public a little information on missed pick ups, and



what the County's contractual remedy is with respect to missed pick ups and what they should do in order to help the County to make use of that remedy, and to help the taxpayers out.

Mr. Rodriguez stated the County is divided into north and south; every section of the County has a leeway of 20 missed pick ups, anything over that gets fined; it gets fined if his Department is notified of it; if they are notified of it they will sit down on a monthly basis with Waste Management and assess fines; these fines are not something that Waste Management, in a sense of, pays for but what they do is reduce the payment to Waste Management by the amount calculated in the fines; it is pretty much tightened as long as they are aware that there is a problem; and if they are not aware that there is a problem then they cannot assess the fine.

Chair Lober asked what is the amount of the fine.

Mr. Rodriguez stated the amount of the fine is \$50.

Chair Lober asked if that is for each missed pick up.

Mr. Rodriguez responded affirmatively.

Chair Lober asked what is the best way for someone who has a missed pick up to reach out to Mr. Rodriguez's Department.

Mr. Rodriguez advised there are a couple ways of doing it; if they go into the County website, there is a way of going into [www.brevardfl.gov/solidwaste](http://www.brevardfl.gov/solidwaste) and towards the end of it, there is a place where people can submit a complaint, they do not have to wait until 8:00 a.m. or 5:00 p.m., it can be submitted at any time and it reaches his Department; and people can also call 321-633-2042 and submit a complaint on there.

Chair Lober inquired if it was 633-2042.

Mr. Rodriguez responded affirmatively; he mentioned at that point his staff will act as the intermediate, they will be in the middle of the situation as long as the date of the pick up has passed; in other words, if someone was supposed to be picked up on Tuesday and someone calls on Tuesday to say that the guy did not pick up at 10:00 when he normally does, because they have until 8:00 p.m. to pick up; but on Wednesday it is a missed pick up, they did not do what they were contracted to do.

Chair Lober stated so in essence after twenty...

Mr. Rodriguez interjected 24-hours.

Chair Lober continued by saying after the first 20 missed pick ups in a month, every single missed pick up...

Mr. Rodriguez advised that is one of the things they get fined for, there is a list of things of potential fines; that is one of the most common ones; there is changing the schedules of the routes, there is oil spills that they did not take care of, reports that they have not submitted, and normally those fines do not get used; and the majority and the most common is missed pick ups. He reiterated the website is [brevardfl.gov/solidwaste](http://brevardfl.gov/solidwaste).

Chair Lober repeated the website; and he stated people may or may not have to put the www. in the beginning, he is not sure.

Patricia DiBella stated she appreciates all the work the County did and the explanation staff just gave; ironically the gentleman who was just speaking, they had to call yesterday for a pick up because they have had palm branches on their front lawn for weeks; one of her neighbors called and asked when they were going to call and do something about that; they did not know they had to call; the women on the other end said they were sorry they did not know it was not picked up; they did not have to call, they just were not picking them up; and golf is the reason she is in attendance. She advised Waste Management sponsors the Phoenix Open; it is the Waste Management FedEx Phoenix Open; her husband watches a lot of golf and she happened to have caught that so she went online and looked; last January 2019, they signed a 10-year contract with the Phoenix Open; this is the press release, and they were letting how they just gave million and millions of dollars to charities which is great, but another issue is the Waste Management FedEx Phoenix Open; she noted she has a choice if she has package to mail, and she does not mail packages twice a week; and she mentioned she can go to the Post Office, UPS, and FedEx, but she has no choice with Waste Management, and just for the first year, they have raised it 40 percent. She commented she sees this as really wrong, something is not right here; they can do what they want with their money but they are taking her money to do this; and she is thinking she should at least be able to write it off on her taxes as a charitable contribution for all of the charities they are giving to. She noted she really appreciates the County covering this, looking into it, and doing the best it can do, but she did not know if the Board knew about that.

Chair Lober stated no, it is interesting.

Mark Cleary stated he lives in Canaveral Groves and he has had the same issues as the gentleman from Merritt Island for about the same time period; Waste Management will currently tell the Board that it is because of COVID-19; it has nothing to do with COVID-19, it has been at least six years; his containers either do not get picked up, they get partially emptied, they get left down the street, they get left on other people's property, or they get dropped in his driveway; yard waste gets ignored for two months at a time; and he had meant to bring pictures today of his neighbors who have had stacks of yard waste sitting for three months at a time. He mentioned if he were to do a lousy job, he would be disciplined by his job or he would be fired; Waste Management is doing a lousy job and the County is giving them a 38 percent raise; he noted he was born and raised in North Miami, and North Miami provides a water, sewer, and trash collection, and if someone is not getting the service from North Miami, that person can not pay their bill and yes the service will be cut off, but they are not getting paid; here he is not getting the service that he is paying for but he is still paying for it; and that is not how it is supposed to go in this country. He went on to say he would be fine with the garbage only being picked up once a week, if it were actually picked up, it is not; he is paying for service that he is not receiving and the Board is rewarding Waste Management for performing a service they are not performing; he pointed out that he did not get the letter that was supposedly sent out to all the residents, nor was he aware of the hearing that supposedly took place at the end of last year; and had he known about that, he has a contact at a vendor which Mr. Rodriguez did not mention, somehow they were not solicited for service and he would have been happy to connect the Board or anyone in the County with that contact had he had that opportunity. He commented he has not had the opportunity to speak on this issue until today and he has wanted this opportunity for years.

Chair Lober asked Mr. Rodriguez as far as the gentleman had mentioned businesses not being solicited for services, was it just put out there and if so does the County restrict anyone from putting in proposals.

Mr. Rodriguez responded no, there was no restriction on it; and he mentioned he is not too sure where it got advertised but it was advertised for the general public.

Steven Darling, Purchasing Services Director, stated there was nobody restricted from it, it is posted on VendorLink, DemandStar, and the County's website.

Chair Lober stated he is just not familiar with this level of particularity within the industry; and he asked if that is something that most of the folks would be in a position to bid on this sort of contract would look.

Mr. Darling responded in the affirmative; he noted that is where the County puts all of its solicitations.

Chair Lober inquired so it is not that it was done differently than it had been in the past or that the County somehow reduced how it was advertised.

Mr. Darling responded no.

Mr. Rodriguez added if the Board were to look at who put in for it, he had never heard of the company FCC before.

Chair Lober clarified if he said FCC.

Mr. Rodriguez stated they put in for it; and there are other people that he knows that did not put in for it but he does not know why.

Chair Lober clarified so it is not that the County asked any particular company to bid, it was just simply made available.

Mr. Rodriguez responded affirmatively.

Sylvia Sanchez stated she is representing the neighborhood of Flora Fauna Estates off Lake Washington and west of Interstate 95; first of all, she is a disabled Veteran and she really expects better service; she sees and hears other neighbors that have gone through the same thing as she has; sometimes her yard waste is not picked up for five or six weeks at a time and a lot of missed regular garbage pick up where she has to call, sometimes on a weekly basis; she thinks she has narrowed it down to why they do not pick up, she thinks a lot of times they do it on purpose because if someone has any kind of political signs, republican or conservative, then that person's garbage will not be picked up; and she is very concerned about this. She went on to say just because someone is not in the right party, it is not right; people are paying for a service; they just get ignored even when they call for a supervisor, she keeps getting ignored; she really has a problem with this increase; she has to decide every month between medicine and food; she has a real problem with such a big increase for \$50 all the way up to \$100; she asked the Board to maybe look at the numbers again or to get someone else; she does not think it has been explored correctly because a lot of her neighbors did not get the letter; and when she was trying to get more neighbors to come and she mentioned the letter, this was news to them. She commented she does not know if it purposely was not sent out to everyone or if it was too costly, but it has not been advertised enough; and she does not think this issue has been explored enough either. She noted she hopes the County looks into this a little further; she also has a problem with it being a separate bill and not being a part of the taxes like it has in the past 20 years; she really cannot handle another separate bill; at least when it is in the taxes, she knows she has to pay her taxes; and automatically in her case, the

mortgage company takes it out. She went on to say another separate bill, another increase, life is hard enough.

Chair Lober inquired what the story is as far as the change with there being a separate bill versus being part of the taxes.

Mr. Rodriguez responded there is no change there; it is a special assessment which gets incorporated into the taxes just below the General Fund taxes on a separate line, but is still part of the tax bill; and that is why the County pays the Property Appraiser.

Chair Lober asked as far as the letter that went out, did it go out First-Class Mail.

Mr. Rodriguez replied it went out First- Class Mail to every single address that is in the property appraisers database as the owner of the property; staff has found that there were some who had sold the property and it went to the prior owner, those were the minority; but is to have been sent out to the same address as the tax bill gets sent out to, the owner of the property.

Chair Lober asked if someone is renting it would not have necessarily gone to them, it would have gone to wherever the owner is listed.

Mr. Rodriguez reiterated it would have gone to the owner of the property.

Chair Lober inquired roughly how long ago that went out.

Mr. Rodriguez replied it went out on August 2.

Christy Postle stated she has been here for a year now, she comes from Santa Rosa County, another County in Florida; they paid their garbage quarterly so they did not have it taken in their taxes; what she is paying now is absolutely great, but the increase is hurting a lot of people; 39 percent in one year, that is a \$55 increase on the mortgage that people are going to have to pay including the next years increase; if there is any way to take that 39 percent and do it over the seven years instead of having that 39 percent increase over one year, it is a lot; and she advised she never heard Waste Pro come up and inquired if they put in a bid.

Mr. Rodriguez answered no.

Ms. Postle stated she knows the Commissioners in Santa Rosa County would call the different garbage companies because the last year she was there they called the different ones and they had each one doing a different part of the County which gave them a decrease; and people rarely see that. She continued to say her thing is the increase; there are so many retirees down here; a lot of people who are disabled; and that specific type of increase needs to be done over the seven years, not in one big bulk. She stated she agrees this County is paying a lot less than she paid in Santa Rosa County; when she was with Waste Management up there they paid \$55 per quarter and Brevard is paying \$34 right now; she was stunned by what she was paying here; when they changed to Waste Pro it went down to less than that; and she thinks the Board should look into spreading that out over the seven years, if it has to be done this way.

Chair Lober asked the County Manager, Frank Abbate, what the Board needs to do with respect to this Item.

Frank Abbate, County Manager, stated the Item is requesting the Board to approve the

assessments for disposal, Solid Waste collection and recycling assessment, and special rates and charges as included in the Agenda Item.

Chair Lober asked if the Board does not approve this, what happens.

Mr. Abbate stated the Board has already executed the Contract with Waste Management, those fees are in place; as Mr. Rodriguez has indicated that is an Enterprise Fund, therefore, the County would not have the funds to pay, and it has to pay Waste Management the rates that are included in the Contract, minus the fees for the damages that Mr. Rodriguez has indicated, if there are any penalties that are put in place; and they are already in place so this assessment parallels the new Contract going into place in October.

Chair Lober inquired if essentially what Mr. Abbate is saying is if the Board does not push this through today the County will not have the funds to pay its own obligations.

Mr. Abbate advised that is correct; as Mr. Rodriguez stated the County had a two-month period but those funds are already going to be utilized for the period of time before the actual, once the assessment rate is approved, is collected by the tax collector and submitted to the Board, but by the end of the year all the funds will be depleted.

#### Resolutions, Re: Adoption of Solid Waste Special Assessments, Fees and Charges and Ratification, Confirmation and Certification of the Solid Waste Special Assessment Rolls

Commissioner Pritchett stated she wants to reiterate some of the things that were already said; this was put out to bid to try for more competitive prices, but the next bid was twice this increase, and looking at surrounding areas they are coming back with higher increases as well; County staff went back and negotiated an extra 10 percent less than what they came in with on their bid which they probably could have gotten from the County at the time; the service right now is not good; and the Board is very frustrated about it. She went on to say the fines are coming in and it is starting to get better; they are starting to hire more people in; the County's remedy is to continue charging the fines and if it continues the County can always do a breach of contract and start this back over; right now she thinks the Board is going to have to do this because she does not want everybody's garbage sitting out in front of their yards without having a service picking it up; and she mentioned this is something the County has worked very hard on, it is very troublesome, but with increases, as Chair Lober mentioned a few minutes ago, there is not a whole lot the Board can do. She noted they got a few bids in but even the next one that was up higher, people were not going to get their yard service picked up and there was a lot of discrepancies in how they were going to pick up the garbage; this is a really trashy situation; and hopefully Waste Management will get more staff hired and fix this. She commented it is expensive for them to miss houses right now; people can call their Commissioner Offices, the offices are monitoring these calls and forwarding the information to staff to make it easier for the residents; and she reiterated it is just a bad situation right now, she feels really bad about it for the constituents right now, but the Board and staff are really working hard to try to get this fixed. She added they are in communications with the service company in how they are picking up; the Board hears the people, but there is not a whole lot it can do right now other than approve this contract because it was the cheapest one that came; otherwise, the cost would have doubled and she does not think the service would have been much better.

Chair Lober stated he thinks one of the providers that bid whose cost was higher, had far fewer trucks; and he inquired if that was true.

Mr. Rodriguez stated Chair Lober was correct.

Chair Lober advised even if they were the same price he does not know if the Board would have gone with them because with fewer trucks he does not know if they would have been able to do the amount of service and keep up with it even to the degree that Waste Management has, which he believes everyone admits has been far from perfect as of late; and with that said, he does not want to dwell on it too much today because he has talked about it in prior meetings.

Mr. Rodriguez stated for the record he would like to read the resolutions to be approved; what staff is asking for is approval and adoption of the resolutions: the solid waste disposal, special assessment in which there is no rate change, the solid waste impact fee rate resolution in which there is no rate increase, annual collection and recycling which is a rate increase of 39 percent, a special rate for nonresidential property and compensation to be paid to the collector, special rates which are pretty much the gate charges that the County does, no rate changes, certifying, ratifying, confirming the annual disposal rate tax roll, and the same along with the collections; therefore, there are two separate tax rolls that he is asking to be certified.

Chair Lober stated he thinks in the future when this comes up to be put out again, probably a couple years before that, the County really needs to look at doing this in-house; he lives in Rockledge and his pick up is outstanding; he has had one issue in the years that he has been there, made one call, and in a couple hours it was fixed; Titusville, as he understands from a lot of people up there, although he does not think any utility is perfect, he thinks they have done a very good job with doing that in house as well; whether it is once a week or twice a week, the Board needs to look at poaching some of the Rockledge or Titusville staff and bring them in to perhaps help the County put together a program if it is cost affective; he mentioned between the issues of not being able to control the price of third parties and also having problems with pick up, this seems to be the only way that the County can potentially avoid having these sort of drastic changes in the future and real issues with degradation of service; he noted the County is unfortunately not in a position where it can do it now because he thinks there is too much to be done to implement it, but he thinks regardless of who is on the Board at that point in time, it really has to be done; and he would certainly come out and speak in favor of it down the road because he does not think he will be sitting on the Board at that point in time. He further stated that is the only long-term solution he sees moving forward, without having all of these problems in the future; and with that said, he will second the motion.

Commissioner Isnardi stated she thinks she made her position pretty clear at the last meeting; she will not beat a dead horse because she thinks she is by herself on this one; she thinks a 39 percent rate hike, just because Palm Bay did over a 90 percent increase, does not make this one right either; she inquired what was the answer, the Board go out to RFP or ask them to do better; and she thinks 39 percent is a lot to ask so she will not be supporting this.

Chair Lober inquired what would happen if the entire Board joined Commissioner Isnardi and did not support this.

Commissioner Isnardi stated she would have never let it get this far, however, the rest of the Board voted it in before.

Chair Lober asked what the alternative was earlier.

Commissioner Isnardi stated it could have gone out to RFP or the Board could have asked them to come back with a better rate.

Chair Lober inquired with Mr. Rodriguez if he asked them to come back with a better rate.

Commissioner Isnardi asked if Chair Lober is going to debate this now; he already stated his position and she disagrees with it; and that is the end of it.

Chair Lober commented he respects that.

Commissioner Isnardi interjected by saying the Board can talk about it and it can talk about trash piling up in the streets, but in her opinion, it should have never gotten to this point.

Chair Lober stated he just does not know what the alternative ever was.

Commissioner Tobia inquired if the Board is voting each one of the six or is the Board voting them together because that will impact how he votes.

Chair Lober advised the Board can bifurcate or cut it up, however, Commissioner Tobia wants to do it.

Commissioner Tobia advised Chair Lober is the Chair, he is just curious.

Chair Lober explained the motion was with it all aggregated into one, but the Board can certainly address it either way.

Commissioner Tobia advised whatever the Board wants, he just wants to be clear on the motion.

Chair Lober noted the motion is contemplated as one, and he asked Commissioner Pritchett if that is correct.

There being no further comments or objections, the Board adopted the following:

- Resolution No. 20-090, Schedule of Annual Rates, Assessments, Service Fees, and Charges, to Construct, Operate and Maintain a Solid Waste Disposal System, Against All Improved Real Property Within Both the Incorporated and Unincorporated Areas of Brevard County; and Providing For Interest Against Delinquent Assessments on Improved Commercial Properties for the County Fiscal Year Beginning October 1, 2020;
- Resolution No. 20-091, Imposition of a Solid Waste Impact Fee On All Newly Improved Real Property Within Both the Incorporated and Unincorporated Areas of Brevard County, To Help Finance Facilities Required As a Result of New Development and New Users, and Providing For Interest Against Delinquent Impact Fees On Improved Commercial Properties For the County Fiscal Year Beginning October 1, 2020;
- Resolution No. 20-092, Imposition of an Annual Solid Waste Collection and Recycling Program Special Assessment, Service Fees, and Charges For All Improved Residential Real Property Upon Owners Within The Brevard County Solid Waste Collection and Recycling Program Municipal Service Benefit Unit for County Fiscal Year 2021 Beginning October 1, 2020;
- Resolution No. 20-093, Schedule of Special Rates and Charges For Non-Residential Improved Real Property Within the Unincorporated Area, and Improved Real Property Not Within the Benefit Unit, and the Schedule of Compensation Rates to be Paid Collectors

for Curbside Collection Provided to All Improved Residential Real Property Within Solid Waste Collection and Recycling Benefit Unit for County Fiscal Year Beginning October 1, 2020;

- Resolution No. 20-094, Schedule of Special Rates and Gate Charges Charged Users of the County's Landfills, To Assist in Defraying the Cost to Construct, Operate and Maintain a Solid Waste Disposal System, for the County Fiscal Year Beginning October 1, 2020;
- Resolution No. 20-095, Ratifying, Confirming and Certifying the Annual Disposal Special Assessment Roll for the County Fiscal Year Beginning October 1, 2020 and Forwarding the Same to the Tax Collector's Office for Collection in the Same Manner as Ad Valorem Taxes are Collected; and
- Resolution No. 20-096, Ratifying, Confirming and Certifying the Annual Collection and Recycling Program Special Assessment Roll for the County Fiscal Year Beginning October 1, 2020 and Forwarding the Same to the Tax Collector's Office for Collection in the Same Manner as Ad Valorem Taxes are Collected.

**Result:** ADOPTED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, and Smith

**Nay:** Tobia, and Isnardi

## **H.2. Code Revisions to allow Administrative Approval of on-premises consumption of alcoholic beverages for restaurants/snack bars. (First Reading)**

Chair Lober called for the first public hearing on a Code revision to allow administrative approval of on-premises consumption of alcoholic beverages for restaurants and snack bars.

Tad Calkins, Planning and Development Director, stated this is a request for the Board to conduct a public hearing to consider revisions to Chapter 62, Article VI, Zoning Regulations, to allow for administrative approval of on-premises consumption of alcoholic beverages for restaurants and bars; this Agenda, the Code revisions creates a definition for eating and drinking establishments; it creates a definition for restaurants and snack bars; and it creates an administrative process in which the Local Planning Agency (LPA) unanimously approved the recommendation for the Board yesterday.

Commissioner Pritchett advised Commissioner Tobia had brought this up before, but she thinks staff has done a great job on this; she is in support of it; and she even likes the way staff pulled out different definitions.

Commissioner Tobia stated he certainly does not need to make the motion, he just wanted to point out a few things; this will cut the cost about 70 percent for applicants, saving businesses almost \$600, it is \$572; \$160 of that is direct advertising cost to the Florida TODAY; either way that will be more money in businesses' pockets; they will be able to get these a lot quicker; and he thinks this is a small step that can help these businesses start and get back on track after COVID-19.

There being no further comments or objections, the Board conducted a public hearing to consider Code revisions to Chapter 62, Article VI, Zoning Regulations, to allow administrative



approval of on-premises consumption of alcoholic beverages for restaurants\snack bars.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Seconder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.3. Adoption of a Resolution establishing user fees for FY2020-2021 for the Melbourne-Tillman Water Control District.**

Chair Lober called for public hearing on a request by Melbourne-Tillman Water Control District to adopt a resolution establishing user fees for Fiscal Year 2020/2021.

Commissioner Isnardi stated she wants to make a motion to approve because the Board had already addressed this Item.

Chair Lober inquired with the Eden Bentley, County Attorney, if anything else was needed for the record.

There being no comments or objections, the Board adopted Resolution No. 20-097, approving user fees for the Melbourne-Tillman Water Control District for FY2020-2021.

**Result:** ADOPTED

**Mover:** Kristine Isnardi

**Seconder:** Rita Pritchett

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.4. Public Hearing: Re: Fiscal Year 2020-2021 - Brevard County HOME Investment Partnerships Program Consortium One Year Annual Action Plan**

Chair Lober called for public hearing on Fiscal Year 2020/2021 Brevard County HOME Investment Partnerships Program Consortium one-year Annual Plan.

Ian Golden, Housing and Human Services Director, stated every year he comes before the Board with the Annual Action Plan which is a requirement from the Federal funding sources; this document lays out the frame work for the projects and activities they will be conducting over the next year, as well as a look back at some of the outcomes staff has made; the report itself includes information from the four major cities who receive their own funding, Palm Bay, Melbourne, Cocoa, and Titusville; and as was mentioned this is the first of two public hearings, and just an opportunity for any input from the community and residents on the process.

Chair Lober advised he has no comment cards.

There being no comments or objections, the Board conducted a public hearing, as required by the United States Department of Housing and Urban Development, for the purpose of receiving public comments on the strategies set forth in the HOME Investment Partnerships Program and Community Development Block Grant Annual Action Plan.

The Board recessed at 10:33 a.m. and reconvened at 10:43 a.m.

**J.2. Provide \$500,000 funding to Clerk of the Circuit Court to maintain staffing during the remainder of fiscal year ending September 30, 2020.**

Chair Lober advised he had several requests over the break to move up Item J.2.; and he is

going to pass the gavel on this Item to Commissioner Pritchett. He stated he does have a disclosure on it and he asked County Attorney, Eden Bentley, if he misses anything to help him out because he has not had a voting conflict in the past, so this is alien to him; there is a form he needs to fill out and he will be giving that to the clerks, Form 8B which is a Memorandum of Voting Conflict; in essence, he is indicating he has a potential conflict to this Item inuring to the special gain or loss of his relative, his wife Rebecca Lober, and any pertinent field that is indicated in this Item; his wife serves as staff counsel and Supervisor of the Legal Department for the Clerk of the Circuit Court and is a salaried employee in that office; the requested action would order her special private gain or loss as it addresses both those employees who have been furloughed without pay, which his wife has not been, as well as those remaining employees who have had temporary salary reductions, his wife would stand to gain a direct and special benefit by having her salary restored depending upon the outcome of this vote where the requested action limited to those who have been furloughed or alternatively if it excluded his wife from the class standing to benefit, he likely would not have a conflict in voting, but that is not what has been requested, if the request had been bifurcated between those furloughed and those remaining he could have voted on those furloughed and abstaining only on the portion pertaining to those employees who remain and face reduced salaries; and with that he will let Commissioner Pritchett handle it.

Commissioner Pritchett asked if there are any cards on the Item.

Chair Lober advised there are no cards on the Item.

Commissioner Pritchett asked if the County Manager, Frank Abbate, wanted to give an introduction to the Item.

Frank Abbate, County Manager, stated he was going to invite the Clerk up to speak to the issue.

Scott Ellis, Clerk of the Circuit Court, stated beginning in March court revenues plunged; the end result for his office was, he was notified late June that he would be cut \$1.5 million in the fourth quarter; that is the total loss for the fourth quarter and if will carry forward to be a \$1.5 million drop for next year; his office had about 25 layoffs; he put in for this \$500,000 which would take his office out of the last four weeks of the furlough period; there is a possibility his office will receive money from the State; and he noted he has waited a few months on that and it may not come. He continued by saying he does not know what is going to happen with the Governor; he does not know what they are looking at up there; if he were to get the money from the State, his office would then reimburse the County; there is a possibility if the second CARES Act is passed in Washington, D.C. it may allow for the CARES Act money to be used for lost revenue; if that passes then CARES money that the Board has could be used for the \$500,000 as well; and without the State or CARES money, it would come from the County's General Fund.

Commissioner Pritchett expressed her appreciation to the Clerk for all he is doing to try and hold this together.

Mr. Ellis stated his office just hangs in there, it just the court revenues have gone through the floor.

Commissioner Pritchett mentioned it is a tough time; and she inquired if the County Manager has anything to add.

Mr. Abbate stated the only thing he would add is that the County does have and would pull that money from the Reserve which is well-funded right now; and it would be able to be replenished based on the two options that

Mr. Ellis has stated and both options were included in the Agenda request. He added additionally he spoke with the Budget Office Director, Jill Hayes, and found that the County would be able to replenish, even if the funding remains that is pulled from the Reserve, with cash carry-forward that he anticipates being higher this year than what has been projected because the County has a 30 percent reduction expected in sales tax for the months of May and June, and those numbers are coming in better; and as a result of that staff believes it would be able to replenish with those additional funds any monies that is pulled from Reserves for that \$500,000.

Commissioner Isnardi stated she is glad Mr. Ellis came to the Board because these are extenuating circumstances and she can appreciate him trying to make sure that his employees are whole and able to feed their families; it is difficult laying anybody off or furloughing anybody; and she is glad the Board is able to help. She added hopefully the County will be able to get the monies back, but if not the County should still be alright.

Mr. Ellis mentioned he waited because pretty much every couple weeks he is told the State may do it, but they just never come through; somehow Volusia Clerk got \$1.1 million from their Board, he does not really know how they put that under CARES; he does not think it applies to CARES as it is written today; however, he does believe if the CARES Act is modified in Washington, D.C. then that can be used for lost revenue. He mentioned that would not just apply to the Clerk, that would probably apply to some other County offices as well.

Commissioner Tobia stated he will be voting against this; on July 7, while everyone up there was very excited about handing money over to Chamber of Commerce and running the CARES applications, he was specific when he said some of the furloughed people, or about to be furloughed people from the Clerk's Office, could be used to handle those applications which would have gotten them into an allowable expense for the CARES money; it was July 7, if Mr. Ellis wants to watch the recording; that would have, if not covered, gotten a bulk of that \$500,000; the County Manager is now handling that in-house, but obviously that is a loss of productivity from other areas that they would have been working for; he appreciates the Clerk and he cannot imagine what it is like for him, someone who has a history of being so fiscally conservative, but he has put his employees first; and he noted that says a lot about Clerk Ellis as an individual and he just wanted to explain his no vote on this.

Mr. Ellis noted he understands; he mentioned his office has tried to hang in there; the Clerk's total cut was with the \$1.5 million in perspective, that was 50 percent of the fourth quarter budget that was cut at the end of June; the \$500,000 is enough to bring the furloughed people back to work; and the layoff people, there is nothing that can be done for them.

Commissioner Tobia asked if the courts do not open up, when may be the next time this Board sees him.

Mr. Ellis responded the Board will not; he explained through the layoffs his office has already adjusted to the \$10 million; and it just cannot adjust to the 50 percent cut in the fourth quarter.

Commissioner Tobia responded okay.

Mr. Ellis commented he knows what Commissioner Tobia is saying; he does not know what it takes to get the courts moving; his office has stayed open to the public the entire time; but he

cannot force the rest of the courts to operate.

Commissioner Isnardi asked how many employees the County used to manage CARES funding applications.

Mr. Abbate advised it has close to 50 employees.

Commissioner Isnardi asked Mr. Ellis if his employees are trained to manage CARES funding and to handle applications and that kind of stuff, and if they would have been able to fill those slots.

Mr. Ellis advised what Commissioner Isnardi has to remember is he had the layoffs which was probably 15 to 24 employees and they could have been trained to do it; the difference with the furloughed employees is they are furloughed for six weeks so he is not sure how much training the County would want to put into someone knowing that they are going to be gone within six weeks; that would be the Board's call, he is sure, they are in a detail oriented job at the Clerk's Office so he knows they could do that job; but, he does not know the value of training someone, who they would lose in six weeks.

Commissioner Isnardi added to handle a temporary...

Mr. Ellis interjected saying the laid off people were given information on the different jobs that were out there.

Commissioner Isnardi thanked Mr. Ellis.

Mr. Ellis stated at that point the easy jobs were already gone, like the guy sitting in front of the courthouse, that job was already gone.

Commissioner Pritchett stated she cannot imagine they are not going to come back and do something for the Clerk; just doing apples to apples the Board gave \$2.5 million to CareerSource and they are getting almost \$750,000 just to put people out in places to work; and actually the Board asked the question if it could just use some of those funds and have them bring the Clerk employees back.

Mr. Ellis advised he checked also.

Commissioner Pritchett stated there is actually that little bit of something that does not make any sense to her, it is not logical; she is thinking they will make those changes and it will help give some of this funding to the Clerk; and right now she has a feeling the Board is going to be sending some of this money back, so she would rather get it into Mr. Ellis' hands.

Mr. Ellis stated he thinks so too; he thinks the CARES Act is going to change because given the amount of money that went to the counties, it is hard to spend \$100 million in five or six months because there are still certain rules that have to be followed, it cannot just be thrown; therefore, he thinks the rules will probably change to allow for the lost revenue and help the Board spend some of the other money.

Commissioner Pritchett reiterated she thinks so too; she added she thinks it will probably alleviate some of the pressure off the unemployment money, they are trying to give money to also; this way people are working and getting the funds; and she thanked Mr. Ellis for hanging in there.

The Board authorized the County Manager to approve necessary Budget Change Requests to provide \$500,000 to the Clerk's Office for the remainder of the FY 2020 and to substitute CARES Act funding if such funding is determined to be an eligible expenditure of CARES Act funds.

**Result:** APPROVED

**Mover:** Kristine Isnardi

**Seconder:** Curt Smith

**Ayes:** Pritchett, Smith, and Isnardi

**Nay:** Tobia

**Abstain:** Lober

Clerk Ellis added on behalf of all the employees, he thanks the Board.

Commissioner Pritchett passed the gavel back to Chair Lober.

**H.5. H.5. 1975 Amendments to Ch. 74, Art. VI of the Brevard County Code entitled Sexual Offenders and Sexual Predators; updating the definition of park in Sec. 74-101 of the Brevard County Code; implementing voluntary registry in new Sec. 74-102.5 of the Brevard County Code for businesses that qualify as a park under the new definition.**

Chair Lober called for public hearing on Amendments to Chapter 74, Article VI of the Brevard County Code entitled Sexual Offenders and Sexual Predators; updating the definition of Park in Section 74-101 of the Brevard County Code; and implementing voluntary registry in new Section 74-102.5 of the Brevard County Code for businesses that qualify as a park under the new definition.

Mary Pennington stated she highly opposes this ordinance; there are so many ordinances out there now, they cannot go grocery shopping, they cannot get their car worked on, they cannot visit friends; and she reiterated all she wanted to say is she opposes the ordinance.

Joan Brittain stated first she just wanted to thank the Board for all its hard work, and sitting there listening she realizes what the Board does on the citizen's behalf. She went on to say she is a resident of Brevard County and a registered voter; she is in attendance today on behalf of her husband Edward Brittain who has been on the Brevard County sex offender registry for six and one-half years; he is not present today to state for himself how Ordinance 2006-31 has affected his life and how the proposed amendments will affect him; she is there also to speak as a wife and mother relaying to the Board how this ordinance has impacted herself, her sons, her daughters, her daughters-in-law, her sons-in-law, and her grandchildren; for example her married daughter was living in a house where they were told there was an in-home daycare within 1,000 feet of her home and even though the place looked boarded up, her husband Ed could not go to her home; three years later their daughter had their first grandchild; even though her husband had the great joy of being the first family member to hold their grandchild in the hospital, he was not allowed to visit his daughters family in the home; and similarly he faces the same situation with their son, daughter-in-law and their five-month old daughter because there was a park within 1,000 feet of their home. She continued by saying her husband cannot go to his son's home to visit his granddaughter; she asked why are her daughters and her sons first amendment rights being violated; she mentioned this ordinance

dictates to them who is barred from their home; she asked why they cannot have the right as to whom they will grant permission to enter their homes; when their soon to be daughter-in-law wished to fulfill her childhood dream of having her wedding in her parents back yard, they were crushed to find that there was again a park within 1,000 feet of the home; and they took up the financial burden to hire a lawyer to help them navigate the situation. She further stated after her husbands arrest she as a mother and a wife was determined to keep her family together, even though at that moment she had no idea what lay ahead; a big factor in helping her family to fight to stay together was the friends who came along side them walking them through Ed's arrest, to incarceration, release, and probation.

Chair Lober asked for a motion to provide an extra two minutes to the speaker.

The Board approved an extra two minutes for Ms. Brittain to finish her comments.

**Result:** APPROVED

**Mover:** Curt Smith

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

1975 Amendments to Ch. 74, Art. VI of the Brevard County Code entitled Sexual Offenders and Sexual Predators; Updating the Definition of Park in Sec. 74-101 of the Brevard County Code; Implementing Voluntary Registry in New Sec. 74-102.5 of the Brevard County Code for Businesses that Qualify as a Park Under the New Definition

Ms. Brittain continued by saying having a support system is so crucial in helping those on the registry to re-enter society and to build their lives and put their families back together again; friends and family who encourage them, support them, keep them accountable, have proven to have a very positive affect on citizen rates; unfortunately this ordinance makes this very difficult; and she asked why the Board needs more restrictions on those who have already been negatively impacted by this ordinance and will be further crushed if this amendment is passed. She further stated that she and her husband live on a very tight budget because she works full-time; her husband does most of the weekly shopping; she sends him with a very detailed list and there are several stores in the area where they live, but the only one her husband can shop at is the high-end grocery store, the other two more economical stores, which are just a short way down the road, are off limits because of the 1,000 foot Ordinance; it may not seem like a big deal to the Board, but it is to them; they have a cottage industry which they have been slowly building up for the past four years, and just recently her husband began doing this full-time; and it makes it very difficult for him to purchase supplies and to sell their products because of the restricted Ordinances. She further noted many venues, where she would like to sell their products, are in parks or near schools; if more restrictions are added with the proposed amendments this would definitely hinder the cottage industry and their home; she has touched on a few ways that the present Ordinance has affected her husband, her family, and her friends; she once had a mind set against those on the registry, a mind set of disgust, fear, and distrust which this Ordinance has and continues to promote; her situation drastically changed and she was forced to study, read, and educate herself to speak with others who have walked this path before her; the proposed amendments that the Board was considering are not going to help those on the registry, in fact they will do more harm and cause more hardships; and she asked the Board before it makes a decision, to inform themselves of the many factors that were involved in Ordinance 2006-31 and the proposed amendments.

Lazarus Mitchell stated he has a letter he is just going to read to the Board in order to save time; and he read, "I am Lazarus Mitchell, advocate for human rights for all people, recently

asked to serve on the Brevard County Board of Re-entry Task Force Subcommittee for registered citizens. My purpose here today is to represent those that have been discriminated against. Basically, as a black and gay individual, I personally know how this feels to be treated with a label on your back and to be treated unequally and unfairly by those that do not know me. I know many of those family members that we're discussing here that are doing their best to overcome the stigma. Some wrongfully labeled sex offenders here have innocently taken a plea deal in having not even having committed a crime and others that have served the time and are simply asking for an opportunity to become productive members of society. Commissioner Isnardi suggested that there should be a sign in the front of their homes that read, sexual predator. If I could take a moment to compare and parallel this to a registered citizen, imagine having a sign placed in front of your yard that says a black or Jewish man lives here or even a gay. The ordinance, both the current and proposed amendments is simply discrimination and by enforcing such admissible laws you would legalize discrimination on all accounts, levels, and areas. Currently this nation alone is dealing with eradicating issues such as this. I propose that you discard this amendment and repeal the current Ordinance as well. My plea to you today, is for you to think how even you could see your own life if you were restricted from the rights to travel freely through your community, the right to gather in public meetings, the right to shop where you please, and the right to have family dinner at a location of your choice simply because of a past mistake. In closing, I can honestly say, as a non-sexual offender, that if I lived in Brevard County I would certainly be upset or even angry that five people sitting on the Board would have the right to tell me who can and cannot be in my home. This nation once founded has grown into a land of opportunity where everyone deserves a chance to better themselves. The human condition cries out for less incarceration and more rehabilitation, but this takes me back to a dark time in our history where posting a sign on our lawns or our homes saying we do not want your kind here was considered the norm. As a small boy during the era of segregation that is a familiar phrase to me. This is America where all people are free. Brevard County should be acknowledged that they are part of that one home of the free.”

Commissioner Isnardi stated she typically does not respond to public comment, but not only is what Mr. Mitchell has said incorrect, but she finds it terribly offensive; she does not know how someone can compare one's race, sexual orientation, or ethnicity to a sexual deviant who assaults the most vulnerable, it is incomparable; and people are born black, born gay, people are born who they are, it has nothing to do with horrific choices that some people make when they assault a child, so the two cannot be compared.

Mr. Mitchell stated that is Commissioner Isnardi's opinion.

Anita Killen stated she is on the sub-committee for registered citizens for the Brevard County Re-entry Task Force; she has several reasons for opposing the amendment but she only has time to do four and she will do them really quick; her role is to identify obstacles that stand in the way of helping registered citizens successfully integrate into the community as productive, law-abiding residents of Brevard County, therefore, fulfilling the mission of the Brevard County Task Force which is to help every citizen succeed; this amendment is an obstacle that impedes the Task Force from completing their mission; and in fact, it is counterproductive to the mission. She went on to say it affects the people they try to serve and the potential benefit it would have on the community when there are productive law-abiding citizens in the community; the second reason she opposes is that it adds locations to an already invisible map, and everyone knows what she is referring to; she asked how does she help someone to identify where areas are that are off limits; how does she tell them how to be responsible for doing it for themselves; and how do they verify these addresses. She mentioned she has been given some suggestions that make no sense at all; she has been told to go to Google Maps, go to the Property

Appraisers site, but the Board needs to understand people coming out and re-entering society may not have cell phones or access to the internet, they are prohibited from using the internet; another suggestion was to just get in the car and drive around and see if there is any playground equipment; and she noted once again, some of these individuals use public transportation, they cannot drive around, and why would she tell someone to drive around and look for playground equipment, they would already be violating the Ordinance if they had. She further stated another reason is because the County has not produced a single reason why the Board is doing this; the amendment is not based on public safety but rather a shaming and discrimination of people who are not committing crimes inside these businesses; the last reason is because the County has an exclusion Ordinance 2006-31, it already greatly restricts where their choice of businesses are due to the proximity of parks, playgrounds, schools, tennis courts, golf courses, and many more things that the County continues to add to this; and now it is adding businesses and 1,000 feet around each one of them. She commented so to recap, the amendment not only impedes the mission of the Re-entry Task Force of Brevard County but it is based on an invisible map, no definition of the areas, no empirical evidence that supports the need, a vague definition of the Policy for one to adhere to it, hence there is no way for them to avoid or to responsibly avoid this offense; and there is no process for consistently enforcing the amendment. She advised the County has individuals that are trying to be offense free and the amendment creates the possibility of arrest just for doing normal daily things and carrying out normal daily business; it creates a new category of crime where minding one's own business becomes a crime, taking care of personal needs becomes a crime, taking care of family members or taking the family out for a recreational day becomes a crime; and to her that is a crime against humanity. She mentioned she knows what the Board is trying to do, it is trying to protect the community and especially the children of Brevard and she understands that this the intention, but there are many factors that have not been considered; there is a serious lack of understanding as the nature of the sex offender registry and who is actually on it, and a lack of understanding on how it impacts children in the families; and she has to believe that as leaders of the community, that the Board's intention is in the right place, but what it is proposing is a pathway that is counterproductive and even destructive. She went on to say she urges the Board to replace its fear and misunderstanding with facts and evidence so that all citizens and the agencies that support them all have a chance to succeed.

Jason Perez stated he is just going to read a letter from his better half; and he read, "My name is Irene Perez and I'm unable to attend because the presence of the location of this public meeting would violate Section 74-102, Brevard County of Ordinances and I would be subject for arrest. For the record, before I begin, the fact that I cannot be here to speak on my own behalf, violates the Florida Governing and Sunshine State Laws, Section 286.011. I am a mother, wife, daughter, sister, entrepreneur, student, and teacher. I work more than 60 hours per week, along with my husband, to make sure that our family is being taken care of. I follow the Ordinance that is currently in place and feel that the proposed ordinance would not help to keep our children safe. I have three sons and I cannot understand as to why this is being proposed. However, regardless of my label, and as a mother, I cannot understand how imposing another 1,000 feet buffer would protect any of my children or anyone else's children for that matter. The current proposed ordinance is but half measured for legislation to use and say here, this is what I'm doing to keep your children safe. But as a matter of fact, it does nothing. See if you understand how offenses happen, you would know that those who have already done their time, therapy, and paid their restitutions have a low rate of re-offending. Children have become the victims to those who are trusted by society and more importantly by parents and the child, such as relatives, close friends, or professionals such as teachers, childcare providers, police officers, and doctors just to name a few, and are often likely to offend, or are offending and have not been brought to light. You see, people can offend because they are trusted and so the logic of having 1,000 feet buffer to protect our children



from people who have already been brought to light makes no logical sense. The current proposed amendment to add additional work and stress to our already over-worked and under-staffed probation officers, they do not have the means to enforce the current ordinance let alone an addition to one that includes businesses. The probation officers do not have the means, support, nor the man power to enforce any of the 1,000 ordinance effectively, imposing another 1,000 feet ordinance would not only add unnecessary work for our police officers and probation officers, but it would put our children in more danger. These ordinances provide our community with a false sense of security. As a parent, our job is to protect our children and teach them to know what wrongdoing looks like. The job of our local government is not to impose rules that do not help anyone, it is to provide knowledge in form of classes and lectures, to educate everyone as to what offending really means and what the signs are and how to let our children know it is not okay, and it is okay to tell someone. Parents have the ultimate power over preventing the children of falling victim, a 1,000 feet rule does not, as a mother, make me confident that my children will be safe. In addition, to the reasons stated before, this is how those who have already served their time, paid restitution, and completed the therapy are still being punished. How is it that families of those registries are still having to deal with all this after years of completing their sentence, when you are released, have done your time, and are integrated back into society. We are conducting ourselves as productive citizens with jobs and yet we are still being punished and told that we are not able to shop because the businesses have self-certified themselves to be somewhere where children congregate. As a business owner, I know that this is completely detrimental to all of our businesses as well. This altogether is unconstitutional to say the least, I highly recommend you reconsider the proposal of this amendment.”

Howard Ofner stated the ordinance proposed for public safety is done with good intentions, but as people know unintended consequences are significant; the premise that Commissioner Tobia set forth was sex offenders re-offend at a high rate; the Justice Department study states that re-offense rates of sex offenders are actually far below other offense groups; only 3.5 percent of registered citizens convicted of another sex crime during a three-year study; just to put that in perspective, domestic violence is 40 to 70 percent, therefore, 3.5 percent is not an extremely high rate; and Florida mandates lifetime registration but a long-term study released in 2017 by the California Department of Corrections and Rehabilitation revealed that former offenders re-offense rate after 15 years is statistical probability of them committing a new sex crime is indistinguishable from the general population. He went on to say registered citizens want to obey the law, they do not want to get arrested; this Ordinance creates invisible boundaries of four million square feet if someone does the math, for each business, so not to mention stifling the businesses around them; law enforcement is not even sure where these boundaries are; getting gas or groceries is very difficult; and he noted his son is a registered citizen and he wanted him to put this in the record. He inquired if the ordinance is strict liability or do the penalties require intent, is simply being unknowingly present within 1,000 feet of a restricted area subject to 60 days in jail or a \$500 fine; he stated his daughter attends Florida Institute of Technology (FIT) with license plate laws, he asked if she would be pulled over constantly when she goes to school Monday through Friday; and as a member of the Fine Arts Center (FAC) and a Florida citizen, he simply asked the Board to delay the vote and review all the facts, he will provide avenues for research if the Board deems it necessary.

Judy Haisten stated she does not live in Brevard County and this ordinance does not affect her personally; it hurts to see that a County in Florida would consider this; she knows that this County has a lot of seniors and there are registered citizens that live outside of this County that come to this County to take care of their mothers and fathers; they take their parents shopping and to the grocery stores, to the doctors, and out to eat; imposing this ordinance the Board is limiting, maybe prohibiting these family members from taking care of their families; and she

does not know what the County's budget is, but she asked if the senior living facilities are capable of taking care of the seniors that are in this. She inquired about hurricane season when their loved ones come to help them shut up their homes or to take care of them; she has a friend in Marion County who served two terms in Iraq; he is a registered citizen and he comes to Brevard County every other week to take care of his mother; and this would affect him. She mentioned she is just concerned that this County would do this because it affects other Florida residents, not just this County; it affects the seniors, a vulnerable population; with COVID-19 people have seen that the seniors have been neglected; here again she is seeing community leaders not looking after the seniors; there are also seniors that are registered citizens and this is limiting what they can do as well; and she advised she just wanted the Board to know she is from another County hearing about this proposal, she is disappointed that it is even being considered in Florida, and she is letting the Board know there are other people in Florida that this would affect.

Mary Ann Hayes stated she is going to read a statement on behalf of Michelle Proud of Broward County because she is unable to attend today; she mentioned those people from other counties are interested in this ordinance because they have to travel, or a registered citizen who may be a spouse or family member may have to travel and would be subject to these restrictions; and she read the statement, "I'm a women who lives on both sides of the issue. There's tons of us out there that do. I know we all want the same thing, to protect children. When my sister-in-law's father was dying of cancer alone in Arizona, she was unable to bring him home to Florida to care for him, it turns out that this once young boy at the age of eight went to a boys school, one run by our very own government, and he along with many other boys were sexually assaulted on a regular basis, over several years by the school administrators. Who knew at that time that his assaults would eventually land him behind bars and not the perpetrators. Later in life his wife became very ill, he cared for her until she passed away. He was suffering depression alone, and lonely, eventually he found himself on the internet looking at pornography and eventually some child pornography. Why? It is hard for us to know for sure, but in part we know it was because he could relate to those children, he has said as much. He knew those kids, he was that kid, he cried for them as he cried for himself. I guess if you have not walked in those shoes, how do you truly understand what would bring you to this point. Well, this point did bring him to prison for over a year and he became a registered human upon release. He was never allowed to return to Florida, he is a threat they say. And so what is the solution to brand this man a threat, is this who you pretend to protect society from? It would seem the government let this man down as a child, where was everyone then? Is the solution really to tell this person later in life they are nothing, now he wouldn't even be good enough to be in a certain store because some stranger who knows nothing prefers to react to the title he was given of sex offender, as if he is actively seeking to harm. That was and would be his life now, do you honestly think he is someone to be feared? I don't want to live in a world where there are not consequences for your actions, but I don't want to live in a world that does not allow for broken people to become whole and heal. As a young girl I was offered money to go in a closet and lift my shirt. I had two different adult men force long French kisses on me as a young teenager and finally at just barely 17, my virginity was taken from me by a 37-year old man. Do you know what all these situations have in common, I knew them all. So my question becomes, why are we spending so much time, energy, and money on something that does nothing to help a potential victim? The risk is not in the store or even at the park, you see sexual crimes overwhelmingly occur within a relational proximity rather than a mere physical proximity. Please let us protect our children as best as we can and not cause further harm to those families and children by putting even more restrictions on them. We can work together on this for the betterment of society and those we love. Me, that little girl, that young woman deserves that, we all do. At the very least let us not put even more obstacles in the way. Thank you for your time." She further stated she would ask the Board to vote against

this ordinance.

Chris Curtis stated he is a resident of Melbourne and that he resides in District 5; he has lived in Brevard County since 1992 and he is currently the President of Brevard Chapter of the American Civil Liberties Union (ACLU) Florida; and he will be speaking in that context. He advised he is not a lawyer but the local ACLU Chapter has received letters from sex offenders and he would like to relay one of those to the Board; the letter they received came from a gentleman named Eddie; Eddie sent them a letter while in jail relating his story; he looked up his records to verify that the letter was accurate; in 1981 Eddie was arrested on a charge of a sex crime against a minor under 12; it is not clear to him what happened in the record but it appears as though he was not prosecuted for this at the time; he was later arrested for a motorcycle theft and was prosecuted and convicted at the age of 18 for both the theft and the sex crime; and at this point, he became a registered sex offender and was sent to jail for some time. He noted Eddie was eventually released from jail and according to the public record, Eddie has had no violations at all, with a couple exceptions he would like to talk about; three are specifically violations of probation instances; each time he was arrested for violation of probation he was declared indigent, held in jail for about 10 months, and then released with no charges; according to his letter he started to get his life back together; he had a girlfriend, they had moved into a trailer, they were building a life, and his neighbors found out that he was on the registry and decided they thought his trailer would be good for target practice; and after that night he fled with his girlfriend and his probation officer declared him in violation of probation. He further stated Eddie was arrested again, placed in jail, and this is why he was writing to them; while he was doing the research he looked up Eddie's registry entry and he saw a picture of 20 or 30-year old man that said sex crime, child under 12 at the bottom of it; some time had passed and he had looked up the record again; the picture was changed to a very different picture; it was an old man with the gray beard and someone who had looked like they had a really hard life; what he noticed is when somebody is arrested for violation of probation, even if there are no charges, is the picture is updated; and he realized that this 50-year old man that he was looking at was not the same person as the 16-year old who had committed the crime against the minor. He continued by saying he just wants to point out that this ordinance will last a very long time; he would suggest that it is not protective, but punitive, unjust, and cruel.

Charles Tovey stated he did forget the diagnosis of the Lagoon was Brady Cardia and the Board could ask Dr. Isnardi, she might know some information about that; he wanted to address this issue about double jeopardy and adding an additional burden; he respects everybody and everything but they have already been to court and they had been sentenced; now Brevard County seems to make a new ruling and gives them more additional sanctions to adhere by; and it is not fair to them. It can only be used for people that have been convicted after this time or whatever, if it gets approved or not. He mentioned it is an additional burden, double jeopardy, it was mentioned it was evil, and he asked how someone can say anything is evil, if that person does not believe in God; it is just a bad thing; he just does not understand the terms used and the directions that are used; and he reiterated it is double jeopardy and adding on an additional sentencing to those people who have already been sentenced. He asked if that is not what the whole system is about, helping people recover from their evil thoughts and deeds.

Commissioner Pritchett stated she wanted to give an overview of where she is at with this right now; one is the Board changed the definition of Park to align with the State of Florida; what Commissioner Tobia is bringing to the Board is places like Sky Zone or anywhere where children congregate; it has the same definition now as sex offenders not being able to go to playgrounds; they already know this, they receive a list of places they cannot go when they are released; and Commissioner Tobia also proposed a voluntary database, which is smart, so

businesses that primarily do this business will register and people will be able to find out if this is a place where children congregate. She advised she has a couple of struggles with this; she has worked in ministry for 35 years; this is talking about people who have gone to jail for this, but the worst victim of this is the children because they do not recover; she has done counseling with grownups that had this happen and they are still paying the penalty for something that happened to them, as a victim, and as a child; and a lot of these victims become repeat offenders, and it is just a horrible thing that happens. She stated she is always going to err on the side of the kids and she feels really bad for the families that are having to suffer through this; they did not do it, they do not deserve it, but they are having to deal with it because it is a family situation; she gets it, but when people offend the vulnerable population that trusts adults to not harm them, as a society it has gotten to a place that just breaks her heart of how children are valued; and her opinion is, she does not think the penalty is tough enough for what is happening to the kids. She continued by saying she had a few conversations with family members, she gets letters from people stating the most foul things of why they should not have to have a further penalty on them; even her belief in Christianity, Moses hit the rock, God still loved him, he got to go with Him when he died, but he did not get to go to the Promise Land; sometimes people do things, these people get to live back in society, but they still lose privilege; they get to do things but they lost certain privileges; being a black, an Indian, a Jew, or a female, it is not a crime; and she asked how does one even compare that as far as with a crime towards a child. She went on to say if someone looks at her and thinks she committed a crime because she is a female, that is just apples and oranges; she hates that argument when it comes into talking about protecting the kids; she feels bad for people that have done better and they are never going to do something like that again, but they threw themselves into a category where they have crossed a line; no one can pick who is going to do it and who is not because the goal here is to protect the children; and she advised she is going to support this, it is not changing the amount of distance that people are allowed to go, it is the same thing, all this is doing is identifying places where children congregate to be able to have an extra bit of safety there from a population right now that cannot be controlled.

1975 Amendments to Ch. 74, Art. VI of the Brevard County Code Entitled Sexual Offenders and Sexual Predators; Updating the Definition of Park in Sec. 74-101 of the Brevard County Code; Implementing Voluntary Registry in New Sec. 74-102.5 of the Brevard County Code for Businesses that Qualify as a Park Under the New Definition

Commissioner Tobia stated he probably should have gone before Commissioner Pritchett because she says everything so much kinder than what he would say; first of all the Tourist Development Commission (TDC) has to thank him as he brought people from Winter Park, Apopka, Vero Beach, St. Augustine, and Summerfield and he used no tax dollars doing it; although he does not know that these are the individuals that the TDC is targeting; and he thanked everyone for coming to talk about the impacts that they have had because of decisions. He added his heart goes out to these people that cannot shop at a discount grocery store, that they cannot sell their balm at a farmers market, they cannot choose to have a dream backyard wedding, or fill up at the cheaper gas station, and he is saying that facetiously because not once did he hear about the innocence that was ripped from a minor or the purity that was taken; it is absolutely deplorable that people would come up here and talk about the hardship that was made because they committed, as far as he is concerned, one of the most vile crimes imaginable; he loves Commissioner Pritchett's faith, he wishes his was as deep as hers; and he sincerely hopes there is a special place in hell for people that do terrible things to children. He went on to say to see those folks as victims, he just does not have the faith to be any nicer than that; while his office started with this ordinance, once there was input at meetings from other Commissioners the best approach was to allow the County Attorney's Office to complete it and avoid sunshine issues; he expressed his appreciation of the County Attorney's Office for its work on this legislation; and he noted that the County Attorney's Office

implemented Commissioner Pritchett's great idea of using State Statute definition of Parks from its sex offender regulation as the lynch pin. He mentioned this is a great approach because it does not preclude the Board from exempting out certain Statutes or classifications; such modifications would not only apply to the private businesses that cater to children, which was his focus, but it would water down existing restrictions to public parks; at that point he would be forced to kill this; essentially what the Board has now is a binary choice; and as a Board, it has to look out for A, people who have been lawfully placed on sex offender registries of the State of Florida or B, children who are playing at public and private parks, and he thinks that is a very easy choice, one that he hopes the Board goes with the latter. He further stated he would like to cite Florida Statute 943.0435, Section XII, "The Legislature finds that sexual offenders, especially those that committed offenses against minors, pose a high risk of engaging in sexual offenses even after being released from incarceration or committing that are protected of the public in sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest and public safety and its effective operation for a government." He noted Statute has laid it out pretty clearly, the Board should place the burden for meeting this on the people that are lawfully placed on this sexual offender registry; the Board should do its best to look out for the children's innocence and purity; it is terrible that the Board has to do this but he thinks it is a step in the right direction; and when it is done he would like to make a motion to approve the ordinance amendments as proposed in the Agenda Packet.

Commissioner Isnardi stated she does not want to go sideways with this but people have a tendency to throw around statistics, but when looking at the first three statistics they do not look as bad as the five and 25; she wants to just read something real quick that came out of the U.S. Department of Justice, when she looked at a study; she read, "Similar to the pattern for rapists, child molesters with more than one prior arrest had an overall recidivism rate of nearly double"; that is somebody that has been arrested more than once, 44.3 percent; the ones that have been arrested once have a 23.3 percent; and they looked at almost 5,000 sex offenders. She commented if that does not make someone worry a little bit, she has read numerous studies on this, and numerous books from Psychologists because she really wanted to dive in; she stated to excuse her if she does not sympathize with someone who harms a child, but she just cannot; one thing people did not hear, other than the last woman that came to the podium from another County to talk about somebody that she probably did not know personally, and she is not sympathetic to anyone who looks at child porn no matter what unfortunate circumstances happened throughout their life, but the people did not hear, and people were saying they demand these rights, was their story because odds are it was not a sympathetic one as they are on the sex offender list; God help someone that is on the sexual predator list because that is even so much worse; and she will not apologize for trying to protect children and she fully supports this ordinance. She stated she knows the Board keeps going back to this, but nothing is more offensive than trying to compare the discrimination for race or sexual orientation than to that of a sexual offender, there is no comparison; there are not words for that; she advised she will support the ordinance; and she thinks the stricter the better.

Commissioner Smith stated obviously this is an emotional issue for people on both sides; the only issue he has, and he certainly supports it, is that as a Christian, he knows that there is redemption and forgiveness; the big problem he has is with the sexual offender tag is that there are other sexual offenders other than adults to children; he has used this example before, of an 18-year old boy has a 16-year old girlfriend and he does not know that she is 16, for various reasons, then he is labeled a sexual offender for the rest of his life; therefore, he is not sure this is something that the State should not revisit and come up with some particular definitions of sexual offender. He added maybe some of those could be erased after a period of time, he does not know as he is not a State Representative, he is just thinking out loud; to put

everybody in the same box is not fair either; the Board has to do what it has to do to protect children; and he advised he will second Commissioner Tobia's motion.

Chair Lober stated it sounds like he is going down in flames on this; he sent out, and he knows Dave Berman of Florida TODAY received a copy of it and he sent one to Space Coast Daily as well, it was kind of a long memo regarding a number of issues he has with this; it looks like it went out July 29; he advised he is not going to read the whole thing because it is six or seven pages but he does want to read certain portions of it; and he does not doubt that this particular proposal could do some good in certain situations, but he is concerned about unintended consequences and broad-brushing people that are not just those that are among those that commit the most vile crimes imaginable. He stated he wanted to address just a few examples of someone that could land on this sex offender registry, that he does not know ethically, morally, or otherwise that needs to be on there; he talked previously about Florida Statute 847.0133 which penalizes giving obscene material to a minor; he thinks that is a great example of potential over-grasp for a sex offender classification or anything that would apply to folks that are classified as sex offenders; all that has to be proven under that Section is the defendant knowingly sold, rented, loaned, or gave away a distributed, transmitted, or otherwise showed obscene material to a person under the age of 18; for example, if someone had an 18-year old high school student who showed a 17-year old classmate a Playboy Magazine, the 18-year old could find himself/herself convicted of a felony for violating 847.0133; to make matters worse, in accordance with 943.0435 Florida Statutes, the 18-year old would be classified as a sex offender when convicted; and many, if not most, would find these facts alone, that they are resulting in someone being convicted as a felon and a sex offender, is very inequitable and it is not remotely proportioned with what was done. He noted he does not know that the County benefits from broad brushing those individuals, along with people who are raping children and serial pedophiles; those folks he has no empathy for; however, there are a lot of very marginal cases that could land someone as a sex offender; another example to change the facts up, say both were 17-years old and instead of a Playboy Magazine that the minor defendant tries to pass an obscene drawing to his minor classmate, just a drawing, and if it does not even get to the classmate because the teacher intercepts it, both defendant and victim are 17-years old, and it happens to be a rendition of a previous boyfriend/girlfriend in an obscene act with another person or an animal and the victim never even sees the drawing, and that absolutely could count as a lesser included offense of attempt under 847.0133; and looking at Florida Statute 947.0435, it would still classify the defendant in this case, as a sex offender. He added that is nonsensical to him, so he asked how can that be; for purposes of 847.0133, obscene material is defined extremely broadly and it includes, any obscene book, magazine, periodical newspaper, comic book, story paper, written or printed story or article, writing paper, hard picture drawing, photograph, motion picture film, figure image, videotape, videocassette, photograph, record, or wire, tape, or other recording or any written, printed, or recorded, and it just goes on; he is sure there are people who would say police officers and prosecutors exercise appropriate discretion in these cases, sure, but they are not obligated to exercise discretion, and it is not guaranteed they will do that; and the fall back will be the judge can dismiss the charges, but no they cannot dismiss the charges because they do not like how it would apply to someone, it would need a valid legal basis to throw charges out; and a judge having a sensible belief that the ramification would be grossly inequitable and too severe does not amount to a valid legal basis for getting rid of a charge like that; if the obscene material were instead emailed instead of being provided physically, one could also be convicted of violating 847.0138 which prohibits the transmission of material harmful to minors by an electronic device or equipment; and the prosecution would only have to show that the defendant knowingly sent an image or information data that he knew, or should know, or believed to be harmful to minors that the defendant shared the image or sent the image, information, or data that was sent to a specific individual that was either actually known by the

defendant to be a minor or believed to be a minor; and that the defendant sent the image, information, or data via electronic mail. He advised the defendant and the victim could be the exact same age and a conviction could still result; the defendant's age is not an element the prosecution has to prove; the email does not even have to have made it to the victim for a conviction of at least one of the two lesser included defenses; this includes if the recipients mother or father intercepted the email before it even made it to the same age classmate; and then there is sexting, that is a good one. He advised it is true that 847.0141 which prohibits sexting, is not among the offenses which requires registration as a sex offender or sex predator, it is entirely possible that one would still end up being required to register for sexting; and he asked why is that. He explained one reason is the statutory limitations on what constitutes sexting are so restrictive they may not permit a prosecutor to file the charges in certain cases; for instance if the minor is being solicited the message or the minor recipient did not attempt to report the photo or video to his or her guardian, school, or law enforcement; and two, looking at F.S. 827.071(5)a, that prohibits possession, control, and/or intentional viewing of material including sexual conduct by a child and it does not require the defendant be of any particular age. He went on to say there are a variety, and he cannot go through six or seven pages during a meeting that is not solely for this, but there is a variety of situations that make absolutely no sense to treat identically to people who are raping children or serial abusing children; as Commissioner Smith mentioned there is a number of crimes that have nothing to do with children, that are adult on adult crimes, or minor on adult crimes where the victim is not at all underage; he does not know that those people need to be treated the same way; and he does not know that the sex offenders pose the same risk as sex predators. He added he does not have a problem by and large with implementing something substantially similar to what has been proposed to those people that are registered sexual predators, but the problem is when looking at offenders, the list is just so ungodly proud there are many situations in which it just does not make sense; he does not see how it protect children to keep folks like he just mentioned in his examples; and he does not see them as being a threat to children. He reiterated someone that is a 17-year old that shares a pornographic magazine with a buddy of his or her at 17; is it a bad thing to do, sure; is it something he would want his child to do, no; but is it something he thinks now the Board should keep from prohibiting them from going to additional places over and above what they are already prohibited to go to, he does not see that; and 1,000 foot limit for someone that is in that classification to him it just seems extreme. He noted he gave other examples over video voyeurism and a bunch of other things that he thinks are concerning with respect to what was proposed; he does not think he is going to get anywhere with trying to talk people out of this, he thinks the Board's mind it made up and it is what it is; but he thinks if the Board does decide to pass this, which sounds like it is going to happen, that he thinks it should look at including; the Board needs to extend the existing exception permitting those folks that sex offender, sex predator ordinance applies to, to continue to allow them to travel on those public roads through the buffer zone that are within 1,000 prohibited location without undue delay; that is already on the existing ordinance; and he thinks it needs to ensure that it applies to this regardless of what the Board does, otherwise it is telling people they cannot even drive past on a public road to get from point A to point B, if they have no intention whatsoever and do nothing to suggest that they are stopping at some place they are prohibited from being within 1,000 feet of. He continued to say another thing, and the Board has heard a little about it today, the Board may want to look at adding or advertising an amendment to Section 74-102(b) of the Code to add an exception to permit those folks that are on the list to attend dually noticed Board of County Commissioner meetings so that they can provide public comment without the fear of being arrested; the Board does not have to agree with their comments, but it is a little troubling that these folks cannot be here, that this is going to directly impact; he understands these people have done things to put themselves in that position but he still would like to have heard from them and he thinks it might have been better than having folks reading a letter where they really cannot answer questions that the Board

may have that would apply to the individual that wrote that letter; and he is very concerned that this is over-broad and he thinks a lot of the emails that were sent in relation to this issue, he knows the rest of the Board received them because he saw that he and the rest of the Board was copied on them, a lot of them were really vile and they did a lot to push him in the direction of supporting what Commissioner Tobia is proposing. He advised he had one individual call him an ignorant female dog because he did not like what he had to say on this; then he found out the same guy victimized a 14-year old in another State; these people that have been pushing by email have been pretty repulsive and he does not think they are doing their cause any favors; he does not enjoy taking a stance that would benefit them, but the problem is, in his own research and putting aside the nonsense that these people have sent the Board, he just does not think it is fundamentally fair; he knows it is not a popular position to have; and it is great to say be tough on crime and hammer everyone, including those who may fall through the cracks for sharing a sketch with a classmate that has someone's genitals in it, but he just does not see it.

Commissioner Pritchett stated Chair Lober is probably absolutely right on all of those things; the problem is the Board makes Policy, but Judges and State Attorneys decide that; as the Board is doing this, someone has already determined that they should not be at parks or around children; that is why she is fine with this; that might need to be fought somewhere else; she is guessing if someone was 18 or 19 and it happened with their girlfriend or something, there should be some kind of legal thing that can be done before an attorney and a judge and maybe get some other circumstances done; and she has also noticed that sometimes pleas are made for lesser charges to when they really are not that bad. She mentioned she agrees there is probably something that really needs to be done on the State level as far as definitions and how they define those things, so everybody is not thrown into it; however, she thinks if somebody already has parameters put up that they cannot go to parks where kids are; she is comfortable with this right now, at this point; if there is one, two, or three that fall into that, her heart goes out to them; and she would like to see that change for them later down the road. She added she thinks that probably has to be a State Attorney thing or maybe even how the judges interpret those things at those times; she reiterated she is going to support this; and she does understand what Chair Lober is saying and he is a smart guy.

Commissioner Isnardi stated she knows Chair Lober knows the Romeo and Juliet law and that gets people off of the sex offender list if it is consensual sex, if one of them is an adult and one is a minor as long as, she thinks it is four years age difference, and they have to be over the age of 14, she thinks is what she read; there are protections for people who were convicted by angry parents years ago, with a younger boyfriend or girlfriend, so she thinks that kind of protects that relationship; she does not know personally of any cases, where somebody, and she did not get any emails where people were convicted or sending emails with lewd stuff or parents intervened and someone was convicted of that kind of crime; she is sure they exist, but not in any information or correspondence that her office received; and the big concern was they just did not want the Board to discriminate, or the fear was discrimination towards people who were on the list. She reiterated most people did not offer their stories they were just angry that the Board was putting something in place; and she is ready to move forward.

Commissioner Tobia commented this is Chair Lober's fault for bringing up the email; he has to share his favorite email that he received on this one; this is from a registered sex offender and he quoted, "I have a few things left on my bucket list, but I'm going to add being alone in a room with you for three minutes to them, although from your picture, I think that is two-and-a-half minutes to much."

Chair Lober stated he did have a sense of humor, at least.



Commissioner Tobia stated that could be read a couple different ways, and he will leave that to people's imagination; he noted he does read the emails no matter how crazy; this one is laminated and hanging on his wall along with Jennifer Caw; and if she is listening, talking about how successful his brother is, she is now in the second spot of emails as this one has moved to number one.

There being no further comments or objections, the Board adopted Ordinance No. 20-13, Amending Chapter 74, Article VI of the Brevard County Code of Ordinances regarding an update to the definition of "Park" and adoption of a voluntary registry for businesses that qualify as a Park under the new definition.

**Result:** ADOPTED

**Mover:** John Tobia

**Secunder:** Curt Smith

**Ayes:** Pritchett, Tobia, Smith, and Isnardi

**Nay:** Lober

## **I. UNFINISHED BUSINESS**

### **I.1. 2021 Group Health Plan Design Changes**

Chair Lober advised Health First had reached out to him and he wanted to put this on the record; they asked that he abstain or recuse himself on all votes relating to Health First and its subsidiaries for the duration of service on the Brevard Board of County Commission; he is not going to do that, in fact it would be illegal for him to honor that request; Florida Statute 286.012 requires that he vote absent an illegally recognized conflict of interest; he does not have any sort of conflict of interest that could even arguably rise to that level with respect to this; and he just wanted to make known that they did make that request of him and he is declining it because he does not have a choice but to decline it.

Jerry Visco, Human Resources Director, stated this Item is back before the Board and it is a series of recommendations from the Board's Insurance Advisory Committee, to make changes to the group health plan and plan design; these changes were, in the Committee's opinion, necessary in order to close the gap between projected expenses exceeding the County's revenues in the current and the next two future group health plan years based on actuarial findings; the Committee worked very, very hard to look to minimize the impact on employees with these changes, but they knew that changes are required to be made now so that staff can avoid some more draconian changes off in the future; these are baby steps that are necessary in the time of COVID uncertainty, as they really do not know what the impact on the group health plan is going to be this year; and these are first steps that the Committee felt were necessary to start working on closing that funding gap. He continued by saying they are asking the Board's authority to go ahead and implement these changes.

Chair Lober stated he is certainly in favor of it, but he does not know where the rest of the Board is.

Commissioner Tobia stated last meeting he asked for this to be tabled; he thinks he asked for a month; unfortunately, this was three weeks; unfortunately, the next meeting is September 15; and he inquired if the Board should table this decision until September 15 and what the impact would be to do that.

Mr. Visco stated it would dramatically impact staff's ability to move forward with the open enrollment plan for this year; they need to implement these plan design changes, get the data fed to the carriers, and they can produce the information necessary for County employees to make open enrollment decisions; a delay at this point would force enrollment back maybe out of October into November, which then delays the start of the plan year well after January; and staff would really like to move forward if possible.

Chair Lober stated if it is one of the two plans addressed, maybe the Board can vote on the plan in which there is no question about, assuming that is the case, then it can talk about the other plan if anyone has concerns about one of the two being offered.

Commissioner Tobia stated he would rather leave it as one; Mr. Visco has brought up some valid points; he was just curious why it was put on this meeting instead of September 15 meeting; and it sounds like there would be some financial repercussions if he had waited.

Mr. Visco responded affirmatively.

Commissioner Pritchett stated she just wanted to mention, she had a gentleman call her after last meeting and he had a way to try and save the County some money; she asked staff about it and they said they were still able to move forward with negotiations on that, therefore, it will not have any reflection on the Board voting this through; and staff will still be working with the entity to try to do the savings.

Mr. Visco stated staff will evaluate whatever comes in; they have shared data about a month ago; they have not received anything back from the group; and if they do get anything they will definitely work with them and evaluate their proposal for potentially future Request for Proposals (RFP)s.

Commissioner Isnardi stated in the future obviously with the opinion back from the Ethics Commission, is for her not to vote on Health First Items; this Item went out to RFP; and she confirmed with the County Attorney that she is allowed to vote on this.

Eden Bentley, County Attorney, interjected that this Item is internal design as well, therefore, Commissioner Isnardi has several layers of protection.

Mr. Visco stated Commissioner Isnardi had already voted on the element that would have impacted Health First, a month ago at the July 21, meeting; and this is all internal plan design.

Commissioner Isnardi agreed.

The Board approved the Group Health Insurance Program for CY2021 as recommended by the Office of Human Resources/Employee Benefits and the County's Employee Benefits Insurance Advisory Committee (EBIAC).

**Result:** APPROVED

**Mover:** Kristine Isnardi

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

## **Development and Environmental Services Group**

### **J.1. Approval Re: Contract for Sale and Purchase and Amendment 1 to Contract for**

**Sale and Purchase from Property Owner Thomas J. Happel for the Basin 2420 Stormwater Drainage Improvement Project - District 4.**

Chair Lober advised he may be the stick in the mud on this one; the County had an appraisal for \$130,000 on this item and the property owner is not willing to take less than \$135,000; he can tell the Board how things have operated in his District, and the rest of the Board is welcome to agree or disagree, but if they have their own appraisal and it is a reasonable appraisal, he is not necessarily opposed to splitting the difference; it sounds like the owner just does not like the appraisal because it is not as much money as he thinks he can get, therefore, he wants more; he does not know what the County's next cheapest alternative is to accomplish the same or better results; and his concern is, even if the Board has to pay two, three, or 10 times as much on this particular item to achieve the same thing, it may be worth it in the long run to avoid setting a precedent that the County will pay over market value for a piece of property. He advised barring something extenuating from staff or one of his colleagues on the Board, he is fine with \$130,000 because that was the appraisal amount, but he does not want to give the owner \$130,000.01; he is very concerned about the precedent that would set; the last time he did something like this, it was on the property north of Walmart on 520 for the demucking, they also wanted a small fortune for that and he told them it was not going to happen; and low and behold, they came down to a reasonable end after that. He mentioned the same thing happened with Griffis Landing, there was property the County was looking at over there; the seller was not being reasonable with respect to matching what was asked based upon appraisals and that did not happen; he is just not going to change suit on one particular project; and he feels it is too important to keep the precedent that the County is not going to pay more than market value for the County.

Virginia Barker, Natural Resources Management Director, provided a photo and explained this is U.S. 1 and right there is the storm drain coming from U.S. 1 onto the property; the blue outline is the property in question and this forested area, north of the property; what happens now is the Florida Department of Transportation (FDOT) runoff runs through this forested area and discharges sediment, there is a large sediment plume; she pointed and stated this is of course the nice, clean, sandy bed, but there is also lots of organic muck going into the canal that is directly connected to the Lagoon; and she showed another photo to explain the elevation can be seen with the hotter colors being the higher elevations and the green is the lower elevation. She continued by pointing to the photo and explaining the box here is the property in question; this is the place where gravity will allow them to capture the water and sediment coming off of the road, treat it, and discharge it in a controlled fashion instead of having it erode through the wetlands; she noted she does not have any debate about the value of the property, what the appraisal should or should not be; and she just wanted the Board to understand the problem that staff is trying to address and the situation of this parcel for being able to provide staff with a solution.

Commissioner Tobia stated he understands Chair Lober's point about setting the precedent; he asked Chair Lober to help him balance that with Item F.33., which he thought was a great pull on his part; and one that he did not catch, which was the Executive Session of Brevard County vs. Feinberg; it was his understanding the Board generally negotiates somewhere in the middle of the proposed settlements; this one actually went a little bit more for the other side; however, that balanced with say the court reporter and the staff time, the County saw a benefit or Chair Lober saw a benefit, and he really appreciates him bringing that forward. He went on to say what he is concerned about here is the additional cost; he asked if it will be above the \$5,000 that the potential saving is here for whether the County has to Eminent Domain this, whether the County finds another solution that would maybe be far more cost effective; he reiterated it is \$5,000 and a little over three percent of the appraisal; and he inquired if this is a wise fiscal decision, over the three percent, that the County may see a detriment if it has to find a different

way around this.

Chair Lober stated he is going to address Commissioner Tobia's question the best he can without putting the County in a bad spot, since that case you referenced in F.33., still has not been fully resolved, the Board simply gave authority to settle it for the amount that was specified.

Commissioner Tobia replied, right.

Chair Lober continued by saying he would just call to Commissioner Tobia's attention that there is more than just a question of what the property is worth in those settlement sums; there are other costs that have gone into that; the settlement number that was proposed contemplates those costs being factored in, not just the property itself; that has also been something that has been ongoing for some time; he does not know if he would have been in favor or opposed to the taking back when this was originally done; and he asked if this was in 2012 or 2013.

Eden Bentley, County Attorney, advised it was 2013.

Chair Lober went on to say he cannot speak as to what happened prior to him having been on the Board, but he thinks the circumstances with that are sufficiently different, namely in that the Board is not just talking about the cost of property, it is talking about a suit that has been filed and now legal costs that the County is obligated to pay and other costs associated perhaps for their expert witnesses and things of that nature; and he just does not know if it is an apples to apples comparison. He further stated he cannot really speak, and he would give that to Ms. Barker or someone on staff, as to what the next meaningful alternative would be; certainly, if Commissioner Tobia thinks it is worth \$135,000 then by all means he can support it; and he noted he just cannot change his position on it.

Commissioner Tobia stated his point was to compliment Chair Lober on the previous Item.

Chair Lober stated he appreciates that.

Commissioner Tobia went on to say he has a couple questions, one for Ms. Barker and one for the County Attorney.

Chair Lober advised him to go ahead.

Commissioner Tobia stated he knows there needs to be a supermajority if the County pays, and he asked if it is a percentage over market value or if it is just over market value.

Attorney Bentley explained that applies when there is a purchase of \$500,000 or more, that is when that Statute kicks in, and it is the average of two appraisals; and the Board does not have that in this case, it is just a simple majority because of the value.

Commissioner Tobia thanked Attorney Bentley for clearing that up; and he asked Ms. Barker what other options the County has if the Board decides not to accept the \$135,000, to help clear this issue up.

Ms. Barker stated she does not know if the County could acquire the adjacent wetland that the water is currently washing through and washing soils out of; the County would then have wetland impacts which staff would have to mitigate for; staff has not looked at what the cost of that would be; and she noted the wetland impacts would likely drive up the project construction

costs considerably.

Commissioner Tobia asked if that would be more than \$5,000.

Ms. Barker responded affirmatively.

Commissioner Smith stated he questioned staff during his briefing with them yesterday and like Chair Lober, he initially just dug his heels in because he does not like people to just arbitrarily come back and think that they are dealing with government and it has a lot of money so they just want to raise the price; staff told him this property is ideally located; the appraisal cost \$2,800 or \$2,900 so the County went out with another appraisal, therefore, it is real close to that \$135,000 anyway; and being that this is a very important project and the property is ideally located, and if it is purchased there is no fuss afterwards, no mitigation of wetlands, and staff can go right to work. He added it is in his District but he has not gone to look at it, but he has seen the aerials, so he would be in support of this because it just does not make financial sense to not give in and be stubborn.

Chair Lober stated just to clarify one thing, as far as another appraisal, the circumstance that he has addressed and dealt with that have dealt with multiple appraisals, the County got one and the seller has gotten another; he does not think there is a reason for the Board to question the validity of the original appraisal to go out and spend anything for another; if the property owner is not happy with it, then he would have no problem with him coming back, assuming the appraisal is legitimate, if the appraisal said \$140,000 and staff can say it meets all the requirements that it would ordinarily expect, he would not have a problem in that circumstance paying the \$135,000; and he thinks the County may win the battle with respect to this, but he is just concerned it may cost the County in the long run. He commented he understands where Commissioner Smith is at and he respects it; and it sounds like there may be a three to two vote anyway.

The Board executed and approved the Contract for Sale and Purchase and Amendment 1 to the Contract for Sale and Purchase of property as described in Exhibit A, from property owner, Thomas J. Happel for the Basin 2420 Stormwater Drainage Improvement Project.

**Result:** APPROVED

**Mover:** Curt Smith

**Secunder:** Kristine Isnardi

**Ayes:** Tobia, Smith, and Isnardi

**Nay:** Pritchett, and Lober

## **Miscellaneous**

### **Add Ons**

#### **J.3. Appointment to Fill a Vacancy on the Save Our Indian River Lagoon Citizen Oversight Committee**

Virginia Barker, Natural Resources Management Director, stated this consideration to fill a vacancy on the Save Our Indian River Lagoon (SOIRL) Citizen Oversight Committee (COC); there is an opening for the alternate position for Outreach; the person who was previously selected is moving to the other side of the country; and the Ordinance allows the Board to either choose a replacement from an old existing pool of previous applicants or advertise for new applicants. She noted there were two people remaining in the prior applicant pool; she

contacted both of them; one was still interested in serving on the Committee; and the other is no longer interested in serving on the Committee. She noted the Board has the application for Ms. Newton who is interested, otherwise, the Board can direct staff to advertise for interested volunteers.

Commissioner Tobia stated it is his understanding that there will be some vacancies in the next couple months; and he inquired if that is correct.

Ms. Barker responded she has not confirmed that, but that is typically what has been experienced, when the terms are up in February, there will likely be several other vacancies.

Commissioner Tobia asked if they generally get a lot of applicants for those vacancies.

Ms. Barker stated it depends on what the field of expertise is; for this particular one three applicants is pretty typical; and for real estate, there are a lot of people in real estate, so they tend to get seven or so applicants for those.

Commissioner Tobia asked from her perspective, not Policy perspective, would it be a lot more convenient to hold off, appoint this person temporarily for a couple months; and then hold off for the permanent replacement when the Board sees the number of vacancies increase, which is traditionally, as Ms. Barker stated, in a couple months. He asked if that would be easier.

Ms. Barker noted it is a minor amount of administrative work advertising and bringing the applications back to the Board; certainly, the Board could approve this person for the remainder of this term; and then still direct staff to advertise that seat as potentially vacant for it to consider new recruits in February.

Commissioner Tobia clarified if that is along with potentially other ones.

Ms. Barker responded affirmatively.

The Board appointed Kimberly Newton as the Education/Outreach Alternate Seat for the Save Our Indian River Lagoon Citizen Oversight Committee for the remainder of the term; and directed Natural Resources Management Director to advertise the vacant seat at the conclusion of the term.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**J.5 Agreement with Independent Living Systems, LLC. for weekly meals in support of the Coronavirus Aid, Relief, and Economic Security (CARES) Act Food Stability Program**

Robert Burns stated he would ask Chair Lober to abstain from this vote because last year he submitted a campaign finance complaint against Chair Lober's campaign finance election to the current position he holds; he made a deal with the Federal Election Committee (FEC) for that complaint and hired an attorney to represent himself; and he is going to read a pertinent part of that response, "The malicious motivation of the complaint admittedly does not change the rules over elections given there is substance to one of those allegations. With respect to the first allegation as reported by Mr. Lober, he used his personal credit card for campaign expenses.

Mr. Lober himself reported the use of the credit card for those campaign expenses because he was under the mistaken impression that use of credit cards by local candidates was permissible. This indiscretion was the result of genuine misunderstanding of Florida Statute 106.125. Mr. Lober generally believed that Florida Statute 106.125 regulated the use of credit card by candidates for Statewide office and specified for the requirement for the use of credit cards in candidates for Statewide campaigns without restriction outlined in 106.125. Complainant learned of Mr. Lober's use of personal credit card solely through Lober's own candidate disclosure and publicly accessible campaign finance reports. While ignorance of the rules is not an excuse, Mr. Lober certainly did not commit a knowing and willful violation of Florida Statute 106.125. In conclusion, this complaint is motivated by claimants personal animosity towards Mr. Lober. In his campaign finance reports, Mr. Lober clearly reported that he used his personal credit cards. Any violation of the credit card use was a mistake resulting of what Mr. Lober mistakenly believed the Statute meant." He stated the reason he brought this complaint forward was because Chair Lober said during his campaign that he self-financed, but he used his credit card for \$200,000 worth of campaign expenditures; that as Chair Lober admitted was incorrect and due to his misinterpretation of the law; since he used his credit cards to buy the public trust for this office, he is asking if Chair Lober will submit those financial records to the public so the public can see who actually paid those credit card bills; during the campaign Chair Lober said he used those cards so he could profit from the campaign by earning sky miles using the credit cards illegally; and he would like to see if Chair Lober actually paid those credit card bills himself or if someone else did, which is a way to get around the \$1,000 limit for each individual contribution. He mentioned until that has taken place, he would ask that Chair Lober abstain from any votes on financial issues for the County.

Chair Lober stated he will point out that a number of statements there are objectively incorrect; he is not going to go through each and every thing, but suffice to say, if that gentleman had a pot to piss in, he would be sued for defamation today or tomorrow; and he asked the County Attorney, even if everything Mr. Burns said was correct, which he will say as an objective fact, it is not, would that rise to the level that would allow himself to even permissibly abstain from voting on anything.

Eden Bentley, County Attorney, stated from what she heard they all relate to election issues which are not necessarily County expenditure issues; and she does not see anything that is inuring to his private financial gain.

Chair Lober clarified so he would not have the option to abstain.

Attorney Bentley stated she does not believe so, no.

Chair Lober advised that is the problem with Google law.

Ian Golden, Housing and Human Services Director, stated the Item in front of the Board is a request to authorize the County Manager to sign an agreement with Independent Living Systems for meals to support the Food Stability Program; this is a little of \$2 million agreement and it will come out of the \$4 million already allocated; and these funds will provide for about 25,350 meals a week through the end of the calendar year. He went on to say one of the reasons this agency was chosen was that they have informed staff they are able to, if the need arises, to go to three or four shipments per week; if that were to occur he would need to come back to the Board to get additional funds because with this contract, the County's estimated obligation under the Food Stability Program is about \$3.8 million out of the \$4 million; the document itself has been approved by the County Attorney's Office, Risk Management, and Purchasing; and he mentioned it is a single source, non-competitive, and there is the

Emergency Order that is in place. He further stated additionally after discussions with purchasing, it would be six to eight weeks to get through a Request for Proposal (RFP) process; because this is food he felt that was a justification to move through this process as it is before the Board; additionally, Purchasing has previously gone out for some type of food program, he believes it was for meals at the Emergency Operations Center (EOC); they had one respondent so it was their belief this was not a competitive procurement; and that one respondent does not have the capacity to provide this level meals.

Commissioner Isnardi stated she knows Mr. Golden has talked a little about this before, and she asked that he talk about how these meals are going to get to people and how they will be touched by these meals for the benefit of the public.

Mr. Golden stated what staff is planning to do with the meals is try to back fill the Second Harvest and other food banks; they are going to back fill some of the pop up pantries that are at the churches, primarily, trying to reach out to the vulnerable populations; one of the things staff has identified is with the Agreement the Board approved for the Children's Hunger Project, that weekend meal program is really targeted to school age kids, elementary school; 17 of the 22 sites are actually at elementary schools; and all 17 are at 65 percent or higher free and reduced lunch. He added five of the schools are at 100 percent, so what staff is looking at is to see if it can also supplement meals in high schools that have those same types of levels of free and reduced lunch.

The Board authorized the County Manager to sign the Agreement with Independent Living Systems, LLC; authorized the County Manager to sign any amendments and/or modifications to the Agreement upon approval of Risk Management and the County Attorney's Office; and authorized the County Manager to approve all necessary Budget Change Requests.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Secunder:** Kristine Isnardi

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**K. K. PUBLIC COMMENTS**

**L. L. BOARD REPORTS**

**L.4. L.4. Bryan Lober, Commissioner District 2, Chair**

Chair Lober stated he did not plan to bring this up, but he thinks context is an important thing; he would like to apologize that everyone's time has been wasted by a gentleman with some false allegations, but he does want to point out that he thinks things have changed and he has been reinvigorated to a degree now that the losing campaign he ran has concluded; because he is representing an Army Veteran who has stated that he raped her; and he understands as well from her that he took a plea in the Army and was demoted and lost at least one rank as a result of having raped her or whatever it was that he pled down to on that basis. He noted it is unfortunate that he has to get into something like that when the Board could be really doing other things that benefit the community, but apparently, this is what that gentleman chooses to spend his time on.

**L.5. L.5. John Tobia, Commissioner District 3**

Commissioner Tobia stated he has been approached by a constituent willing to do conservation work, so he contacted the County Manager's permitting and insurance; the County Attorney's Office had done a draft almost overnight; all that is probably in the Board's emails right now so



this is very limited, and only in his District; and he would like that constituent to have that opportunity.

Eden Bentley, County Attorney, asked if the County Manager can be authorized to execute the agreement.

The Board directed the County Attorney's Office to draft a Temporary Use and Right of Entry Agreement with George Spence Wise, III, for the voluntary activities done within District 3 at the Wastewater Treatment Plant in Melbourne Beach, with the appropriate permitting and insurance in place; and authorized the County Manager to sign the Agreement.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**L.7. L.7. Kristine Isnardi, Commissioner District 5**

Commissioner Isnardi advised she briefly spoke with the County Attorney about this; there was a little convoluting from that abstaining from votes would be; she knows it applies differently based on Request for Proposal (RFP) on internal stuff; she would like, and of course she is going to come to the Board before trying to do this on her own, because she would be more comfortable if the County Attorney would take the lead on it, but she would like to get an opinion from the Attorney General if possible; since the opinion came out most recently with how she could vote in the future with CARES money and stuff, she has had attorneys contact her that disagree with the opinion; she is not saying they are right or any more right than the opinion she received back, but she thinks the best and most long-term solution, because assuming things go well in November, she will be there for another four years; and every time something comes up with Health First she does not want to hold anything up and she does not want to injure an item based on whether or not she can vote.

Chair Lober passed the gavel and made a motion to authorize staff to draft any necessary documents in order to procure an Attorney General Opinion (AGO) at the request of any Commissioner without having to come before the Board until further direction.

Commissioner Isnardi stated she does not know if that is risky or if people might get a little out of hand with that; and she asked if Chair Lober wants to set limits on it.

Chair Lober stated he does not think anyone would abuse it on this Board; and that way if someone else has anything they will not have to ask the Board for permission of an opinion.

Commissioner Isnardi asked Attorney Bentley if she could give a report back to the Board if an office asks for more than a couple years on something; and she does not know.

Chair Lober mentioned if she wants to limit it to two a year, he would be fine with that if Commissioner Isnardi thinks that is a concern.

Commissioner Isnardi stated that is fine.

Chair Lober stated he will say any Commissioner is authorized.

Commissioner Isnardi noted she is not saying any of this Board would get that way but

sometimes people do not know.

Chair Lober stated he is fine with that; he does not think he would need more than one maybe every couple of years; and any Commissioner would be authorized to request an AGO on behalf of the Board of County Commissioners without having to bring it back before the Board of County Commissioners.

Eden Bentley advised the Board there is a rule from the Attorney General's Office that requires the Board to request it and she does not know how they would react to a delegation in that manner; and she does have to state the Board requested it.

Commissioner Isnardi stated she does not know if she wants a Commissioner asking for an opinion from the Board without it coming back to the Board, unless it was from them as a Commissioner in their own office or in their position.

Chair Lober stated he does not think they can do, he thinks they would have to do it on behalf of the Board, because he does not know if the Attorney General's Office would be obligated and he is not even sure they would respond.

Commissioner Isnardi stated it may be because it is required to have a vote.

Chair Lober stated that is fine; and he will withdraw his motion.

Commissioner Pritchett passed the gavel back to Chair Lober.

Commissioner Isnardi stated she is going to ask, obviously any and all questions the Board has regarding Health First and her employment with them, and any Items that may come up or any situations, there are probably three or four she can think of; she wants to make sure they are not a conflict; and she wants to make sure she is doing her job by voting, if she can.

Commissioner Tobia stated he has a legal question for Attorney Bentley if that is okay.

Chair Lober allowed Commissioner Tobia to ask his question.

Commissioner Tobia asked how that works if the Board gets an opinion from Ethics that is different from the Attorney General; and he asked if the Attorney General takes precedent over them.

Attorney Bentley stated she thinks the Commission on Ethics has control in that arena; and the Attorney General is going to be an opinion but she thinks it is delegated to the Commission on Ethics; and she thinks that is under the Constitution.

Commissioner Tobia stated Attorney Bentley had to rub that in since he teaches Government.

Attorney Bentley stated she has not looked at that in a year or so but that is her memory of how that goes; she can make the effort and see if they can respond; and she asked if Commissioner Isnardi is more concerned about abstention or simply voting conflicts.

Commissioner Isnardi responded probably voting conflicts because they probably go hand in hand right, because people want to make sure they are following the law by voting; and it would be easy for her to say she has to abstain.

Attorney Bentley stated there have been some differences of opinion that she has heard on abstention; there is the appearance of impropriety or voting conflict; there is language saying someone can abstain when there is an appearance; however, there are other opinions out there that have verbally said a Commissioner must vote if there is not an actual voting conflict. She reiterated there is language that says if there is an appearance, so she can work on maybe getting some clarification on that for you; and she stated she thinks that is the worst problem Commissioner Isnardi has at this point.

Commissioner Isnardi stated she just wants to make sure she is doing everything legally.

Chair Lober stated just to make sure he is on the same page, that would contemplate sending the Attorney General's Office the Commission on Ethics findings as well; and he asked if that was correct.

Attorney Bentley advised she would need to give full disclosure.

Commissioner Isnardi asked if the Board is okay, if there is more questions that arise from this or if there is some clarification that staff contact the Commission on Ethics.

Chair Lober stated she could bring it back since the Board is meeting in a few weeks.

Commissioner Isnardi explained she means in the future if there are more questions after the Attorney General (AG), or if she needs clarification on any of it.

Commissioner Smith stated he is curious too because the previous County Attorney has a different opinion; Andy Anderson sat there and he worked for the City of Palm Bay; and the previous County Attorney's opinion was that the things being voted on for Palm Bay did not go directly to and or could be conceived that Andy Anderson was benefiting personally; therefore, it was okay for him to vote on those issues. He added this Ethics Report would indicate that he should not have been, so he would like to hear the difference because the Board is in limbo now.

The Board granted permission to the County Attorney's Office to request an AGO regarding Commissioner Kristine Isnardi's employment by Health First, for her ability to vote on any items and for her to answer any questions that the Board has regarding any items for Health First, with recommended ability to vote or to abstain from a vote; and authorized for the County Attorney to report back to the Board once the opinion is received.

**Result:** APPROVED

**Mover:** Kristine Isnardi

**Secunder:** Curt Smith

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

Adjourn

Upon consensus of the Board, the meeting adjourned at 12:33 p.m.

ATTEST:

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SCOTT ELLIS, CLERK

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BRYAN ANDREW LOBER, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA