

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, November 12, 2024

9:00 AM

Regular

Commission Chambers

A. CALL TO ORDER 9:00 AM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, and Commissioner District 4 Rob Feltner

Absent: Commissioner District 5 Jason Steele

C. PLEDGE OF ALLEGIANCE: Commissioner Rob Feltner, District 4

Commissioner Feltner led the assembly in the Pledge of Allegiance.

F.1. Save Our Indian River Lagoon Contingency Fund Request for three septic to sewer conversion projects: Sykes Creek Zone M, Sykes Creek Zone N and Sykes Creek Zone T (District 2)

The Board authorized funding increases; and authorized the County Manager to execute associated Budget Change Requests for the Sykes Creek Zones M, N, and T Septic to Sewer Projects from the Save Our Indian River Lagoon Contingency Fund.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.2. Adopt Resolution and Release Performance Bond: Reeling Park North and Seville at Addison Village, Phase 6 - District 4

Developer: The Viera Company

The Board adopted Resolution No. 24-122, releasing the Contract and Surety Performance Bond dated February 20, 2024, for Reeling Park North and Seville at Addison Village, Phase 6, Developer: The Viera Company.

Result: ADOPTED

Mover: Tom Goodson

Second: Rob Feltner

F.3. Adopt Resolution and Release Performance Bond: Farallon Fields at Viera, Phase 1 - District 4

Developer: The Viera Company

The Board adopted Resolution No. 24-123, releasing the Contract and Surety Performance Bond dated February 20, 2024, for Farallon Fields at Viera, Phase 1, Developer: The Viera Company.

Result: ADOPTED

Mover: Tom Goodson

Second: Rob Feltner

F.4. Approval, Re: Declaration of Restrictive Covenants for the West Cocoa Stormwater - Flood Protection and Infrastructure Upgrades - Grant 22FRP97 - District 1.

The Board approved and authorized the Chair to execute the Declaration of Restrictive Covenants.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.5. Adopt Resolution and Release Performance Bond: Aripeka at Viera, Phase 2 - District 4

Developer: SFM Development of Brevard, LLC

The Board adopted Resolution No. 24-124, releasing the Contract and Surety Performance Bond dated April 19, 2022, for Aripeka at Viera, Phase 2, Developer: SFM Development of Brevard, LLC.

Result: ADOPTED

Mover: Tom Goodson

Second: Rob Feltner

F.6. Solid Waste Management Department's Capital Improvement Program and Financing Plan

The Board approved and executed Task Order No. 24-02; authorized staff to research the most cost-efficient bond financing method to fund the Solid Waste Management Department's Capital Improvement Program, including a third-party engineering study that is required for the publicly issued bonds; and authorized the County Manager to approve all appropriate Budget Change Requests for a third-party engineering study.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.7. Request permission to execute Certification of Financial Responsibility for Local Government required by the Florida Department of Environmental Protection (FDEP) for a New Deep Injection Well Permit Application (District 3)

The Board authorized the County Manager to sign on behalf of Brevard County, the Certificate of Financial Responsibility for Local Government associated with the permitting for a second deep injection well at the South Beaches Wastewater Treatment Facility.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.8. Request Permission to Proceed with FY 25 budgeted Utility Services Department Operations and Maintenance Projects

The Board granted Purchasing Services, on behalf of the Utility Services Department, approval to perform any of the following actions to procure the below mentioned operations and maintenance projects: solicit a competitive Invitation to Bid for the lowest, most responsive, and responsible bidder for the projects outlined in the Summary Explanation and Background; exercise renewal options upon evaluating supplier performance and recommendations from Utility Services staff with the approval of Purchasing Services, establishing that continuance of the contract is favorable prior to renewal of the agreement; and authorized the County Manager to execute all contracts, contract renewals, contract amendments, and any necessary contract extensions that exceed \$200,000 in total aggregate value, upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.9. Board Approval: Agreement between Brevard County and the Federal

Government/Patrick Space Force Base (PSFB) for Emergency Medical Services (EMS) Transport Services

The Board approved and executed the Agreement between the County and Federal Government/PSFB for EMS Transport Services for Government beneficiaries and the general population of PSFB.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

F.10. Approval: The Board's approval to purchase one additional Class A Fire Engine/Pumper Truck.

The Board approved the purchase of a Fouts Brothers Class A Fire Engine/Pumper Truck for \$700,000; and authorized the County Manager to execute any documents necessary for this purchase.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

F.11. Acknowledge receipt of the FY 2024-2025 Parrish Medical Center Revenue and Expense Budget and Millage Resolution

The Board acknowledged receipt of the FY 2024-2025 Revenue and Expense Budget and Millage Resolution for the Parrish Medical Center.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

F.12. FY 2025 Meeting Schedule for Community Development Districts

The Board acknowledged receipt of the FY 2025 Meeting Schedule for the following Community Development Districts: Baytree, Chaparral of Palm Bay, Heritage Isle, Mayfair, Montecito, PBR, Tranquility, Viera East, Viera Stewardship, and Willow Creek.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

F.13. Conveyance of Property Acquired by Escheatment Tax Deed to the City of Titusville

The Board adopted and executed Resolution No. 24-125, authorizing the conveyance of property acquired by Escheatment Tax Deed that is located within the boundaries of the incorporated City of Titusville, Florida, pursuant to Section 197.592(3), Florida Statutes; and authorized the Vice-Chair to execute a County Deed to convey the property acquired by Escheatment Tax Deed to the City of Titusville, Florida, pursuant to Section 197.592(3), Florida Statutes, upon review and approval by the County Attorney's Office.

Result: ADOPTED

Mover: Tom Goodson

Seconders: Rob Feltner

F.14. Group Health Insurance Stop Loss (Excess Insurance) placement CY2025

The Board approved Option 2 for the renewal of Stop Loss Insurance with Symetra Financial for the self-insured group health insurance program; and authorized the Human Resources Director to execute all documents necessary to bind this coverage effective January 1, 2025.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.15. Appointment(s) / Reappointment(s)

The Board appointed/reappointed Jennifer Clements to the Board of Adjustments, with said term to expire on December 31, 2026; and Marisa Kahn to the Community Action Board, with said term to expire on November 12, 2026.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.16. Acknowledge Receipt of the Economic Development Commission of Florida's Space Coast Bi-Annual Report

The Board acknowledged receipt of the Economic Development Commission of Florida's Space Coast's Bi-Annual Financial Report for their expenditures from October 1, 2023, through September 30, 2024.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.17. Acknowledge Receipt of the County's Municipal Community Redevelopment Agencies FY 2024/2025 Adopted Budgets

The Board acknowledged receipt of the County's Municipal Community Redevelopment Agencies FY 2024/2025 adopted budgets.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.18. Permission to temporarily use Clerk of Courts & Comptroller's signature plate.

The Board recognized that Rachel M. Sadoff, Clerk of Courts and Comptroller, is an authorized signature on the Brevard County's Truist Bank Accounts; and approved granting permission for the Finance Department to temporarily use Rachel M. Sadoff, Clerk of Courts and Comptroller's, signature plate for the signing of Payroll or Accounts Payable checks, effective November 19, 2024, until a new signature plate can be obtained, which will include the new Chair's signature.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

F.19. Bill Folder

The Board acknowledged receipt of the Bill Folder.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

F.20. Acceptance and Approval of Internal Audit Reports

The Board acknowledged and approved the Internal Auditors' Reports.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

F.21. Legislative Intent and Permission to Advertise an Ordinance Establishing Brevard County as a Bill of Rights Sanctuary County

The Board directed the County Attorney's Office to prepare an ordinance establishing Brevard County as a Bill of Rights Sanctuary County; and approved scheduling and advertising the ordinance for consideration at a public hearing.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

G. PUBLIC COMMENTS (Individuals may not speak under both the first and second public comment sections.)

Christina Fleming stated Woods, Hurley, Rutherford, Cowen, Cole, Frasier, Hill, Pierce, Glasser, Martinez, Rad, Korman, Nelson, Vieth, Daly, Braga, Baumgardner, Bodine, McElroy, Litzenburg, Zart, Underwood, Murphy, Georgia, Miliken, Surely, Derival, Moore, Espinosa, Sasser, Alexander, Bruner, Minnow, Luisi, Riviera, Smith, Henninger, Fuentes, Cruz, Toro, Poland, Sheppard, MdBride, Chadwick, McGowee, Vote, Bole, Marpel, Hudson, Hat, Smith, Douglas, Graber, Christaldi, (unclear), Higgins, Marsh, Deleon, Powers, Keeler, Cunningham, Allenson, Gandy, Rada, Torrez, Rezendez, Bell, Ricky, Jones, (unclear), Boyer, Garcia, Bozinias, Rack, Frosh, Murray, Braga, Scott, Gillette, Sinclair, Hendricks, Sensone, Nieves, Carnival, Love, Joseph, Alkalaid, Wood, Uzel, Wash, (unclear), Sander, Tripari, Helen, dispatcher Carol, Assistant Chief Conner, dispatcher Coates, dispatcher Kelly, logistics Rose, fire inspector Osbourne, logistics manager Longstreet, dispatch Valdez, Logistics (unclear), Assistant Chief Distephano, Admin Cindy Pollen, and IT Ceravello; these are 92 field personnel and 104 total Fire Rescue personnel that have left; historically, Departments under the Board of County Commissioners anticipate a 10 to 12 percent employee attrition annually; this year they have lost approximately 20 percent of its field workforce; and this is not sustainable. She mentioned there is also six people that have been mandatory today that are being forced to work that did not want to work; there is also a restructuring upstairs and everyone knows with new titles comes new pay; and she asked where is that money coming from.

H.1. Review of an after-the-fact Public Interest Determination (PID) request for an unpermitted "Widening Project within Pelican Creek," 1865 1935 South Banana River Drive, Merritt Island. District 2.

Vice Chair Pritchett called for a public hearing for review of an after-the-fact Public Interest Determination (PID) request for an unpermitted Widening Project within Pelican Creek, at 1865 – 1935 South Banana River Drive, Merritt Island.

Darcie McGee, Assistant Director of Natural Resources Management, stated this is a request for after-the-fact unpermitted dredging of Pelican Creek; staff determined that the proposed activity is not consistent with Comprehensive Plans related to wetlands, surface waters, and the Manatee Protection Plan; staff requests that the Board consider the applicant's submittal and the staff report and determine whether the activity meets the definitions of best public interest;

and she can answer any questions the Board may have.

Commissioner Goodson stated this is a project down south, Pelican Creek, where the owner did some damage to wetlands and dredged without a permit, therefore the County could be on the hook for between \$500,000 and \$700,000 for mitigation and putting back mangroves and all of that; with all of that being said, right now is a finding to see if the Board wants to progress this further; and he inquired if that is correct.

Ms. McGee advised it is whether the proposed activity and completed activity meets the definition of Best Public Interest.

Commissioner Goodson stated that is all this is.

Kim Rezanka stated she is in attendance on behalf of the applicants Aaron Reninger and Roger Xavier; she has met with staff recently and she is requesting a continuance until December 3; the staff report came out relatively late; she had one meeting with staff late on Friday, but she would like to have more opportunity to meet with them; she spoke with Mr. John Denninghoff, Assistant County Manager; December 3, 2024, would be before the proposed Code Enforcement; there are a number of people who may want to speak; and it is also a complicated issue and if they start now and continue it to December 3, they would have to start all over again. She advised she has a presentation if the Board denies the continuance; she thinks the applicant was going to try to work with the County to find a mutual, agreeable solution so the County is not on the hook for the \$700,000, which she feels is not likely because if restoration is made it has to start with her clients; and with that she would ask the Board to continue to December 3, 2024.

Commissioner Goodson asked staff to comment on whether it would be in agreement with that or not.

Ms. McGee noted staff feels it is on pretty solid ground with the Policy interpretations with the assistance of the County Attorney's Office; however, if the Board would like to decide for a continuance to work with the applicants, staff can certainly do that.

John Denninghoff, Assistant County Manager, stated staff's position is pretty solid, they believe; they did meet last week; technically this is their request for a PID and staff has responded to their request; now he thinks the applicant would like to respond to staff's response and its prepared report; he does not anticipate that staff's position is going to change, but they are willing to listen; and he thinks, and what they attempted to do last week, but with pretty short notice, this would not delay the Code Enforcement case, although he is not sure where it would stand with the process with Florida Department of Environmental Protection (FDEP) and the Corp of Engineers, as far as the County's situation, he has not considered what their situation with FDEP would be.

Commissioner Tobia asked staff to speak to the \$700,000 that Ms. Rezanka mentioned.

Mr. Denninghoff stated he can explain how that has arisen; originally staff had anticipated, based on FDEP's proposed Consent Order to the County, that it could be conceivably on the hook for as much as \$700,000, but it is really \$500,000; one of the challenges is that part of the Consent Order expects the County to provide plantings for trees that the applicant tore out; the County had trimmed them aggressively but elsewhere when that has been done they have grown back; however, they do not grow back when they are torn out by their roots, which is what has happened. He continued by saying staff does not know how it can replant without

restoration; that places the County in a serious state of limbo regarding what it is that the County will wind up doing; staff is negotiating with FDEP regarding this; as far as what the County would be requested to do, staff certainly has opinions of who should plant the trees; the one who tore them out should replant the trees; that is really not a matter of the PID at this point, but it will be with FDEP and the Special Magistrate in the Code Enforcement case; and the cost of planting and the cost of mitigation are where those expense come from.

Commissioner Tobia advised he got the timeline for the Code compliance, it is December, and this would not technically impact that; but he asked Mr. Denninghoff to speak to the Consent Order, provide a timeline with that if the County has to have a plan to FDEP by a certain date, and what impact it would have if pushing this until December or a later date.

Mr. Denninghoff stated staff if working with FDEP negotiating and going back and forth; staff has had a couple meetings with them but they are unsure how that is going to work out; they have taken the position, which if it was his choice, staff would absolutely reject and go to an administrative hearing regarding this, if they persist in the position that they have; on the one hand, he does not have a specific timeline; and it will be a case where if they reach a point that they do not want to talk to staff about it any longer and staff thinks they are at an impasse, is will probably go to an administrative hearing.

Ms. Rezanka stated the irony is that when she met with FDEP last year they were giving them time to go through this PID process and if the County granted the PID process they would permit what could be done, possibly have to restore some, and that would have stayed everything for the County as well; she and her clients are also negotiating with FDEP and the Army Corp; they are totally in agreement with the Army Corp; basically what FDEP wants is going to include Mr. Reninger, Mr. Xavier, and the County; they have done individual Consent Orders waiting on the others to do something, which makes no sense; she is trying to talk to FDEP to get a joint Consent Order because they have her client's obligations in the County's Consent Order and the County's obligations in her client's Consent Order; and it makes no sense. She continued by saying they are working with both FDEP and the Army Corp, but the irony is if they had gotten the PID, the County would not be on the hook for anything; and that seems to be missing in this whole analysis.

Commissioner Goodson asked if Ms. Rezanka was waiting on that then why did she do the dredging and tear up the mangroves.

Ms. Rezanka noted she has done nothing.

Commissioner Goodson corrected his statement by saying her client.

Ms. Rezanka continued by saying that is a Code Enforcement issue; she cannot speak to that, Mr. Reninger and Mr. Xavier would have to speak to that; they are now trying to do something that has been done hundreds of times in this County with a PID after-the fact; people often go in and impact wetlands or build in the surface water protection or the shoreline protection buffer and come to the Board and request a PID; most of the time there is not even a discussion; and they had met with the County last July and thought they were going down that path, and were shocked when they received that report. She added it is something they are trying to work through, and that is why she got a meeting two days after receiving the report. She mentioned her consultants were involved and need to be involved.

Commissioner Goodson inquired from what Ms. Rezanka has said, is there any truth to that or is everybody confused.

Ms. McGee stated the Wetlands Protection Code and Comprehensive Plan have certain allowances for the Board to make PIDs for wetlands; that involves, if it is a commercial development in a commercial area on a corridor where they have to go out and assess the functionality of it and then the Comprehensive Plan allows an applicant to ask the Board for that PID for commercial development; for residential development there is a density restriction in there, but there is allowance according to the year it was platted, the size of the property; but the PID is for commercial properties and wetlands; surface water protection also has a PID Section for impacts in the surface water protection buffer, however, wetlands is only related to commercial development in certain circumstances.

Commissioner Goodson asked, if he understands Ms. McGee to say, is that staff's position, if she has it as a contingency, its not going to change tomorrow, next week, or when they come back.

Ms. McGee replied not to her knowledge; she advised the County has overlapping Policies that are prohibiting the activity which would be the wetlands protection, also the surface water protection, and the Manatee protection; there are different layers on there for the denial of the request; best Public Interest is supposed to be a public project so that would be if Public Works had to do something for flood control and the Army Corp and the State approved it; and that would be a best Public Interest project.

Mr. Denninghoff advised the Board he does not anticipate that staff's position is going to change; they are pretty firm on understanding what the facts are; they know what happened; they know mostly of when it happened; they are also aware of the fact that the Code Officer appeared, based on a complaint on a Wednesday before Thanksgiving, and informed the applicants, the property owners, that they needed to discontinue that because they were doing so without a permit, and they proceeded to continue with the digging before the Code Officer even left the site; therefore, staff does not anticipate that they will hear anything that is going to make them change their minds, but they have not heard any more than what they have placed in their application. He went on to say staff provided information that it believes rebuts almost everything that was in that application; he would be curious to know what it is that they think is different and that staff would want to reconsider in some way; and he does not want to say that staff is infallible, they could change their minds.

Commissioner Goodson stated he would make a motion to continue with this today and let Ms. Rezanka present her case.

Vice Chair Pritchett asked for clarification if Commissioner Goodson wants to allow it to be brought back at a future date or continue with it today.

Commissioner Goodson advised he wants to hear it today.

Vice Chair Pritchett noted the Board will hear the speakers.

Ms. Rezanka stated she does want to bring to the Board's attention one issue; this is going to be an evidentiary hearing; the Board has heard from Mr. Denninghoff; she was hoping she would not have to go into that process and that this could be resolved by December 3, 2024; the consultants have not had the opportunity to talk with them; she disagrees and for one the question was never answered if her client had a PID would that resolve the issues, staff just went to the Code; and she disagrees with staffs interpretation of the Code. She noted at the end of this hearing she is going to ask for seven days to bring rebuttal according to the Board's

Policy, therefore, this is going to be tabled and it would have to be by Board Policy to let them come back with rebuttal evidence after seven days, which would put them back into the new Commission; and she would ask the rest of the Board to consider tabling this so it can be done properly.

Vice Chair Pritchett stated she is not that good with County legal and she asked Morris Richardson, County Attorney, is that is correct.

Attorney Richardson stated he is looking for it; and he asked Ms. Rezanka where she is looking.

Ms. Rezanka replied it is Board Policy 97: it is on page six, under four, Quasi-Judicial Hearings, "in addition to or in lieu of cross examination, the applicant may request an additional seven days beyond the date of hearing to submit evidence and rebuttal of testimony presented by the persons presenting evidence and opposition at the applicants, and tabling of the item to allow consideration of the submissions; she will be doing that at the end of this hearing...

Attorney Richardson advised she may request it but it is not required that the Board will allow that; furthermore, the PID hearing really is a legislative finding of the Board so it is different than the quasi-judicial proceedings; while the applicant can request that, she is correct there, but the Board is not required to grant it.

Ms. Rezanka noted this is an evidentiary hearing which puts it into quasi-judicial, in her opinion. She inquired if there is not motion to continue. She mentioned the other issue she was concerned about is there are only four Commissioners present and she was not able to meet with all the Commissioners before this Item; and that was another reason she wanted to continue this, however, she is prepared to go forward if that is the will of the Board.

Commissioner Tobia asked Attorney Richardson to advise how long this allows the applicant and if it is over the 15 minutes.

Attorney Richardson stated this one is admittedly a bizarre one because the proceeding is somewhat quasi-judicial in nature, but ultimately, it is a legislative determination the Board is going to make whether it is a public interest or not; it is not a quasi-judicial determination as to the public interest finding; although one may make findings of fact in support of that so that part is evidentiary, however, his recommendation would be to allow the applicant up to the 15 minutes, allow her to reserve some time for cross examination and rebuttal if she so desires.

Ms. Rezanka stated her name and that she is in attendance on behalf of Aaron Reninger and Roger Xavier for the public interest determination to allow for the opportunity for her clients to apply for a permit to the St. John's Army Corp of Engineers to fix the alleged dredging and impacts to the Mangroves; her and her clients met with the County back in July 26; and there was a full house of County staff with Mr. Denninghoff and Natural Resources being present. She went on to say after the County explained its position, discussion revolved around this PID and they really thought they were moving down the path; it took time for the consultants Lisa Toland and Clayton Bennett to work through the process so they can get the PID to the County; and staff has been working on it for year. She mentioned the Board has previously done many PIDs for commercial industrial and for restaurants based on an economic issue, not really a public interest determination; she did not think this would become as contentious as it has become; she met with staff last week and she was hoping to move forward, but it appears there is no interest in trying to resolve this problem through Army Corp and FDEP, through the staff, they just want this fixed; she believes there are reasons to allow this to be done to allow a

permit to go forward with Army Corp and FDEP to make this a more navigable canal; impacts to wetlands, the shoreline, or the surface water are allowed for the navigation issues; and there are times, and Mr. Reninger will tell the Board, that he has navigated in this canal. She continued by saying under 62-3694, permitted uses are recreation; there is a prohibition, but it also says functional wetland has been in fact impacted, and it is not feasible or desirable to repair or maintain, then there is a mitigation process; at this point she does not know how this could be repaired; the County does not allow for re-vegetation, or stabilization, so the back filling of this is going to be very difficult, which is why we wanted to go forward and try to work with the County to resolve this; and again, she thought the County was going to be in support of this PID throughout this process, and it was surprising when they received the report last Wednesday. She stated there are some discrepancies within the staff report; they say there is routine maintenance, but they cut the mangroves down to the roots; they piled up debris along her clients property and along the County property for 420 feet; this was not routine maintenance and they did indeed dredge, they removed muck, but it is still dredging; and regarding where this was done, this is a man-made canal and the pictures are before the Board. She added this was a man-made canal and man-made wetlands, they are not pristine wetlands and it is not a perfect habitat; this is not leverage to obtain permits; this is a requirement; they have to get the County's PID otherwise they will not meet the protection plan and will not be able to move forward; and the dredging is for water flow for the public and for boat use. She mentioned the historical use includes applicant use of the canal with boats; the County admits it was manmade and that it is two to three feet deep, certainly deep enough for boats; the County's financial risk, if the applicant is permitting these wetlands, the financial risk to the County is nominal; the applicants will move forward with all the permitting, all the work, and the Consent Order will go away into the sunset because the Consent Orders now do anticipate that things would be repaired or permitted; and other PIDs the Board has approved has been Boniface Hires, Wickham Corners, Tractor Supply, Marker 99, and these were either things that were very large wetlands for economics or to fix something that had been done in the past. She stated the packet she provided the Board, the PID, this was a man-made canal; one can see that in 1969 part of this was dredged; in 1991 St. John's issued a permit for this exact work that is being requested that would be permitted; phase one of this was completed; on page three of what she provided, the County does say that they removed 400 plus or minus feet of vegetation; they mulched 10 feet along the east and west bank, however, they left the mulch and the dredging material along the property of her clients; one can see the canal maintenance, photos, and dates; this was prepared by Mr. Reninger; one can see that they cut to the roots, so this was a project that was started by the County and was not done to standards that the average person would have been required to do; perhaps they did not take the roots, but they took them down to the roots; and the next picture is a before and after of the County mulching. She noted one can see what was taken down to the ground; the single photo is what had been removed by the County; exhibit A that is in the Board packet shows the restoration area that is being requested by FDEP; the yellow area is the portion that the County has to do; exhibit B is more of the area north of old causeway that the County has to do; and the second exhibit A is what Mr. Reninger and Mr. Xavier are being requested to do; this is what FDEP wants her clients to do, not the County, and that is why she does not believe the \$700,000 is accurate; the next is a flow chart prepared by Ms. Toland and it explains why they are there, that they have to get a PID to comply with the Manatee Protection Plan; and even if they were to get that PID today, they have to go forward to the Army Corp and FDEP, and then come back and receive permits from the County. She reiterated this would all forestall the Consent Order; she commented the last picture is a picture of Mr. Reninger and his daughter in a Kayak in the canal; a canal is a man-made waterway; that is what this is; passive recreation is appropriate for man-made waterways; Public Interest includes passive recreation; and this is all from the County Code and Comprehensive Plan. She stated the discrepancy she has is the 62-3694 interpretation that this canal dredging is a residential land use; it is not, it is a canal;

therefore, the saying that one cannot impact wetlands for residential use is correct, but this is for canal use, for flow, drainage, and recreation; shoreline protection buffers allow for recreation; surface water protection buffers allow for passive recreation; best public interest is a net benefit to the public; staff has said there is really no benefit for the flow, but if one builds a deeper hole it is going to hold more water, so there is a flow benefit; and Mr. Bennett can explain that a little bit better. She noted the staff report did not say there was no benefit, they said it is a nominal benefit and it is the beginning of a plan that the County had started, and this would assist with. She continued by saying regarding objective five of the Wetlands Comprehensive Plan, there is a concern that it is not feasible to repair and maintain this wetland based upon the need to re-vet and fill; she is talking about 45 feet of fill that may be necessary; with turbidity and all those other issues with filling, it is going to be very difficult to do; new navigation channels connected to the Indian River are possible when it is in the best public interest; maintenance of ditches that have been then used for boat traffic, is also another reason for best public interests; she has provided at least one picture that has been used for navigation; and the intent is to permit what has been done, or as much as the Army Corp, FDEP, and the County will allow, but her client cannot do that without a PID. She commented that is why they are there.

Lisa Toland stated she is Toland Environmental Consulting; she just wants to summarize and probably more succinctly, what some of the points are that Ms. Rezanka had made previously; to take a step back that this is a man-made, upland dredged canal that over time has recruited with mangroves; upland of those mangroves it is recruited with some shoreline wetlands; the County came in and basically took those mangroves, which are arguably the most valuable part of the shoreline water interface; mangroves are the only plant in Florida that is protected by its own special act; and when the County came in, it basically took arguably the best part and mowed it down to the ground completely in violation of the Mangrove Protection Act. She went on to say if she was doing this as a private consultant it would be a four-year project and they would never be allowed to go down to less than six feet; to sit and say this is all this environmental value, while they basically just take it out, and then what is behind that is worth driving these people into massive amounts of money to try and restore the Lagoon just does not make sense; her position is that the County's interpretation to Code just does not make sense on several levels; when someone is trying to apply a residential standard and saying that basically the canal is an accessory use to the property, it is not it is a separate use; that concept is reflected in the staff report as well, which states in the prohibition section of the Code, if there are wetland impacts that are related to access for surface water, to go to surface water Ordinance and deal with it in that Ordinance; and for wetland ordinances that deals with wetlands, and surface water ordinances deal with surface waters. She continued by saying when going to the surface water ordinance, that is why they are in attendance, it allows for access with the PID; they need the PID because when one is within surface waters it triggers manatee issues; manatee issues are the first time where the County starts the regulatory process; typically when one goes in it gets an ERP from the State, a 404 permit from the Feds, bring all permits back to the County, and then receive the County final development orders; here because of manatee issues, the State government and the Federal government cannot issue permits in violation of the Endangered Species Act, so there has to be PID to be consistent with the Manatee Protection Plan to apply for the Federal and State permits; and when the County denied the PID, it denied any kind of going back in for the permit.

Vice Chair Pritchett asked if the Board wants to hear from the other gentleman.

Attorney Richardson stated if the Board wants to consider that the first several minutes of the presentation were used to request the continuance that was denied, the Board can certainly do that in its discretion to make sure it hears the case fully.

Vice Chair Pritchett stated she would not mind hearing the gentleman for three minutes.

Clayton Bennett stated he is a professional engineer registered in the State of Florida; he is with Bennett Engineering; he is there to speak about the flood aspects of these improvements; the County has recognized there is flooding in this area; in 2021, it hired a consultant to do an analysis in that area; they came up with some different options; they phased it where they had phase one being a north area, phase two, a south area, and they also looked at dredging the canal and not dredging the canal; he understands that staff had some questions about that; and he just received the staff report on Wednesday, looked at it on Thursday, immediately requested of staff, the input data that they used for their analysis, and to date it has not been provided to him so that he could provide additional comment on it. He noted what he specifically wanted to speak on was this portion from old Causeway Road south to the tidal waters; the Hansen Report that the County had accepted in 2021, showed that if the County only did the phase two improvements or phase one and two, there would actually be a net impact, that impact being an increase in stage on the downstream side of old Causeway Road; flood issues are resolved by increasing flow; the County came in and this analysis said if it put in three 36-inch culverts it will reduce the flood stages upstream; but by reducing the flood stream elevations upstream, there has to be increase in flow, so now there is more flow through this channel from Old Causeway Road south to Tidal Waters; and if that canal is left the same dimensions, same roughness, and coefficient, one increases the flow, by inspection; and if there are any questions he would be happy to answer those.

Vice Chair Pritchett asked about the photos in the Board's packet at November 23, 2022; and she inquired whose property is being dredged in that photo.

Ms. McGee noted staff believes that is Mr. Xavier's property, the one to the south.

Vice Chair Pritchett asked if the areas being dredged is property that is actually owned.

Ms. McGee advised it is actually part of their property that was delineated wetlands; and one can see as he or she looks to the north, coming down on the paper, it appears they were working from north to south.

Scott Hall stated he lives just north of Mr. Reninger; he spends a lot of time up and down the road playing and enjoying himself; the canal floods on his street; from his street down to Mr. Reninger's it has not been maintained; during this last hurricane he got in his kayak and paddled down to where there is a culvert in between; it really is of Public Interest and somebody needs to clean that up and get the water flowing properly because it is flooding the properties up further; he believes, he had nothing to tell the Board it will absolutely help or not, but he paddled his canoe down and it is jammed up; there are trees across it and it is back flowing; and somebody should look at this in a bigger light than just that Mr. Reninger has made a problem, because he is kind of fixing the problem that nobody else is addressing.

Mark Lueders thanked the Board and everyone in attendance for this proceeding; he stated he is proud to be in a country that allows people to speak to these issues that affect people publicly, especially on a day after Veteran's Day; and it makes him happy that he spent the time underwater in the Mediterranean while his son was born. He went on to say first of all, he is a neighbor of Mr. Reninger and Mr. Xavier; he is very familiar with the area and what has happened with the County's dredging action; he agrees with the pictures that show when the maintenance dredge, or whatever people want to call it, that went through; if the mangroves are taken down to the roots, he would say it went even further than that because after that was

done, whatever was displaced within the canal, was then deposited on top of it; if they are working on coming up with a resolution, he thinks they should work from the basis of fact; and the fact is, all of that was removed in the beginning by the County's action within that canal. He noted he has read through the staff report and he finds there are a lot of things that are ambiguous in that report itself; he knows for a fact, being a land owner in the area, at least on the survey he has, that portion of the canal is classified as being semi-navigable; as he understands it was cut way back in the 40s and was maintained to ensure that water was draining sufficiently during times of flooding; it also provides a damper for surface waters to protect the Lagoon; if there was an increase to the basin, that provides a larger capacity to absorb the surface waters that come down, whether it is pesticides or whatever to protect the Lagoon; and that makes sense to him. He continued by saying the County already recognizes it is a semi-navigable canal.

Zakary Coffey stated he has been down this canal prior to it being dredged, the mangroves cut down, and thereafter, in both kayaks, canoes, power boats, jet skis, and all the rest of it; it does have a Public Interest in recreational use; he takes his daughter fishing down there, along with friends; he has seen more wildlife, increase in manatees, dolphins, turtles, and birds partaking in that area since the dredging; therefore, he sees it as a positive. He mentioned he has been up and down that road for the past five or six years, taking part in the recreational activity that can happen on that canal; he has seen how the water is affected through the rains and now with it being wider and deeper, he has seen less water come up into the roads, and into the neighboring properties and residential lands there; he has seen the flow increase for those areas; he has enjoyed it, his friends have enjoyed it; he thinks it does have good Public Interest; and being that it is a navigable canal that is joined to another canal, he thinks that is something that should be allowed and permitted; and he does not see an issue with it being that way that it is. He added the mangroves that were cut were not coming back, they were cut all the way down to the roots and the deposits of the muck put on top of them thereafter, nothing is growing there after that. He noted the County removing the mangroves the way it did, it is not really taking preservation to mind when doing that.

Mark Siljestrom stated he lives on Monterey Avenue which is probably six blocks to the north of Mr. Reninger's property where he supposedly dredged; at the end of his street he can show the Board what it looked like this morning; he has lived there 13 years; that is the end of his street right now; it was never that bad that it would flood all the time; it always flooded a few times per year; and now the signs say no wake through there, and water is on the Road. He mentioned those signs are there all the time now; it might dry up a little bit but the water comes back; after they dredged north of there to almost 520, there is supposed to be some springs up there in the main lake and that is what creates the water flow out of there, in his mind; and since they dredged the whole part north of his street, there has been water there because they could not dredge at the end of his street. He noted they started to dredge it but the thing could not do it; they said they would come back and use something else, but they never did so it is full of trees, muck, and whatever; it smells sometimes, not all the time; the road is just wet all the time, so he does not know if the County has to come in and fix the road or whatever; he thinks if they would dredge that out it would create a flow to allow that water to go past his street; he thinks it is backing up at the end of his street and coming out into the road like the picture he just showed the Board; he thinks it would be awesome if they did dredge, all the streets to the north look nice; there are not many mangroves and it is all cleaned up; it looks like it should look, not a messy canal that was dug haphazardly and just left there; and he sees it as a good thing if they would do that.

Joel Chambers stated his family lives on the canal and he is there to speak in support of the PID; there are really three factors to him that drive that Public Interest; the first is flooding; the

Board has heard a lot about the flooding, and navigating Newfound Harbor Drive is a challenge as that road floods often; and since the dredging work has commenced, he has seen an improvement to the flooding on that road. He stated the second is the wildlife that has taken habitat in that area; there are manatees that now breed in that area; his family loves them and would be really sad to see that filled in and have the manatees have to move out; lastly, they have met a lot of community members who kayak up and down the canal; they have gotten a chance to meet them and bond with the community; and they have been able to see people enjoy this canal. He noted he hopes the community can work with the County, Mr. Reninger, and the State to improve the area and put it to good use.

Grace Chambers stated as a resident who lives along Pelican Creek, since the work has been done, she has seen improvement with her particular property as well as with the street; the flooding has decreased, and mostly she enjoys the wildlife that is seen now; prior to any of the dredging work being done, that creek was very shallow and mucky where one would primarily see a lot of mosquitos; it was not very enjoyable to her backyard, but now since it has been widened they are seeing a lot of wildlife; there is one particular manatee that she has named Beatrice who lives in her backyard; it had a baby about one and one-half years ago which is wonderful to see; and more recently they have seen dolphins and baby dolphins. She noted as a resident along Pelican Creek she has really enjoyed seeing all of the wildlife and she would like to come to an agreement that helps sustain that environment for them and for it to continue right in her own back yard.

Roger Xavier stated he made copies but there will not be enough for everyone; he sold his house in Brazil in order to build this house for vacation; he pays about \$10,000-plus for taxes yearly, and he wants to enjoy his home; he cannot if the Board looks at the first picture in the packet he provided, it shows some of the work the County was doing; the second page it shows what his backyard was like for months; he called the County many times and tried to speak with people about his yard looking like this; he had family come from Brazil and they just could not enjoy the house; the third picture shows a bit more of how the backyard was; then the fourth page is when the hurricane went through and all the leftover from the County that messed up his entire backyard; and he had to clean it. He mentioned he has pictures of how the wildlife is enjoying the backyard; he has seen the report that the County puts in there, he is a repeated offender; he is not a repeated offender; to be truthful he is not even an offender, because he did not do anything other than clean up his property; when he was called by the County, he came in to speak with someone; and they had recommended that he get an attorney. He noted he went to the FDEP, there he was told the County did something without the permitting; at this point he got an attorney to try to resolve this; he has invested a lot of money between attorneys, engineers, and environmentalists; and he would like for this application to be considered because it has been a great loss for him, as he has put a lot of investment into this property and he would like to be able to enjoy it.

Greg Loggins stated he is the developer of Harbor Point from back in 1989/1990; in speaking to the PID, he knows commercial is technically different than the PID here; however, he thinks the Board really needs to consider what is a Public Interest, whether it is technical or not, and to use some common sense; he owns the property next to it to the north; when they went in and developed Harbor Point they had the original permit to get it drained; the way they had that it was better for the property and better for the public; when they did that, the whole property was basically a garbage dump; people had been out there throwing vehicles, trash, and everything; he came in and cleaned up almost 20 acres that was getting basically \$7,000 per year in taxes, and now it is probably getting about \$500,000 or \$600,000 per year in taxes; part of that was the Public Interest and widening that canal and the St. John's; and everybody agreed that was better for it. He added unfortunately, there was one person who fought it and

the market turned to where he could not afford to do the dredging; but in that, part of it was that they needed another area for manatees to be able to come in, live, and thrive along with the dolphins and any other wildlife because currently there are two places for them to come in that are commercial; there is Marker 24 which is a great place and the marina that his father originally developed back in the 1970s; now, any time manatees come in they have to go into where boats are stored with paint and everything else in there; and Harbor Point was a safe haven for the manatee to be able to come in there and be able to be protected from boats and everything else. He noted there is one other small canal pass there that they can come in; all the way from State Road 520 all the way down, there is not a lot of safe places other than the river; all the agencies agreed and thought this was a better thing not only to dredge that but dredged his property that is north and not as open as what they could have done; the County came in about a year ago and pulled all the roots out of the mangroves and it exposed how nasty that part of the canal was; people had dumped all kinds of different things in there; and when it was pulled back the water was a weird color, almost golden; this was all dredged out and now the water is flowing a little bit better, but it could be a lot nicer; and it could also afford to be dredged a little bit more for retention area for the water.

Commissioner Goodson asked Ms. Rezanka if he understood correctly that he thinks it was the day before Thanksgiving that a Code Enforcement Officer came out, spoke to her client, and said he may want to stop until this was all settled.

Ms. Rezanka confirmed that is what is in the staff's report, but she has not talked to Mr. Cook directly.

Commissioner Goodson inquired who she is speaking of.

Ms. Rezanka restated Mr. Cook, he was the Code Enforcement Officer.

Commissioner Goodson asked staff if there was any truth to the statement he just asked Ms. Rezanka.

Amanda Elmore, Deputy Director of Natural Resources Management, stated Mr. Cook was on site and he is in the audience if Commissioner Goodson would like to speak with him.

Commissioner Goodson asked to please bring him up to the microphone. He asked Mr. Cook what he observed when he went out there that day; and inquired if it was the day before Thanksgiving.

Mr. Cook advised staff had received a complaint about 3:00 p.m.; he went out to the site where there was dredging ensuing at the time; Mr. Reninger allowed him to go onto his property; he took photographs; there was no turbidity, so he asked Mr. Reninger to put up the turbidity; he asked if there were any permits to proceed; Mr. Reninger stated he had permits from FDEP, which he did not; and then he asked Mr. Reninger to cease and desist until he could find out what permits were available. He went on to say at that time he said that he would and that he would put up the turbidity; he believes Mr. Reninger did do that; as he was leaving the site the excavator continued; and he continued to dredge.

Commissioner Goodson asked if Mr. Cook went back the Monday after Thanksgiving, to the site.

Mr. Cook stated he went back, but he cannot say exactly what time it was, it was within very short order, to see if he continued; he spoke with neighbors who said a great bit of debris had

flown down into the adjacent canal; there is a subdivision at the end, that he has opened up; there was the original canal and he opened up an additional port that was a wetland that would filter a lot of this that they were complaining about; at that point that small area is only the width basically of the canal that exists; and that is where everything has moved down and gone across where the neighbors said there was a great bit of debris.

Commissioner Goodson stated the most important question he would ask Ms. Rezanka is if she lived in Florida any time and knows anything about wetlands and water, and a Code Enforcement Officer comes out to her client and says he might want to desist until he makes sure there are permits, why did he not do that.

Ms. Rezanka replied that is a question he would have to ask Mr. Reninger; she mentioned this is not Code Enforcement, this is trying to fix a problem and trying to be compliant; and they will have the Code Enforcement coming up, but this is trying to show a Public benefit to allow her client to permit.

Commissioner Goodson commented no, they would not be here if he had stopped and got the permits; and he asked if Ms. Rezanka would agree to that.

Ms. Rezanka responded affirmatively.

Commissioner Goodson noted he is not trying to prove public awareness or something; if he knows anything about water and mangroves, and he has been in Florida anytime at all, people surely do not touch that without the proper permits, which are multiple permits; and he asked if Ms. Rezanka would agree with that.

Ms. Rezanka stated that is what they are trying to do now.

Commissioner Goodson commented after the fact he is trying to do that.

Ms. Rezanka agreed, and stated Commissioner Goodson is in construction and he knows that happens often.

Commissioner Goodson noted when people mess with those people and the fines that are given out today, it does not happen often.

Ms. Rezanka replied she understands.

Commissioner Goodson stated people put up turbidity barriers and they stay within their limits.

Ms. Rezanka stated this is not a Code Enforcement, it is a request for a PID so that permits can be obtained; it may not have been the smartest thing to do; it appears that work was done by the County; some sort of mess was made; there was some water that came through and cleared it up; she is not there to judge her client she is there to try to ask for permission to move forward for permitting which would also cure the problems that FDEP has with Brevard County; this is to be compliant; as the Board knows with the Republican governments that have come in they want compliance, they do not want punitive actions; and her client is trying to have the ability to apply for all the permits, even coming all the way down to the State and County level. She mentioned if one looks at the application, there are two pages of justifications for this PID, improved water quality, flow, recreation, manatees, and dolphins, as the Board has heard from the public; she reiterated this is just to allow for the permitting to go forward to cure the problem; the staff report did not really even talk about the justifications, all they talked about

were their interpretations of the Code; if staff had wanted this to go forward, if the Board wants it to go forward, there are ways to interpret the Code that allows it; and that is what she wanted to talk about before going through this hearing; one can impact wetlands for navigation or for dredging; all of these things can be done under the Code or Comprehensive Plan, but it starts with the Manatee Protection Plan; if they do not have the PID they cannot get the permits moving forward; and with that, she would ask for the Board to approve the PID as requested, and as this Board has done many times in the past.

Commissioner Goodson asked what is going to happen if the Board does not approve this.

Ms. McGee advised if the request is not approved it will go to the Special Magistrate and then determined through the Special Magistrate what will happen, which the County would request restoration of the wetlands.

Commissioner Goodson asked, depending on the ruling there, would the client then be able to come back, once he has satisfied all those problems and ask for what he is asking for now.

Ms. McGee advised staff would be right back where they started except it would be doing it before the fact and not after the fact; she mentioned staff's interpretation is that the requested activity is contrary to the Comprehensive Plan, the Manatee Protection Plan, et cetera; and everyone would be back in front of the Board with a restored shoreline asking for consideration.

Commissioner Goodson advised he is not going to agree with what the applicant wants because he feels like he was given an opportunity to stop by a County official saying he wanted to make sure all the permits are in line, but he kept going; there was the same issue in North Brevard on Hog Valley filing wetlands; he does not know if Mr. Reninger understands, if does not seem to care, or if he decided to do it and beg for forgiveness after the fact; but he will not agree to postpone this or let it go any further.

Commissioner Tobia stated staff had mentioned many times before that the PID is for commercial use and is not technically applicable for private use; is that something, as they moved forward, that could potentially be changed; or are there statutory guidelines that do not allow that determination.

Ms. McGee mentioned certainly going forward upon Board direction, staff could look at Comprehensive changes for wetland Policies; it has been done before; twice the County has been in stipulated settlements over wetlands Policies; residential and commercial are treated differently, but they dredge their personal residential property so when looking at the uses that are allowed for wetlands it is for access, septic, and primary structure; one could if there was a mangrove shoreline, perhaps do an elevated pier or walkway to enjoy the shoreline; one could not place any structures of course in the ditch; it does allow that for use and access, but as it is written now, it is not; and even if that was allowed, there is the Manatee Protection Plan that talks about dredging being Public Interest and the surface water protection part of the Comprehensive Plan and it talks about new dredging. She added it also allows maintenance dredging too; when one talks about removing muck and trimming up mangroves, one is allowed to remove muck for maintenance, he or she is just not allowed to widen or deepen a channel; and one can trim mangroves in accordance with FDEP.

Commissioner Tobia just for clarification, if there was that change, it would have to obviously go through a Comprehensive Plan change to be reviewed by the State and numerous agencies; and he asked if that is correct.

Ms. McGee responded affirmatively. She explained if the intent is to allow this type of activity, it would also have to address the Manatee Protection Plan and other Policies within the conservation element.

There being no further comments or objections, the Board reviewed and denied the after-the-fact PID request for an unpermitted widening project within Pelican Creek, 1865-1935 South Banana River Drive, Merritt Island.

Result: DENIED

Mover: Tom Goodson

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

Absent: Steele

Vice Chair Pritchett commented her concern with that is that if the County would have permitted it, it would be good; she hears that a lot of people like it but it did affect other properties; in due process it caused no harm; and she thinks the better process is for the Special Magistrate to hear it and figure it out.

H.2. Petition to Vacate, Re: Public Utility Easement- 3221 Biscayne Drive - “Sunset Grove Unit 2” Plat Book 41, Pages 34-35 - Merritt Island - Daniel and Kathleen Victoria Jadoonath - District 2

Vice Chair Pritchett called for public hearing on a request by Daniel and Kathleen Victoria Jadoonath for a petition to vacate a public utility easement at 3221 Biscayne Drive, Sunset Grove Unit 2, Plat Book 41, pages 34 – 35, located in Merritt Island.

There being no comments or objections, the Board adopted Resolution No. 2024-126, approving the petition to vacate a public utility easement requested by Daniel and Kathleen Victoria Jadoonath, for property at 3221 Biscayne Drive, Sunset Grove, Unit 2, Plat Book 41, Pages 34 – 35, in Merritt Island.

Result: ADOPTED

Mover: Tom Goodson

Seconders: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

Absent: Steele

The Board recessed at 10:13 a.m. and reconvened at 10:20 a.m.

I.1. James Road Traffic Calming - District 1

Marc Bernath, Public Works Director, stated this is James Road traffic calming; it is located just east of Interstate 95, directly abutting State Road (SR) 528; staff is seeking of the Board, to adopt a resolution in support of the implementation of traffic calming measures along James Road; and to delegate authorities to the County Manager for his designee to execute related documents. He noted the request is only to approve the proposed traffic calming that the County is required to consider under the Stipulated Settlement Agreement and based on a particular set of circumstances that exist on James Road, per said Agreement; the proposed traffic calming was tallied from 62 responses received out of 101 eligible and affected respondents; the Board may consider the following options: approve all traffic calming

recommendations in the report, approve only certain traffic calming measures, or reject all traffic calming measures; and he is available if there are any questions.

Vice Chair Pritchett stated she is going to clarify a few things before getting started so that everyone knows what is being discussed; this Item at the time was for a large number of houses; now the house numbers are down; when she was asking questions before, there was a chance if the Board did not approve something today, they would never see anything again; this is for traffic calming; and she asked if John Denninghoff, Assistant County Manager, has something he would like to say.

Mr. Denninghoff stated the Stipulated Settlement that is behind and driving this being brought to the Board, was the result of a lawsuit that took place between the City of Cocoa, Brevard County, and two land owners; the prior owner of this particular piece of property was one of those; at the time, his recollection is the two properties were both claiming or indicating that they were going to develop 2,500 units each and the traffic counts for 2,500 units are substantially different from what they have today; it is north of 300 and south of 400, but it is significantly lower traffic count; however, the inherent safety situation for James Road is virtually unchanged from what it was at the time and as a part of that Stipulated Settlement to address expected increase of traffic crashes and incidences along James Road with the increase in traffic, it was included in the Stipulated Settlement to consider traffic calming measures to be installed by cost of the developer. He mentioned public involvement was to be included in that effort; that has been now, and it brings the County to where it is right now.

Vice Chair Pritchett stated the Board was making ideas for the traffic calming; her head wrapped around the safety; she was trying to figure out how to get guardrails all the way down to the side of the road because she is concerned about the drop; she was informed that she is not allowed to negotiate safety, just traffic calming; in the midst of this, they could have done up to 10 traffic calming devices, but there is only room for eight; and on those eight they could put in the guardrails so they went back to negotiate and said the County would do it, but they wanted them to put in enough guardrails as if there were 10 going in and that was agreed to.

Mr. Bernath replied that is correct.

Vice Chair Pritchett stated that is where everyone is at on this negotiation; and she will now call the speakers up.

Susan Rollins stated the Agenda says five minutes, but the Commissioner stated three minutes.

Vice Chair Pritchett asked the County Attorney, Morris Richardson, if it is quasi-judicial or regular.

Attorney Richardson stated this is a regular meeting so three minutes should apply; he is not sure where it said five but he will take a look at it; and he noted this is not a quasi-judicial item.

Ms. Rollins stated she appreciates the Board taking the time to consider the impact to the residents of James Road; she has lived there for 17 years; recently she has started walking, for about the last year, and most drivers are very courteous and slow down when they pass by; recently in the last six months, she is noticing more traffic; she does not know if it is because of what is being done on SR 524; but she has had people, and she sees them come up Cox Road, go down James Road, and then go back down Friday Road, so they are either avoiding SR 524; and she does not know if they are aware that they are going 100 percent faster than

the speed limit. She noted she has had some people pass where she could literally reach her hand out and touch that car; she has thought about it, but she is a good person and she is not going to do anything to hurt anyone's car; she really thinks that area was meant for people to walk their horses, walk their dogs, and ride their bikes; allowing an additional 400 or 800 people to drive through there at very high speeds is just not acceptable for that neighborhood; and she knows when she walks her animals it is very nice, people are going slow and cautiously; and she would prefer that for James Road also. She noted she would hope the Board would pick them all because she just wants to slow that traffic down as much as possible.

Kristopher Kelly stated he is in somewhat of opposition for all the speed bumps; he thinks it is quite excessive; he thinks eight would pose a big problem for a lot of people that have heavy equipment, trailers, or likewise; he understands that with the community that is coming in with the 300 homes that they will have to take that down and control it somewhat; before he moved out to his home, he talked to a lot of people from Viera; they hated the chaos and the control, so when they made the move to Cocoa they had asked a lot of people; they wanted to come to Cocoa for the peace and the solitude; and that is now somewhat disrupted. He mentioned one of those speed bumps is right next to his master bedroom, so it is going to be a problem for him with the constant acceleration and deceleration; he understands that there is eight of them and he would like to see some of the bumps either removed or pushed away from homes that are very close to the road, enough that it would cause a disturbance to people sleeping or waking up in the morning; he thinks the eight were excessive; he asked the Board to think about the other people on Friday Road or Cox Road; if the County implements eight of them, he feels the traffic, instead of going down James, is going to take Friday and it is going to take Cox Road; they are going to go through Rayburn or Rector where there is only three, so he feels those people are also going to be directly impacted, almost more than the people that are on James; It is going to be like a mind field, a progression of people complaining about oh well they are here, and now people want them here; it just gets out of control; four would be better; but eight is excessive.

Commissioner Goodson asked if staff can tell him where the speed table is right now in Brevard County, installed and on the road.

Mr. Bernath commented there are none that he is aware of on County Roads.

Commissioner Goodson asked if he can tell him where there are any on private roads.

Mr. Bernath advised he cannot tell him off the top of his head.

Commissioner Goodson asked if there is not a big difference between a speed hump and a speed table.

Mr. Bernath stated there is; these are not speed humps as was just mentioned; and the speed table has a gentle six foot slope, a 10-foot flat area and then another six foot gentle slope with a maximum of three inches in height, so it is very gentle.

Commissioner Goodson asked for the height of a speed bump.

Mr. Bernath advised he did not bring that but explained it is more of about a foot or a foot and one half; one goes up and over; and he does not recall the height off the top of his head.

Vice Chair Pritchett mentioned Mr. Bernath kind of explained what the devices were; she asked if the County is obligated if they do this, to do all eight if Public Works comes back and

determines it is less, as the Board negotiated up to eight; and she inquired if that is correct.

Mr. Bernath stated the County is not obligated but the eight is actually ideal to maintain the traffic speed that they are trying to get to; in fact, for the approximate one mile stretch, 10 would be needed to adequately do it; however, because of existing driveway locations, staff had to work with the consultant to figure out the best spacing without starting to change driveway locations; and he reiterated ideally, there would be 10, but the Board went with eight because that is what would fit in the existing conditions.

Kathlyn Canestrari stated she has been a Special Education teacher for 20 years in Brevard County; moving to Cocoa has been a dream; she loves it and it is very peaceful; the one, two, or three people speeding should be held accountable; she thinks maybe instead of speed bumps, stop signs down James Road would be a better alternative; she is thinking of the wear and tear on her vehicle after going over eight speed bumps, the brakes, the ball joints, and the shocks; it is a little excessive; she spends a lot of time out on the front lawn and in the driveway; it is very peaceful; they do not really have any issues on that street other than a few people speeding; it is a very serene road; and that is why she left Viera and went to Cocoa.

Cynthia Olsen stated she lives in unincorporated Brevard County in the affected area near the Windward Preserve Development; she asked that the Board please vote no on the James Road traffic calming devices because the developer Taylor Morris did not meet the legal requirements according to AO-72, Section 3, Item B; she commented that Item says consideration of speed hump installation shall not occur unless the following conditions are met, approval of 85 percent of the benefited residents or 75 percent of the affected area residents, plus the benefited area residents; Taylor Morrison used the results from 101 traffic calming surveys that they sent out to show that they had 84 percent approval of the benefited and affected areas; out of the 101 surveys they sent out, they only received 62 responses; if all 62 voted yes it would be about 62 percent of the 101 surveys sent out, not the 84 percent they claimed; and the developers are using percentages instead of actual numbers, which is misleading. She continued by saying how many yes votes did they actually receive; AO-72's definition of affected area residents are as follows, the affected area includes the benefited area in those residents who must traverse the speed humps to access their residences; that is the only people that they used in their survey; this also includes those residents who are adjacent to the roads which do not have existing speed bumps; and which would be used as a bypass route by traffic avoiding the proposed speed bumps. She went on to say Taylor Morrison did not include all of the required affected area residents in their survey as required by AO-72; according to Brevard County AO's definition, affected area is all the residents of Friday Acres, Grove Acres, The Ranch, Dale Hurst Ranch, Hidden Pines Ranch, Shade Tree Estates, Robertson Estates Grecian Estates, Craig Road, and Hidden Road should have been included in the developers James Road calming survey, but were not; Taylor Morrison intentionally left out these residents; and on July 25, Taylor Morrison conducted a public meeting which all the residents that attended were vehemently against the speed tables and this is why they limited their survey to the immediate area of James Road. She added if these eight speed tables are installed on James Road, almost all the traffic will be funneled down Friday Road; this means all the residents on every street and subdivision must use Friday Road to exit, and their street will be affected; and she asked the Board to please vote no.

Tom Sullivan stated he is from the Gray Robinson Law Firm representing Taylor Morrison; he brought a few others with him; they are happy to answer any questions; they have worked very closely with County staff for several months; he feels like this is a good solution and it complies with all the requirements, including what was set forth in the settlement agreement; and he would appreciate the Board's support to move forward today.

Commissioner Goodson stated Ms. Olsen mentioned all those other subdivisions; and he asked if Taylor Morrison solicited a vote from them or did they just do it with James Road residents.

Mr. Sullivan advised County staff can answer some of these questions, but they have worked closely with them; the process started several months ago with the traffic calming study; ultimately they had sent out invitations for a meeting held on July 25, 2024; the people included in that meeting did not include some of the folks along James Road and that is why there was a separate survey sent out to those folks; it was a very iterative process with County staff who the notices were sent to; and they complied with everything they were supposed to do.

Commissioner Goodson asked if that were the case, why he would need eight on James Road, but yet Rector and Rayburn have only three.

Mr. Sullivan replied on the technical items, he would refer him to staff.

Commissioner Goodson asked Mr. Bernath why that would be true and explained Rector and Rayburn have the same mileage, they got three but he is going to have eight.

Mr. Bernath advised he did not conduct a traffic study and he would ask LTG to explain.

Commissioner Goodson stated his next question would be is the County going to permit these speed tables under the same criteria as this here, showing a document to staff, that indicates a speed bump.

Mr. Bernath stated he is glad that was asked; he noted AO-72 is not applicable in this case; this is not a speed hump, it is a speed table, and other things are involved as well such as textured pavement, reduction of traveling widths, and vibratory edge-line marking; and it is the reason why this has been brought to the Board with a resolution for its consideration.

Commissioner Goodson asked Mr. Ramirez if he knows Rayburn and Rector and if this is about the same distance as James.

Gil Ramirez, Chief Executive Officer of LTG Engineering and Planning Consultant, responded affirmatively.

Commissioner Goodson asked if there were three on each one of those.

Mr. Ramirez responded in the affirmative.

Commissioner Goodson asked why three speed humps there and eight speed tables on James Road.

Mr. Ramirez explained the way this project worked is they picked a specific design speed and sized the project to meet that; a speed table and a speed hump are not the same as has already been discussed; a speed table is supposed to be more gentle on cars being it is slower and wider, therefore, the transition period is different; it is possible to speed over them if not spaced appropriately; and the guidelines that they used are from Federal Highway, ASHTA an association of folks who specialize in the design of these types of improvements, and used their recommendations to apply them to this project specifically.

Commissioner Goodson asked for Mr. Ramirez to tell him where the nearest speed table is in Central Florida; and he advised him to be careful because the next thing is he is going to tell him his design is not working to well.

Mr. Ramirez stated he did not design the nearest speed table in Central Florida and he cannot recall where.

Commissioner Goodson asked if this is going to be the first in the world.

Mr. Ramirez responded by saying no, not at all, Florida Department of Transportation (FDOT) has been installing speed tables in various places.

Commissioner Goodson asked where he would find one to ride over.

Mr. Ramirez asked if he could back to Commissioner Goodson on that with some locations; he commented he can guarantee they have them, and this is just not something he was prepared to answer.

Commissioner Feltner asked if they are typically in intersections, where someone is coming to what might not be a four way stop, just a two way stop the other way.

Mr. Ramirez responded by saying a lot of newer applications, right now with FDOT moving towards a safer system for all users, they are starting to deploy speed tables on crosswalks, using raised crosswalks; and he will say they are designing several of them in Daytona Beach as part of the Safe Route to School Project because of their efficiency.

Commissioner Goodson commented Mr. Ramirez stated he is trying to designate a certain speed for James Road by installing eight.

Mr. Ramirez responded affirmatively.

Commissioner Goodson inquired what that speed is going to be.

Mr. Ramirez advised 35 mph; they are trying to lower existing traffic to match the posted speed limit; and that is his goal.

Commissioner Goodson inquired if 35 mph is posted now; and he thanked Mr. Ramirez.

Mr. Ramirez mentioned he is happy to answer any questions.

Morris Richardson, County Attorney, noted he thinks he can answer at least one of the questions, which is why are these only being looked at or a different number being looked at along James Road; he explained that Settlement Agreement that is driving all of this only required the developer at the time to install traffic calming devices along James Road exclusively; that is all that they were required to look at for the installation of these devices; it required that input from property owners along James Road be solicited regarding the location and placement of those devices; staff did go beyond just along James Road and asked more than that; all of these apply to James Road; and the requirement is from the Settlement Agreement, so it is not developer initiated, it is actually a condition placed upon the developers predecessor saying that they do not get to build unless they satisfy County and the concerns of the County area residents. He added the developer agreed to that. He went on to say ultimately it is up to the County whether traffic calming measures are required; and this is not something

the developer wants to do voluntarily, it is something the developer has to do if the County requires it, pursuant to the Agreement.

Commissioner Goodson asked if District 1 said to put in three right now to see how they work, would that be okay.

Attorney Richardson explained they could do all, none, or less than what is required there; however, the only caveat he would give is he would want some engineer to say that if the Board does something other than what is proposed in this plan, that the engineer say it would save, functional, and accomplish something; if the Board just selected a number he would want some engineer to look at that; and have staff to vet that.

Mr. Bernath stated that is correct.

Commissioner Goodson asked if they put in three in the right locations and watch it for six months, and then could they up it to eight or 10.

Mr. Bernath stated he thinks one of the other limitations is the way the stipulated Settlement Agreement is written, it is a limitation on them to be able to proceed with any further construction activities until all traffic calming devices are complete; he would defer to the County Attorney on that; however, he feels that is a limitation and the Board kind of needs to provide direction now so the developer can move forward.

Attorney Richardson advised they can do some things like site activity, they just cannot get a Certificate of Completion (COC) from the City of Cocoa for their site work, and they cannot go vertical until they have completed whatever traffic calming is required.

Vice Chair Pritchett pointed out the caveat on this is that if the Board does nothing as far as telling them what they have to do something, there is a chance that they can do what they want to do anyway and the Board will not have a say after that; and she inquired if that is correct.

Mr. Bernath stated effectively if the County says no to traffic calming, it is letting them build; it is within the City of Cocoa's jurisdiction; and the County's issue is on the road itself. He added the County's leverage is the Stipulated Settlement Agreement and does the County want to traffic calming as Taylor Morrison had presented; staff had been working with them, but it is their engineering assessment; and the County's traffic team has reviewed it and is in agreement that it makes sense.

Attorney Richardson noted if the Board were to say no traffic calming is required today, Mr. Bernath is absolutely right, the developer could proceed with their development in Cocoa, and they would have satisfied their obligation under the Agreement; if the Board later decides, for example after the units are occupied and the traffic is actually on the streets, the traffic is desired there, the developer would no longer be required to pay for it; and that is the distinction, it would be on the County at that point, because these are County roads and the development is in the City of Cocoa.

Vice Chair Pritchett asked if this is put off until the next meeting, is the Board still within the time period.

Attorney Richardson noted moving it to the December 3, 2024, meeting would not meaningfully impact anything because the developer can proceed with their site activities, they just cannot obtain a COC; he would be concerned if the Board moved it too far because it might

unreasonably delay their ability to complete their site work and things like that; he does not think tabling until December 3 would meaningfully impact that; he could be wrong as he does not know how close they are to completion of site work and pulling vertical building permits; and Mr. Sullivan could speak to that.

Vice Chair Pritchett stated if she was going to continue she would probably want to bump it up a meeting because it is the first time the public has really gotten to have discussions on it; she does have a concern that the County is going to miss an opportunity to try to make the road a little safer; that road is thin and the ditch is so deep; but there really is not much the Board can do about that; and she asked if this was tabled to the next meeting, she thinks this being the first time in the community and that it has been a hot conversation for over a year.

Mr. Sullivan stated to be candid, they have a site contractor that is sort of mobilized and ready to go with the expectation of doing the improvement that have been talked about and worked with County staff on for some time; delaying that is not a great result for him to be candid; they do have other site work that needs to be done and they can continue to do that as Attorney Richardson had said; it is not an ideal situation; and he thinks these technical issues are technical and they have worked very closely with County staff, it is not something they just came up with in the spur of the moment, with these eight speed tables. He noted Commissioner Pritchett's Office has been involved with that; this has been very detailed and well vetted; if it were delayed he does not know where that really takes them; they did have public input through the survey process; they had a public meeting in July; he understands there are questions as to what is the best option; and he feels the best option is the one that has been presented to the Board.

Vice Chair Pritchett advised she does not disagree with that, she has heard Commissioner Goodson's questions about not understanding necessarily the difference in this and the bumps; that might provide a little time for people to absorb it; her guess would be at the next regular meeting it probably would be approved; and she will finish with the cards and see what the Board wants.

Commissioner Goodson stated when he says he has a contractor mobilized, it is to put in the speed tables; and he asked if that is correct.

Mr. Sullivan stated they have been communicating with them on the expectation that this is what work would be done.

Commissioner Goodson stated he would assume that would be an asphalt contractor; and he asked if that is correct.

Mr. Sullivan stated he can say it is Briar.

Commissioner Goodson commented Briar is doing their site work.

Mr. Sullivan advised they are the prime contractor.

Commissioner Goodson stated he does not know if they will be the one to do the asphalt; he does not care who does it; he was just curious; he noted he would think when paving the streets that he would put the tables in then because the asphalt is on site at the same time; but maybe he is planning on bringing asphalt and doing it separately.

Mr. Sullivan advised he does not want to say too much because he is not in the middle of all

that; this has been something in regards to these traffic calming that has been a focus because of the Agreement; he thinks that is why it has been front-ended because it needs to get squared away; and that is why he says it that way.

Commissioner Tobia stated just to be clear, the developer does not care if there are 15 speed humps or tables, he just wants a resolution; and he inquired if that is what he is looking for.

Mr. Sullivan replied by saying essentially yes.

Wade Olsen stated first of all, all the other surveys went out to the people primarily in the James Road area; as has been mentioned, once these calming devices go in, human nature as it is, people are going to avoid that and go up and down Friday Road; everybody who lives off of the Friday Road area are the ones who will actually be impacted by this development; during the survey the concerns were speed and safety; nothing was mentioned about the quantity of the traffic; and that is the elephant in the room. He went on to say another thing is speed limits; these roads have speed limits, so calming devices for calming traffic for safety, maybe, but for speed maybe not; speed limits are speed limits; another thing, out of the eight, he drove up there yesterday and took some pictures, areas designated for calming devices, four of those straddle driveways; he is sure that would be a concern to the individual residents; if the Board Members drive there they will see exactly what it is; and he reiterated the elephant in the room is the actual volume of the traffic that residents expect to see going up and down Friday Road. He mentioned if someone is a commuter in the morning, that traffic light in front of the Flying J, people are going to be sitting there for a while with all of those people living there; the extra density and the extra traffic, it is going to be a big concern for everybody that lives off of Friday Road, which everybody seems to have forgotten about; and he thanked the Board for its time.

Rick Heffelfinger stated he lives in Dale Hurst Ranches off of Friday Road; this has been going on a long time; it all has to do with what that legal requirement is; really the people who get to vote according to the legal are the property owners, not the residents, along James Road; a survey was done, and they did not get a whole lot of response, but the survey included a lot of people that do not have a legal standing; the residents are anyone who is commonly in the house; he does not know where the survey went, and he asked if it went to the property; and he asked if it was addressed to the property owners or the property residents. He continued by saying that is going to get legal; he thinks if the Board moves forward now and it did not meet that legal requirement, there is going to be a challenge; he thinks there is going to be a challenge anyway; this thing has been a mess from the beginning; he was there a while back and it began as one permit for the right-of-way; that is really where the traffic study was done; he has information that shows the County, City of Cocoa, the Taylor Morrison guys, and the LTG showing all of the going on back and forth; and it really is all about the traffic. He continued by saying it is interesting because the traffic study kind of cooked the books a little; somebody from the County said to move five percent of the anticipated traffic off of Friday Road and push it down James Road because they think those people will decide, coming out of that development, to take James Road, go to Cox Road, cross SR 524, and go to SR 520 to get onto I-95; that was the justification of logic; this has got a lot of stinky stuff in it; but the big point is the County is the one responsible, not Taylor Morrison. He added the County is the one who is going to get sued on proper notification; the County better make sure it went to the property owners before making a decision; he really thinks this needs to be pushed; and another thing, this as unfinished business, and he asked when it was new business. He commented this has not been on the Agenda the entire year; there has been some related stuff; that meeting that Taylor Morrison supposedly had for everybody, and he asked if anyone knows what the title was because it did not say anything about traffic calming; he has been waiting and doing some digging; this has been misrepresented; and there are guardrails on the

speed humps, and that was not in the survey.

Carl Exline stated he lives right off of James Road; there were a lot of good speakers today; there is a 20-foot ditch that he has seen a couple cars go in; once they go in they do not go out; he would be interested in knowing what the traffic engineering had for the distance between the speed humps or whatever they are called now; just so everyone knows, it was said there are eight and he asked if they are an equal distance, or how far are they separated; the other concern he has is just about James Road; all the dump trucks, heavy equipment, et cetera is either going to go down Cox Road or it is going to go down Friday Road; and that is a lot of traffic of a lot of big equipment. He continued by saying of course Friday Road has a ditch on either side of it; he is not sure he has answers for the Board; however there are quite a bit of issues with increasing the population by 400 houses, which could be 800 people, or 800 cars; and he does not have answers but he wants the Board to be aware. He pointed out the City of Cocoa has new revenue coming in, but the County is now responsible for all the traffic going in and out.

Vice Chair Pritchett provided Mr. Exline a document explaining it shows the proposal, and she stated he can have it for later.

Jennifer Therrien stated she has been working on this issue for over 20 years; she repeated, 20 years; she has been diligent working with the County and worked to put forward this idea for the traffic calming; she walks that road and has been nearly hit numerous times; she can tell the Board about a traffic table because there are some in Brevard County; as a matter of fact they are probably within six miles of James Road; the actual name of the street is Washington Avenue and it is near an intersection with stop signs and that sort of thing; the reason for the discussion about speed tables, speed humps, and the difference is speed tables are to keep it safe, and not having anybody launching off of a speed hump into the ditch; that was a very important part; and that agreement talked about consulting the people who live along James Road, not six dozen other places or streets. She went on to say the Agreement is to address the traffic and the amount of speeding that goes on down that road is insane; the two traffic studies that were done, the average speed on the eastern part of the road was 46 and 48 miles per hour at two separate locations; that is pretty excessive for a 35 mph road; there has been great deal of effort going between the developer and the County to come up with a design that is safe, that is going to work, that is going to maintain that speed somewhere around the 35 mph speed limit; and those speed tables are also designed to keep things safe for fire trucks and other rescue vehicles. She mentioned she thinks that looking at the Agreement, that everything has been done to keep this sensible and safe so the people can enjoy the area; it is a rural area where people ride, walk, and do all sorts of things out on that road; and with increased traffic, if this is not done now, the County is going to miss out; it has worked way too hard and way too long for this not to go through; and she asked the Board to please consider all of the surveys that went out for the people that live along James Road that are going to drive across those speed tables. She asked the Board to approve this design.

Katie Delaney stated she appreciates Commissioner Pritchett mentioning to possibly move this to the December 3, 2024, meeting; she thinks that is appropriate and she appreciates that; one thing she has noticed through this process is the community input; she feels there needs to be more community input; like the Board has said in the past, this is the County's shot to get this right; the community meeting that was held was not necessarily marketed in the way that she thinks it should have been; a lot of people were very confused when they got to the meeting; they did not know it was going to be about traffic; and that is solely what the meeting was about. She continued by saying many of the people on James Road were not notified; if they would have known what this meeting was about, they would have been there; another thing she

would like to mention is the lanes shrinking; it is not the most ideal thing because there are a lot of horse trailers and other trailers in that area and a lot of large trucks; the people have seen what Clearlake Road has turned into; and she does not want this to be the next Clearlake Road. She asked that the Board put a pause on this for now; and like the County Attorney has said, he thinks that this is appropriate and would not be too hard of a time on the contractor.

Vice Chair Pritchett advised Ms. Delaney if this Board makes that decision to do that she, as incoming Commissioner, is going to have to move very quickly in a small amount of time to try to get input; she thinks Ms. Delaney will probably need to sit down with Road and Bridge and John Denninghoff, Assistant County Manager, to get some extra data just so she knows; she has been through the process and she probably would approve it because it is probably the best package they will be able to come back with a fortune of dollars later trying to fix something; she knows how close Ms. Delaney lives to the area; and she just does not want anybody to die there.

Ms. Delaney agreed with Commissioner Pritchett.

Vice Chair Pritchett stated if she could have gotten a guardrail all the way down there she would have done it, but they told her she was not even allowed to ask for that, but they are sneaking in some extra guardrails; she does not disagree that this is not the first time that a lot of people are hearing it from this angle; she would move it to the next meeting just to allow the people to absorb a little bit; most of the conflict is people not getting good information and moving off of the emotional stuff going on Facebook, which is not fair to them; and if she believed a lot of that stuff, she would be mad too at the public representation.

Ms. Delaney stated she commits to doing that for sure.

Commissioner Feltner stated someone had mentioned fire earlier and he knows that speed humps versus tables, these things are not necessarily good for fire equipment, and he asked with eight speed tables along that road, what that would do to ambulances and tankers.

Chief Patrick Voltaire, Fire Rescue, stated the general rule of thumb, speed tables are a little newer, but for the speed humps around the County, the general rule of thumb is to add 10 seconds to a response time for every speed hump.

Commissioner Feltner inquired about the general wear and tear on the vehicles over its life, the County just spent over \$700,000 on some vehicles, so they are not cheap.

Chief Voltaire stated the equipment is not cheap, the department does not get that everyday so it needs to be taken care of; they would need to make sure to slow down to the appropriate speed; and everyone knows what speed humps do to everyone's vehicles.

Vice Chair Pritchett asked is someone could make a motion to move this to the December 3, 2024, Board of County Commissioners meeting.

Commissioner Tobia stated it is unique that the representative from the developer coming here and saying they do not really care what the answer is, just provide an answer so they can move forward; he completely gets that, and understands the mobilization; and he is going to ask Commissioner Goodson since he understands the mobilization of heavy equipment, if a decision needs to be made now and if this is a fair request from the developer's perspective to do it sooner rather than later.

Commissioner Goodson stated he has been out there on James Road and has watched this development; right now he is in a clearing and dirt moving business; then comes the sewer and water; next is the concrete, roads, and asphalt; what he does not understand is to do this speed table it will require asphalt and an asphalt spreader; he asked if they are going to move it all the way out of Brier, out of Orlando, for 20 tons of asphalt; and he noted he does not understand that. He went on to say in his opinion, usually the developer would do these speed tables at the end of the job when laying asphalt.

Fred Miller, Taylor Morrison, stated to Commissioner Goodson's point, yes; right now they are doing clearing and grating, then they are going to start doing ponds and pipes; there is time before they are cutting roads in or doing any sort of paving and asphalt; the Stipulated Settlement Agreement required those improvements; they were going to do it for the benefit of the community as soon as possible, whatever they want; if the County wants zero tables, then they are fine with that; if the County wants eight, they are fine with eight too; the Board asked for a guardrail, they added the guardrail; in the design, he thinks he heard they wanted it tapered to provide a little more safety from a fall, and the company is indifferent, except to adhere to what the Stipulated Settlement Agreement requires, which is traffic calming; and now people are debating on whether a traffic hump is the same as a traffic table, which one is better or worse for traffic, the overall good community feeling, and obviously the wear and tear on cars, but to them, as long as they are able to continue, they have a lot of equipment out there, and wanted to do it before. He advised if the Board wants to table it later in the development cycle to make sure that the improvements are exactly what the community wants, they are willing to post a bond, or place money in an escrow account, and allow the Board to figure out what it truly wants and what the community truly wants; and he just wants to be able to continue putting in the piping and head towards completion.

Commissioner Goodson inquired, for clarification, if holding off until the next meeting is not a big factor.

Mr. Miller commented it is not a big issue; from his purview he is seeing tables, no tables, or a mixture thereof; he does not know what the next hearing provides the Board in all that because they have worked with staff pretty closely; and he thinks the Board has enough information to make a good decision today, but if the Board feels it needs to take that time, it does not stop them. He reiterated he thinks the Board has everything it needs to make one of those three decisions.

Commissioner Goodson stated he has been in the County his entire life and he has never heard of a speed table, but he has heard of speed humps.

Mr. Miller commented in Central Florida they are all up and down every grid pattern road in downtown Orlando.

Commissioner Goodson advised he tries to stay out of Orlando.

Mr. Miller commented he knows most people here do not want to come to downtown Orlando, but the speed tables, by far, are the best from an impact to one's car; it is a lower rise and little farther time for a transition of speed; and if the community does not want it, why have it.

Commissioner Goodson stated he is sure the County wants it.

Mr. Miller went on to say he thinks the community, long term, is going to want something there.

Commissioner Goodson asked if that answer's Commissioner Tobia's question.

Commissioner Tobia stated he thinks so; but he is more concerned with Commissioner Goodson's opinion than the developer.

Commissioner Goodson stated table it for one more meeting.

Commissioner Pritchett stated whatever happens there is going to be a group of people who are not going to like it and a group that loves it; the Board has to make the best decision for the taxpayers and the people who live there for their safety, overall; she is confident newly-elected Commissioner Delaney will be able to make that decision; she noted Katie Delaney is going to have lots of people mad at her while others cheer her on; but that is the life of a Commissioner.

The Board tabled the James Road traffic calming to the December 3, 2024, Regular Board of County Commissioners meeting.

Result: TABLED

Mover: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

Absent: Steele

J.1. Approval, Re: Tourist Development Council FY 2024-2025 Marketing Support Program recommendations.

Peter Cranis, Tourism Development Office Director, stated this Item is coming from the Tourist Development Council; and it is a request to approve the marketing support grant recommendations which includes 44 projects that would get \$805,000 worth of marketing support.

Commissioner Tobia stated he has a motion coming up, not on this, but something very closely related, someone contacted his office and he made a poor assumption that this Board had appropriated funds to the TDC and the TDC used those funds for generic marketing purposes; an when he says generic marketing purposes when one comes to the Space Coast he or she sees those billboards with an astronaut or a rocket going off, they were not used for specific purposes, like "Come to the Brevard Renaissance Festival," which is a specific purpose, not a general purpose, that is done through direct appropriations; when he inquired about this, he found he was completely wrong; Brevard County does spend marketing dollars on specific purposes; and he found one right now that is currently on this list and the County had already spent \$11,000 on and another one that the County had already spent \$4,600 on, that did not come out of a direct appropriation from this Board. He continued by saying he would motion that no additional marketing funds will be spent on cultural and sports events beyond what is individually awarded by the Brevard County Board of County Commissioners; he has no impact on what it is discussing in just a moment for the \$865,000; this would just mean that it will not decrease what is spent on marketing, it would just be used for generic marketing purposes.

Commissioner Goodson asked why; he inquired if there is something that Board spent money on that he does not agree with; or is it just another way to change it.

Commissioner Tobia advised this would not change the overall marketing; if it was \$1 million it would still be \$1 million; the intent behind this is that all individual marketing for grants would

come through this Board; he reiterated there would be no change to the total dollar amount; he explained, assume the top on, Thunder on Cocoa Beach, if the Board goes ahead and awards them \$50,000, that is fair, but what he would see as unfair is if before reaching that \$50,000, they had benefited from \$20,000 of individual marketing; it had already come out of the TDC; and this is something that has and is currently happening right now, not the Thunder on Cocoa Beach, but another one.

Commissioner Goodson asked Mr. Cranis if that scenario played out like Commissioner Tobia said then would his office not say, the event already received \$20,000 so they only have \$30,000 left.

Mr. Cranis responded affirmatively. He noted they would only market the amount that was awarded by the Board.

Commissioner Goodson inquired even if they might have received \$20,000 up front.

Mr. Cranis explained they would subtract that amount.

Commissioner Goodson inquired what is going to be gained by this.

Commissioner Tobia stated, the Board just went through this with a Public Interest Determination (PID), whether it was before the fact or after the fact; he inquired what happens if the Board, for instance, decides that one of these is not worthy of receiving a fund for one reason or another and the County had already marketed dollars beforehand for that. He asked how they will subject that amount if it is not awarded in the first place. He stated there are dates that the applicants have the ability to apply a year in advance; they know when many of these festivals are planned years and years in advance; and this just gives authority to the Board to make these decisions and not specifically administration. He reiterated the Board would be making these decisions right here.

Commissioner Feltner asked with this motion today, what it would change for what he is doing today.

Mr. Cranis stated it would just mean he will wait for the Board's decision before using any events in the marketing.

Commissioner Feltner asked if there are events that are being marketed now that this would stop in the future.

Mr. Cranis explained they did do some marketing for some events that were coming up in November, so there were some dollars spent on that.

Commissioner Feltner asked if passing this today would mean that some of those events coming up here in the near term would have those dollars subtracted from what has been allocated.

Mr. Cranis responded affirmatively. He mentioned anything that would have already been allocated would subtract from their award.

Vice Chair Pritchett stated he does not disagree with Commissioner Tobia's proposal because she thinks all of this should be approved by the Board of County Commissioners; she thinks it is a good proposal to let the Board sign off on it; they had one problem with that gentleman on

his tax return, so she thinks this Board has to be the one responsible; the Bucks stops here; and she asked if Morris Richardson, County Attorney has something to say.

Attorney Richardson stated he thinks this is closely related to the Item, before the Board and it can be considered now; however, procedurally he would suggest that the Commission take the cards and then entertain both motions after the speakers are heard.

Chuck Sheridan stated the last three days he has been one of the judges at the National Kidney Foundation's Rick Salick Surfing Competition and was asked by one of the organizers who just gave birth 12 days ago, that he speak this morning on their behalf as she is out there helping with the teardown and cleanup; the main point for today is that the Board table or extend the new Sports Grant Application until the new Commissioners are in place, or the next meeting; this is the first time in 15 years they had not received grant money for their event; and they bring in thousands of out-of-County contestants and spectators who stay in the hotels and promote the area. He continued by saying this is him speaking now and he has judged this event for six years; the contestants come from all over the world, and they do not just come for three days for the event, they come for days or weeks to practice and learn the movement of the sand; when they leave they travel all over the world and share their experiences from here which brings additional tourism, and free advertising; this event promotes more than just tourism, it promotes cultural activities with a silent auction that brings in artists and art from all over the world; and the annual event includes the Taste of Brevard, where people can sample food from several locally owned restaurants, view the art, and the silent auction, t-shirts, merchandise, all bought locally from local businesses. He commented grants of tax dollars are intended for events for the public good; the National Kidney Foundation Rick Salick surfing tournament does that by design and intent; it is the largest fundraiser for the National Kidney Foundation in the world; one of the contestants yesterday received a kidney transplant that may not have occurred had it not been for this event annually for the last 24 years; this event was created to raise money and save lives; the fact that it promotes local tourism, spending, and promoting small businesses, restaurants, cultural, and art exhibits that are enjoyed by the local residents and the tourists is just a byproduct; and if ever there was a year that the grant was needed, it was this one. He noted the tournament is usually in September and they changed it to October because of competing competitions in Panama City, Jacksonville Beach, and Daytona that were taking contestants away from here because they received larger grants and had larger prizes; it was moved to October; and there was a hurricane delaying it until Veteran's Day.

Douglas Taylor stated he sits on the Board of the Melbourne Art Festival, a proud organization that has been enriching the community for over four decades; he stands before the Board today, not as a representative of his festival, but also the voice of several other non-profit organizations; today he is deeply concerned about the recent decision to withdraw tax funding from these eight small nonprofit volunteer-run events and organizations; for well over a decade, the Brevard County Tourist Development Council grants have been a lifeline enabling them to showcase the Space Coast as a vibrant cultural destination; and let people not forget that these events are more than just cultural milestones, they are economic drivers. He continued to say each festival and cultural event that has been excluded raised between 1,000 and 2,000 out-of-town visitors, that is as many as 16,000 out-of-County visitors that really gave additional lodging, dining, shopping, and injecting vital revenue into local businesses; these visitors are exactly who the County should want to attract as return visitors, new workers, and residents for the growing community; by supporting these small non-profits the County is investing in the very foundation of the community, prosperity, and resilience; and moreover, the funds that are being advocated are voter mandated. He added the Brevard taxpayers entrusted this money to the Board with the expectation to use it to support and enhance local events that reflect the

communities' value and spirit, not just large sporting events, not just beaches and lifeguards, not just advertising, but also cultural events, as it is in the mandate. He continued by saying these small non-profit events and venues have consistently demonstrated their ability to deliver substantial benefits; they do it without the professional management and huge budgets, like the worthy organizations that the County's current plan funds; their margins are razor thin, and every dollar counts on their fight to continue their mission; the Melbourne Arts Festival and its fellow non-profits are more than just events, they are beacons of creativity, education, and community engagement; after suffering the devastating loss of Florida State Arts and Cultural funding, it is looking dire for these non-profit organizations; like everywhere, their costs continue to rise for everything, including advertising, event space, advertising Police and security, and of course insurance; and he urges the Board to reconsider the decision to defund these vital programs and restore funding to these small organizations.

Commissioner Tobia stated he wants to speak to the 44 applicants; he did not want to speak to them individually, though he would be more than willing to; it is interesting, the segway from the previous speaker; he thanked the TDC for following many of the guidelines; he thinks future Commissions can work on this to make it even better because there are a lot of problems in the applications; and he wants to go over just a few of those. He mentioned 25 of the 44 applicants are for-profit entities and not all the applicants follow the simple directions of providing Articles of Incorporations as requested, but they are still here on the list; one non-for-profit pays an executive hundreds of dollars per hour and several have executive compensations of well over \$100,000; that is the challenge of deciding what is a non-profit; many times non-profits have people at the top who makes substantial amounts of money; one of the applicants has \$7 million in revenue and an endowment of \$5 million, yet the County is providing them with money; some of these events have already happened, or are currently happening; and the vast majority of these applicants provided 990's that were two or more years old. He noted here is the one that bothers him the most and that fact that it made it here; one applicant has already publicly stated that they will be leaving Brevard County; they had said that Orlando has nine times more tourists than that of Brevard County; he knows it would be hard not to make that choice, yet the County is going to provide them with thousands of dollars; that would be the Wizard of Oz Museum; these applicants return year-after-year; not all of these applicants list tourism on their 990s as a source of income; one of these applicants is associated with an organization that is holding billions of dollars in assets and investments; and there are a whole bunch of problems with some of these and he cannot believe it but he is willing to punt this until the next meeting. He advised he thinks it is patently unfair; a couple of them are not American Disability Act (ADA) compliant; the major events are not, the grounds may be but the activity is not, and that is in the application process; he thinks there is a lot that needs to be dug into; before this Board goes and offers hundreds of thousands of dollars to these organizations, maybe it is worthy to set the parameters up so to focus in on non-profit; again, it is not just as easy as saying non-profit, the Board has to look at what truly is a non-profit; but that is food for thought instead of just picking individual ones out. He stated he is willing to go into that if so needed; but that is just his initial thoughts on these 44 applicants.

Commissioner Goodson stated he is sure, just like anything, people can find something wrong in everything, but to cut out some of them just because they do not qualify; he asked if it would not be better or fair to have a workshop to go over these things so the Board can take them one at a time and say what the problem is; he wishes he would have done it earlier because he knows Commissioner Tobia has always had a great deal of love for these; he asked if that would not be better for the Board to just cut them; and he noted he assumes Mr. Cranis is watching the money.

Mr. Cranis responded affirmatively.

Commissioner Goodson continued by saying what better way for everybody to have a clear understanding of how much fun it is setting up here than to let Ms. Delaney enjoy that down the road.

Commissioner Tobia commented he thinks that is a great idea; he likes the format that the Board unanimously set up; he thinks it makes it a lot fairer and clearer for the applicants; but after this first application process it is clear there are some holes in it that this Board needs to fix; he is glad the Board made those changes, but there is a long way to go; and again, this is just some problems he has with some of these, and if the Board thinks they can be worked out through a workshop process, he thinks that would be a great idea.

Commissioner Goodson commented then Commissioner Tobia would have to agree to table this.

Commissioner Feltner advised he has a question for Mr. Cranis; and he inquired when Mr. Cranis needs the Board to finalize this.

Mr. Cranis stated staff is happy if the Board wants to table, but there are events that are occurring and they will just have to wait; and in some cases they will just have to miss the opportunity to get marketing support, but so be it.

Commissioner Feltner asked if the Board had it done at the next meeting would that be preferable.

Mr. Cranis replied, it would.

Commissioner Goodson asked if Mr. Cranis could provide a list of who would come up the quickest.

Mr. Cranis replied, he could.

Commissioner Tobia stated one of the stipulations here was to handle the marketing, so that is done beforehand; we used to reimburse in the background; to give the new Board more time, he thinks that could be changed; he would certainly support that; and the Board could reimburse ones that would be caught in that timeline.

Commissioner Feltner asked if that is Commissioner Tobia's motion, to reimburse those that get caught in the interim.

Commissioner Tobia stated and table it until such a time that the Board has an opportunity to do a workshop.

Vice Chair Pritchett asked if there is enough time to do a workshop.

Commissioner Tobia explained if they are reimbursed retroactively then it would not matter.

Commissioner Goodson noted he could vote for that if Commissioner Tobia would add back in the eight that he cut out.

Commissioner Feltner stated he thinks that is the point of that, for the new Board to decide.

Commissioner Tobia commented nothing was cut out, the Board changed the parameters...

Commissioner Goodson interjected by saying that cut them out.

Vice Chair Pritchett stated that was done a long time ago.

Commissioner Tobia advised it was not done with intent; and Commissioner Goodson voted for it as well. He mentioned he did not know if would allow an organization that said it is leaving Brevard County to come apply for it either.

Commissioner Goodson asked who he is speaking of.

Commissioner Tobia advised it is the Wizard of Oz Museum; and it is something the new Board can absolutely fix.

Vice Chair Pritchett stated there is a thought pattern on this for years; she has seen this thing change every time this Item comes up which is a good thing because it brings up new problems every time; every time there is a problem, there needs to be a solution; this is going to constantly be changing as far as how to manage these dollars because the Board is responsible for them; she thinks the new Board would probably plan on a couple workshops during its term to try to figure out what to do with these; the goal is on this is not really a benevolent item it is how to get extra tourism dollars into the area; and she is going to agree with Commissioner Tobia's motion. She noted she wants to throw this out since she has Commissioner Delaney's attention; she advised Commissioner Delaney that she needs to make sure that District 1 gets its fair share of this because a lot of times it was down on zero; and she asked her to get the numbers and figure it out.

Motion by Commissioner Tobia.

Commissioner Pritchett asked what about the organizations like the Space Coast Symphony Orchestra, since it is just a reimbursement, it should not affect them waiting for a workshop.

Frank Abbate, County Manager, stated it would affect them because the Board, subsequent to the workshop, would have to approve which ones are going to get the funding; he would suggest that staff try to schedule something in January; a lot of the Board workshops in the past were done on Thursdays between meetings; and they will bring it back at the next Board meeting to get a date from the Board.

The Board tabled the Tourist Development Council FY 2024-2025 marketing support program recommendations until the Board has scheduled a workshop to give the applicants the opportunity to attend and present their cases; and authorized those falling in the interim, between now and such time when the decision is made by the Board, be eligible for retroactive reimbursement of marketing funds.

Result: TABLED

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

Absent: Steele

K. PUBLIC COMMENTS (Individuals may not speak under both the first and second public comment sections.)

Rick Heffelfinger stated he is actually looking forward to the next Board; he wanted to say goodbye to Commissioner Steele, his buddy, and he does not know why he is not in attendance; he asked if he was called away on an emergency; and he asked if they will dock his pay for not attending this mandatory required meeting. He commented he is going to miss Commissioner Tobia, it has been fun; he is going to miss Commissioner Pritchett, it has been fun; he is looking forward to three new people; good decisions were made today and the other two are going to have to work with those other three people and he looks forward to that; he loves this idea and does not know why they were not doing workshops; this Board has been there for eight years and could have been doing workshops a long time ago, so it is interesting that it is said now; and he is anticipating high expectations of the new Board. He added he only cares about Ms. Delaney, but it will be interesting to see what happens; he thinks this process has suffered terribly over the failure of engaging the public and he hopes to see that happen much more; it was amusing that the traffic calming was put down as continued or unfinished business; the board never really started that business; he is not quite sure what I means, maybe information; there has never been a public hearing and there should have been on a long time ago; and he thinks this whole thing with getting the public involved and having an advocate, the people believe that they have an advocate in Ms. Delaney. He went on to say the County is going to have to step up its game because it is part of that whole public involvement and engagement too; his experience has been not good; he does not know who it was, why it was, but the delaying of public records, seeming to drag things out, that stuff is not going to be tolerated; the people look to the Board, at least his opinion is, that the Board's job is to advocate for the people against the bureaucracy of the County; if the Board will not do that, the County is going to run the people over; and he thinks in the past the County has been running the people over. He commented he hopes that Ms. Delaney holds the bureaucracy accountable as well; some of this Board, in his opinion, has not done a good job; Commissioner Steele told him that it was not his job, it was a Cocoa project and they are going to do what they are going to do; to him, that is a wrong answer; he hopes all the new Commissioner's realize that is the wrong answer; and he really just wanted to say bye-bye to Commissioner's Tobia and Pritchett and wish them luck in their new endeavors, advising that he is being sarcastic. He stated for Commissioner's Feltner and Goodson, this is their opportunity with three new Commissioners; and he thinks that the Board needs to watch its public engagement because the public is getting fired up.

L.5. John Tobia, Commissioner District 3

Vice-Vice Chair Tobia stated today is National Pizza with the Works except Anchovies Day; the useful Florida fact is approximately 1,500 mermaids have swam at Weeki Wachee since Mermaid Shows debuted 60 years ago; this day in Florida history is on the evening of November 12, 1833, along with the rest of North America, people witnessed the great meteor shower; an estimated 72,000 meteors crisscrossed the sky each hour prompting some people to fall to the ground, praying to God to save the world; at the time the true cause of the meteors was not known; and so many religious persons assumed it was the end of days. He continued by saying the County employee recognition goes to Andrea McAvoy, Interim Director of the Titusville Library, who has two years of service, and started working part-time at the Brevard County Library System January 12, 2022, with the Cocoa Beach Library System; she came to Brevard County with extensive library experience working in other systems; she would finish her online Master's Degree in Library Science and Information Systems; upon receiving her Master's Degree, she was selected to fill the role of Reference Library Supervisor at the Titusville Library in March 2023; and she has proven to be a natural leader and tremendous public servant. He went on to say she has worked with all the staff in Titusville and brought a sense of team and fun to the library; when the Director of Titusville needed to be out on leave,

Ms. McAvoy was appointed Interim Director; she was able to oversee the branch activities such as summer reading activities and early voting during this time; she has a calm demeanor and handled challenging patrons in different situations; Ms. McAvoy is quick to volunteer for activities system-wide and participate in system activities; she has been instrumental in helping work with material selection teams, recataloging of those have gender specific names like Bobby, Sam and Zelda; and she also has an amazing collection of holiday socks and Doc Martin boots. He expressed his appreciation to Ms. McAvoy for her service to the County. He commented he would like to politely ask one of the two Commissioners who stay, to continue to recognize a County employee that many times gets overlooked, as the public is much better off because of their hard work and diligence; it was something he was always proud to do on behalf of the Board; and he thanked the Board for taking that into consideration.

L.6. Rob Feltner, Commissioner District 4

Commissioner Feltner presented Commissioner Pritchett and Commissioner Tobia with plaques for their years of service on the Board of County Commissioners; he expressed his appreciation for their service; and wished them much success in their next endeavors.

L.3. Rita Pritchett, Commissioner District 1, Vice-Chair

Vice Chair Pritchett stated she cannot thank County staff enough; she is amazed at all of the help and the professionalism through the years; staff always tells the truth; the Board members ask questions and staff provides the boundaries; the County Attorney does a great job protecting the Board when it brings out ideas, to make sure he or she are not getting the Board or the County in trouble; sometimes the answer is not what one might want to hear but he has been great at protecting the Board and the taxpayers of this County; and she cannot thank the County Manager, Frank Abbate, enough for his friendship. She noted Mr. Abbate has really helped this County get through a lot of hard times, it has been through COVID-19, an economic crisis, and he has done a great job with his leadership and the way he manages the entire staff; it has been a very good experience; and she advised she is going to miss some names. She mentioned John Denninghoff, Assistant County Manager, has so much wisdom, is a great advocate of telling the truth, and a good man; and she thanked Billy Prasad for the plaque. She commented she has grown so fond of the staff, they are such good people; this County is so blessed to have such great people in County leadership; it has been tough; there have been some trying times, but things are going to come down again, they always do about four months after an election, when people learn to be kind again; kindness is never a weakness; she has thoroughly enjoyed Commissioner Goodson and she thanked him for his work in this County; and Commissioner Feltner is family. She went on to say at the end of this she hopes the Board did all it needed to do; at the end of the day, if one pleases the Lord, he or she has had a very good day; and she prays for this County and everyone in attendance to be blessed and receive some joy in their life and that the Lord would prosper for all.

Adjourn

Upon consensus of the Board, the meeting adjourned at 11:51 a.m.

ATTEST:

RACHEL M. SADOFF, CLERK

ROB FELTNER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA