

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, February 21, 2023

9:00 AM

Regular

Commission Chambers

A. CALL TO ORDER 9:02 AM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, Commissioner District 4 Rob Feltner, and Commissioner District 5 Kristine Zonka

Rollcall

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, Commissioner District 4 Rob Feltner, and Commissioner District 5 Kristine Zonka

C. PLEDGE OF ALLEGIANCE

Commissioner Tom Goodson led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL: January 10, 2023 Regular Meeting

The Board approved the January 10, 2023, Regular meeting minutes.

Result: APPROVED

Mover: Kristine Zonka

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

F. ITEMS PULLED FROM CONSENT

Chair Pritchett advised Commissioner Goodson will be voting Nay on Item F.3., Approval, Re: Amendment to the Donation and Capital Contribution Reimbursement Agreement for Fire Station 49 between The Viera Company and Brevard County; he would like to pull Item F.8., Approval, Re: Budget Change Requests for discussion; she asked the Board if there were any other Items wanting to be pulled; and she mentioned having a speaker card for Item F.9., Speak Up Brevard and other speaker cards for Item F.1., North American Wetlands Conservation Act Grant Applications - Partnership with Ducks Unlimited, Inc., a Non-profit Conservation Organization, on Purchase of Jefferson Marsh Mosquito Impoundment Property, F.2., Final Plat and Contract Approval, Re: Pangea Park Phases 3 and 4 - Developer: The Viera Company, F.7., Board Approval, Award Emergency Medical Services (EMS) County Trust Grant Funds to Local Providers for 2022-2023, F.9., Speak Up Brevard, F.10., Request for Special Meeting for an Attorney-Client Session, and F.11., Appointment(s) - Reappointments(s).

F.9. Speak Up Brevard

Sandra Sullivan stated Speak Up Brevard is in the Charter, it is not mentioned as Speak Up Brevard; this is an opportunity for the public to weigh-in on proposals; it is a shame that the County does not say that this is open for the month of December for people to put in proposals; she has written for two years regarding Speak Up Brevard, because it is supposed to be open until the end of day on the 31st of December, and both years she did it in the middle of the afternoon; and it said, "see you next year"; and she requested for this to be extended to January 15, just because of the holidays, kids are home from school, there are Christmas activities, and December is just a bad month. She stated Mary submitted one regarding Hightower; she just wants to comment on that; and aside from all the promises made to Brevard residents for conservation lands, for the beloved Green Sea Turtles for Hightower, doing nothing jeopardizes \$40 million in sand renourishment project, just this year alone on the Mid-Reach, and future millions of dollars as the County is in violation of the Corps of Engineers

permit, should development use the Hightower outfall. She mentioned Hightower was created to be a dark and undisturbed beach for Green Sea Turtles and Shorebirds; in summary, she showed a picture of the surrounding area with lots of disorientations; she showed a picture of Hightower doing its job; it has one disorientation of hatchlings; that is the biggest threat to the sea turtles, is putting development lights on the beach; that is why it was created to be dark and undisturbed because the Green Sea Turtle is a very weary turtle that needs a dark beach; the promises made to Brevard County those generations of Brevard County residents would be forever indebted for the County's participation on this environmental initiative; and unfortunately, those Agreements are not being kept. She pointed out when she spoke with the former County Attorney, Eden Bentley, who had said that the County was a partner on Hightower and a co-applicant on Pelican, so at Pelican they would have a standing, and at Hightower they would not; it turns out that, that is false, because in both instances the County was funded joint-acquisition; and by the Florida Administrative Code 815, they are both the same in that the County was legally...

F.1. North American Wetlands Conservation Act Grant Application - Partnership with Ducks Unlimited, Inc., a Non-profit Conservation Organization, on Purchase of Jefferson Marsh Mosquito Impoundment Property

Kristin Lortie stated she is a Cocoa resident and a concerned citizen, and an advocate for citizenry throughout Brevard County; she is the founder of the Cocoa Care Citizens Group; it is a Facebook group that has over 900 members; she is a current participant in the County's Citizens Academy; she welcomed the new Commissioners; she has a keen interest in the Consent Agenda because she believes that a significant amount of municipal and County business occurs on the Consent Agenda; for example, for this meeting 75 percent of the business action items on this meeting are occurring on the Consent Agenda; and there are 12 Items that are about to be passed on the Consent Agenda.

Commissioner Zonka interrupted by asking if this has to deal with this particular Item or if it is public comment.

Ms. Lortie replied it affects this particular Item, it affects all the Items.

Commissioner Zonka stated she would encourage Ms. Lortie if she was going to just make a generalized comment that she save that for public comments instead of for each Item.

Ms. Lortie mentioned she has a different topic for public comments. She stated this particular topic is F.1., North American Wetlands Conservation Act Grant Application - Partnership with Ducks Unlimited; this is a \$90,000 matching grant for \$180,000 trust, acquiring land in Merritt Island; she believes that these Items should be articulated for the benefit of all the public; they are completely invisible; she is not taking exception to this Item; she reviewed it and it looks promising that the County is acquiring conservation land; but by the same token, the definition of a Consent Agenda is that the Commission and the Items that are eligible for the Consent Agenda are routine matters, that are typically non-controversial and do not deviate from past Board direction or policy. She stated she does not believe that the Commission follows that definition of a Consent Agenda. She went on to say on this, she believes it is a very significant Item that is taking place in the County, and that there is not even a delivery of outlaying by the Commission on what is happening, and what is being voted on today; and that is her comment on that.

Commissioner Tobia thanked Ms. Lortie for doing all the work on this and she said this was not transparent, yet she was able to access this information; and he asked if she did a public records request or how did she get the information.

Ms. Lortie remarked she would like to correct her word on that, she would like to say visible; she stated she would say it is accessible for the residents of Brevard, that know where to look on the County's website, that know exactly where to go, and that know how to access the background detail, it is accessible for those who know about it; it is very little known and the Consent Agenda and its operations are very little known within Brevard; and she would say visible, to correct her word, and it is accessible for those who know. She asked if that is fair.

Commissioner Tobia affirmed it is transparent, just to be very clear.

Ms. Lortie indicated it is not transparent, for example in Titusville, the City Manager reads aloud all of the items, that is transparent, and reads through the whole consent agenda aloud which provides transparency for those that are not accessing the written materials to actually hear it and have it on a recorded meeting; and that would be transparency, to give Commissioner Tobia a counter.

Commissioner Tobia stated okay, but just to be clear does Ms. Lortie believe there is something nefarious happening.

Ms. Lortie believes that there is...

Commissioner Tobia remarked yes or no.

Ms. Lortie stated she is not accusing the Commission of nefariousness, she is accusing them of invisibility; and nefarious is too extreme of a word.

Commissioner Tobia advised he gets really concerned when he hears citizens say stuff is not transparent or visible, yet it is posted online, it is Americans with Disabilities (ADA) compliant, a hardcopy is posted, they can call any Commission office, and get it probably ahead of time; Ms. Lortie is welcome to say whatever the heck she wants to at the podium; but to choose her words correctly, or be a little bit more transparent with her comments.

Ms. Lortie stated she would be more explicit so it is visible; it is not that the information is not available, it is that it is not visible to the public for anyone illiterate in the County of Brevard; and she asked if she may move on to the next Item.

**F.2. Final Plat and Contract Approval, Re: Pangea Park Phases 3 & 4
Developer: The Viera Company District 4**

Kristin Lortie stated Item F.2., Final Plat and Contract Approval, Re: The Viera Company; there are four Items on the current Agenda for The Viera Company; her comment on that is The Viera Company is a major developer, these Items are not read out loud for the benefit of the public to understand what is going on; and they are being voted on without a public reading.

F.7. Board Approval, Award Emergency Medical Services (EMS) County Trust Grant Funds to Local Providers for 2022-2023.

Kristin Lortie stated Item F.7., Award Emergency Medical Services (EMS) County Trust Grant Funds to Local Providers for 2022-2023; she did a little background research on that, with the materials that are available on the County's website for those who choose to study this; with what she found, she has a couple of comments on observations and a couple of questions; there are six grants that were submitted to receive EMS funds totaling \$39,141; any of the providers in Brevard County are eligible to apply for the grants, yet three of those six are to Brevard County Fire Rescue (BCFR); BCFR will be receiving 71.7 percent of the funds,

whereas, the other three that applied Titusville, Rockledge, and Cape Canaveral Volunteer Fire Department (VFD) get the remainder of that; and she just wanted to articulate on that. She asked if the materials that were available for the actual Section 42-108, is stated it is in the meeting minutes to be available, yet that actual Section is not available online; and she mentioned doing a further search to locate it, but it was not available with the meeting minutes. She inquired if the notification of the local provider, since it is an interesting grant, she imagines that there would be local interest in obtaining those funds; she was interested in knowing how it notifies everyone, since it is required that the Department will notify the local EMS providers of the open time period for grant applications being accepted, that grant period was not specified, and the notification was not included; she thinks it would actually help, to include in the background materials, to help make it more transparent and more visible to include the notification to the local EMS providers, so they can see that it was a Countywide initiative, that everybody had the opportunity; and that it just happened that the County is receiving over 71 percent of the grants in it. She added appreciation for the grant applications being online, so anybody can look for that; she just wants to be clear and she is not trying to be unfair about anything; those are her comments and she is not opposed, or is consenting; and this is background information of what would be helpful to the public, helpful to her as someone who researched the Item, and helpful for the public to know that there is a grant of \$39,000 about to be distributed.

Commissioner Zonka inquired if Ms. Lortie asked anyone or sent an email to anyone for that background information material that she thought should have been included, due to it not being available.

Ms. Lortie replied she was researching this last night to prepare for the meeting and she did not think anybody was going to be around.

Commissioner Zonka remarked so even since last night Ms. Lortie did not send an email to the Fire Chief, or to any of the Commission offices to ask for that.

Ms. Lortie stated she is offering that feedback now; she did not send a prior, there are times when she does send information and make her statements in advance; and she does not always have the luxury of time.

Commissioner Zonka clarified so it was not that is was not available.

Ms. Lortie stated for clarity it was not available in the online backup materials.

Commissioner Zonka stated there are many documents in the backup material.

Ms. Lortie explained there were some that were very helpful and then these few are feedback to the County that these other ones would also help someone, so she would not have had to disturb any of the offices.

F.9 Speak Up Brevard

Kristin Lortie stated she actually made a public comment last year when the Charter was updated; one of the suggestions from one of the Charter Review Commission members was to try to have Speak Up Brevard twice a year; there was some good dialogue with the County sharing some information on what had happened with that before and the citizens weigh-in; and citizens may not be aware that this is an opportunity that is given once a year, according to the Charter, for citizens to weigh-in, to provide items for the County to consider, and to potentially have a specific agenda item to relay those. She mentioned being very interested in having that

twice a year, but even in the once a year, when she was reviewing the materials for this Item, it was discouraging to see that this year there was only one, possibly two comments from another person who may have also submitted a comment; this happens in December and December is really not the month that citizens are thinking about how to help the County government; she wishes it was done in an entirely different month; and she will be marking her calendar for December because there is only one registered for the year. She reiterated it is one time a year, she did not see it published, and she is sure that it was made known somehow but it did not cross her bandwidth this year. She stated she would be looking for it next year; she hopes that it is publicized for the residents to have an opportunity for citizens to participate in the makings of County government; she is disappointed that it is on a Consent Agenda; and she thinks it was worth the time to verbalize it during the meeting as an actual item. She reiterated being disappointed that there was such little turnout, but also that it is not visible enough on the Consent Agenda for the public; it then has no discussion intended for it; and those are her comments for this Item.

F.11. Appointment(s) / Reappointment(s)

Kristin Lortie stated for this Consent Agenda Item F.11., Appointment(s) / Reappointment(s), there are five members, four being appointed for various roles, and one being taken off of the Planning and Zoning board which is former Palm Bay Councilman Peter Filiberto via this Consent Agenda Item; this has been the most talked about event and it has been publicized since that has happened about him stepping down from the board, and the circumstances around it; she just thinks him being removed from this board should be more visible; so she is present to help make that more visible with this Consent Agenda Item; he is being removed from the Planning and Zoning board; and she does not care to weigh-in on support or lack of support, she is more interested in the visibility of something that is a recent, relevant event being included on the Consent Agenda. She added that there is an Item that she supports being on the Consent Agenda and meeting the criteria for the Consent Agenda; she did not fill out a card, but she would like to tell the Board Item F.12., Bill Folder, has three invoices, and has a total of \$130; and she is entirely supportive of that being legit on the Consent Agenda. She went on to say that, she hopes Commissioners do review these and suggest to pull some these in the future for staff to give a rundown on what is being voted on; and that is her comment.

Commissioner Zonka stated she did not want to put that Item on Consent because she thinks Mr. Filiberto is probably dealing with some stuff, as is his family; she thought it was not appropriate to embarrass him or anybody else, by making it a very public spectacle; it has been in the newspaper, even her comments on his removal have been in the newspaper; as far as she is concerned, that was transparent; and she does not think it is the Board's job to further embarrass him or his family.

Chair Pritchett remarked she agrees with Commissioner Zonka on that; she stated there is enough newspaper headlines out there going on; if the Board is going to do its due diligence for what it has to do; and that it is responsible to do as well.

F.1. North American Wetlands Conservation Act Grant Application - Partnership with Ducks Unlimited, Inc., a Non-profit Conservation Organization, on Purchase of Jefferson Marsh Mosquito Impoundment Property

The Board authorized the Mosquito Control District and the Natural Resources Management Department to partner with Ducks Unlimited, Inc., a non-profit conservation organization, to apply for the North American Wetlands Conservation Act (NAWCA) Grant; authorized the County Manager to sign the NAWCA Proposal Partner Contribution Statement; authorized the Public Works Department's Land Acquisition Section to initiate a Purchase Option Contract with

the owners of the Vetterlein property (Parcel ID: 25-36-12-00-1) at the County's appraised value of property, and to bring the contract back for the Board's approval; and approved associated Budget Change Requests.

Result: APPROVED

Mover: John Tobia

Second: Kristine Zonka

**F.2. Final Plat and Contract Approval, Re: Pangea Park Phases 3 & 4
Developer: The Viera Company District 4**

The Board, in accordance with Section 62-2841(i) and Section 62-2844, granted final plat approval; authorized the Chair to sign the final plat and Contract for Pangea Park Phases 3 and 4, Developer: The Viera Company, subject to minor engineering changes as applicable, and developer responsible for obtaining all other necessary jurisdictional permits.

Result: APPROVED

Mover: John Tobia

Second: Kristine Zonka

**F.3. Approval, Re: Amendment to the Donation and Capital Contribution
Reimbursement Agreement for Fire Station 49 between The Viera Company and
Brevard County**

The Board approved and authorized the Chair to execute Amendment to the Donation and Capital Contribution Reimbursement Agreement for Fire Station 49 between The Viera Company and Brevard County; and authorized the Budget Office to execute any budget changes necessary to implement the disbursements.

Result: APPROVED

Mover: John Tobia

Second: Kristine Zonka

**F.4. Adopt Resolution and Release Performance Bond: Bridgewater South at Viera
Section 1 Subdivision - District 4
Developer: WCI Communities, LLC and The Viera Company**

The Board adopted Resolution No. 23-016, in accordance with Section 62-2844(b), releasing the Contract and Surety Performance Bond dated September 14, 2021, for Bridgewater South at Viera Section 1 Subdivision, Developer: WCI Communities, LLC and The Viera Company.

Result: ADOPTED

Mover: John Tobia

Second: Kristine Zonka

**F.5. Adopt Resolution and Release Performance Bond: Pangea Park, Phases 1 & 2
Subdivision - District 4
Developer: The Viera Company**

The Board adopted and executed Resolution No. 23-017, releasing the Contract and Surety Performance Bond dated October 26, 2021, for Pangea Park, Phases 1 and 2 Subdivision - Developer: The Viera Company.

Result: ADOPTED

Mover: John Tobia

Second: Kristine Zonka

F.6. Board Approval, Annual Request to Write-Off Uncollectible Emergency Medical Services (EMS) Ambulance Fees for FY21-22

The Board approved the total amount for FY2021-2022 uncollectible Emergency Medical Services accounts receivable write-off in the amount of \$25,448,970.57, in accordance with Ordinance No. 79-21.

Result: APPROVED

Mover: John Tobia

Seconders: Kristine Zonka

F.7 Board Approval, Award Emergency Medical Services (EMS) County Trust Grant Funds to Local Providers for 2022-2023.

The Board approved to receive and award Emergency Medical Services (EMS) County Trust Grant funds to local EMS providers who have submitted grant applications; and authorized the County Manager to approve any Budget Change Requests or other administrative actions as required.

Result: APPROVED

Mover: John Tobia

Seconders: Kristine Zonka

F.9. Speak Up Brevard

The Board reviewed and accepted the recommendation by staff to reject the citizen request as the project submitted is based within the City limits of Satellite Beach and outside of Brevard County Board of County Commissioners' jurisdiction.

Result: APPROVED

Mover: John Tobia

Seconders: Kristine Zonka

F.10. Request for Special Meeting for an Attorney-Client Executive Session

The Board approved the cost of advertising for, and the scheduling of a special meeting for a private attorney-client session on March 7, 2023, at 4:00 p.m., pursuant to Section 286.011(8), Florida Statutes, for the purpose of discussing litigation strategy and settlement negotiations in the case of Brevard County, Florida v. Thirrel A. Altman, Jr., Trustee, et al., Case Number 05-2023-CA-15474-XXXX-XX.

Result: APPROVED

Mover: John Tobia

Seconders: Kristine Zonka

F.11. Appointment(s) / Reappointment(s)

The Board appointed/reappointed I. Wayne Cooper to the Audit Committee, with said term expiring December 31, 2024; John Thomas to the Board of Adjustment, with said term expiring December 31, 2024; Christopher Reynolds to the Historical Commission, with said term expiring December 31, 2024; and Christopher Reynolds to the Transportation Planning Organization Citizens Advisory Committee (Alternate).

Result: APPROVED

Mover: John Tobia

Seconders: Kristine Zonka

F.12. Bill Folder

The Board acknowledged receipt of the Bill Folder.

Result: APPROVED

Mover: John Tobia

Seconded: Kristine Zonka

F.8. Approval, Re: Budget Change Requests

Commissioner Goodson stated he has a few questions for this Item; he thanked staff for getting him the cost of it; on the cost of \$187,000, that is \$200 a foot; and he asked if staff could tell him what they are going to do to that shoreline at Kelly Park East that is \$200 a foot.

Mary Ellen Donner, Parks and Recreation Director, responded what they have planned is 600 cubic yards of beach with compatible soils placed on a geotechnical fabric, it is a revetment; and the \$187,000 would have to be bid out through the County's contractors.

Commissioner Goodson inquired if the \$187,000 is a staff estimate at this time.

Ms. Donner replied correct.

Commissioner Goodson asked roughly if \$217,000 is being transferred.

Ms. Donner responded yes.

Commissioner Goodson stated that would leave \$40,000; he inquired where the extra \$40,000 is going; and he understands that it could go to the bid.

Ms. Donner replied \$30,000 of that has been allocated to repairing the Intercoastal Waterway Boardwalk; and she advised that is just east of the Merritt Island Bridge.

Commissioner Goodson asked how much of the shoreline was damaged at Kelly Park.

Ms. Donner responded she was out there yesterday and there is a variety that looks like it is anywhere from about six inches to three feet, it is a differential as it spans the shoreline.

Commissioner Goodson inquired what that beach is used for at this present time.

Ms. Donner replied it is used for public and contracted kayak non-motorized boat launching.

Commissioner Goodson inquired if funding for Federal Emergency Management Agency (FEMA) has been applied for.

Ms. Donner stated it is on the list for FEMA to consider reimbursement; FEMA inspectors have been out in the last number of weeks, taking a look at the project; and she responded yes, it is on the list to be considered.

Commissioner Goodson asked if that money is received, is it safe to say the \$217,000 would go back into Parks and Recreation District 2.

Ms. Donner explained the money that FEMA reimburses goes back into the fund from which it was taken; and she responded affirmatively.

Commissioner Goodson inquired if FEMA agrees, what kind of basic timeline she would know

the money from FEMA was received.

Ms. Donner stated she can tell Commissioner Goodson that she was in Collier County when Hurricane Wilma had a direct hit; and she replied it is hard to say when FEMA decides in five years.

Jill Hayes, Budget Office Director, responded it could be anywhere between one year and up to five years; typically, on average she would say between one and two years, and depending on the project; staff is working very diligently this time around to make sure the request is packaged for reimbursement and include everything to move through that process quicker; and that is the goal.

Commissioner Goodson asked if there is anywhere else staff is taking money for, from Parks and Recreation; he advised the Parks and Recreation fields are overused and they need a little bit of everything; and he inquired if there is nowhere else \$187,000 could be found.

Ms. Donner pointed out this was savings that was identified, as they had to estimate what shade structures would cost for five various playgrounds; they came in a little bit lower for all five; and this is where they could identify available funds for replacement.

Commissioner Goodson stated he understands. He asked Frank Abbate, County Manager, if there is any other place to find \$187,000.

Mr. Abbate replied he can tell that in the past where they had a similar situation, Parks and Recreation had actually taken a Board-approved loan out from Insurance Funds; it was reimbursed to the Insurance Funds, that was several million dollars; and they are actually in the process of paying it back because they have not received reimbursement from FEMA on those either. He added that is what they did a couple of years ago; he forgets how many millions were borrowed out of the Insurance Funds, it was like over \$3 million if he recalls correctly.

Ms. Donner advised it was approved for \$12 million and she thinks they borrowed about \$5 million.

Chair Pritchett asked what the pleasure of the Board is.

Commissioner Goodson responded he would not be voting for this; and he stated his pleasure is for somebody else to make a motion.

Commissioner Tobia stated he is doing a quick search and there are so many parks having to be maintained; and he inquired if all the parks, for the saving of those shade structures be in Commissioner Goodson's District.

Ms. Donner responded they are all in Commissioner Goodson's District 2.

Commissioner Tobia stated a good job had been done here; bids came in lower than what they had expected; they have a little extra money; this is on the Agenda to help re-nourish that beach; and he asked if there is somewhere else that Commissioner Goodson would rather see this savings go, than to that beach. He added voting no is one thing; and voting no with a better solution for where that money is to go, he would certainly like to hear that before casting his vote.

Commissioner Goodson responded he would like to see it stay in Parks and Recreation; he

stated he would like to see it directed toward improving lighting at Mitchell Ellington Park for another soccer field, because the people coming in and out of Orlando or different areas for tournaments, and that Park is getting a lot of use; he would like to see that; but he is not willing to transfer money into another fund to be used, when the savings was in Parks and Recreation, not in construction.

Commissioner Zonka inquired out of curiosity if any category of Tourism funds would be eligible for this funding, because it is the beach and there is launching.

Ms. Donner responded she thinks the majority of people who use this beach are local.

Commissioner Zonka replied okay; she stated it was just a question and since they are talking about Tourism funds later; and if there was an opportunity there, maybe Tourism funds eligible for lighting of the soccer fields because that is traveling.

Commissioner Goodson remarked the Tourist Development Council already gives money, not for the lighting but for Parks and Recreation; he asked what it would do if they just reshape the beach; and if that is against the law to reshape it.

Ms. Donner replied no, it is not; she advised after the last hurricane the shell and the sod were replaced because it was gone; and staff is looking to harden the surface so they do not have to keep coming back and improving.

Commissioner Goodson remarked he finds it hard to believe that Ms. Donner is talking about hardening the surface and that, that is going to do something against a hurricane; if one knows anything about a hurricane, it will take concrete down; he does not know what it is going to be hardened with; but that is just his comment.

Chair Pritchett referenced District 1 having this situation with a very heavily used beach park; she stated what she did was take \$500,000 of American Rescue Plan Act (ARPA) funds she had set aside to just re-nourish the beach with sand; she had to jump through major hoops; and she had a small period of time to refurbish that beach that is leading up to a Causeway. She stated if Commissioner Goodson feels this is not good for his District and he wants something different, she is not going to go against him either because this is all his.

Commissioner Goodson advised he would like for staff to come back to the Board with what it would cost or what the problems would be with reshaping the beach; if anything, it is moving the beach back because the sand is gone; he cannot support it; and he is going to vote no until he gets some answers.

Commissioner Tobia thanked staff and stated this was a creative approach for savings that potentially could get reimbursed; he understands Commissioner Goodson's opinion and since this is something that is all within his District, he would like to table this until the next meeting so Commissioner Goodson can spend a little time working within that budget and the savings found, to find a better use for the funds according to Commissioner Goodson; and bring this back at the next meeting.

The Board tabled consideration of the Budget Change Requests to March 7, 2023, meeting.

Result: TABLED

Mover: John Tobia

Second: Rob Feltner

G. PUBLIC COMMENTS

Heather Stapleton stated she is one of three newly hired Community Engagement Coordinators for the Indian River Lagoon (IRL) National Estuary Program (NEP); she thanked Commissioner Feltner for being a part of the IRL Council; she thanked Brevard County for being the leading County and for having done so much for the IRL; and Brevard County obviously has a large share of the Lagoon and they appreciate all of the attention given by the County, the staff, and the cities. She advised as being one of the new Community Engagement Coordinator, her territory is from Cocoa south to the Indian River County line; she hopes to see more of the Board so she can get to know them a little bit better; Brevard County is kind of new to her and she is just here to say thanks; Commissioner Feltner already knows that she is hopeful that the Board can use the IRL NEP as a resource and she hopes it can be helpful; and she looks forward to working more with the Board.

Sandra Sullivan stated she is speaking about the Hightower Conservation Area and it turns out, after review documents, she saw legal is missing a lot of documents for Hightower that she had obtained from other places; the County was a joint-acquisition partner on Hightower; and under Florida Administrative Code 815, the County had the legal requirement to update the Comprehensive Plan for capping density on central beaches and for capping density on southwest-based housing at 999 units explicitly. She added what is important here is what is going on right now and what has transpired in the meantime; in 2001, the City increased density on that property when it was not in their jurisdiction, it was actually in the County's jurisdiction; the County, having just made these changes just two years earlier to its Comprehensive Plan, had filed a formal objection letter to the Department of Consumer Affairs (DCA); the significance of this, is a legal opinion was made at that time that the City was not allowed to do what it was doing; therefore, in consequence, there are newspaper articles, there is a lot of documentary evidence that she provided to the County Attorney of Patrick Space Force Base pushing for additional density; and per an article in the Florida TODAY, the County said no to the additional density, and hence, it got annexed to the city in 2003. She stated the bottom line here is now they are looking at this increased density being clustered, adjacent to the Hightower Conservation Area; that Conservation Area is to be a dark and undisturbed beach; when putting 85 feet, adding commercial use, and putting intensity use on conservation lands, it is inconsistent; the County Park, the Florida Communities Trust (FCT) lands, and State lands were jointly called Hightower Park; and now the County Park is being removed as conservation lands to facilitate. She added under the County's Interlocal Agreement, it has a clause for improper use, and it says "or not public use"; both are issues because the sky bridge that was approved in the final development plan, has a sky bridge from the hotel and the hotel property which is private use into the former County Park, as well as improper use putting intensity use on that; and finally, the FCT Agreement has an adjacent property clause limiting height and land uses that would harm the site; and she asked the County to take action on this.

Kristin Lortie stated she is the founder of the Cocoa Care Citizens Group and a member of the County's Citizens Academy, that she highly recommends to everyone in Brevard County; she is sharing a comment to raise awareness on an item that is happening in the City of Cocoa; there are overlays and interactions between the County and the City government, and she would like to increase awareness around this issue; her comment was actually inspired by Commissioner Tobia, who commented at the January 24 meeting about the City of Cocoa not being the County's friend; she happened to be watching that meeting, because she was watching the advisory committee Agenda Item; she gave that some thought, there is so little time to be able to say what she would like to say; but she concluded that there are citizens in the City of Cocoa who believe that the City is not their friend either. She went on to say Commissioner Tobia's item did get addressed; she saw it happen that night because she was at the meeting, it became a final agenda item for the next meeting; whereas, her item that she had brought to the

City's attention was not addressed; it was not addressed at the meeting, it was not addressed in a follow-up meeting, and she just finds that remarkable that a sitting Commissioner can get attention in heat, in the City of Cocoa, but residents that care greatly about what is going on in the City have a much harder time of it; her topic at that meeting was her calling for the performance evaluations, in compliance with the City's contract of the City Manager, and which has not happened, despite the City Manager being in his third year of service; and the City of Cocoa's Council declined to have that performance review. She explained why she would be interested in a performance review is because the citizens of Cocoa have seen a serious degradation of citizenry in the City during the current leadership; to rattle off a few things, they have seen rollback in the district Town Halls which is to occur quarterly, there has been no citizen engagement in City planning processes such as parks planning, strategic planning, the budget workshops, and have all minimal legal requirements of what is needed; everything is minimal, despite citizens repeatedly requesting public engagement opportunities; things are so degraded right now that the City Manager declined to even respond to a simple email asking if their Thursday budget workshop, that happens during the day while many citizens are at work will be recorded; he declined to answer a simple, polite email overture; and this just scratches the surface of things she had studied for 18 months since becoming aware of it. She mentioned there was a millage hike and protested park spending in 2021, that is when she got more involved and engaged with starting the citizens group in the first place; this just scratches the surface; and the reason why she is speaking to the Commission is to raise awareness and that she is interested in meeting with Commissioners Pritchett and Goodson, who work with Cocoa; and she asked for them to be mindful that Cocoa is not listening to its citizens when they approve items.

H.1. Public Hearing, Re: Ordinance Amending Chapter 62, Article VI, Division 2, Section 62-1157, "Submission of a Binding Development Plan in Support of Request for Change of Zoning or Conditional Use Permit"

Chair Pritchett called for a public hearing on ordinance amending Chapter 62, Article VI, Division 2, Section 62-1157, Submission of a Binding Development Plan in support of request for change of zoning and Conditional Use Permit.

Billy Prasad, Special Projects Coordinator, stated this Item is a public hearing to consider adoption of an ordinance amending procedures for submittals of Binding Development Plans (BDP); the Board previously approved legislative intent on August 30, 2022; the Item makes four changes to Section 62-1157; first, it requires that all legal and equitable owners of the property, and any entity with an interest in the property, including lienor(s), be identified in the BDP application; two, it requires that all such owners and interest holders ultimately be made a party to the BDP; three, it clarifies when the 120-day period to record a BDP begins; and four, the Planning and Zoning Advisory Board, a mechanism for an extension of that 120-day period was added. He went on to say on December 14, 2022, the Building Construction Advisory Committee reviewed the ordinance and recommended approval; and likewise, on January 9 2023, the Planning and Zoning Board recommended approval of this ordinance, with the recommendation of clarifying the mechanism for an extension, which has been done.

Kim Rezanka, Lacey Lyons Rezanka, Attorneys At Law, stated she is present on behalf of future clients; she does not have anyone who asked her to come today, but she has been working with BDP's since 2001 in the County; she is very familiar with this ordinance; her concern is, as she had raised twice; one, it is unclear what equitable owner is and what any interest in property means; Mr. Prasad did say it is all lien holders; there are unrecorded liens and in essence, the Board is asking anyone who does a BDP, sometimes they are present in front of the Board, and the Board says do a BDP; they do not know if there are lien holders; and they do not know what the bank is going to do. She mentioned having two this past year

that the banks would not sign the joinders, because she did not have the chance to contact them. She stated this is basically asking for a title search; if asking for a title search that is extra cost on the applicant; if they do not do a title search, there is no way of knowing for sure that they have captured every lien holder; she had made several suggestions in two emails to the Board and to the County, asking if there is any interest in changing to a mortgage holder or known lien holders, if they could get them in the public record, which only goes back to 1981; but as she said, this could deal with leases, any leaseholder, any tenants, and it could be much broader than expected. She understands this is what the statutory development agreement states; they do not have a definition and she could not find a definition in the Florida Statutes; and hence, she found the definitions in Black's Law Dictionary and in Florida Case Law. She asked the Board to not adopt this if it is not comfortable with making changes since she just sent that to them yesterday; she asked for it to be tabled and to get some more input from the County Attorney or Mr. Prasad, but she will definitely state that what has been done now is unmanageable, if adopted as it is; and that the Board will be requiring a title opinion of every BDP applicant or there is no way they can enforce this ordinance.

Commissioner Zonka asked if in any other municipality or county government she has to ever do a title search.

Ms. Rezanka responded no.

Commissioner Zonka mentioned honestly, she did not know the answer to that.

Ms. Rezanka stated for Palm Bay, West Melbourne and Melbourne, no.

Commissioner Zonka stated that would be the solution, right, and if limiting this to just title searches, but then there is a cost and time, and everything else.

Ms. Rezanka remarked there are also unrecorded liens, there are people who can file mechanic liens, and there is common law liens; and there are all kinds of liens.

Commissioner Zonka stated it only has the possibility of catching something.

Ms. Rezanka remarked yes.

Chair Pritchett inquired why the Ordinance is being changed and who initiated this process.

Mr. Prasad responded he believes the request came from the previous County Attorney.

Chair Pritchett stated she knows they received the email yesterday; she asked if there is anything felt that could possibly be changed, or is this something to do legally; she stated she gets doing the title search; and people would be crazy to buy properties without a title search, but that is on them.

Mr. Prasad advised there have been some discussions with Morris Richardson, County Attorney, since receiving the email; some of the suggestions Ms. Rezanka made, in speaking with Attorney Richardson to implement, it kind of undermines the intent of the ordinance, for example, equitable interest holders; and there might be some changes staff can make to meet some of the concerns like clarifying that a legal interest of record would be required, rather than the simple term legal interest, if that would help in addressing her concerns.

Commissioner Zonka inquired what the intent of the ordinance is; and if there is a problem on a

consistent basis that staff would come forward with these changes. She advised her concern is the very broad definition, even more so than the Commission having the ability to include a BDP with a property when they come in and request something or the Board wants to put on some restrictions; there is no ability to do that without a risk of liability at that point; and the applicant would have to assume that liability because there would be no time to do a title search or whatever kind of search. She asked about what prompted this; she stated it came from the prior County Attorney, but asked if it was from a Commissioner, was it from a staff perspective, or was there a problem.

Attorney Richardson replied he could speak a little bit to that. He stated Ms. Rezanka contacted him at his prior post at City of West Melbourne to ask him about the issue when it was going on; he believes a few of her clients expressed difficulty, as she stated at the lectern, in obtaining a joinder from their bank; he can tell the Board that it is a pretty universal requirement of any non-statutory development agreement like a BDP, that gets at least the joinder mortgagees; under Florida Statute, it is required to identify all equitable and legal interest holders of a property in a statutory development agreement; and that is also a pretty common provision in non-statutory development agreements. He added they are not always required to join; sometimes it depends on the nature of the interest, sometimes the interest can just be subordinated instead of joined; sometimes he and staff can look at it and determine it is not the kind of interest that requires any joinder or subordination, like an unperfected mechanics lien; with equitable interest holders and property, there is no definition in the statutory development statute, even though it is required there, because it is a limited use universe of potential interest holders; but it would be hard to put a single, narrow definition on it, as it could be the case of a widow who inherits but never probates, and therefore does not have legal title of record, but is clearly the equitable titleholder. He advised one would want that kind of person to be included on a decision like this that makes a big change to one's property rights and interest; putting the equitable owners and legal owners on notice that this is even happening, that is part of the reason to at least identify, if not require, their joinder here; he thinks the impetus of this was pushed back from Ms. Rezanka about why she has to do this if it is not required by ordinance; and mortgagees really need to join in a BDP if the Board wants it to be worth the paper that it is written on.

Commissioner Zonka advised for the Attorneys to discuss it because this is a little out of the Board's legal realm.

Ms. Rezanka stated she has known Attorney Richardson for a long time and she had contacted him about County issues because he has been there for a long time; the issue was that she could not get a joinder; she had started doing research and she found out that the joinder was not required by current Ordinance or by Board policies, so she may have been the impetus for that; she does not have a problem with the mortgage holder; she was using her legal means at the time, and it was not in an Ordinance; she agrees the mortgage holder should be in there and she does not have any problem with that, it is just when going to these legal equities, and needing to talk about leases; and sometimes people have owned the property for years and are not doing title searches to purchase. She asked that it would be limited when going to leaseholders, when it is not always possible to know who they are when standing here at the podium doing a rezoning. She stated she would love to take time to speak more, but she was not able to get to the Item until yesterday; she apologized for the late notice on that; and she had noticed this since her being on the Building Advisory Committee.

Commissioner Zonka stated she does not know how the rest of the Board feels about this, but she does have some concerns because she does not want to be putting additional restrictions that no other government agency is following; she thinks it could create more problems; she

would like to see this reworked; she suggested to table; but if the Board decides to move forward...

Chair Pritchett remarked she is inclined with Commissioner Zonka.

Commissioner Feltner agreed; and he stated this should be worked on and brought back.

There being no further comments or objections, the Board continued consideration of amending Ordinance Chapter 62, Article VI, Division 2 Section 52-1157, submission of a BDP in support of request for change of zoning of Conditional Use Permit to the March 7, 2023, meeting.

Result: CONTINUED

Mover: Kristine Zonka

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

H.2. Petition to Vacate, Re: Public Right-of-Way- Old Sharpes Road - Per County Commission Minute Book 13, Page 494- Cocoa - Canaveral Landing, LLC - District 1

Chair Pritchett called for a public hearing on a resolution vacating a portion of a public right-of-way, known as Old Sharpes Road, established by plat County Commission minute book 13, page 464, Cocoa, as petitioned by Canaveral Landing LLC; and she advised this is in her District and she has no concerns with this.

Marc Bernath, Public Works Director, stated Item H.2., Petition to Vacate a Public Right-of-Way, known as Old Sharpes Road, as petitioned by Canaveral Landing, LLC, in District 1; as part of the vacating, it also accepts the drainage and access easement, as well as a conservation easement; there is one known objection by Mr. Bovee at 785 Ann Way, Cocoa; and staff has no concerns.

There being no further comments or objections, the Board adopted Resolution No. 23-018, vacating a portion of a public right-of-way, known as Old Sharpes Road, established by plat County Commission minute book 13, page 494, Cocoa, as petitioned by Canaveral Landing, LLC.

Result: ADOPTED

Mover: Kristine Zonka

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

J.1. Approval, Re: Tourist Development Council FY 2022-2023 Major Event Grant Program - Cocoa Beach Air Show

Commissioner Goodson stated he would like for the Board to consider a motion for \$53,795.80 to be given to the Cocoa Beach Air Show; hopefully, all the questions at the last meeting have been answered; and that is his motion.

Chair Pritchett advised she is going to ask the Commission to jump in, because it was quite an interesting topic last time.

Commissioner Zonka stated she has some questions for the applicant.

Chair Pritchett asked for the applicant to come forward to the lectern and to fill out a speaker's card later.

Commissioner Zonka mentioned the funding amount has changed from the first application; and she asked why the amount had changed.

Bryan Lilley, Chief Executive Officer at AirDotShow, responded there really has not been a change in the expenses or what the show will cost; and it was just in his discussion with he had with Commissioner Goodson, and his staff of what might be acceptable to the Commission.

Commissioner Zonka reiterated what might be acceptable; and she asked what the money is needed for.

Mr. Lilley replied for the expenses of the air show, marketing expenses, flight operation, and all of the various things that it takes to produce the event.

Commissioner Zonka inquired if he brought any kind of breakdown of what specifically needs the funding, or if it is just expenses.

Mr. Lilley replied it would primarily be put towards marketing and content; and he stated those are the two most expensive items in their budget.

Commissioner Zonka asked how much money he is putting towards that for this air show.

Mr. Lilley responded he does not have the breakdown; it was in the grant application with detailed numbers from his finance people; but he thinks it was somewhere in the neighborhood of \$400,000 in costs to produce the entire event.

Commissioner Zonka stated she does not have any more questions for now; and she asked if Mr. Lilley does not mind staying close in case something else prompts it.

Mr. Lilley responded of course, he would be happy to.

Commissioner Tobia stated at the last meeting Commissioner Goodson said he is not going to support this, he was sorry, and that the Commission had too many questions that he cannot get back to the Board with; he expressed his thanks to Commissioner Goodson for following through and for speaking with the sponsor of this event; due to sunshine, he asked what questions did he have for the sponsor, because he obviously received the right answers to bring this back today; and he asked for him to just fill the Board in on his discussion as to why he was not supportive of it at the last meeting, and now he is.

Commissioner Goodson responded when he met with the applicant, he told him that he would not agree to fund any more than the Board is funding the Thunder on Cocoa Beach, and he told him that with the questions that Commissioner Zonka had, he needed to get with her to go over those, and make her happy because he, himself, had the same concerns; he stated he is disappointed to hear, undoubtedly, he has never met with Commissioner Zonka; and therefore, he might be pulling his support real quick here.

Commissioner Zonka mentioned receiving a vague email after the meeting, talking about some very basic information. She stated again, her concerns with this, and they have been this in the

past, is that there is no specifics, they say they want the money, but the number now is arbitrary; it is like they heard Commissioner Goodson was okay with that funding level, or said they would take it; if it is marketing, there is Tourist Development Council (TDC) that does a great job at marketing; the TDC could commit some time or funds toward that; but where she takes issues with this, is this is all about profiting the promoter. She stated she was not comfortable with it when this was done in the past; the Board approved \$100,000 for a live stream, but, again, there were really no details; and she is not comfortable with this at all.

Commissioner Feltner advised on the last meeting he said, that he did not think that this put heads in beds, and that is the purpose of the Tourist Development Tax (TDT); he stands by that and he does not think that it will; he does think the residents probably enjoy this air show because there is no admission and they can see it from the beach; he is not present today to say that it is not a nice event for Brevard County; but when talking about spending TDT, he thinks it should be geared towards people staying the night in Brevard County. He opined they are going to come over to the beach and spend a lot on food and beverage, and maybe go shopping; and he understands the concerns of what is wanted to be done here today.

Chair Pritchett stated she did a little bit of research because typically when Commissioner Zonka is hesitant like this, there is usually something there; she did some studying; she thinks Mr. Lilley does any amazing job with air shows all across the country, he actually has over 15 LLC's; due to these being tax grant funds she started trying to figure out the amount of information the Board is given is probably not enough to clarify where the cost goes; the boat show actually did a breakdown of every check they send out, that helped tremendously; and she thinks if Mr. Lilley is going to ask for these types of grants, he needs to get something like that turned in to the TDC, which are actually coming back this week with the request of a grant. She went on to say this does serve a whole lot of people, maybe the Board needs to just go ahead and do the advertising and he just runs his show; but the way this is written, she is probably no real comfortable with just doing this with the TDC funds. She advised Commissioner Goodson that, that is where she is at, because she could not find any tax data for the last three years; she knows there was COVID and stuff, and she actually did a little bit of work, and Mr. Lilley actually has a new company now that is called AirDotShow; she does not know if some of those funds are going through one corporation to another; she just does not know because the Board did not get the information; she is not accusing him of anything, but there is just not good data; and that would be on Mr. Lilley to try to get the data of where all the checks are going to.

Commissioner Goodson stated he wants to make sure that Commissioner Zonka knows, that when he met with Mr. Lilley, he told him, his biggest hurdle is her; Mr. Lilley needs to convince her that this is a good deal; he has number of people attending and money spent; he does not believe them, but they are good numbers; he pulled his motion; and he will not be asking the Board for the money because Mr. Lilley did not do anything.

Chair Pritchett advised the Board to hold on; and she asked Commissioner Goodson if he would like to hear from the applicant.

Commissioner Goodson responded he would love to hear, not that it is going to change his mind.

Mr. Lilley stated the Zoom meeting had been listened to word for word and he took every question she had related to the foundation of the air show; there were questions about the boat race as well; there were some things that he thinks that were going over top of each other; they listened word for word and quoted; he sent her an email with the quotes of the questions that

she asked; and specifically sent answers to every one of the things that were questioned.

Commissioner Zonka remarked she can forward the email, but it was not exactly like that.

Mr. Lilley stated he offered Commissioner Goodson to send it to Commissioner Zonka's office; her Chief of Staff said out of respect to the Sunshine Law, please do not do that; he was specific and there were four or five questions word-for-word that he provided her very concise answers with backup information to all of her questions; she emailed him back and she thought the letter that he sent about Brevard schools was from 2019 when it was, in fact, from 2021; she said she thinks that these funds should only be used to fund events that are newer, and not events that are long-standing; and the Cocoa Beach Air Show was back after its first year.

Commissioner Zonka advised what she said was successful.

Chair Pritchett remarked it was probably her that said that.

Commissioner Zonka stated if Commission wants, it can read the email; she does not think it is nearly the way Mr. Lilley is portraying it; he did pick and choose what he wanted to comment on in the meeting, and he really did not address some of the other concerns she had; one, that he has the foundation just strictly for this event; and he does not use this foundation for any other air show that he has in any other place.

Mr. Lilley asked if he could explain why. He stated he could give her an explanation.

Commissioner Zonka responded she honestly does not need an explanation. She remarked he has a history in this County; he did the same thing to Melbourne when he went back to them asking for more money; they turned him down; and they canceled his contract.

Mr. Lilley stated they did not.

Commissioner Zonka went on to say then there was a Commissioner here who worked hard against the Melbourne Air Show; coincidence, she does not think so; she is not comfortable with funding this; she appreciates that he wants to use TDC money to profit, she get that; but he did not come here with an explanation on what he even needed the money for, oh, promotion, oh, advertising, marketing.

Mr. Lilley pointed out it is a free event; the event is free to the public; and it is ticket optional.

Commissioner Zonka remarked it is not necessarily free, because there is a charge for VIP Seating on the beach, making money off merchandise; and again, it is not a free event for everybody.

Mr. Lilley stated look, all those numbers were available, and they submitted numbers with the TDC application; in addition, their Form 990's are very detailed, they are all public record, and all of that information can be seen; and as to the Melbourne show, he thinks it is all very transparent and public.

Chair Pritchett interrupted by saying she does not want to necessarily beat him up today, but just so he knows, she tried to get the 990's and she could not get them for the last two or three years, they have not been filed yet; and the one before, there just was not one done because it was under an amount of money.

Mr. Lilley asked if he could just say...

Chair Pritchett remarked it does not matter.

Mr. Lilley remarked just let him state...

Chair Pritchett stated no; and she is just going to comment on...

Mr. Lilley interrupted by saying it is on the record, so he really feels he needs to...

Chair Pritchett asked Mr. Lilley to please sit down and let her finish her response, they are done.

Mr. Lilley stated okay.

Chair Pritchett stated she was going to recommend, if he is interested; she does not know enough about it; she does not want to get personal with him; she held up the data sheet from the airboat show; all they are getting is the Internal Revenue Service form that was turned in on this one; it is just not enough data for grant funds for government; she is not going to vote for it; she thanked Commissioner Goodson for withdrawing it; and if it went through the TDC with an appropriate amount of data, perhaps, but as of right now she would not support this right now either.

Commissioner Zonka added she would encourage anybody questioning Mr. Lilley's business tactics, to go look at his Augusta air show, where he asked them for \$100,000, like he had requested from this Board, in the past to do live streaming, and then did not provide sponsorship; but a 50-50 rate that he provided the government that is pretty transparent because she looked into that as well.

Chair Pritchett asked Commissioner Goodson, if he wanted to make a motion to withdraw it.

The Board withdrew consideration of TDC FY 2022-2023 Major Event Grant Program - Cocoa Beach Air Show.

Chair Pritchett advised she had a speaker card for Sandra Sullivan; she apologized; and she asked if Ms. Sullivan was good.

Commissioner Zonka asked who voted nay.

Chair Pritchett responded Commissioner Tobia.

Commissioner Zonka inquired if he knows what he voted against.

Chair Pritchett implied he just wanted to vote no on it, right.

Commissioner Tobia replied he gave his word to someone on the way he would be voting on this; he stated he was not going to renege on that promise that he made, regardless of the change in sponsors opinion on the piece of legislation; that was the reason for his vote, obviously, he is in the minority; and it really does not matter at this point.

Result: WITHDRAWN

Mover: Tom Goodson

Seconded: Rob Feltner

Ayes: Pritchett, Goodson, Feltner, and Zonka

Nay: Tobia

L.1. Frank Abbate, County Manager, Re: Board Report

Frank Abbate, County Manager, stated as the Board is aware, Rachel M. Sadoff, Clerk of Courts, was involved in an audit that began about one year ago; of that audit, there were interviews with a lot of County staff; some staff had expressed concern about going into those interviews, which was an audit that turned into an investigation; some of the people who were interviewed, which was all within the scope of their employment, had expressed concern about having to go into those type of meetings that were recorded and transcribed, without some type of representation; and at that time the County Attorney's office had sent the County Attorney and the Assistant County Attorneys to one or more of those meetings, with the intent of being there along with the employee. He added the Clerk's office concluded that and, subsequent to that, the Florida Department of Law Enforcement (FDLE) began an independent investigation. He stated the same standard was tried to be set up for any employee who wanted the County Attorney's office to represent them and to be with them at the meeting; the County Attorney had expressed some concern about their ability to be representative, but they were willing initially to go to those meetings; FDLE posed some objection to that, and he was advised of that by the County Attorney who talked with them about them not allowing the County Attorney's office to be there for those interviews; subsequent to that, there are employees who have expressed concern about going into those type of investigative interviews without a legal representative; since the County Attorney's office does not believe that they are in a position to represent the employee or attend those meetings, because they have been told that the employees will be subpoenaed, that leaves the employees who want legal representation without that representation, unless it is provided privately; and the County would reimburse them for that, which he thinks would be appropriate in this limited circumstance. He advised he wanted to bring it to the Board's attention and to request the permission to be able to do that in the cases where those employees who wanted a legal representative while being interviewed by the FDLE in the course of the investigation for things that occurred in the course of their employment.

Chair Pritchett advised she thinks she knows what Mr. Abbate is referring to; it is nerve-racking to have to do that and nobody here caused this; she completely supports this because it is uncomfortable for most of the staff to have to go; even her staff had stomach aches knowing they had to meet with the Clerk, even though they did not do anything; and she is fully in favor of making sure staff feels comfortable when they have to go into this situation.

Commissioner Zonka stated she would make a motion to approve the County Manager's office to work with outside County attorneys for representation for employees.

Mr. Abbate advised if he understands the County Attorney's position, it would be reimbursement of those employees who hired their own private counsel to participate with them in that investigation.

Commissioner Zonka pointed out that scares her a little bit, just because of cost; and they could hire the most expensive attorney.

Mr. Abbate mentioned they could ask for permission that he and the County Attorney would be reviewing it for approval ahead of time.

Attorney Richardson stated correct; and he advised the attorneys would be representing the employees individually, purely, and not the County in any way, shape, or form at those interviews.

Commissioner Zonka advised she would modify her motion, to include those last comments.

Commissioner Tobia clarified for the record that all the County employees are providing information into this and are not the subject; and just to be clear former employees that are no longer employees would not have access to reimbursable counsel; and he asked if that is correct.

Attorney Richardson replied they are talking about current employees, who are not targets or subjects to the investigation, that are exclusively testifying with regard to facts, based on their employment.

The Board granted approval for the County to reimburse current County employees, who are not targets or subjects of FDLE's investigation, are exclusively testifying to the facts based on their employment with the County, and have hired private counsel, with prior approval by the County Manager and County Attorney, to participate with them in the FDLE interview process.

Result: APPROVED

Mover: Kristine Zonka

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

K PUBLIC COMMENTS

Chair Pritchett advised Morris Richardson, County Attorney, before she calls him for his Item L.2., Board Report, she received a speaker's card a little late; she called Celeste Corrado to speak; and she thinks she should probably do this under her Item L., Board Reports, but she is going to start trying to get all of the speaker's cards in for the first Item G., Public Comments before starting, and for the second half before public hearings, just so they do not have this lag in the future.

Ms. Corrado stated she is a 14-months resident of City of Cocoa in Brevard County; she moved here because of some of the real unique places along Indian River Drive in Cocoa; she is here with an emotional plea for the fact that six months ago, she started attending some of the City of Cocoa's Council meetings to actively get involved in preserving what was unique and what made her move there, and she was shocked at what she saw; when she came out of that first meeting it was with a deep concern for those things that are unique in the area; and a feeling of oppression, which she never expected to feel from that City Council's proceedings. She mentioned her deep concern was the fact that she saw decisions being made that were not objective at all and they were going to impact, not just the citizens, but the County as well; and this is about density and development, none of which that she could see, was objective decision-making on part of the Council. She added the emotional feeling, the oppressive feeling, was the fact that there is a deep disdain for citizen involvement; it is so apparent, if the Commission just came to one of those meetings, he or she would see it; they are recorded and it can be seen; she had never felt this way in her life; and it is what is making her come before the Board. She asked who above in the County level would be willing to look at the situation and observe, and understand that there is something very wrong going on in the City; she stated she does not know who that is, but her plea is to find that out; she will do all that she can

to discover that; she provided two examples; one, was in the September meeting when she saw the Council's decision was to double the density along Indian River Drive, a National Scenic Byway, an historic area, and it brings visitors and someone like her to live in the County, as well as doubling and tripling the density of Cocoa Village itself in the City; those are deep concerns of hers; and when she looked into what would be the objective reasons for making such a decision, the Mayor had enough gall, it is in the public record, to say that since the staff had not come up with any compelling reasons for not doubling the density, they are going to vote affirmatively.

Chair Pritchett advised her time is up; and she recommended for her to keep showing up at those meetings to have her voice heard, because the Board has no jurisdiction there.

Ms. Corrado stressed it is not being heard.

L.5. Rob Feltner, Commissioner District 4, Re: Board Report

Commissioner Feltner expressed appreciation for comments made about the Indian River Lagoon National Estuary; it is a good regional group of folks who care about the Indian River; what is encouraging for him is seeing neighbors to the south having the same concerns; Brevard is the one who is taxing themselves; but they are working to make it better down there too.

L.6. Kristine Zonka, Commissioner District 5, Vice-Chair, Re: Board Report

Commissioner Zonka stated she does not want to keep trenching up the air show because it obviously is a hot topic; for her it is not personal, there is a history there, and she encouraged anybody who is interested to go and look; it really came about Bryan Lilley, Chief Executive Office at AirDotShow, being able to justify the need for the money; she thinks that really is kind of where she has heartburn; she means Mr. Lilley had the opportunity to work with the Tourist Development Council (TDC); if he needed the money for marketing, he could have easily partnered with them; but she thinks he was looking at the Board being patsies for his profits and not a partner, because the Board could have easily helped him market his event. She mentioned it is not personal, she knows people can do a Google search and find out for themselves that he has had other issues in other municipalities, and that makes her even more cautious with TDC dollars; she thinks they would not be doing his or her job if they did not look more closely at everybody asking for money; that is why they did the same thing with the boat show; but the boat show is doing it right by coming back with numbers, they are going back through the TDC, they are very specific on what they need; and as long as their application looks solid, that is something she will give fair consideration to. She advised she wanted to comment on it because it got a little heated; and she thinks Mr. Lilly got a little irritated with the Board, which was somewhat shocking for somebody asking for money.

Chair Pritchett mentioned Commissioner Goodson did request that Mr. Lilly meet with Commissioner Zonka.

Commissioner Zonka stated he did not even ask.

Chair Pritchett stated he should have, that way he could have talked with her, instead of doing so here.

Commissioner Zonka stated his email did have a couple of points in it, but it was not nearly as detailed as he expressed; and she reiterated he never once asked to meet with her. She mentioned it being kind of funny that her husband is in aviation and he knows Mr. Lilly quite well, because he has known him for many years, as they kind of live in that same universe, he has his cell phone number, too; Mr. Lilly could have said hey, could she give me five minutes;

and he did not call her office for a meeting. She added she does not think he can justify where he wants to spend the money; she thinks that is a problem for him; and probably why he did not come to the first meeting to ask for it.

Upon consensus of the Board, the meeting adjourned at 10:16 a.m.

ATTEST:

RACHEL M. SADOFF, CLERK	RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS	
BREVARD COUNTY, FLORIDA	