

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, February 11, 2020

5:00 PM

Regular

Commission Chambers

A. CALL TO ORDER 5:00 PM

Rollcall

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

B. MOMENT OF SILENCE

Chair Lober called for a moment of silence.

C. PLEDGE OF ALLEGIANCE: John Tobia, Commissioner District 3

Commissioner Tobia led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL: December 5, 2019 Regular

The Board approved the December 5, 2019 Regular meeting minutes.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

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

E.1. Resolution Honoring the Late Commissioner Dobson, District 3

Commissioner Tobia stated since he is sticking to that 12 Resolution rule, he thinks this is clearly a pretty important resolution; though he never had the privilege of meeting with him, he was certainly one of the individuals that came before the current Board and provided him a great place to grow up here in Brevard County; and this is a resolution honoring the late Roger Dobson, former Brevard County Commissioner.

Commissioner Tobia read aloud, and the Board adopted Resolution No. 20-007, honoring the late Commissioner Dobson.

Result: ADOPTED

Mover: John Tobia

Secunder: Bryan Lober

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

E.2. Resolution in support of the 2020 Census, District 2

Jim Liesenfelt, Assistant County Manager, stated the response has helped shape the future impacting Federal funds; the County has a number of programs that are based on population size, including Federal funding for schools, healthcare, roads, and bridges; for the citizens of Brevard County, responding to the census is safe, secure, and easier, because it can be done online, by mail, or by phone; all responses are protected by law, and are used for statistics and cannot be shared with other agencies; he added to remember the census will never ask for social security numbers, bank or credit card numbers for money or donations, and will not be affiliated with any political parties; and citizens can find more information on the census at 2020census.gov. He added staff has been working on a Facebook Live event with Space Coast Daily, they are working with interviews with *Florida TODAY*, a cover story and quarterly report for the County, the Resolution that was just passed, daily social media posts, public service announcements (PSA), staff will be on radio talk shows, and that is just some of the effort staff

and County agencies are working with to help encourage citizens to participate in the census. Chair Lober expressed his thanks.

Kim Prosser, Emergency Management Director, stated she would like to add that it is not just the County, but they are partnering with municipalities, businesses, and a variety of nonprofits to get the information out there and encourage people to participate; it is very important that they get the correct information; and that is why there is a correct count committee in that they are all working together.

Ian Golden, Housing and Human Services Director, read aloud and the Board adopted Resolution No. 20-008, in support of the 2020 Census.

Result: ADOPTED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

E.3. Resolution recognizing Officer Dan Rhoades and K9 Bear, District 2

Dan Rhoades expressed his thanks to the Board; the competition that they competed in was out in California; it was a positive experience for them, it helped them grow in competition, and to grow as a team to better serve the citizens of the City.

Commissioner Isnardi read aloud, and the Board adopted Resolution No. 20-009, recognizing Officer Dan Rhoades and K9 Bear on a job well done, and wishes them both success in any future competitions.

Result: ADOPTED

Mover: Kristine Isnardi

Secunder: Bryan Lober

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

F.1. Interlocal Agreement between Brevard County and the St Johns River Water Management District (District) related to the Crane Creek/M-1 Canal Restoration Project (Districts 3 and 5)

The Board approved the ILA with SJRWMD relating to the Crane Creek/M-1 Canal Restoration Project; authorized execution of the ILA, upon receipt of the signed ILA from the SJRWMD; and authorized execution of the Easement Agreement, pending receipt of the new legal description necessary for the access portion of the easement.

Result: APPROVED

Mover: Kristine Isnardi

Secunder: Bryan Lober

F.2. Acceptance, Re: Binding Development Plan with Thomas L. and Barbara S. Tofte (18PZ00098) (District 1)

The Board executed Binding Development Plan with Thomas L. and Barbara S. Tofte

Result: APPROVED

Mover: Kristine Isnardi

Secunder: Bryan Lober

F.3. Acceptance, Re: Binding Development Plan with Laura Kimberley Miller (19PZ00099) (District 1)

The Board executed Binding Development Plan with Laura Kimberley Miller.

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

F.4. Approval Re: Drainage and Utility Easement, Drainage Easement, and Sidewalk Easement from Totco Realty, L.L.C. for the Panorama Self Storage required by Site Plan Number 18SP00028 - District 2.

The Board approved and accepted the Drainage and Utility Easement, Drainage Easement, and Sidewalk Easement from Totco Realty, LLC for the Panorama Self Storage requirement of Site Plan No. 18SP00028

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

F.5. Approval Re: Contract for Purchase of Easement Rights from Steven Brown for the W03 Force Main as Part of the West Cocoa Utilities Improvement Project - District 1.

The Board approved and executed the Contract for Sale and Purchase of Easement Rights from Steven Brown for the W03 Force Main as part of the West Cocoa Utilities Improvement Project.

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

F.6. Approval Re: Utility Easement from The Brevard Association for the Advancement of the Blind, Inc. for the purpose of septic to public sewer conversion- District 4.

The Board approved and accepted the Utility Easement from The Brevard Association for the Advancement of the Blind, inc. for the purpose of septic to public sewer conversion.

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

F.7. Approval Re: Sanitary Sewer Easement from Housing Authority of Brevard County, Florida for the W-03, W-04 Force Main as part of the West Cocoa Utilities Improvement Project - District 1

The Board approved and accepted the Sanitary Sewer Easement from the Housing Authority of Brevard County for the W-03, W-04 Force Main as part of the West Cocoa Utilities Improvement Project.

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

F.8. Approval Re: Donation of Warranty Deed and Utility Easement from The School Board of Brevard County, Florida Needed for the Lift Station N13 and Force Main Rehabilitation Project - District 1

The Board approved and accepted the donated Warranty Deed and Utility Easement from the School Board of Brevard County that is needed for the Lift Station N13 and Force Main Rehabilitation Project.

Result: APPROVED

Mover: Kristine Isnardi

Second: Bryan Lober

- F.10. Approval of Authorizing Resolution, Grant Application, Certifications and Assurances, Execution of Follow-Up Grant Agreement for FY2020 Space Coast Area Transit Section 5310 Formula Grant with the Florida Department of Transportation.

The Board executed and adopted Resolution No. 20-010, authorizing the signing and submission of a grant application and supporting documents and assurances to the FDOT, the acceptance of a grant award from the FDOT, and the purchase of vehicles and/or equipment and/or expenditure of grant funds pursuant to a grant award; authorized the Chair to execute the Grant Application for Federal Assistance SF424 and the FDOT Certification and Assurances; approved the use of FDOT Toll Revenue Credits for a portion of the required local match; authorized Scott Nelson, Transit Services Director, to sign the Grant Application Submittal Letter, Transportation Plan Certification, Proposed Budget, Standard Lobbying Certification, Leasing Certification, and the Certification of Equivalent Service; authorized the Chair to execute the Grant Agreement upon County Attorney and Risk Management approvals; authorized Mr. Nelson to execute any additional follow-up documentation, resolutions, and amendments necessary to secure the funds; and authorized the County Manager to execute the necessary budget change requests.

Result: ADOPTED

Mover: Kristine Isnardi

Second: Bryan Lober

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

- F.11. **Approval of Budget Change Requests**

The board approved Budget Change Requests, as submitted.

Result: APPROVED

Mover: Kristine Isnardi

Second: Bryan Lober

- F.12. **Authorize the Chair to Execute Agreement with the Firm of Bell & Roper, P.A. (Dale A. Scott, Esquire) for Legal Services**

The Board executed and approved the Retainer Agreement with the firm of Bell & Roper, P.A. (Dale A. Scott, Esquire) for legal services to be provided on behalf of Brevard County with regard to a Bert Harris Claim in Waters Mark Development Enterprises, LC vs. Brevard County, Case No. 05-2014-CA-41947-XXXX-XX.

Result: APPROVED

Mover: Kristine Isnardi

Second: Bryan Lober

- F.13. **Williamson D. v. Brevard County**

Lober played a video stating the following, "This Item was not pulled to allow for further reflection or heaven forbid prayer, but rather to address the fundamental Judah Christian value of honesty. Nearly all of us know that one of the Ten Commandments is Thou shalt not bear

false witness against thy neighbor, simply put that means don't lie. On January 31st, Isadora Rangel penned a bogus article labeled, 'The political farce behind Brevard Commission's vote to uphold the Constitution', which appeared in Florida Today. In this attack piece, Rangel does not merely mislead readers, but she objectively lies in order to convince readers that the targets of her demonstrably false accusations are wicked, corrupt people who trample on Constitutional Rights. In Rangel's own words, and I quote, 'A federal Judge in 2017, ruled the County violated, guess what, the Constitution by banning atheists and secular humanist from giving invocations during the prayer section of Commission meetings. It was only after losing a lawsuit (which all Commissioners voted to appeal at one point) that the Commission decided to drop religious invocations opting for a moment of silence instead of allowing other groups to participate.' Despite Rangel's latest untrue claim, at no point did I ever so much as suggest I was considering appealing the prayer decision, I certainly never voted to appeal it. This time I didn't ask Rangel or *Florida* TODAY to print a retraction because I know that any such retraction would simply have been used as an excuse to yet again punish the subject of their abusive and false reporting with even more vindictive, context-less, and or false attacks. The reason I bring this up now is that constituents need to be careful of who they view as honest news brokers. Florida Today has a lengthy history not only attacking local republican elected officials, but also perhaps more dangerously, the history of artificially boosting the credibility of objectively bad people by labeling them with arbitrary and empty titles such as philanthropists and community leaders which wrongly suggests undeserved credibility. *Florida* TODAY has recently taken to running opinion pieces by convicted criminals, giving them a platform to espouse their hate without any reference whatsoever to their criminal history. As recently as January 26th, this included a fellow who masturbated in front of a female guard while serving a prison term for robbery. A convicted criminal, who BCSO indicated, impersonated one elected official to attack another is frequently sighted by *Florida* TODAY as though he should be considered authoritative despite the sociopath having a criminal history spanning multiple states. These are the kinds of individuals *Florida* TODAY chooses to legitimize and promote. Rangel is apparently not lawfully entitled to vote in State or Federal elections, yet she feels qualified to comment on them. I know Rangel will not simply do the right thing and apologize. I fully anticipate that Rangel and her employer will further erode an undeserved position of trust and whatever may be left of their fictional journalistic integrity by going on the offensive and attacking me for pointing out their dishonesty and partisanship. It may take them a couple of weeks or a couple of months but I'm sure their retaliation is coming. Sheriff Wayne Ivey said, and I quote, 'We no longer include *Florida* TODAY in any of our news releases or important press conferences because we do not consider them to be a legitimate news agency.' In the past year alone, multiple County Commissioners and a State rep or two have made substantially similar statements. In the midst of a series of context-less and one-sided hit pieces against me, I was contacted, rather out of the blue, and offered advertising and sponsored articles in *Florida* TODAY which in their words, and I quote, 'could help me tell my side of the story or change the topic of conversation altogether in the community'. Why should I have to pay for ads or sponsored articles to tell my side of the story? The immediate past Mayor of Cocoa, Henry Parrish, stated in pertinent part, and I quote, '*Florida* TODAY offered City of Cocoa staff more favorable news coverage in exchange for advertising dollars. Nothing was intimidated, the offer was explicit and unambiguous. At that time, *Florida* TODAY was still savvy enough not to memorialize, in writing, their blatant misconduct and utter lack of journalistic integrity. Pay to Play extortion has a decades-long history of being a pattern and practice at *Florida* TODAY.' Any news outlet which attempts to extort advertising revenue in exchange for more favorable news coverage does not reflect the values of this community. Don't make the mistake of believing these interactions were anomalies or that they don't reflect the on-going business practices of *Florida* TODAY. *Florida* TODAY's self-styled, managing, and watchdog editor admitted on video to Sheriff Wayne Ivey that they run one story if the subject participates and another if the subject does not. The *Florida* TODAY managing editor's exact words were, and I

quote, 'The Department of Homeland Security said to me, gosh it was really interesting, people who spoke to you got a real fair shake and the guys who didn't got nailed, and I said I don't know, duh'. Don't take my word for it watch and listen (the video played this statement naming Bobby Block as the person making this comment). Sheriff Ivey doesn't participate with *Florida TODAY* and they attack him, why? Duh. I don't participate with *Florida TODAY* and they attack me, why? Duh. Commissioner Isnardi doesn't participate with *Florida TODAY* and they attack her, why? Duh. I could go on but you get the point. No matter what they say, I won't be bullied by *Florida TODAY* into participating with them or paying their extortion fee to tell my side of the story. I encourage you to share this video with *Florida Today's* advertisers so that they cannot claim they didn't know what a morally bankrupt entity they're funding. If they continue to advertise with fake news, I encourage you to factor that into where you decide to spend your hard-earned money. If you subscribe to the paper, consider cancelling your subscription in favor of a news source, which has some measure of credibility and journalistic integrity. Should for any reason you still be inclined to read *Florida Today* consider it no more truthful than a grocery store check-out line tabloid and don't expect what they publish to be compatible with the truth.

Commissioner Isnardi expressed her thanks for the video; she had heard about the video, and it was interesting to hear it come from the horse's mouth from a reporter admitting that if they do not cooperate, they do not get favorable coverage; that is kind of scary, but she has been victim to it as well; and just when she thought she could start talking to *Florida TODAY* again, she got a text asking a very personal question about her family that has zero to do with her County business, her role as a County Commissioner, and absolutely nothing to do with her position on any policy item at all. She added she thinks that was the final straw for her; she would share that text, but it is personal, and unrelated, so she will not be talking to them anymore either because she thinks they have shown their true colors.

Chair Lober stated it is like an arsonist trying to sell water; and be that as it may, in the interest of the folks that are waiting to have their items covered, he would like to move on with this.

Peter Fuscas expressed his thanks for the opportunity to speak; he stated \$430,000 is a lot of money; he inquired if these fees are a back door way to get the County to stop litigating a Constitutional issue already decided by the Supreme Court in 2014; he further inquired if a "Go Fund Me" account could be set up, as there are probably a lot more religious people in Brevard County than non-religious people; and to litigate this to the Supreme Court, because he thinks the County has a very good case in winning, if they will take it up. He noted the Supreme Court decided in the *Town of Greece v. Galloway*, and re-affirmed their decision that local governments all throughout the United States can do secular prayer; the litigation that he understands, that came before them by the appeals court, was based upon how one selects who was going to do this; who is going to give the prayer, but in the three cases in the Supreme Court, that have already been adjudicated, there were three different situations; he added in one, a School Board invited students to come and do the prayer, in North Carolina this was each city councilman conducted the prayer, and in the town of Greece, it was very similar; and they got people to conduct the prayer. He went on to say he does not want to spend \$430,000; he asked the Board to think about it and table it until it is discussed, but he thinks it is a winnable case; he urged the Board to consider what he said and answer some questions; he added he does not know what the \$430,000 is all about; and he inquired if it was vetted, if there was a time charge on these, and how much the Board has spent in court fees versus the settlement.

Chair Lober stated unfortunately, he has run out of time; he does have some thoughts, but he would like Commissioner Pritchett to speak first.

Commissioner Pritchett inquired if Eden Bentley, County Attorney, could give some explanation that is within the insurance company and those types of things, because the newspaper is here, and she thought it might be good for people to have some of this information.

Eden Bentley, County Attorney, responded what is before the Board, the monetary portion of this is being covered by insurance; they provide coverage for this type of case; and this insurance company has agreed to pay the \$430,000 at issue here, so that is not coming out of the County coffers.

Mr. Fuscas mentioned except for in the future.

Attorney Bentley stated this case will be over with the approval of this settlement.

Mr. Fuscas stated the fees from the insurance costs may go up, they generally do.

Chair Lober stated it is possible; in terms of his perspective on this, he is pretty much live and let live with respect to people's beliefs; he does not think his wife or himself are necessarily in the most popular religion, certainly in the United States or Brevard County, but that said, whether it is a minister, a priest, a rabbi, or a pastor, he is fine with any of that; the case law in this area is so illogical in a sense, it is really not something the average person would expect; and if there was a particular rabbi or a particular pastor, or a particular priest, even if they are hyper-religious as to their particular religious affiliation, as long as it is not rotated, the courts say that is okay, which is odd. He added if it rotated the requirements to include folks who do not necessarily believe in God, and he respects them if they choose to not believe, but it puts the Board in a position where he tries to separate his personal feelings from what is in the financial best interest, does he think the Board should be allowed to have prayer, absolutely, and whether it is protestant or catholic or otherwise, he does not have a huge issue with that, but to say that the Board has to allow folks to participate, where their participation would be almost aesthetical to the concept of prayer is kind of hard to reconcile; and his thought and decision with this is really one of a financial decision in the sense of what is going to save taxpayers' dollars. He advised he does not want anyone spending \$430,000 on this, but if the insurer covers \$430,000, and they may not cover the increased cost if the Board were to go ahead and appeal it, that may translate not just to increase insurance premiums or the possibility of that, but that may translate to real property tax in Brevard County and it is something where he is torn on this one; and he does not know if anyone feels wonderful voting one way or the other on this.

Commissioner Pritchett stated something else for the Board to consider, it did win part of the appeal, which did protect some of the freedom of speech that the Board holds dear, or to anyone that speaks, and that is a wonderful thing; and moving forward, Ms. Bentley will come back with some ideas, but the Board did not necessarily lose. She went on to say there were some things that were brought forward that were won, but this is the best way for the constituents right now with this decision that has been made.

Commissioner Smith stated in reference to what Mr. Fuscas suggested before, just to give people some background, and he inquired when this suit was filed.

Attorney Bentley stated they filed against the Board in 2015, it started in 2014, before the current Board was elected.

Commissioner Smith stated at the time, this group that sued the Board, also sued 20 other

communities, cities, and counties in Central Florida, and Brevard County was the only one to fight back; Mr. Fusscas can draw his own conclusions as to how that works, but he has done some research and it amazes him that there is the Supreme Court, United States Congress, both the Senate and the House, they all start their day with a prayer, and what they do, he assumes, because they continue to do it, so it must be okay according to the jurisprudence that judges these things, they hire a Chaplain, and it is up to the Chaplain who chooses the person that can say the prayer or invite other organizations, religions, priests, rabbis, whatever, ministers, to administer that prayer; he finds it interesting how they can weave this little diagram of what works and what does not work; he hopes the Board can look at this a little bit further; and he added he likes the idea of a "Go Fund Me", because there are an awful lot of religious people in this County that would love to stand up for God.

Mr. Fusscas stated he agrees.

Chair Lober stated that is all for Public Comment, and inquired if the Board would like to make a motion one way or another.

The Board executed and approved the Settlement Agreement for Williamson D. v. Brevard County.

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

F.14. Appointment(s) / Reappointment(s)

The Board appointed **Peter Fusscas**, and **Robert Salonen** to the Transportation Planning Organization Citizens Advisory Committee; **Patrick Ripton** to the Contractors' Licensing Board; and **Albert Voss** to the Titusville-Cocoa Airport Authority.

Kristine Isnardi read aloud, and the Board approved.

Result: APPROVED

Mover: Kristine Isnardi

Seconder: Bryan Lober

G. PUBLIC COMMENTS

Charles Tovey stated the Country was started for taxes and freedom of religion; left the king, fought wars for people's rights and freedom; the Board is letting it go for \$430,000, but whatever; there is no temptation taking him, but that which is common to man; and his God is faithful and just and will not let him be tempted more than he can bear and shall always provide a way in which he can stand from underneath his temptation. He went on to say there is a solution to this, and he does not think they have to, as well as from his situation, he does not think he has to drag his witnesses in and get into it, but if that is what they want, that is what they want; it is better to get it over with now and said and done, than to deal with it in the future; and there are people like that, that is all they have to do, that is what their life consists of, there are a few people, that is what they do, they ruin it for everyone else. He state he apologized, he is not prepared; he has been helping a vet, and he wished everyone would adopt a vet and help them; he is not fully helping, he does some things that can better his life and serving; and there is no amount that can pay for Constitutional Rights, and \$400,000 is peanuts compared to the people that gave their lives for this Country to be able to do that. He noted he was reading in the rules here, but he thought it was up to the Chair to decide things; if he was the Chair, which that is the idea, the "use as you choose" in the moment of silence, everyone has the right to worship their own person; but he would let these people go up and go ahead and pray to their thing, whatever they believe in, whether it is water, trees, or money, that is fine; and back to

what he was saying, people's rights are being whittled away, either he is a crazy liar or he is a sane, honest victim. He reiterated that he did not come fully prepared; the Lagoon is looking great, and he is moving right along; he cannot just do things as other people think that it is possible, but the Lagoon is alive; if one does not see it, there are certain things that have to be done at certain times, and until that time it is not just like the litigation about the Freedom of Religion; and one of these days and this is what he is preparing for, he has things about the rights; and he did not have the chance to read the newspaper fully today to comment, but the garbage increase and some other things. He wished the Board a Happy Valentine's Day, he comes in peace, he expressed his thanks to the Board, and he does not know why people started bothering him, but that is the reason he comes to the meetings and has dreams of close encounters, he does not practice and prepare what he is going to say, the things he speaks about are sort of prophetic in a way. He noted if one goes to the Public Comments section to see the kinds of things he says, and he has record of them, and this is one of them, and he wished the Board a good day and Happy Valentine's Day.

Rev. J.B. Dennis stated he is here once again to make a class action complaint for the 600 residents in West Cocoa about the excessive noise from the training range that the County owns; this is an ingoing complaint, he has complained about 25 times, the same complaint with no results; and under the 14th Amendment of the Constitution, people have the right to enjoyment of their property. He added when he is sitting five feet from his television and the gun range is in session, he cannot even hear his television five feet away; he has been in here with the Homeowners Association (HOA), he has brought combat veterans like himself, he has heard enough gun fire in the Middle East to last him a lifetime; and it is a noise nuisance, a gun range in a residential area has no value to them, period. He concluded they need something done about it; they need it closed in, or moved to another location; this has been an ongoing complaint for years; and his community is not happy with the representation they have gotten from Commissioner Rita Pritchett.

Peter Carnesdale stated he represents only himself, and he is still basically looking for a turn lane; he is not looking for a light, he realizes the cost of a light, and he also realizes that a light would be a convenience as opposed to being a mandated safety feature; however, the turn lane is a safety feature, as it goes right now, they are talking about a straight stretch of road; and past the north gate of IRCC, and with that, there are people moving along at 45 to 50 miles per hour. He went on to say in order for some people to make the turn, people have to slow down, usually to about 10 miles per hour; that is because they cannot see around the bend to see if there is someone already there in the way, so they have to slow down in order to see, they cannot just swing around; and sooner or later, there will certainly be an accident where someone gets rear ended. He explained he would like to make that clear over and over again.

Chair Lober stated for purposes of the minutes, he inquired if Mr. Carnesdale was from Viera.

Mr. Carnesdale responded affirmatively.

Sandra Sullivan stated she is here tonight because a little more information has come to light; she was previously aware of the Amyotrophic Lateral Sclerosis (ALS) cases, historically on the canals, that seems to be correlated to some disposal by the base, given the American Psychological Association (APA) records, but they have become aware that the ALS issue in the community and the area of the disposal site has actually been going on for decades; she became aware of additional cases, and they seem to be focused around Southeast First Street; and she presented an article about the Agency for Toxic Substance Disease Registry (ATSDR) study that was supposed to be done in the 1990's to study that. She noted she has another article for the Board, this was about *Florida TODAY* revealing eight residents of South Patrick

Shores having ALS, then it goes on to say the area also has higher than average rates of breast cancer and cervical cancer; and when she was digging in her yard to dig up some of the stuff, which she probably should not have been doing, but that was the only thing she thought would give this the Formerly Used Defense Sites (FUDS) eligibility. She pointed out when she dug up the large lead encapsulated ice box, she developed lumps and tenderness in her breasts, which she had checked out, because she is at high risk of cancer in her right breast, which she still has that lump; and she thinks there is an exposure. She added they have tried to advocate to the ATSDR and the Department of Health (DOH) to study, and the DOH to look at some of the cancers here, including Dr. Julie Greenwalt, and they are not getting anywhere; she urged the Board to help them by reaching out to the DOH to look at breast cancer and cervical cancer, since it was identified that it was higher rates in the 1990's in newspaper articles, and also to get numbers on ALS in their community and probably the base, too because there are World War II dumps in both locations; and she noted they had the RAB meeting last week, there is one Board member from the County, and she recommended that a second member be added. She went on to say she does not know if the Board has read her email about the National Defense Act, but the County spent a lot of money on Perfluorooctanesulfonic Acid (PFOS) testing; with this new legislation that came out for 2020, that funding is there by the Federal Government; and it is up to the military to negotiate with municipalities to do that monitoring. She pointed out there are Inflow and Infiltration (I&I) issues, the infiltration with the PFOS being spread to all of the neighboring communities through reclaim water, the drainage to the Banana River on the edge, and the ground water; there is 100 parts per trillion in their community, and 130 down in Satellite Beach; and for the evaluation they can pay for that.

Chair Lober stated he will touch base with DOH to see if they have any more information on that; and they actually used to be in his building at the Merritt Island Service Complex, but they have moved out to consolidate with some more of their employees in Viera.

Janice Crisp stated she is running for City Council, and she would like to speak to the Board today about the process in which people are able to request public records; she understands there has been an increase in what one has to pay, but what she is here to talk about is the process and how people are identified; she inquired if these are real people requesting things, or if they are just internet requests; and what is happening on the internet that the Board may not be aware of. She noted there is a cyberstalking law in Florida that needs to be made aware of to protect people; in some of the public records, especially with what is going on right now with Palm Bay issues attacking City Council members and Commissioner Isnardi; and if one goes to the public records request area, it states "this area is intended for only the use of the agency to which it was disseminated and may contain information that is either privileged or confidential and exempt from disclosure under applicable law. Contents are not to be distributed outside your agency." She went on to say somebody has just sent in a request over the internet that has gotten information that was only meant for the Federal Bureau of Investigation (FBI) and Florida Department of Law Enforcement (FDLE) use; information on that was disseminated by someone, they do not know who, they think it was a fake person because there was no Driver's License nor any real information, and it was disseminated over the internet, which is a cyberstalking issue, because it was meant with intent to harm, harm family, harm the person, they gave out HIPPA information, and that is cyberstalking and doxing, which are very serious crimes right now, they are misdemeanors in Florida. She noted what she read to the Board is on the internet right now, being passed around, hurting people, families, and children; she added it came from the records that were obtained through public records requests where no actual identification was requested, just an email address and a check; and this is something she thinks the Board needs to consider, and do something about, because they have to know who the reporters are. She explained they have to know about the

fake news, and this is as fake as it gets; anyone with an email cannot just go out and say whatever they want about people with garbled tapes, these things can be manipulated; and this is something the Board needs to protect the citizens with.

Chair Lober stated he shares her concerns certainly to a larger degree; and inquired as opposed to having a motion or taking any real formal action on this, he asked if the County Attorney minded spending a few minutes on this and speaking to Ms. Crisp over the next week or so about some of the concerns with respect to anonymous requests under Florida State Statute Chapter 119.

Eden Bentley, County Attorney, responded affirmatively and asked that Ms. Crisp call her any time.

Karen Colby stated she was somewhere else and she did not dress for this, and she apologized; she would like to talk about the crosswalks on beachside in Indian Harbor Beach; she shares her zip code with Satellite Beach; and she has no voting rights over anything that goes on on that side of the fence, only on her side of the fence can she vote for anything. She noted the crosswalks have now, to her astonishment, been installed also in Indian Harbor Beach; and they are giving information to the schools on how to safely use them. She pointed out that if the City of Satellite Beach was not quoted on Facebook with her voice and her lips matching the exact words saying “we pushed FDOT to install these. We had to push them because of our speed limit...”. She advised she cannot quote it correctly because she was not prepared, but Courtney Barker, Satellite Beach City Manager, said that for 45 miles per hour these crosswalks are not legal anymore, so they are going to be 35 miles per hour instead; they are going to change the speed limit on the whole beachside just to fix something that they created that the residents are not in control of; she does not think it is fair to put crosswalks in, that just killed a child, where her children can be hurt, or her family driving as well being rear ended on that road, A1A, it is a highway, so that was a no-brainer to begin with, but the fact that they put it in public that they had to go to FDOT and push them to make that choice to get those death traps, that is a real concern of hers; the fact that she cannot do anything about it to get rid of them is the triple worse thing ever; and when she saw an email come from Satellite High School telling the kids how to safely navigate these roads, they did not talk about if they are driving. She went on to say most Satellite High students can drive, they can drive at 15 now, and she is just terrified that something is going to happen; Randy Fine is trying to help them, he was in session asking for the removal of these things and to make it mandatory that if the current mid-block cross walk has a yellow flashing light, it has to be corrected with a H.A.W.K. type light, which are the ones with the red lights that come to a complete stop and have an audible; and he is pushing for that. She explained in the meantime, she got information from the City of Satellite Beach that not only have they decided to push, push, push to still use the current cross walks because they can make them safe, but they are going to install and make them use them in Indian Harbor, too; she added their kids are afraid, they do not want to use them, they do not want them in Indialantic, they have one lane blocked off and it is not safe; and she is asking the Board if they can do anything to help them. She pointed out she really respects Commissioner Smith; Sophia Nelson died a horrible death in front of her grandparents on Christmas, and they put her in an organ donation thing, so Christmas morning they turned her off, and that is when she went on her angel walk; she is never going to forget it; and she urged the Board to get rid of these crosswalks, if the Board can help, they do not need them, they can cross the street themselves, and she is old enough to teach her kids how to walk.

I.1. Approval, Re: Interlocal Agreement with the Merritt Island Redevelopment Agency, Re: Bus Shelters, Bus Benches and Amenities, District 2

Chair Lober stated with respect to this, he is happy to have staff do an introduction, if folks do not have concerns the Board can do a very abbreviated introduction; and he asked that staff do an abbreviated introduction.

Scott Nelson, Transit Services Director, stated on the Agenda, they are asking for approval of an interlocal agreement with Merritt Island Redevelopment Agency (MIRA) that will cover bus shelters, bus benches and amenities; the cost is \$280,000; MIRA is contributing \$120,000 and the other \$160,000 comes from Federal Capital Grants; and there is no local transit money at any rate. He added these are fancier than the usual bus shelters that they are programming in for the County because they include benches, big belly trash cans, bike racks, and solar lighting; and that is basically an overview of the Item.

Chair Lober stated he appreciates MIRA focusing more on infrastructure than they have in the past; it is certainly something that benefits the greater community rather than just individual businesses, so he does appreciate that they took into account some concerns that he raised right after being elected to office; he would certainly be supportive of this, he did have some concerns over the individual expenses, but he spoke with Wendy Ellis, who put in a public comment card for questions only on this Item; and they did discuss the return on investment (ROI) on some of those expenses, and he is sold at this point. He pointed out if someone wants to make a motion he is happy to second it and see where it goes.

The Board approved and authorized the Chair to sign an Interlocal Agreement with the Merritt Island Redevelopment Agency (MIRA) for the purpose of providing, installing, and maintaining bus shelters, bus benches, and amenities in Merritt Island.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Curt Smith

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

I.2. Solid Waste Collection and Recycling Award Recommendation

Chair Lober asked staff to do an introduction on this Item, and asked that Mr. Rodriguez discuss the lack of alternatives, because that is something that was not necessarily known to some folks that reached out, as well as the fact that this is something that went out to bid; and he asked that Mr. Rodriguez discuss the bid amounts and where things went since the Board received those bids, he thinks that would do the public a world of good.

Euripides Rodriguez, Solid Waste Management Director, stated as the Board recalls, this process was started about one year ago; that was when they went out for a Request for Proposal (RFP); there were three responses out of the request; and pretty much all of them were satisfactory. He added there was one for the North Area alone, and two for both areas; an analysis was done, the lowest proposal was the one that was brought to the Board, and the Board approved negotiations with it; and looking at how it affects the residents, this was to start out with the lowest proposal. He explained at that point in time, the Board gave staff authorization to go into negotiations with the lowest proposal, which was Waste Management; it started at around \$16.16 per month; this is what is paid to Waste Management, this is not what the homeowners pay; at that point there was a committee started with John Denninghoff, Steve Darling, and himself for the negotiations; and there were three meetings of negotiations. He went on to say they asked Waste Management to consider what would be the effects of taking the Consumer Price Index (CPI) cap off of the total amount of the contract; that means it would not affect the yearly one, but it would affect the total, and the total was \$11.55 capped; he added it was three percent maximum, yearly CPI increases; and they thought by taking that cap

off it would affect the price. He pointed out the first counter-offer that came back was that same price, but it had a guaranteed annual increases; at that time, the negotiating committee did not accept that, and counter-offered, and they received a counter-offer from Waste Management, which was at \$15.67 per month; and this was a three percent maximum yearly, but a minimum of 2.5 percent minimum, so in other words, it would go up at least 2.5 percent, and not more than three percent.

Chair Lober inquired if that was the floor then; a floor of two and one half percent, and a ceiling of three percent, just to be clear for everyone.

Mr. Rodriguez stated the members did not find this acceptable; at that point they voted to do certain things, but Waste Management came out with a third proposal, this proposal was at \$15.47, three percent cap every year, the CPI would be the garbage and trash, and staff did a projection; it does not follow exactly what they use every year on a normal CPI, but it pretty much follows it; and it is a better indicator of the business itself. He added this is the proposal that was recommended to bring to the Board; to summarize, it is \$15.47 per month payment to Waste Management, it is capped at three percent there is no bottom to it, so if it is .001, that is the increase that they would be allowed to petition the Board; there is no cap for the contract itself, and staff did some yearly projections and that is the best one they received; and it retains the \$50,000 contribution to recycling education, which was the direction he received from the Board is being used to subsidize the price for the residences.

Chair Lober stated the difference between the lowest bid namely Waste Management's lowest initial bid, when the Board had the process open for bids to come in, what they ended up with and what is before the Board today; he inquired if that is about \$900,000 lower than the lowest bid.

Mr. Rodriguez responded affirmatively.

Chair Lober stated with respect to the \$50,000 that Mr. Rodriguez mentioned, he inquired if that were to be cut out, would that be something along the lines of seven cents a month, or seven cents a year to the average homeowner, and if that sounded about right.

Mr. Rodriguez replied yes, but in reality it would not have any effect, because they are not using it for recycling education, it would be deposited into the collection to subsidize the payment of the homeowner.

Chair Lober stated it would just be a wash.

Mr. Rodriguez responded affirmatively.

Commissioner Tobia stated he has a point of clarification; he thanked Mr. Rodriguez for all of the work his team went in on, because clearly, the matrixes were somewhat complicated; and he inquired if one of the aspects he looked at when getting bid was residential versus commercial.

Mr. Rodriguez replied yes, they discussed that commercial would remain the same at the original price.

Commissioner Tobia stated to be clear, because he mentioned that Waste Management was the lowest bid; and he inquired if they were the lowest bid for both residential and commercial.

Mr. Rodriguez responded no, they looked at it as a package, but to answer his question, if one takes them individually, there is a company called FCC, it is a Spanish company that recently started operating in Florida, and on the commercial side, and yes they were cheaper.

Commissioner Tobia expressed his thanks, as that is what he was asking.

Chair Lober stated he does not want to say anything that is incorrect in any way, but he inquired if that was the company that had a fraction of the number of trucks as to Waste Management, and there was some concern as to the staff level that they might not be able to fulfill the service obligations; and he inquired if that was the one or if he is mixing it up with something else potentially.

Mr. Rodriguez stated they had less trucks to service the residents; their price was higher; there was a concern that they did not quite understand what limited yard waste means in Brevard County, and the amount of yard waste that is actually produced here, which is pretty amazing; and that is a concern as the Board knows.

Chair Lober stated there is one Public Comment card that he received after the Board discussion started.

Sandra Sullivan stated she has a home in South Florida and here, and she just wanted to say that she sees the difference between garbage here and garbage there; it is the same company, but they do an absolutely phenomenal job here with pick-up; last weekend she was a little late getting her yard waste out, they came back Monday and picked it up, and her jaw dropped; and as a comparison and contrast, in South Florida, bulk trash is picked up once a month, here it is put out every week. She added it is amazing, and one gets what they pay for; as a family of five, she finds that the Tuesday pick-up is mostly empty; if the Board is looking at modifying the way it does things, she has a family of five and she is filling one can a week, she is not saying everyone is like that; and the Board could consider bi-weekly pick-up, or if there was ever a time it wanted to cut back, even having during the holidays having an increase on those occasions. She went on to say Waste Management is doing a fabulous job; and she expressed her thanks.

Chair Lober inquired if the Board were to have gone from two pick-ups a week to one for regular household waste, his understanding is the Board still would have had an increase in cost over the existing two-day per week pickup.

Mr. Rodriguez responded affirmatively, if he remembers correctly, it would have been around an 18 percent increase in cost.

Chair Lober stated there really is not that big of a delta between two per week and one per week.

Mr. Rodriguez replied no, a lot of the capital costs are there, it would shrink capital costs a little bit; the Board would have some issues in the exchange of carts, the people that have 32 gallon carts, he would not recommend keeping a 32 gallon cart with once per week pick-up; and he opined that one of the things they ran into when he lived in Palm Bay was that he wished he had a 96 gallon cart when they went to once per week, because there are occasions where it was filled up and overflowing. He went on to say he has the nice situation where he can take his garbage to work with him, but not everyone has that situation.

Chair Lober stated that is an interesting one; he wished the Board had a cheaper alternative

that would maintain something akin to the current service level, but he does not know that there really is anything; and he does not see any more lights for discussion, so if someone would like to make a motion, the Board can move forward.

Commissioner Tobia stated since this is such a large contract, and he is going to be voting no on it, it is unfair to vote a silent no on this one; he greatly appreciates the work that staff has done on this one, but as Mr. Rodriguez said, there are different quotes for commercial versus residential; and there was another qualified bidder, as he said, that came in with a lower quote on the commercial. He added this Board, by decision of four to one, decided to handcuff staff when it came to negotiating that as a package; he is not saying that the Board would have been able to keep it at the current price, clearly it would have gone up; but he thinks any time that the Board ties the hands behind the negotiating team, it is doing a disservice to taxpayers. He went on to say that is why he voted against that going into this process; and that is why he will be voting no, once again, on the contract as it is.

Commissioner Pritchett stated she wanted to go with one time per week, but she heard so much from the community over it, and it was just a little bit of a difference in the cost; and she wanted to throw that out, because it could still be an idea for the future, it would save the roads, and be a little bit of a cost change. She explained in Titusville, they have once per week with a 64 gallon cart, and she agrees with Ms. Sullivan, they never fill it up, and she is not very excited about once per month, though. She went on to say that may not be such a bad idea; as far as the separate commercial and residential, she thinks they came back, and because they were able to do that because they were not so high on the other; she believes when the Board did an overall analysis on the cost of the service the County is getting, no one could touch Waste Management's rates; she got pretty comfortable with that; and with what other municipalities are doing, garbage has to be picked up, and it is a lot easier than packing it in one's own vehicle and taking it to the dump; and she expressed her thanks to Waste Management, they are always very good when anyone calls, they are quick to respond to the constituents, and she thinks they do a good job as well.

Commissioner Smith stated he would like to piggy back on what Commissioner Pritchett had said; they do outstanding work, he gets comments, questions, and calls from constituents all the time about one thing or another; his staff makes a phone call, and Waste Management takes care of it, normally the same day; and he does not think there is anything lacking from that. He added he does not really see any alternative; the Board did not want to handcuff staff with the negotiations, but the fact is, there are just not a lot of people standing in line that want to pick up trash in Brevard County, and do it in a competitive way; and the only other option that he sees, and he does not know if it is an option at all, would be for the County to buy the trucks and do its own garbage pick-up. He added he does not know if that would be worthwhile, or if the Board would be interested in following through on that to see if the numbers would be beneficial to the Board; he cannot imagine that it would compete with what Waste Management is doing, but that is the only alternative that he sees.

Chair Lober stated maybe down the road; he thinks that is an excellent idea to research so the Board has options when this contract presumably gets approved and ends up running out; he thinks that is something to look into; and he can say Rockledge, and Titusville do their own garbage, so the County would not be the only one in town, but he thinks the problem is the timing element and the amount that would have to be done in order to put the Board in a position for that to take place.

Commissioner Isnardi stated she thinks the Board talked a little about this last time, about commercial pick-up being a lot higher; she did not have a problem going back to the table with

Waste Management, what she has a concern with though is still the amount of the increase for the percentage is what she is uncomfortable with; she spoke with Mr. Rodriguez, or Mr. Abbate, and they talked about the possibility of re-bidding, and the risk that was involved with that. She went on to say that would be a risk to the Board that all future bids could come in even higher; she does not know what the correct solution is; she knows she cannot look her residents in the eye and justify a 39 percent increase, she just cannot do it; and she cannot support that, she will not support that. She added she thinks Waste Management is a fantastic company, they do a great job, and they are responsive to the Board; but even once per week service, they did that in Palm Bay, and more people were unhappy with going that route versus the two days per week; even though it was going to save money, there was a survey done, and the council at the time did not want to put it on the ballot for whether or not residents would be happy with once per week collection; and she knows that is a dangerous path to go down. She pointed out most people probably agree with it, according to the survey of how many people wanted once per week collection; it saved \$2 or \$3 a month, so it is not significant enough for people to give that second day up; and she does not know what the solution is, but she does know she does not feel comfortable with it now.

Commissioner Pritchett stated she gets it, she does not like having to raise the cost, but the company up above them came in so much higher; there has to be trash pick-up, or the Board will be in a lot of trouble; but looking at the cost per household compared to other areas, they were losing money before, and they are not going to keep doing that and not making money on it, unless the Board makes it a governmental entity, that would be a for-profit organization, and that is where the Board would have the competitive market coming into where it is trying to get correct bids; the Board is in the process, it received three bids come in that was higher than what the last one was, but they are still the lowest of all the competitors that came in with a bid; right now, Waste Management is the best choice for Brevard County and she can do that with a clear conscience because it is still less than if the Board would have picked one of the other companies; and people are still getting their garbage picked up excellently, so she is good.

Chair Lober stated as far as splitting residential and commercial, which he thinks Commissioner Tobia may have alluded to, at least a little bit, when Waste Management bid, and he has had this discussion with staff already, they bid as a package; there was no reason to think they would keep their residential rates artificially low if the Board were to split the two; he would imagine that those rates would increase were the Board to re-bid if the Board split it apart; and the Board can move things around, but if the end number is just as high, if not higher, he does not know what the Board would accomplish. He pointed out he is torn on this one as well; he thinks there is one thing that would get him to support this, if Commissioner Smith were to modify his motion, and if Commissioner Pritchett's second stands, if not, he will second it, to direct staff to research the possibility or option with respect to bringing this in-house at the termination of this contract, he would support it, but otherwise he will not support it.

Commissioner Smith stated to consider his motion to include the fact that the Board would request staff to research the idea of the County having an in-house waste management of its own, so that it owns the trucks and employees.

Chair Lober stated but in such time that the Board would hopefully be able to accomplish that before this contract runs out.

Commissioner Smith stated this contract is for seven years.

Chair Lober concurred.

Commissioner Smith asked if the Board would like to shorten the contract with Waste Management.

Chair Lober stated he does not know that the Board really can shorten that; and inquired if Frank Abbate, County Manager, could answer that.

Frank Abbate, County Manager, responded he does not believe the Board can; and he advised he can ask Waste Management, but he does not believe they would because this is all based on their capital investment over time, and that seven year period he believes was critical for them.

Commissioner Smith stated as a business man, he can understand that; Waste Management analyzed the numbers, they made the decision, and these were the numbers they could live with, and he is good with that; and he agreed to revise his motion.

Commissioner Isnardi stated she believes his intentions are pure to bring it in-house, because he is trying to save money; on the flip side, she does not feel like creating another bureaucracy, another government department that the Board has to manage with more employees that could end up costing the County more; and again, an analysis is one thing, but actually doing it could be quite another. She advised that is a double non-support at this point for her.

Chair Lober inquired if the Board were to try to poach George or Deana or anyone over at Waste Management, or maybe someone with one of the municipalities around here to help create something like that, if there was any lawful reason the Board cannot start poaching their employees.

Eden Bentley, County Attorney, stated she thinks she will decline to answer that one.

Chair Lober stated he would talk with her after the meeting is concluded; he noted there is a motion from Commissioner Smith, seconded by Commissioner Pritchett, and asked the Board if it was clear on what was being voted on.

Mr. Rodriguez asked for a point of clarification, does the Board want the study done in-house, or by a consultant.

Chair Lober replied he thinks in-house would work for now.

Commissioner Smith agreed; and recommended it is not like the Board does not have time, it has seven years.

Commissioner Pritchett stated she thinks the first thing would be to get with the municipalities that have their own trash pick-up, to find out their cost, and a quick analysis can be done then to see if it is even feasible for staff to move forward with it.

Mr. Rodriguez stated what staff can do is come up with a study, and when the next contract comes up, the study can be updated; it is a lot easier to update it than it is to start from scratch.

Commissioner Pritchett stated then the Board can find out the cost per customer that way, so it can have an idea.

The Board reviewed the results of negotiations based on direction provided by the Board to staff to enter into negotiations with Waste Management (highest ranked proposer) to provide Solid Waste Collection and Recycling Services to Brevard County; accepted the

recommendation of the Negotiation Committee to accept the revised proposal from Waste Management as a result of the negotiations, at \$15.47 cost of collection per single-family unit; authorized the Chair to execute all resulting contract documents, including renewals and extensions upon review by the County Attorney's Office and Risk Management; authorized the County Manager to execute any related budget change requests; and further directed staff to research the possibility and the Board's options to bring garbage and recycling collection in house at the termination of this contract.

Result: APPROVED

Mover: Curt Smith

Secunder: Rita Pritchett

Ayes: Pritchett, Lober, Smith, and Isnardi

Nay: Tobia

J.1. Discussion Re: Interlocal Agreement with the City of Palm Bay for the St. Johns Heritage Parkway Intersection and Babcock Street - Districts 3 and 5

John Denninghoff, Assistant County Manager, stated this Agenda Item has been a long time coming; there has been a great deal of discussion with the City of Palm Bay staff; it has been before the City of Palm Bay City Council on at least three occasions that he is aware of, the most recent being this past Thursday evening; the purpose of the interlocal agreement is to try to establish future funding for the eventual need to widen Babcock street from two lanes, which it currently is, to four lanes; there has been multiple traffic studies done, including by the developers in the area that indicate that the widening is going to be needed in the relatively near future with respect to when the developments come on line; and as a part of this there is an interchange that was constructed by the Florida Department of Transportation (FDOT) and a connecting road from I-95 towards Babcock Street and that has been constructed by the City of Palm Bay up to the Babcock Street right-of-way. He added County staff has previously denied a permit from Palm Bay to make the actual physical connection as a result of the City's refusal to comply with permit conditions that staff had spelled out and that was a result of the previous denial on the part of the City Council to accept the previously proposed interlocal agreement; and after the Board denied the permit, the City came back and reopened the interlocal agreement negotiations again to see if they could come to an acceptable position with the Board. He pointed out County staff had been consistent with what the Board wants in this agreement for many years, quite frankly, and they had discussed thoroughly, for a great deal of time, and the basic concepts have been agreed to at least at a staff level; he had also met with at least three different City Council members at different points in time to discuss the project and the potential interlocal agreement; and things had moved forward in that manner. He explained one of the things he wanted, he asked Don Walker to put up the map so the Board can see it on the screen, one of the things that he wanted to show this is where I-95 is, to try to get the Board oriented; he showed the Board where Babcock street is; he explained this is the connection road where the interchange is and comes over to Babcock; it almost makes the connection; and what the Board can see here is, in the green coming all around over here and the green down here, is all currently property that has been annexed into the City of Palm Bay. He continued on that previously the property over here was also annexed into the City of Palm Bay, but has recently been de-annexed, for reasons which he does not know and has not indulged his efforts of curiosity to find out; he pointed out that the City and the developers, by their own studies and FDOT studies, indicate that the overwhelming, vastly, wildly-overwhelming majority of the traffic that is projected to be on Babcock Street, which is a County road, is coming, and will be coming from these developments; therefore the City is in

effect generating the developers within the City or in effect generating the traffic that is going to trigger the need to widen Babcock Street; and in order to comply with concurrency, the Board needs to be thinking about how it will eventually be able to widen the road. He went on to say the County has been thinking about that for some time and has coordinated with FDOT to get them to do a PD&E study, which is currently underway, it has not been approved yet but is currently underway; in order to get that done, the Board had to fund the design of the widening, that is a requirement in order to get the PD&E even underway; and the County provided the matching funds for that and it is in the budget. He advised the City has not participated in that and in fact, staff expects at this point it is going to have to increase the amount as the PD&E study is indicating a higher price for the design than staff had planned on; with all of that, the location of the connection point on to Babcock was determined by the City and/or the developers in the area, the County did not choose that, the County did not propose that; staff did point out that a portion of the intersection improvements that would come in at that point would extend south of the City limit lines, at least in this particular area; so there has been some expression of dismay, from on the part of the Council, that they were going to have to pay for some of the intersection improvements that are outside of the city. He mentioned the Board did not pick the spot, the City did and it was pointed out to them that they would have improvements outside of the City limits; he knows this because he is the one who told them; in this particular situation, he has also heard dismay raised by many, at least two Council members Thursday evening, that the County took away the \$1.5 million that may have been able to go to this intersection improvement; and he pointed out in fact that \$1.5 million had never actually been allocated to that intersection, it had been allocated to Babcock Street for either widening or maintenance purposes. He continued by saying the Council, the night before the Board meeting, was to consider whether to take that \$1.5 million and spend it on some other part of Babcock; they determined that they would see what the County would do rather than indicate what they would agree to in the interlocal agreement; he also pointed out that they seemed to indicate that what the funds were used for was to reconstruct Babcock Street, which is badly needed; staff combined that \$1.5 million with other funds and were able to widen on Babcock Street coming up through this area, right up to Micco Road; so one of the things that they were frustrated by was that apparently they thought all of that \$1.5 million was spent outside the City limits; and that is simply not true. He went on to say the Board can see this green area here and they have a mile and half of frontage here, is on Babcock Street which was reconstructed during the month of January, so he just wanted to sort of set that record straight; he wanted to point out that one of the things that happened back in the mid-2000s, the City embarked on annexing all of this property down here, south of the old traditional General Development Corporation plat boundaries, which is along here; they annexed all those, thousands of acres actually, and at the time several of those developments were easily triggering the threshold for developments of regional impact (DRIs); and DRIs have requirements to plan reasonably and correctly, particularly with respect to transportation. He further explained the City had the responsibility to find them to be a DRI; they did not do that; that gave up an awful lot of opportunity they would have had to have tried to regulate the development future of this and be able to deal with the widening of the road; so staff's proposal, this was the second proposal actually, was for them to contribute 50 percent of their impact fees that would be collected from these developments towards the widening of Babcock Street; the County would also contribute 50 percent of their impact fees collected in the unincorporated portion of the County located south of he thinks it was Valkaria Road, he had forgotten the limit on that, maybe it is Grant Road, and the City, Malabar and Grant-Valkaria still have their impact fees and those will be un-impacted, although the County would approach them if they would contribute because they would also benefit; but again, the overwhelming majority of the traffic that is coming to the road is coming from the City of Palm Bay. He went on to say staff had

originally proposed, and the JPA that we currently have in place with the City, contemplates that the Board would give segments of Babcock Street to Palm Bay as they either tripped the thresholds of capacity or the maximum allowable volume of traffic MAV, or the road was widened; with either one of those occurring they would take the road; and they did not like that one, and so staff went to this sort of secondary one which sort of kept them in a partnership arrangement for an undetermined period of time. He noted the PD&E currently has an estimate of a very large amount of money to be able to widen Babcock from Micco Road to Malabar Road and construction goes over \$150 million, estimated, and that does not include the design, the signalization, it does not include the right-of-way, the retention ponds, and the compensatory storage that is required; that number is probably going to go well north of \$200 million and probably close to \$250 million; so this is a very serious issue; that is pretty much what he wanted to go over; there are other items that are included in the Agenda Report that staff added in yesterday trying to address some of the concerns that were raised by the City Council; and he thinks have provided most of that information for the Board.

Chair Lober stated seeing as how there are no lights and this impacts Districts 3 the most, he does not know if any of his colleagues on his left would care to chime in.

Commissioner Isnardi stated she thinks the Board is probably tired of hearing her talk about it; she thinks some important points that Mr. Denninghoff mentioned is that the County did not choose the place for that intersection, she thinks it is probably one of the most important; the fact that that money was not dedicated to that intersection, it just could be used for it and that may have been discussed in the past; and it was discussed before she even got on the Commission, but that the Board did utilize that money in a very fair way that was desperately needed, that benefits people not just in Brevard County but the people of Palm Bay. She noted just because the whole thing is not within the City limits, does not mean the City of Palm Bay residents are not benefitting from it; she thinks the idea was to keep it in the District, at least that was her intention; and it actually benefits both District 3 and 5. She continued on there are a lot of things she could say, she is trying not to get too far into the weeds, but again the City of Palm Bay keeps approving these developments that are going to cause the amount of traffic that is going to hit Babcock; she thinks the County is trying to make sure that all parties are responsible to make sure that the road can handle the capacity; so she thinks the Board is moving in the right direction; and it certainly is not because the Board was holding anybody up for any other reason but, just to make sure that it is being responsible when it comes to the County's future. She mentioned she appreciates all the work that Mr. Denninghoff has done to try to reason with them; she is very careful with what she is going to say because unfortunately it becomes a politician's talking point and she is so thankful to him that he is able to put out not just that historical information but that it is coming from staff and not from the Commissioners, because she thinks it is more impactful that way because not only does he have the history but he actually has the engineering and the public works background. She added he has dealt with the unnamed developer that is sort of responsible for not just the amount of traffic that is going to go, but the reason why that intersection is there; again, she just wants to thank Mr. Denninghoff for working so hard to try to get this done; and that is all she will say about it for now.

Mr. Denninghoff stated there is one thing that he did not mention that he thought he should have, and he meant to; one of the reasons why the City has so much of the traffic generation potential there is this gray area that can be seen on the map, that is unincorporated Brevard County, it is also all Environmentally Endangered Lands (EEL), buffer, preserve, State-owned property and it is going to remain undeveloped so nothing is being developed in there, by the County; there is a large subdivision right here called Deer Run, already developed; and there are a couple of small parcels there that are unincorporated but their development intensities and Future Land Use (FLU) map are very minimal compared to what the City has done. He

added that is why when looking at potential traffic generation, it is so low for the County and so very high for the City, even though the land areas might not look like it, it adds up.

Commissioner Tobia expressed his thanks for Mr. Denninghoff's consistency on this; he listened to the Palm Bay City Council meeting, and while he expected that type of name calling for members of the Commission, many times the Commissioners deserve it, it is certainly not deserved for an individual of staff who has worked so diligently and has gone above and beyond on this; and he was hoping Mr. Denninghoff would keep the beard until this was solved, he figured it would be all the way to the ground at that point. He added Palm Bay put the Board in this position, this was their intent as he pointed out; they wanted to start it, so he just wants to throw this out there; he inquired if the Board can dedicate, if Palm Bay is concerned about permitting, if Palm Bay is concerned and they are blaming it on the Board, why does the Board not give the City the responsibility, to the citizens, the workers, so forth and so on; if they accept the dedication they can overlook the safety concerns that he has outlaid many times before. He went on to say they can take care of it, if they want to play to this developer, they can deal with it on that end; he thinks that the Board could even hopefully take a little bit of responsibility on the areas that need to be reconstructed on this one as well, as it moves forward; they would probably say that that it is the Board's issue; and he thinks that is promptly something that the Board could look at. He explained when he hears numbers, like the \$250 million, he just does not think that is fair to the taxpayers that he represents as the Board did not do this; he imagines that he, on many occasions, pointed this out to the folks years ago that this was a possibility; he imagined it has grown from where it was to \$250 million; but even if it was a small fraction of that, when the Board is looking at 11 or 12 digits, that it is eight or nine digits, that is still extremely, extremely daunting. He went on to say he would hope that Mr. Denninghoff would continue with his consistency on this, he certainly has his backing; he certainly cannot apologize for the City Council members of Palm Bay that used his name in vain but he thanked him for his service; and again, he would feel extremely comfortable, as he hopes the Board would, if it would like to dedicate the County's portion of this road, the interchange, and it would take the issue off the table for blaming the Board for permitting. He explained if that is something Mr. Denninghoff is willing to do, he does not think it may be in the best interest of Palm Bay, but he thinks Palm Bay does many things that are not in the best interest of Palm Bay; he is just throwing that out there, as the Board moves forward with this or if it does not move forward, that is the level right now; but this is just an alternate way to go; and he would certainly have his support with the dedication.

Commissioner Pritchett inquired if the Board could dedicate it to Palm Bay.

Commissioner Isnardi stated they would have to accept it.

Mr. Denninghoff replied they would have to consent to it, but yes, the Board can do that.

Commissioner Pritchett stated seeing that unincorporated property, then that would make sense that there is a lot of back and forth properties there; she inquired how the Board got here; she thinks she heard Commissioner Isnardi kind of give an overview a while ago; and she asked if it is because developers came in and they were not charging them the correct impact fees to help alleviate some of these.

Mr. Denninghoff replied at one point the City had not enacted impact fees, but he thinks the real reason that the annexations took place were twofold; one was that the City had a better utility service potential but also there was no doubt that County staff would have found them to be a DRI and would have required them to comply with the statutory requirements associated with being a DRI, which would have required an awful lot of expenditure on their part; he would point out that originally the County had an interchange that was to be located at Micco Road; the developer induced the DOT to agree to move the interchange up to a different location, which is inside the City; and the inducement was a signed statement on the part of the developer, which he happens to have a copy of; and it said that he was going to pay for the

interchange and pay for the connecting road to go over to Babcock and to go down to Micco Road.

Commissioner Isnardi asked if he could make copies of that for the Board so it has it.

Mr. Denninghoff responded affirmatively.

Commissioner Isnardi expressed her thanks.

Commissioner Pritchett asked if that was like what The Viera Company did.

Mr. Denninghoff responded affirmatively.

Commissioner Pritchett stated so that would have been appropriate, so he is supposed to be paying for this.

Mr. Denninghoff stated that is what the statement says.

Commissioner Pritchett stated okay.

Mr. Denninghoff added to his knowledge at this point, the developer has not paid for the construction of anything.

Commissioner Pritchett asked if the City should be handling that.

Mr. Denninghoff responded affirmatively; this was part of the subject of the audit that they recently underwent with the State and is still, he thinks, at some level of effort in that regard; the Board stayed out of it, the County stayed out of it on the perception that they were going to be building all these things; and as it turns out, that is not what really happened. He added he does not know how that happened or why that happened; he certainly does not want to figure it out; and he is sure it would be mind-numbing.

Commissioner Pritchett stated Commissioner Tobia's suggestion makes a lot of sense; she added they made all these decisions and Palm Bay should handle it in that direction then; the Board was not in on it so she thinks that is a good solution for them to do that because otherwise, they are going to have great financial issues in Palm Bay, if they do not already; but they are going to have to do something with that road; and she is on board with that.

Commissioner Isnardi stated she is interested to hear Mr. Denninghoff's thoughts on it because she thinks it is a great idea but she knows in her heart of hearts that they are not going to say yes, she means that is a reality; but to call their bluff, if they are saying that the Board is not doing it right when it actually tries to do it the right way then offer it to them, she does not have a problem with it, unless Mr. Denninghoff is going to advise in his expert opinion that it is a bad idea, she agrees to offer them that segment of the road; and if they want to have control of it then let them be responsible for it. She added they can open it tomorrow; but putting up four stop signs is about as ridiculous as the first drawing they gave the Board; and it is just not something it is willing to do.

Mr. Denninghoff concurred that they did propose four stop signs.

Commissioner Isnardi stated she was not kidding when she said that; but she is saying that it is ridiculous, that is where this has come and it is not from wasted effort; she asked how often and how many meetings has the Board and staff had to try to get this straight; it is not extortion, it is not anybody misleading, it is the Board trying to make sure the road can handle the capacity; and she noted it cannot handle the capacity it has now.

Mr. Denninghoff stated what he would suggest, if the Board were going to try to go that route, in which he would support by the way, is to just cut to the chase on that, the County has either spent or scheduled to spend about \$5.9 million so far on the future widening of Babcock Street; it did the preliminary study, which was necessary in order to get the PD&E started; the Board committed to the design, which was necessary in order to get the PD&E started; the PD&E is necessary in order to have Federal funds available to widen the road, which is probably the only chance of it being widened, coupled with some impact fees he would expect; and the Board purchased a couple of significant parcels along the way for retention areas and that is exclusive of the regular maintenance or reconstruction maintenance that was done in January and will be doing more of. He suggested the Board somehow work out with them to where it

would continue to help along those lines; they take it over, the Board continues to do the reconstruction effort to get that completed; that seems to him to be a fairly reasonable approach to it; it gets the Board, so-to-speak, out of their hair; they can go ahead and issue their permits, and they do not have to get permission; and they can continue to seek their fate as the Statutes allow.

Commissioner Isnardi stated she would suggest, if the Board goes that route, obviously she does not think they are going to agree to it because they do not have the money for it anyway, and that was made clear to her by a Council member, if they go that route that Mr. Denninghoff just keep the Board informed in the future; and she knows it is a leap but if they ever went that route, to please keep the Board informed on his thoughts on the design, his thoughts on what they come up with because she would be really interested to see how, if they try to present something that is inadequate or if they try to design something that is inadequate that was not acceptable based on the County's standard to what to have for an intersection.

Mr. Denninghoff stated he can keep the Board informed; he does not know what to expect from them at this point; but they did ask for a meeting with the Board at their last Council meeting.

Commissioner Isnardi stated that is because it changes every time, one sits with them, staff gets somewhere, she talks to staff about it, and staff says these five things are nailed down; then staff comes back and the story is completely different; and she inquired if that was correct. Mr. Denninghoff replied there has been some of that going on, yes.

Commissioner Isnardi stated judgment based on his last email, she would encourage anybody listening, to request that last email that Mr. Denninghoff had that corresponds with City staff, it breaks it down pretty nicely she thinks.

Mr. Denninghoff stated he thinks she is referring to the one on the 29th or the 27th of January. Commissioner Isnardi replied yes, she thinks the word 'sham' was used in the email.

Mr. Denninghoff responded affirmatively.

Commissioner Pritchett stated this really sounds like this should be the developer throwing in costs; she inquired if the Board could go after the developer and make him pay for this, if it on paper, or if it has to be the City.

Mr. Denninghoff responded he believes that is the appropriate mechanism; the City is who is going to issue the permits that allow the developer to build the buildings, and so under the Statutes they are issuing what is called the development order for that; the minute the Board allows the connection onto Babcock it will lose control of the situation; it will suffer whatever fate the City deals out to it; and it is really the developer.

Commissioner Pritchett inquired if the City should be doing this with the developer at this point; and she asked if this should be the City now trying to get the funding for this intersection.

Mr. Denninghoff replied for the intersection and seeing to the concurrency needs associated with the transportation network, it is not just about the City roads, it is about the County road as well as FDOT.

Commissioner Pritchett stated this is not something the Board can do because they are allowing the developer; and inquired if that was correct.

Mr. Denninghoff responded affirmatively; he stated the developer does not need to come to the Board for anything except the driveway on Babcock Street, which they have not done yet, only the City has come to ask for that; the City is then going to give the driveway to the developer on to their road, that connecting road, St. John's Heritage Parkway; and the developer's traffic will be able to get on to Babcock via that road and there will be no mechanism for the Board to control that whatsoever.

Commissioner Pritchett stated she is going to be interested in either handing this over, seeing what the City does moving forward, and getting the developer to take care of their promise on that intersection, so she thinks that is the answer.

Commissioner Isnardi reiterated the developer was going to pay for the whole interchange at

I-95, they were going to pay for the connector road, and pay entirely for the intersection; slowly, over time based on a company going bankrupt and other hokey business with mitigation banks and all kinds of other stuff, then it was a third; she has had the developer in her office talking about the design of this intersection when she first got elected, and based on that, then the developer is out of the picture; and it is her on the phone with a Council member telling her they do not know where the City is going to come up with the money for the intersection. She added if the City has the responsibility for the intersection, because they are obviously playing some sort of political game over there trying to blame the County for this, if the City wants responsibility for that intersection and wants to issue the permit, then it is up to them to take it over; and she thinks it is a great idea. She noted she does not say that too often but she thinks Commissioner Tobia had a great idea; let the City be responsible for it, then they can finally hold that developer to his promises to agree to help with that intersection and they will be responsible for what happens; and the only thing she does not like about it is if they are going to make a good decision because based on what they are doing so far, it has not been good. Chair Lober inquired if Mr. Denninghoff felt warm and fuzzy in terms in the amount of direction he has gotten from the Board.

Mr. Denninghoff replied he thinks he has clarity.

Chair Lober stated the Board is going to move on unless someone wants to make a motion with respect to this Item; and he does not know if that it is necessary.

The Board reached consensus to dedicate the intersection at St. Johns Heritage Parkway and Babcock Street to the City of Palm Bay, and to dedicate Babcock Street to the City of Palm Bay from north of the Parkway intersection to Malabar Road; and directed staff to negotiate an agreement for the dedication and for the County to commit to reconstruct the remainder of Babcock Street south of Malabar Road that has not recently been reconstructed yet.

J.2. Discussion Re: Renaming St. Johns Heritage Parkway to Andy Anderson Pkwy - District 5

Chair Lober stated if staff would hold off for just a moment he thinks everyone is familiar with this since it has been on the Agenda but not as fully formed before; if anyone wants to move for Option 2, which is to coordinate with the municipalities of Melbourne, West Melbourne, and Palm Bay he will support that; and if someone has a different idea to please feel free to chime in.

Commissioner Isnardi stated she likes the idea of just doing that one section, that one section that was talked about that is in District 5 and that way it makes it a simpler process, less complicated; it is not two sections of the road at two different exits, it is not dealing with Department of Transportation (DOT); and it is something the Board can accomplish right now and early.

John Denninghoff, Assistant County Manager, stated he would like to make sure that he knows which section the Board is talking about; he inquired if the Board is talking about 192 up to the interchange or from 192 south; and he would just like to make sure.

Commissioner Isnardi replied 192 south.

Mr. Denninghoff stated 192 south down to the city limits or, south of 192, there are West Melbourne City limit boundaries and then Palm Bay which would then carry it all the way down to Malabar Road.

Commissioner Isnardi inquired if the road is County owned.

Mr. Denninghoff replied the road outside the City of Palm Bay is County and inside of Palm Bay is the City's.

Commissioner Isnardi stated the Board needs to have that discussion before this last one; and she thinks it is probably the easiest transition when she and Mr. Denninghoff talked about it before.

Mr. Denninghoff stated yes, he thinks that is a fairly straight forward stretch and it does not involve I-95.

Commissioner Isnardi interjected it does not complicate things.

Mr. Denninghoff noted he does not think it would be pretty straight-forward assuming the two or three cities involved are agreeable.

Commissioner Isnardi stated it is the southern part to where he lived closest to and she thinks it is probably the best way to honor him.

Mr. Denninghoff stated he knows exactly where she is are talking about; he would agree with her; and he advised staff will pursue that.

Commissioner Isnardi stated if the Board is comfortable, if it directs staff to send a letter to those other municipalities and she guesses it would be requesting that their City Councils approve it; and she asked Attorney Bentley if that is correct.

Eden Bentley, County Attorney, stated that would be the way to do it, yes.

Mr. Denninghoff stated staff can then bring it back for a resolution to change the name of the road and go from there.

Commissioner Isnardi stated to be clear what section staff is discussing with them, so they do not get nervous.

Mr. Denninghoff replied this is the other end of the City; and this is north of where the Board was just talking about.

Commissioner Isnardi stated it is not in crazyville.

Chair Lober inquired if that was a motion.

Commissioner Isnardi stated she will make a motion to direct staff to send a letter requesting permission from municipalities for renaming that section of St. John Heritage Parkway from 192 to Malabar, the 192 Interchange.

Mr. Denninghoff stated the intersection with U.S. 192 south to Malabar Road.

Commissioner Isnardi stated south to Malabar Road, correct; she expressed her thanks to the Board for supporting this; she commented she thinks it is wonderful that the Board can honor him like that because this was so important to him; he worked so many years on it; and she thinks it is awesome.

Commissioner Smith stated he would just like to double up on that; he served with him for two years; and that road was his issue, period.

The Board directed John Denninghoff, Assistant County Manager, to send letters to the Cities of West Melbourne, Melbourne, and Palm Bay, requesting permission to rename the section of St. Johns Heritage Parkway, from the intersection of U.S. 192 south to Malabar Road, to Andy Anderson Parkway.

Result: APPROVED

Mover: Kristine Isnardi

Second: Bryan Lober

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

J.3. Approval, Re: Construction Management Services Contract with OCI Florida, Inc. d/b/a Oliver Companies, Inc. to reconstruct the dock and to dredge a channel at Kennedy Point Park (District 1)

Chair Lober advised this Item requires a super-majority vote; before staff gets into it, he believes he can save the Board a little time; he is in support of it if everyone else is in support of it; and he will just take a motion, or if the Board would like staff to introduce it, he is good with that.

The Board adopted Resolution No. 20-011; authorized the Chair to execute all related

contracts, upon Risk Management and County Attorney's approval; and authorized the County Manager to execute necessary Budget Change Requests related to the dock reconstruction and channel dredge at Kennedy Point Park.

Result: ADOPTED

Mover: Rita Pritchett

Second: Bryan Lober

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

J.4. Approval, Re: Park Services Contract with OCI Florida, Inc. d/b/a Oliver Companies, Inc. for Parks Services and maintenance of Kennedy Point Park (District 1)

Commissioner Pritchett stated this is something that Commissioner Tobia has been trying to work for quite a bit of time; and she added the Board is trying to do more of these types of things moving forward.

Commissioner Tobia inquired if she was trying to kill it by saying that he supports it; and he saw Commissioner Smith's ears perk up a little bit.

Commissioner Pritchett stated that is one of his strong areas.

The Board authorized the Chair to execute all related contracts upon Risk Management and County Attorney's approval; and authorized the County Manager to execute any necessary Budget Change Requests related to the Park Services Contract at Kennedy Point Park.

Result: APPROVED

Mover: Kristine Isnardi

Second: Curt Smith

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

J.5. Staff Direction, Re: Transfer of Lori Wilson Park to City of Cocoa Beach

Chair Lober stated with this Item the Board will probably want an introduction from staff; he has a couple comments on this one; he is in support of this; there were some changes that were made to the text of this Item that were incorporated based on some discussions he has had with Mr. Crannis; the one thing that has occurred to him that might be worth adding as a requirement, and he hopes this does not upset too many folks the Board may want to look at if it is considering to continue that \$5 million Tourist Development Tax (TDT) allocation to the park of requiring a one to one match from the City so that they have to put in \$5 million of their own on top of the County's \$5 million to really leverage that; and it would help out the folks in that area as much as possible. He advised it should not, if their plans are remotely accurate, be a problem because it looks like they are spending, or they are intending to spend over two to one with this park; and he thinks a one to one requirement would certainly help the Board extract some value. He pointed out one of the changes from how this previously appeared on the second page, roughly mid-way down of the hyphenated section, talking about if for some reason the City determines it does not want to keep the park open to the public, that ownership will revert back to the County; Mr. Crannis went ahead and added "the City shall return it in the same condition it was in after the expenditure of the \$5 million in improvements"; and he does not want to have a situation like the Board has apparently had on Camp Road with FDOT property being contaminated and handed back to the County to deal with. He advised there were some other things that were changed; he is supportive; and asked staff to give a brief introduction.

Peter Crannis, Tourism Development Director, stated they are seeking direction to work with

the City to develop an interlocal agreement; there are a number of requirements, as Chair Lober mentioned, in this because the park received a grant that was both State of Florida and from the National Park Service and they will also need their permission; and there will be some effort to work through all of that to get those permissions. He added he thinks the interlocal agreement would clarify exactly what they are responsible for in terms of taking it over; they would be responsible for keeping it public in perpetuity, and maintaining it; he added there would be no cost back to the County; and it allows them to charge for parking, which would allow for revenue opportunities for them to pay for ongoing maintenance. He went on to say there is a previous master plan that was attached that had been looked at before; there was an estimated \$15 million budget to that, but that was not thoroughly looked at by the company that did that, it was just a rough estimate at that time; and some more work will need to be done on that as well.

Commissioner Tobia stated he is not against entering into negotiations to look at that, but what he sees right now is the City of Cocoa Beach is offering to kindly take this beach-front property over with a \$5 million check, of which they will be able to receive more than \$400,000 a year in expected revenue, with a maintenance cost of \$210,000; that does not include any revenue potential like the one the Board saw before for the Driftwood residents; in other words, by any reasonable analysis, this is not a good deal for taxpayers, in fact, he is willing to take this park over for the \$5 million, and the promise to maintain it; and the \$5 million, to be clear, though appropriated, and he believes he voted against this one, could be used for beach-front areas in Titusville all the way down to Melbourne Beach. He explained if the Board wanted to get specific, this money could be used for four parks; those would be Canova Beach Park in Indian Harbor Beach; Cherrie Down Park in Cape Canaveral, Howard E. Futch at Paradise Point, and Murkshe Memorial Park in Cocoa Beach; and to put that in perspective, if the Board did not spend the \$5 million there, the Board could fully-maintain those four parks for roughly 20 years. He added, again, he thinks negotiations can be entered, but he thinks the City offering this is not a very fair starting point; however, if the Board were to look at such things as if the City was willing to pay back the \$5 million, if they did not have the revenue now, if they have an expected revenue source of approximately \$200,000 +/- per year in parking, that may be something the Board could use to leverage that money to pay for those other parks, shifting money over in the General Fund so the Board can fund such things as Public Safety. He added he hoped that the Board would give the County Manager and his negotiating team, whether it consists of Mr. Crannis, Mr. Liesenfelt, Mr. Darling, the ability to move forward on this one. He went on to say a \$5 million check with a revenue source of \$400,000 is probably not a very fair point; he hopes the Board ends up more towards the middle; however the situation that it is currently in, is a very good one to start at.

Chair Lober stated he does not think that anyone, whether it be an elected official, or staff thought this was the be all end all in terms of what was on there; these are obviously just some general points with respect to how things have been contemplated; and it does not mean that there are not some other terms or variations of the terms that are possible. He advised there is no proposal at this point to consider simply because staff has not been given direction by the Board to enter into any sort of negotiations with the City; and he agreed if it is something where it is a clear winner for them, and they are not taking a liability off of the Board's hands, that is something that needs to be factored in, especially along with the fact that they may be getting a substantial amount of money to renovate the park. He went on to say that the point he disagrees with Commissioner Tobia most on, on this Item, is comparing it to some of the other parks that are miniscule in size, or in far less popular locations, as opposed to this; Cherrie Down Park is a fraction of the size, the parking portion on the north is owned by the School Board, and it is not really apples to apples with respect to that; and his thought is if the park at the end of the day is going to be improved substantially so that residents, both of the cities,

Cocoa Beach and the County, and whomever else may venture out there, if they can have a better time and a more enjoyable experience with better facilities, that is excellent. He asked to give staff the opportunity to see where things go with the City of Cocoa Beach; there is nothing in stone with this, and if it makes Commissioner Tobia more comfortable, the Board may even want to throw in there a term that a certain percentage of revenue that is earned has to stay within the park for maintenance or improvement; he does not have a problem with that; if they do not agree with it, there is nothing saying the Board has to transfer the park; and he thinks this is all a bit premature to expect the Board be any further along than it is.

Commissioner Pritchett stated hearing Commissioner Tobia say that the Board is giving beach-front property and a \$5 million check did sound kind of presumptuous; she suggested for the Board to do a long-term lease instead of just turning ownership of the property over to them, because it is beach-front property, and she does not know if that would be best for the County; she reiterated for the Board to do a long-term lease, they fix it up to make it appropriate for the general public, and the Board maintain ownership of the property; and she thinks that might be a little bit better.

Chair Lober stated his concern is he thinks that their plan was in the ballpark of spending a little over \$11 million on top of the \$5 million the County is putting into it, and it would have to be an awfully long lease he would think for them to consider; he does not know that they will spend \$11 million over that period of time if they cannot recoup it; and there has to be an incentive for them as well. He added if it does not work, it does not work; and he noted it is something to look at.

Commissioner Tobia stated it was factually correct that those four parks are substantially smaller; however when there is a cumulative effect, the Board spends about \$210,000 a year in maintenance on Lori Wilson Park; cumulatively, the Board spends about \$248,000 a year on those four parks; so, while individually they may be smaller, the Board spends more maintaining them; and he cannot speak to the number of people that visit those parks, but the size, as far as taxpayer dollars that flow into them, they are more substantial than what flows into that one Lori Wilson Park.

Chair Lober stated the one item he would want to give him a preliminary response to on that is if the Board is spending \$210,000 per year on Lori Wilson Park right now, and part of the reason the City would like to take it over is because they do not think it is being maintained to a level that is appropriate for that area, he would anticipate they are not going to be spending the same amount, but they are going to ramp up the maintenance spending on that; and both the up-front installations as well as the maintenance to keep what they put into in there, so he does not know that is a static number.

Commissioner Isnardi inquired if the Board has ever looked at selling them Lori Wilson Park with a caveat that it stays a public park, as an easy transaction.

Mr. Crannis responded it has not been discussed.

Commissioner Isnardi asked if it would preclude them from coming to the Tourist Development Council (TDC) for funding, if they still remain a public park; she inquired if the Board was interested in that option, because that is high speed beach-front property; if they are willing to invest \$11 million, and they want to come to the TDC with a good project the TDC is willing to support, that may be the option to go with; and she knows that has already been addressed and voted on, but it is an option for the County, and it is completely off the County's books, with the only caveat that it remains a public beach.

Chair Lober stated there is no reason the Board cannot discuss that, but the one thing to keep in mind, because he keeps hearing from several Commissioners that it is a beach-front location, it is a valuable location; and he mentioned it is valuable if one is entitled to develop it to its highest and best use.

Commissioner Isnardi interjected it is valuable to them because they will be charging an

admission fee, by the sounds of it.

Chair Lober stated he does not doubt that at all; and it may be valuable to them, where they may certainly do better than the County.

Commissioner Isnardi stated they are going to do events, and if they can invest \$11 million, they can definitely make a ton of money, especially it being in the location it is at.

Chair Lober stated he does not know that this will be the equivalent of them hiring a hotel where they are just raking in money from the location; he is not saying it is not valuable to them, but he does not know that it is as valuable as it would be if the Board did not have that restriction of what they could do with it in terms of maintaining it as a park in perpetuity; and that is something to keep in mind.

Commissioner Pritchett stated when the Board received the park, she inquired what the property value was at that time.

Mr. Crannis responded he would have to look that information up, he does not have that information with him.

Commissioner Pritchett stated that would be interesting; she would not mind the City of Cocoa Beach having the parcel; she thinks they could make some money on it, it is Cocoa Beach; the Board went through this with the Port at one time, too with some property; and the Board did not make a ton of money off of it, but she thinks just for the taxpayers, she thinks that would be appropriate to do something like that if the Board changed ownership of the property. She went on to say otherwise, she thinks it should stay a Brevard County property with a long-term lease if they want to develop it; if they make money they can pay for what their costs are to cover for their investment, they have tried a few of those partnerships in the north-end; and she thinks that might be something to sit down and come to the table with to negotiate, because it is beautiful, wonderful property. She added the Board might not be able to develop it, but obviously there is a revenue source on the property that might help encourage them to want to do something with Brevard County.

Commissioner Smith inquired if the Board were to give the City a hypothetical 99-year lease, does that preclude a future Board, and future Cocoa Beach City Council, say 25 years down the road, the County and the City decided it would be in the best interest of everybody for the County to sell it, would they just nullify that lease.

Eden Bentley, County Attorney, responded if there was a long-term lease, the Board could negotiate with the tenant to purchase the property, yes.

Commissioner Smith inquired if that would not preclude them from doing so in the future.

Ms. Bentley replied no.

Chair Lober stated both parties would have to be on-board.

Commissioner Smith stated he is listening to the Board, and he is thinking it is another option; if it did a 99-year lease, that would encourage them to spend the \$11 million, and they would have control; and at the same time, it would still belong to the County.

Chair Lober stated it is something to look at; he asked the Board for a motion to direct staff to start negotiating, and although it may be atypical, he asked that if Tim Deretany is willing to assist with the negotiations, pro-bono, and he is volunteering him, he has not spoken to him about this, but he thinks he would be particularly good at it, despite his not being on the TDC that he be allowed to participate to whatever extent staff thinks might be helpful.

Commissioner Smith stated he would make that motion.

Commissioner Tobia inquired which side Mr. Deretany would be on.

Chair Lober replied on the County's side, of course, not on the Cocoa Beach side.

Commissioner Tobia stated there is not a good side and a bad side, but he is curious as to why his loyalty would be with the County instead of the City.

Chair Lober advised he does not live in the City; he does not know that he owns any property in the City; he lives in South Merritt Island; and he does not have any reason to think he would be

loyal to the City over the County if the County is asking for his involvement.

Commissioner Tobia inquired what unique expertise Mr. Deretany would bring that County staff does not have, out of curiosity.

Chair Lober stated he thinks he has been either an elected official or a lobbyist for longer than anyone on the Board has been alive.

Commissioner Tobia stated he has been an elected official for quite some time, and that does not make him good at negotiating.

Chair Lober stated he has dealt with him with respect to his thoughts on the aquarium among other things and he is certainly far more aggressive with respect to his negotiating tactics than many others are; and he can tell him when the Brevard Cultural Alliance issue came up, his input with respect to that he thinks was much more aggressive than most. He added if the Board wants the County's position protected, he thinks he is certainly wired in such a way that his involvement will not jeopardize that in any way; however if the Board does not want him involved, though, he will not be involved.

Commissioner Tobia stated his loyalty will be with staff, though he means nothing against Mr. Deratany, in all honesty, if he can convince four Republicans that building a \$10 million fish tank is the best use of taxpayer money, he is probably pretty good at negotiating; he reiterated his loyalty is going to stick with staff on this one; he would not have a problem with him sitting aside and watching what is going on, as he would anyone else, so Chair Lober can keep that in the motion if he would like; and he advised he would be voting no, and not so the Board cannot move forward, it is because there is an extra person who ought not be added in.

Chair Lober stated he can leave him out if it is complicating things; he just thought it would help the County out, but if it is troubling, he can leave it out; and he does not think it is a make it or break it by any means.

Commissioner Smith stated he made the motion, and he did not include Mr. Deratany; he agrees that he is a great negotiator, but he has complete confidence in staff; and he would withdraw his motion if he is insistent on having Mr. Deratany on board.

Chair Lober stated he is not.

The Board directed staff to start negotiations for the transfer of Lori Wilson Park to the City of Cocoa Beach, including obtaining any necessary approvals from the Florida Department of Environmental Protection and National Park Service.

Result: APPROVED

Mover: Curt Smith

Secunder: Bryan Lober

J.6. Permission to Advertise, Re: Exchange Agreement between Brevard County and Florida Inland Navigation District (FIND) - District 3

Chair Lober stated this is another one, it deals with the Exchange Agreement between the County and Florida Inland Navigation District (FIND); he is happy to accept a motion, unless someone would like to have an introduction.

The Board granted permission to advertise a land exchange agreement between Brevard County and FIND, according to Section 125.37, Florida Statutes; directed staff to bring forward a resolution authorizing the exchange of the properties; and authorized the County Manager to execute necessary budget change requests.

Commissioner Isnardi inquired when the agreement will come back to the Board, and when it will be advertised.

Eden Bentley, County Attorney, replied it will take about two weeks, at least; it will be at least March before the Board sees it again; she does not have an exact date; and she can get it to her tomorrow.

Commissioner Isnardi stated she would like Attorney Bentley to let her know. Mary Ellen Donner, Parks and Recreation Director, stated she was actually looking at the last meeting in March, if everything advertises well. Commissioner Isnardi inquired if it was advertising for the meeting in March. Ms. Donner replied it will be advertised now, and be brought back to the meeting in March. Commissioner Isnardi expressed her thanks.

The Board granted permission to advertise a land exchange agreement between Brevard County and FIND, according to Section 125.37, Florida Statutes; directed staff to bring forward a resolution authorizing the exchange of the properties; and authorized the County Manager to execute necessary budget change requests.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

J.7. Discussion Regarding Use of Taxes Derived from Undeveloped / Unimproved Land, Dist. 2

Chair Lober stated with respect to Item J.7., he added this before, he has some new information that was brought to his attention; also Mr. Abbate, some of the County Manager's Office staff, and Jill Hayes in the Budget Office all sat down with Eileen and himself to hash some things out; he does not think there is any action he would like to take; and he would like to bypass this Item unless someone feels inclined to address it.

The Board discussed the use of taxes derived from undeveloped and unimproved land, but took no action.

J.8. Vacation Rentals

Commissioner Tobia stated he wanted to have some context on this, on why this has gotten some renewed interest and some questions for staff that he thinks can better answer some of the finer points and ultimately there will be an ask at the end; recently UCF just released a study that says vacation rentals provide 115,000 jobs in the State of Florida and boost the economy by 27 billion dollars; 16.6 of that being direct spending; and this means that the industry generates about 312 jobs Statewide every single day, 13 jobs every hour, and a job every five minutes. He added this subject was brought forward and that he needed to do something about it when a person called his office, who will go unnamed for now, who is not only a resident and property owner, but he is a respected judge and clearly an attorney; he had no idea how to navigate on what areas a vacation rental could be legally operated and what areas it could not so he had trouble answering his questions; and he turned it over to staff and as it turns out, County staff had significant troubles making these determinations, ultimately however it has become clear to him that the fault does not lie with them, but it is the Code itself. He explained how wild some of this stuff is, in order to determine if someone with a single-family zoning classification can legally use Airbnb or VRBO, one must have to determine if they are Non-Conforming Multi-Family Use; this would require contacting Planning and Development to have the County investigate whether this was the case; if they are, it could be permitted with certain positions and if they are not it would then become a question of location, if it was a barrier island, in many cases on which side of A1A, and whether or not there was frontage or other factors; and put simply it is absurdly difficult for a homeowner to figure this out. He went on to say he thinks the best way he can illustrate this is with a map that Planning and Development created working with Information Technology (IT); after his office had met with staff they came up with the idea to create a map or interactive websites; the property owners would easily find out, and to be clear Commissioners as well, if they can legally engage

in short term rentals; and he believes that was the justification of the meeting.

Tad Calkins, Planning and Development Director replied yes.

Commissioner Tobia stated Mr. Calkins along with IT staff, attempted to accomplish this but found any map being created such as the one shown here would be inaccurate; and he inquired if that was correct.

Mr. Calkins stated what happens there is when staff looked at mapping and data that was provided for the base map, staff utilized the Property Appraiser Use Codes and so he thinks the Property Appraiser has over 300 types of Use Codes and when they marry that to the 50 zoning classifications, it does not line up 100 percent.

Commissioner Tobia stated to be clear, this map is not correct; and he inquired if staff can give the Board an example of a situation where a homeowner would have a very difficult time figuring out whether or not it was acceptable to go Airbnb or vacation rental by owner.

Mr. Calkins stated when one looks at the map there, he would say probably only when one gets into the beaches area is where there is some of the interest in having the Airbnb; and one looks at it and one would have to go through the decision tree that Commissioner Tobia mentioned in his introduction, where one would have to have multi-family use, one has to have a condition use to site criteria, so it can be complex.

Commissioner Tobia stated then after discussion and he thanked Mr. Calkins for his office working so hard with the County Attorney's Office, being clear that the only viable solution to this problem is to amend Brevard County Code to include a new use, vacation rental, which would mirror State Statutes; and inquired what approach was discussed.

Mr. Calkins replied yes; and he stated on that, it is because the preemptions that have been provided by the State does not really allow the County to go in and modify the Code where staff can do certain strategic siting requirements or that so staff would have to look at doing a new use.

Commissioner Tobia inquired if the Board would adopt a new use and implement it in the Agenda Report, would staff be able to create an interactive map, which would accurately show property owners whether or not they can engage in vacation rentals.

Mr. Calkins replied he would say that it would be more accurate than the map that has been presented.

Commissioner Tobia stated while it is not Mr. Calkins' job, the Tax Collector would also be able to use this data to ensure that all those required to pay taxes are actually paying taxes; and he inquired if that is correct.

Mr. Calkins explained he believes it would be a better tool for the Tax Collector; however they would go about completely using it, he would not be able to speak for them on that.

Commissioner Tobia stated to be clear, this would in no way stop HOAs who do not want this behavior to happen, this would not prevent them from banning the practice.

Mr. Calkins stated no, staff would not have any control over the HOA document.

Commissioner Tobia stated some of the arguments they hear are about noise, parking, and trash, and he inquired if this would change any of the ordinances that are currently in place to stop this type of behavior that might impact other residents.

Mr. Calkins replied no, he does not believe that would be the intent behind a Code change here to affect those areas, it would just be simply to look at the vacation rental aspect.

Commissioner Tobia pointed out here is where the Board is, it has a map that does not work, it has so many zoning classifications it is not only difficult for constituents, it is difficult for attorneys, it is difficult for staff, it is almost impossible for Commission Offices to know what the heck is going on; what he is asking for is nothing permanent but just an Agenda Report that would require staff to develop Code amendments and there are three parts to this; and to create a new use and definition for vacation rentals as recommended by the County Attorney's Office, include this as a permitted use which the Board cannot add any conditions on per State

Statute in the listing zoning categories, and three amend existing zoning classifications to prevent any further conflict between short-term rentals and vacation rentals. He added this is just to direct staff to develop Code amendments consistent with these three points, in the Agenda; this would of course need advertisement as the Board moves forward; and he advised all he is seeking is so that not only Commissioner's offices, but all constituents have the ability to figure out whether or not they can lawfully own a business in a required area without having to go through all the steps that folks have in the past.

Commissioner Smith stated he agrees with everything Commissioner Tobia has said, it is a confusing mess; he thinks the problem he has though is in talking with Mr. Calkins and others, it would seem that the State wants to preempt whatever it does and they are in the process of; and he inquired if that was correct and if they are in the process of or making noise to that affect that they are going to address these issues themselves.

Mr. Calkins stated there are a couple of bills going through Florida legislation at the moment; they are evolving almost daily with different updates and revisions to them so they do not really know where they are; and they have not seemed to settle down through the Senate process if this is what is going forward.

Commissioner Smith stated his point is that whatever the Board does here, if it does something it is going to be a moot point perhaps in another month or so; his suggestion would be that the Board follow up after the session and it will know what has been done; and then the Board can address if it wants to change it, tweak it, or whatever if it can because it knows that they are, that it has ignored and continue to ignore home rule, so it matters not what the Board does because they are going to dictate to it what is going to happen.

Commissioner Lober stated the one thing to keep in mind, and he is not saying this will be the case but it is possible, they may end up passing something that grandfathers an existing policy, so in that event the Board may want to take a look at it now, in a month maybe.

Commissioner Smith added that was a good point.

Commissioner Lober stated maybe something a little more concerning.

Commissioner Pritchett inquired if a residential property did not have an HOA if they are still protected.

Mr. Calkins added if they did not have an HOA that restricts it, he does not know because that would depend on what deed restrictions they have on the property; typically the HOA has that document that sets that up; and most new developments, the way they are set up, they do have HOAs.

Commissioner Pritchett stated she does not have a lot of new developments where she is; there is a lot of residential; she has two fairly large items that have come into where she is; and one is garbage is not being picked up and they have to fix that. She added she also has home owners come in mad that someone is doing a rental next to them and they have children and people are coming in all the time; so in her District this is probably, if the Board expanded the boundaries so that it is going to get into residential areas, this is not going to be popular in District one; although she agrees that there might be some areas to look at where people can do this like close to hotels or maybe a lot of multi-family where there are lots of people coming in and out; and if this will do anything to cause harm in her District as far as residential areas she is a little hesitant. She added she knows the State of Florida gets to do some things; she remembers one time going up to see Mr. Workman when she was on the City Council because the City of Titusville was having a lot of troubles with this, and he said absolutely not, people can do whatever they want with their properties; and she thought this is not going to go anywhere, so she knows there is different opinions with this. She noted she does not think it is a good fit in District one, if she starts moving rentals into residential areas especially the ones that do not have any kind of protection; and she mentioned her District has a lot of them so that is going to be her hesitation unless the Board can figure out a way to educate her on something

she is missing.

Commissioner Isnardi stated she almost did not speak because Commissioner Pritchett sort of said what she was going to say; she is a big property rights person, she likes people to be able to do what they want on their own property but the difference is once one gives up that property to somebody else that they are renting to one has now affected the property value potentially of the person next to them, so to her it is always risky when people are from out of town, even if they are family, one just never knows; and if one is renting property to people from out-of-state and something occurs, she wonders who is going to be responsible for that, the landlord is not going to care. She went on to say she thinks the Board needs to wait until the legislature comes out; she just read somewhere earlier today that it did pass the committee overwhelmingly even with people there and cities saying they did not want this; it still passed; and she has no problem allowing it in certain areas, but if one is restricted by an HOA, most people do not live in an HOA, but if one is going to be renting out some sort of spring break house in her neighborhood, it is going to affect her property value. She does not think that is fair and equitable to the people that live in that neighborhood now as it exists; she thinks there is some middle ground somewhere between allowing for people's property rights versus property protection rights and value rights because if the Board is affecting someone's value then that is on it, too. She pointed out that is something they have to look at and be careful where it would allow these; she thinks it is a waste of staff time until it sees what comes through the legislature because she does not think the Board is going to be able to grandfather anything personally because judging by how this bill is written now it is not going to have any say at all; she does not think anybody is going to care; and she does not think the grandfather clause is going to be in there anywhere is what she is saying.

Commissioner Tobia stated he appreciates the confidence everyone has in the State legislature; he ran an E-Verify bill in 2010 and here he is 10 years later and nothing has happened; he expressed his thanks to his fellow four Commissioners who got more done in one meeting with E-Verify than what the republican legislature has done up there in the last 10 years; and he does not disagree with the sentiment of Commissioner Smith. He went on to say he would like to see this issue put to bed, it has been up bouncing around the legislature since before he got there; but he is cognizant of the many hours that staff would have to put into this should this fall one way or another; and he inquired how many hours staff thinks it would take to develop some sort of a report.

Mr. Calkins replied he would think the report at this point would probably be 12 to 15 hours' worth of effort.

Commissioner Tobia stated he would defer to Commissioner Smith on this one as to whether or not to wait until after session passes the midway point; he thinks the 60 days was yesterday; so the Board is looking at 30 more days here assuming they do not go overtime; and with that being said, this would not get into the nitty gritty of the zoning classification, that is something that would have to come back to the Board. He added the Board could look at that as an individual basis, but something needs to be done when again it has intelligent individuals, attorneys, judges, in fact, that do not understand as to whether or not, and he cannot give them a good answer so when he bounces it off to staff, and staff tries their hardest but cannot figure it out because they are dealing with zoning classifications not only with the County but with the Property Appraisers, this is an absolute mess. He went on to say Commissioner Smith brought up a very valid point; he hopes it is figured out one way or another; he would be betting against it, but if he would be more comfortable, again the Board is not making any decisions to where these things go, this is just a staff report to bring back to the board so it can get down to the individual zoning classifications.

Commissioner Smith added his personal view point is that if the Board talking 30 days or 40 days, it can give staff the go ahead, then the Board will have an answer; and it will be much

more black and white.

Commissioner Tobia stated he would make a motion for the exact same thing that he made but pending no decision made by the legislature given the close of session.

Commissioner Isnardi added forward movement, like if it looks like it is going to go.

Commissioner Tobia stated it will know here because the Committees will stop, but there is always horse trading that happens in the dead of night on this type of thing that get added to appropriation bills, but that being said when the hankies drop there which is close of session then at that time.

Commissioner Smith interjected he thinks the Board would have a clearer picture.

Commissioner Tobia stated he would be amenable to that if he would support that as the Board moves forward.

Commissioner Smith stated that works for him.

Commissioner Isnardi stated she is not trying to drag this out any longer but she thinks the Board underestimates the multi-billion dollar industry that VRBO and Airbnb has turned into and they have one hell of a lobbyist in Tallahassee so that is sort of, unfortunately, sometimes the money does control the legislature in some cases and that is why she thinks this is moving it is a little different than e-verify, it is much bigger than that; now one probably has the hoteliers competing with Airbnb; and it is moving now so she is not confident that the Board will not see something come out of there.

Mr. Calkins stated he would like to make sure he understands the Board's motion; so, staff would wait until end of session and bring back a report as soon as they could after the session ends; and he inquired if that is what he is doing.

Chair Lober stated presuming nothing meaningful takes place at session; and inquired if that was correct.

Commissioner Tobia replied that is his understanding.

Item J.8

Tobia - Thank you. I wanted to have some context on this on why this has gotten some renewed interest and some questions for staff that I think can better answer some of the finer points and ultimately there will be an ask at the end. Recently UCF just released a study that says vacation rentals provide 115,000 jobs in the State of Florida and boost the economy by 27 billion dollars, 16.6 of that being direct spending; this mean that the industry generates about 312 jobs Statewide every single day, 13 jobs every hour, and a job every five minutes; however, this subject was brought forward that he needed to probably do something about it when a person called his office, who will go unnamed for now, who is not only a resident and property owner, but he is a respected judge and clearly an attorney. He had no idea how to navigate on what areas a vacation could be legally operated and what areas it couldn't so he had trouble answering his questions so he turned it over to staff and as it turns out our own staff had significant troubles making these determinations, ultimately however it has become clear to me that the fault does not lie with them, but it's the Code itself. For example, let me tell you how wild some of this stuff is, in order to determine is someone with a single-family zoning classification can legally use Airbnb or VRBO we must have to determine if they are non-conforming multi-family Use; this would require contacting Planning and Development and having the County investigate whether this was the case; if they are it could be permitted with certain positions and if they are not it would then become a question of location, if it was a barrier island, in many cases on which side of A1A, and whether or not there was frontage or other factors; put simply it is absurdly difficult for a homeowner to figure this out; I think the best way I can illustrate this is with a map that P&D created working with IT. After my office had met with staff and came up with the idea to create a map or interactive websites, the property owners would easily find out, and to be clear Commissioners as well, if they can legally engage in short term rentals, was that the justification of our meeting?

Tad – Yes.

Tobia - You along with IT staff attempted to accomplish this but found any map being created such as the one shown here would be inaccurate, is that correct?

Tad - Yes sir, so what happens there is when we looked at mapping and data that was provided for the base map, we utilized the Property Appraisers Use Codes and so I think the Property Appraiser has over 300 types of Use Codes and when we marry that to our 50 zoning classifications, it doesn't line up 100 percent.

Tobia – So to be clear, this map is not correct. Can you give us an example of a situation where a homeowner would have a very difficult time figuring out whether or not it was acceptable to go Airbnb or vacation rental by owner.

Tad – So when you look at the map there, I would say probably only when you get into the beaches area is where we see some of the interest in having the Airbnb. You look at it and you would have to go through the decision tree that you mentioned in your introduction where you would have to have a...is it East of A1A, is it multi-family, you have to have a condition use to site criteria, so it can be complex.

Tobia – And then after discussion and thank you for your office working so hard with the County Attorney's Office, being clear that the only viable solution to this problem is to amend our Code to include a new use, vacation rental, which would mirror State Statutes. Was that the approach we discussed?

Tad – Yes, sir. So on that, it is because the preemptions that have been provided by the State does not really allow us to go in and modify the Code where we can do certain strategic siting requirements or that so we would have to look at doing a new use.

Tobia – So if the Board would adopt a new use and implement it in the Agenda Report, would you be able to create an interactive map, which would accurately show property owners whether or not they can engage in vacation rentals?

Tad – I would say that it would be more accurate than the map that we've presented.

Tobia – And while it is not your job, the Tax Collector would also be able to use this data to ensure that all those required to pay taxes are actually paying taxes, is that correct?

Tad – I believe they would be a better tool for the Tax Collector; how they would go about completely using it, I wouldn't be able to speak for them on that.

Tobia – Just to be clear this would in no way stop HOAs who do not want this behavior to happen, this would not prevent them from banning the practice, is that correct?

Tad – No, sir. We wouldn't have any control over the HOA document.

Tobia – Some of the arguments we here about noise and parking and trash would this change any of the ordinances that are currently in place to stop this type of behavior that might impact other residents?

Tad – No, I don't believe that that would be the intent behind a Code change here to effect those areas, it would just be simply to look at the vacation rental aspect.

Tobia – Here's where we are, we have a map that doesn't work, we have so many zoning classifications it is not only difficult for constituents, it's difficult for attorneys, it's difficult for staff, it's almost impossible for Commission Offices to know what the heck is going on so what I'm asking for is nothing permanent but just an Agenda Report that would require staff to develop Code amendments and there are three parts to this. Create a new use and definition for vacation rentals as recommended by the County Attorney's Office, include this as a permitted use which we cannot add any conditions on per State Statute in the listing zoning categories and three amend existing zoning classifications to prevent any further conflict between short-term rentals and vacation rentals. Again this is just to direct staff to develop Code amendments consistent with these three points, in the Agenda. This would of course need advertisement as we move forward; all I'm seeking is so that not only our offices, but all constituents have the ability to figure out whether or not they can lawfully own a business in a required area without having to go through all the steps that folks have in the past.

Smith – I agree with everything Commissioner Tobia has said, it is a confusing mess; I think the problem I have though is in talking with Mr. Calkins and others, it would seem that the State

wants to preempt whatever we do and they are in the process of, is that right Mr. Calkins? Is that correct, they are in the process of or making noise to that affect that they are going to address these issues themselves?

Tad – there's a couple of bills going through Florida legislation at the moment; they are evolving almost daily with different updates and revisions to them so we don't really know where they are; they haven't seemed to settle down through the Senate process of this is what is going forward.

Smith – My point is that whatever we do here if we do something it is going to be a moot point perhaps in another month or so; my suggestion would be that we follow up after the session and we will know what they have done and then we can address if we want to change it, tweak it, or whatever if we can because we know that they are, that they've ignored and continue to ignore home rule, so it matters not what we do because they are going to dictate to us what they are going to do.

Lober – The one thing to keep in mind and I'm not saying this will be the case but it is possible, they may end passing something that grandfathers in existing policy, so in that event we may want to take a look at it now, in a month maybe.

Smith – Well that's a good point.

Lober - Maybe something a little more concerning.

Pritchett – If a residential didn't have an HOA are they still protected?

Tad – If they didn't have an HOA that restrict it, I don't know because that would depend on whether deed restrictions they have on the property. You know typically the HOA is that document that sets that up; most new developments the way they are set up they do have HOAs.

Pritchett – I don't have a lot of new developments where I am. We have a lot of residential; I have two fairly large items that come into where we are; one is garbage isn't being picked up and we have to fix that and also I have home owners come in mad that someone is doing a rental next to them and they have children and people are coming in all the time; so in my District this is probably, if we expand the boundaries so that it is going to get into residential areas this is not going to be popular in District one; although I do agree that there might be some areas to look at where people can do this like close to hotels or maybe a lot of multi-family where there is lots of people coming in and out; but if this will do anything to cause harm in our District as far as residential areas I'm a little hesitant; I know the State of Florida gets to do some things. I remember one time going up to see Mr. Workman when I was on the City Council because the City of Titusville was having a lot of troubles with this, and we walked and said Mr. Workman, and he said absolutely not people can do whatever they want with their properties; and I thought okay this is not going to go anywhere, so I know there's different opinions with this, but District one she doesn't think it's a good fit if I start moving rentals into residential areas especially the ones that don't have any kind of protection; we have a lot of them so Commissioner Tobia that is going to be my hesitation unless we can figure out a way to educate me on something I'm missing.

Isnardi – I almost didn't speak because you sort of said what I was going to say; I'm a big property rights person, I like people to be able to do what they want on their own property but the difference is once you give up that property to somebody else that you are renting to you've now affected the property value potentially of the person next to you so to me it is always risky when people are from out of town, even if they are your family, you just never know; if you are renting property to people from out-of-state and something occurs who is going to be responsible for that, the landlord is not going to care. I think we need to wait until the legislature comes out; I just read somewhere like earlier today that it did pass the committee like overwhelmingly even with people there and cities saying they did not want this; it still passed; I have no problem allowing it in certain areas, but if you are restricted by an HOA, most people don't live in an HOA, but if you are going to be renting out some sort of springbreak house in my neighborhood, its going to affect my property value and I don't think that's fair and equitable

to the people that live in that neighborhood now as it exists. I think there's some middle ground somewhere between allowing for and people's property rights versus property protection rights and value rights because if we are affecting someone's value then that's on us too. That is something we have to look at and be careful where we would allow these. I think it's a waste of staff time until we see what comes through the legislature because I don't think we're going to be able to grandfather anything personally because judging by how this bill is written now we're not going to have any say at all; I don't think anybody is going to care; I don't think the grandfather clause in going to be in there anywhere is what I'm saying.

Tobia – I appreciate the confidence everyone has in the State Legislature; I ran an E-Verify bill in 2010 and here we are 10 years later and nothing has happened; I want to thank my fellow four Commissioners up here who got more done in one meeting with E-Verify than what the republican legislature has done up there in the last 10 years; I don't disagree with the sentiment of Commissioner Smith; I would like to see this issue put to bed, it has been up bouncing around the legislature since before I got there; but I am cognizant of the many hours that staff would have to put into this should this fall one way or another. Mr. Chair may I ask staff a question? Tad how many hours do you think it would take to develop some sort of a report?

Tad – I would think the report at this point would probably be 12 to 15 hours worth of effort.

Tobia – I would defer to Commissioner Smith on this one as to whether or not to wait until after session, pass the midway point; I think the 60 days was yesterday; so we are looking at 30 more days here assuming they don't go overtime; that being said, this would not get into the nitty gritty of the zoning classification, that's something that would have to come back up here; and we could look at that as an individual basis. But something needs to be done when again we have intelligent individuals, attorneys, judges, in fact, that don't understand as to whether or not, and I can't give them a good answer so when I bounce it off staff and staff tries their hardest and can't figure it out because they are dealing with zoning classifications not only with us but with the Property Appraisers, this is an absolute mess. You know Commissioner Smith you brought up a very valid point; I hope it is figured out one way or another; he would be betting against it, but would you be more comfortable, again we are not making any decisions to where these things go, this is just a staff report to bring back to us so we can get down to the individual zoning classifications, would you...

Smith – My personal view point is that if we're talking 30 days or 40 days, we can give them the go ahead, we'll have an answer; it will be much more black and white.

Tobia – I would make a motion for the exact same thing that I made but pending no decision made by the legislature given the close of session.

Isnardi – forward movement, like if it looks like it is going to go then...

Tobia – we'll know here because the Committees will stop, but there is always horse trading that happens in the dead of night on this type of thing that get added to appropriation bills, but that being said when the hankies drop there which is close of session then at that time...

Smith – I think we would have a clearer picture.

Tobia – I would be amenable to that if you would support that as we move forward.

Smith – Works for me.

Isnardi – And I'm not trying to drag this out any longer but I think you underestimate the multi-billion dollar industry that VRBO and Airbnb has turned into and they have one hell of a lobbyist in Tallahassee so that's sort of unfortunately some times the money does control the legislature in some cases and that's why I think this is moving. It's a little different than e-verify, it's much bigger than that; now you probably have the hoteliers competing with Airbnb so I guess... It's moving now so I'm not confident that we won't see something come out of there, anyway.

Tad – I just want to make sure I understand the Board's motion. So we would wait until end of session and bring back a report as soon as we could after the session ends. Is that what I'm doing?

Lober - presuming nothing meaningful takes place at session, is that right, Commissioner

Tobia?

Tobia – That is my understanding, correct.

Tad – Okay. 4:1 Pritchett Nay

L.2. Board Report, Re: Eden Bentley, County Attorney

Eden Bentley, County Attorney, stated she has two interrelated items, both relating to the Canvassing Board; this relates to the Presidential Primary, only; the Board will recall that Commissioner Smith was appointed by the Board to the Canvassing Board in November, the Attorney for the Supervisor of Elections contacted her office and asked that an alternate be appointed; she understands that Commissioner Pritchett has volunteered and that she is available; and if the Board would like to appoint her, that could work to solve the problem. The Board appointed Commissioner Pritchett as the alternate on the Canvassing Board.

Result: APPROVED

Mover: Curt Smith

Second: Bryan Lober

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

Attorney Bentley stated the second issue does relate to the general and the regular primaries; it is her understanding that all of the Commissioners have a conflict or are disqualified for some reason for those subsequent elections; the Supervisor of Elections has a procedure to follow; and she inquired if the Board would allow her to send that letter so they can start that process. The Board approved for Eden Bentley, County Attorney, to send a letter to the Supervisor of Elections regarding the Commissioners and the conflict or disqualification of each.

Result: APPROVED

Mover: Curt Smith

Second: Bryan Lober

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

Commissioner Pritchett stated she does not really have a report, she just wanted to make a quick comment; she knows the Board had a lot of conversations earlier about prayer here, but anytime someone from the public wants to come up during the Public Comment section of the meeting, they are allowed to come up and pray, and that is Freedom of Speech; and the Board is not trying to hinder people from praying or being able to say what they feel.

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

Chair Lober stated he has one hot button and one he does not think will be a hot button to report; it has come to his attention that there may be some stress or anxiety on some of County staff, including the Budget Office over the indeterminateness with respect to how the lawsuit with the Clerk of Courts is going to end up; and as a result, there may be some feeling that there may need to be two potential budgets prepared as the Board may not know the answer. Frank Abbate, County Manager, stated he was not planning to do that; he was planning to bring in one budget, and assume the Board is operating with that, unless the Board tells him differently.

Chair Lober stated his thought, and he is just throwing it out there, he is not going to make it a motion, but his thought, and if anyone wants to chime in, wonderful, if not, that is fine, too if it is necessary this year, if the case ends up moving through and is resolved prior to the time the Board needs to have a finalized budget, his thought would be that the Board could always simply just indicate in advance for him that the Board would be willing to find another critical need by supermajority; and he is letting him know that his inclination, assuming the facts and

the numbers are still close to what they were last year, he would go ahead and do it again. He explained for purpose not of increasing past the three percent this year, but for purpose of using last year's numbers as this year's baseline; and he wanted to throw that out to make life a little easier for staff.

Mr. Abbate stated he thinks unto that, the scenario staff would have to bring back Findings of Fact, because that is what their critical need would be, so if the Board is talking about continuation of the Sheriff's, if that was determined, and he thinks that is what Chair Lober is talking about.

Chair Lober stated he is just saying if that is how it works out, again, not to go over the three percent this year, but simply for purposes of maintaining the baseline as the Board anticipated it to be maintained.

Mr. Abbate expressed his apologies; he thought Chair Lober thought that staff was fretting over preparing two budgets now that they were planning to do that.

Chair Lober expressed his apologies on the ambiguity of that, he just wanted to throw that out there; he added his last item, and he knows there are certain members of staff, and he cannot imagine they will shake their heads at this one, but he understands there are certain members of staff that would prefer that the Board started a little bit earlier for the evening meetings; and he thinks a compromise would be to start at 4:30 pm. He advised by the time the Board is done with Resolutions, Moment of Silence, and some of the feel good items, by 5:00 pm, the Board could be into the meat and potatoes of the meeting; he does not know what the other Board members thoughts are on that; and he does not have any concerns, and in fact, it may make life a little easier for the Board, too, to finish up one-half of an hour earlier.

Commissioner Isnardi stated she was the one to ask the Board to have an evening meeting to begin with, if Commissioner Smith and Commissioner Pritchett remember, and Commissioner Tobia probably remember her pushing that; she wanted it later, only because she wanted people to have a chance to come to a meeting once a month; and she is not going to argue with him on this, because she still thinks it should be 6:00 or 7:00 pm, she knows it is not convenient for staff, but most of the people that are here are managers anyway, and they make a salary, so they can probably flex their time if they do not want to be here at night. She added she does not like that they are away from their families at night, but she guessed that is what they signed up for when they agreed to be directors; she added at the very least, it needs to stay where it is or bump it up; she does not like the idea of reducing it; for most of them that live an hour away, they will hit school traffic, school busses, and everything after 3:30pm; and that is her two cents.

Commissioner Smith stated in light of the fact that Chair Lober would like to move it up a little bit, and Commissioner Isnardi is concerned about school traffic, he advised to make it at 2:00 pm; or the Board can keep moving it and start at 9:00 am, which is really where he would like it to be.

Commissioner Isnardi stated so no residents can come after work that would sort of defeat the purpose.

Chair Lober stated that was kind of cute, he was not thinking about that.

Commissioner Pritchett stated Commissioner Smith was mad when the Board moved it over to night-time, he is an old guy.

Commissioner Isnardi stated she thinks he is still holding it against her today.

Commissioner Pritchett stated if the Board just did the resolutions at 4:30 pm, and got all those things done, and started the regular meeting at 5:00 pm, that might be an idea; the City Council did that in Titusville, and there were so many resolutions and letters, that they did those pre-meeting, and then they hit the regular business meeting later; she likes the 5:00 pm meeting, because it is the same time as the Zoning meetings, so people get used to coming in at that time.

Chair Lober stated that makes some sense though, in terms of doing the resolutions beforehand; he is kind of thinking aloud, because the problem is, he does not know that the Board has, by the time the Agenda closes, enough time to advertise based on whether or not there are any resolutions; and inquired what the County Attorney's thoughts were, because that may cut it way too tight.

Eden Bentley, County Attorney, replied staff can accommodate one way or the other, but if the Board has 4:30 pm for the resolutions only, there may be gaps, so other items may be able to be moved up that are not advertised, but that would need to be expressed in the ad.

Commissioner Pritchett inquired if the Board would just put all of the resolutions on that evening at 4:30 pm, and that could be the resolution part of all of the meetings, and cut the others a little shorter then, too.

Attorney Bentley stated it is the Board's discretion.

Chair Lober stated maybe the answer is staff notices the meetings themselves for 4:30 pm, so the Board is totally covered, but it addresses just resolutions at 4:30 pm, and if it so turns out that there are not any resolutions for that particular meeting, the Board will just wait until 5:00 pm to start; and he inquired if it could be done that way.

Attorney Bentley responded affirmatively.

Mr. Abbate stated the Board also has presentations at times that are part of resolutions, so he does not know if the whole Board would not be needed for certain presentations.

Chair Lober stated whatever the Board locks in with resolutions, he would be inclined to move that one-half hour earlier.

Commissioner Isnardi stated she thinks it is crazy that the Board is even trying to handle the logistics of 30 minutes; either go for it, or do not change it; she thinks by changing it by 30 minutes, it is so minor that it is not impactful; and if the Board wants to have earlier meetings that is fine, she is just giving the reasons why she thinks they need to be in the evening. She added she believes it gives the public more of a chance to come if they want to come for Public Comments, or to just come to a meeting; most working people could not come to a Commission Meeting if they are during the day at 9:00 am; she wanted both Regular meetings to be in the evening, and Commissioner Smith was pretty upset with her about that; and she reiterated 30 minutes is 30 minutes, it will not make a hill of beans of difference. She went on to say the exception is that some people may not be able to make the meeting if they get out of work at 4:30 or 5:00 pm; some city council meetings are at 6:00 or 7:00 pm at night; that is across Brevard County, and the Board is at 5:00 pm, which is really early; and if it is going to go earlier, the Board may as well put it back to 9:00 am again. She noted that 30 minutes is almost silly.

Commissioner Smith stated he agrees with Commissioner Isnardi, the difference between 4:30 pm and 5:00 pm, he thinks if the Board is going to dance around doing resolutions, then do two resolutions and then the Board is sitting there for 20 minutes until the 5:00 pm meeting starts, that does not make any sense either; and he added to either start it at 4:30 pm, or keep it at 5:00 pm, he is good either way.

Chair Lober stated he would prefer to start it earlier, earlier is better.

Commissioner Pritchett stated the Board throws out a lot of resolutions from time-to-time, so if they were all crunched out in that one-half hour, she does not mind either way; when she was on Titusville City Council, there were a lot of long-winded people, so they started that one meeting early on purpose so they could get through all that stuff, because they were staying there until 11:30 pm or midnight; and she is flexible, whatever the Board would like to do she is flexible.

Chair Lober stated this may be the way to do it; he understands one-half of an hour is not the be-all end-all; the Chair is able to move Items around on the Agenda; he inquired if the Board were to try to keep the resolutions and presentations, if there are any, in that 4:30 pm to 5:00

pm block; and rather than twiddling their thumbs for 10 minutes or 15 minutes, if there is only one and it is quick, the Board can take the Items that appear to be non-controversial, or Items that have not received any objections, or any indication that there is going to be Public Comment. He advised there are certain Items he thinks that are pretty clear; where there is no cost to the County for instance, and it is only to its benefit, or something for instance, dealing with accepting a deed to improve the utility system, something simple like that where he does not think there has ever been anyone come in on that type of an Item; and the Board can just artificially move those up, and if there are not any, then the Board can wait until 5:00 pm to start the meeting. He added if someone wants to make a motion to simply start at 4:30 pm, he can say at least this here he will make a conservative effort to try to keep the less controversial Items between 4:30 pm and 5:00 pm.

Commissioner Tobia stated it sounds like the vacation rental code here; it is the third Tuesday after the fourth Wednesday, and it is worse than the damn Iowa Caucus; the Board needs to make a decision; 5:00 pm is great, or 4:30 pm is what the Board wants to start with, but better yet, just do less resolutions; by arbitrarily deciding what is going to be controversial and what is not seems like it would be more work on the Chair's part; and he believes the Commissioners would be there at 4:30 pm if that is what the decision is, or keep it at 5:00 pm, but the Board is going to spend more time talking about this than the time it would end up saving.

Commissioner Isnardi stated the Board needs to stop talking about it, and take a poll to get a temperature check for where everyone is.

Commissioner Smith stated he is good with 5:00 pm; and Commissioner Isnardi likes 5:00 pm.

Commissioner Isnardi stated he could say 9:00 am, it would not hurt her feelings.

Commissioner Pritchett stated she is flexible.

Chair Lober stated he likes 4:30 pm.

Commissioner Isnardi stated 5:00 pm.

Commissioner Tobia stated 4:47 pm.

*Chair Lober passed the gavel to Vice Chair Pritchett.

Commissioner Lober motioned to start the evening regular Board meetings at 4:30 pm.

Vice Chair Pritchett stated she would second it just to see where it goes.

* Vice Chair Pritchett passed the gavel back to Chair Lober.

The Board discussed changing the start date of the evening Regular Board meetings to 4:30 p.m., but took no formal action.

Upon consensus of the Board, the meeting was adjourned at 7:36 pm.

ATTEST:

SCOTT ELLIS, CLERK

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