

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, July 21, 2020

9:00 AM

Regular / Tentative Millage

Commission Chambers

A. CALL TO ORDER 9:01 a.m.

Rollcall

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

B. MOMENT OF SILENCE

Chair Lober called for a moment of silence and asked that everyone keep the Rose family in mind as he found out yesterday that Robert and Kristina Rose's son had passed; and he believes he was on in his 20's.

C. PLEDGE OF ALLEGIANCE

Chair Lober led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

The Board approved the May 5, 2020, meeting minutes.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Kristine Isnardi

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

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

F. ITEMS PULLED FROM CONSENT AGENDA

Chair Lober inquired if anyone wanted anything pulled from Consent other than Items F.10. and F.19.

F.1 Brevard County Federal Shore Protection Project North Reach; Amendment to Memorandum of Agreement with Bureau of Ocean Energy Management and the U.S. Army Corps of Engineers to Use Outer Continental Shelf Sand for North Reach Project Renourishment.

The Board executed and approved an amendment to Bureau of Ocean Energy Management (BOEM) Negotiated Agreement No. OCS-A-0526, subject to County Attorney and Risk Management approval.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.2 Approval Re: Right-of-Way Use Agreement with The Viera Company for the Central Viera Planned Unit Development - District 4

The Board executed and approved the Right-of-Way Use Agreement with The Viera Company to permit improvements to be installed and maintained in Central Viera.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.3 Approval Re: Dedication of Warranty Deed for Right of Way from Mahaffey Associates West Melbourne, LLC for the Carlton Multi-Family Development - District 3.

The Board approved and accepted the Warranty Deed from Mahaffey Associates West Melbourne, LLC for the Carlton Multi-Family Development.

Result: APPROVED

Mover: John Tobia

Seconded: Bryan Lober

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

F.4 Approval Re: Assignment and Assumption of Right of Way Use Agreement (Modern Duran District) to the Central Viera Community Association, Inc. - District 4

The Board executed and approved the Assignment and Assumption of Right-of-Way Use Agreement (Modern Duran District) to the Central Viera Community Association, Inc.

Result: APPROVED

Mover: John Tobia

Seconded: Bryan Lober

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

F.5 Approval Re: Conveyance of Two Perpetual Easements and Two Resolutions from Brevard County to the Florida Department of Transportation (FDOT) for the Northerly Segment of St. Johns Heritage Parkway Project - District 5

The Board executed and adopted Resolution No. 20-074, for conveyance of Parcel No. 812.1A; executed and adopted Resolution No. 20-075, for Parcel No. 812.1B; and provided the perpetual easements for access and flood plain compensation from Brevard County to FDOT for the Northerly Segment of the St. Johns Heritage Parkway Project.

Result: ADOPTED

Mover: John Tobia

Seconded: Bryan Lober

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

F.6 Approval Re: Assignment and Assumption of Right of Way Use Agreement (Viera Town Center) to the Viera Town Center Merchant's Association, Inc. - District 4

The Board executed and approved the Assignment and Assumption of Right-of-Way Use Agreement (Viera Town Center) to the Viera Town Center Merchant's Association, Inc.

Result: APPROVED

Mover: John Tobia

Seconded: Bryan Lober

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

F.7 Approval Re: Construction Contract Change Order No. 10 for the Intelligent

Transportation System Phase 2 Construction for the St. Johns Heritage Parkway Northern Segment - District 5

The Board executed and approved the Contract Change Order No. 10, in the amount of \$298,910.49 to Jr. Davis Construction, Co., Inc. for the construction of the Intelligent Transportation System Phase 2 work for the St. Johns Heritage Parkway Northern Segment; and approved any necessary Budget Change Requests.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.8 Approval Re: Amended and Restated Right-of-Way Use Agreement with the Grand Haven Master Homeowners Association, Inc. - District 4

The Board executed and approved the Amended and Restated Right-of-Way Use Agreement with Grand Haven Master Homeowners Association, Inc. to permit improvements to be installed and maintained in the Grand Haven community.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.9 Approval; Re: Interlocal Agreement between the Brevard County Board of County Commissioners and the City of Cocoa for authorization to reimburse \$199,814 to the City of Cocoa, a portion of construction costs for the new Dr. Joe Lee Smith Community Center., District 2

The Board approved the Interlocal Agreement with the City of Cocoa, reimbursing the City \$199,814 to assist with a portion of construction costs for the new Dr. Joe Lee Smith Community Center.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.11 Approval, Re: Agreement with Feeding Florida, Fresh Access Bucks Program at the Brevard County Farmers Market held at Wickham Park.

The Board executed and approved the Request Fresh Access Bucks Strategic Partnership Agreement with Feeding Florida, Inc.; and authorized the County Manager to execute necessary Budget Change Requests.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.13 Approval of Budget Change Requests

The Board approved the Budget Change Requests.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.14 Permission to Develop and Advertise a Solicitation for Brevard County Disclosure Counsel

The Board authorized the development and advertisement of an Request for Proposal for Brevard County Disclosure Counsel; authorized the appointment of Gerard Visco, Katherine Wall, Christine Schverak to the Selection and Negotiating Committees; authorized the Chair to execute all resulting contracts and contract related documents upon review and approval by the County Attorney Office, Risk Management, and Purchasing Services; and authorized the County Manager to approve any necessary Budget Change Requests.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.15 Permission to Amend Existing Integrated Supply Agreement, National Joint Purchasing Alliance (NJPA) Contract #061015-GPC for an Additional Year of Service

The Board executed and approved Amendment to existing Contract #061015-GPC with Genuine Parts Company, d/b/a NAPA Auto Parts for an additional one-year period beginning July 22, 2020 through July 21, 2021; authorized the Chair to execute all resulting contract amendments and any other contract related documents necessary, upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services; and authorized the County Manager, or his designee to approve any necessary Budget Change Requests.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.16 BCC-26 Acquisition of Consultant Professional Services Revision

The Board approved the amendment of BCC-26, Acquisition of Consultant Professional Services Policy.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

F.17 2021 RFP #P-1-20-11 Comprehensive Health Plan Services Contract Award Recommendations

The Board approved awarding contracts to Cigna Healthcare and Health First Health plan pursuant to the 2021 RFP #P-1-20-11 Comprehensive Health Plan Services Contract Award

Recommendation.

Result: APPROVED

Mover: John Tobia

Seconder: Bryan Lober

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

F.18 In re: National Prescription Opioid Litigation - Approval to file Individual Proof of Claim in Purdue Bankruptcy

The Board approved the National Prescription Opioid Litigation (NPOL) outside counsel's recommendation to file an Individual Proof of Claim in the Purdue Bankruptcy.

Result: APPROVED

Mover: John Tobia

Seconder: Bryan Lober

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

F.10 Approval, Re: Renewal of Leases with the Martin Andersen Senior Center, Inc. (District 2) and the Wickham Park Senior Center Association, Incorporated (District 4)

Chair Lober stated there are three Comment cards for Item F.10., so he will take them first.

Diane Weinzierl thanked the Board for allowing her to speak concerning the request to renew the lease for Wickham Park Senior Center; she stated Wickham Park Senior Center is located on the Wickham Park property in District 4, Commissioner Smith's District; the building has been leased by Wickham Park Senior Center from the County since it was built in June 2009; the Senior Center is governed by the Wickham Park Senior Center Board of Directors and is operated 100 percent by volunteers; the goal of the Senior Center is to provide programs, support, and services for people over the age of 50 in Brevard County; and their activities are geared towards independent adults who are able to manage their own care, decision making, and safety. She continued by saying their mission is to provide activities that positively enhance the total wellness of its membership; prior to shutting down for the COVID-19 pandemic, they had approximately 1,000 members and 60 different programs or activities, including bingo, shuffleboard, billiards, multiple card and board games, exercise and fitness programs, arts and crafts, education, and travel; during 2019, they averaged more than 2,600 attendees per month for these activities; the center is open six days per week from 8:30 a.m to 4:30 p.m.; and in addition they hold multiple after hour programs during the week. She further stated that income for the center is derived from annual membership dues, the bi-weekly program, and minimal activity fees; since the shutdown on March 16, the Board of Directors has continued to meet monthly to conduct routine business as well as plan for a safe reopen of the center; they opened for shuffleboard which is an outside activity, in May; they had plans to reopen the center on July 15, but with the latest surge of COVID-19 cases in Brevard County they had to put that reopening on hold until further notice; during this time they have continued to pay all of their monthly on-going expenses with virtually little to no income; and they are now asking the Board to renew their lease for an additional five years which will allow them to continue serving the senior population in Brevard County.

Chair Lober stated what he would like to do is to do these separately; and he inquired if there is a motion to approve the Martin Anderson Senior Center Lease renewal for District 2.

The Board executed and adopted Resolution No. 20-076, authorizing the renewal of a lease of real property to a not-for-profit corporation at Martin Andersen Senior Center, Inc.

Result: ADOPTED

Mover: Curt Smith

Seconded: Bryan Lober

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

Approval, Re: Renewal of Leases with the Martin Andersen Senior Center, Inc. (District 2) and the Wickham Park Senior Center Association, Incorporated (District 4)

Chair Lober stated as far as the Wickham Park Senior Center, this is unpleasant but he thinks it needs to be done, this is the only Senior Center in the County that he has received a resident complaint; this is something that offset a lot of staff time and a lot of time in his office; he believes it was about six or 12 months ago regarding an alleged failure to adhere to their contractual obligations with a third party; based on his own knowledge he found the Senior Center's leadership, at the time, to have been dishonest with their dealings with staff and accusatory with respect to how they dealt with staff; it got to the point where Jeff Mcknight, Information Technology Director, pulling Voice over Internet Protocol (VoIP) records when the County switched to VoIP to determine whether certain calls were made, which were not, but had been alleged to have been made; he suggested, given that it has been problematic, the most prudent course of action would most likely be to put it out to bid; and he asked if someone wants to make a motion. He added beyond that, if the Board would like to hear more, he knows Mary Ellen Donner, Parks and Recreation Director, is in attendance and she can speak to it; and he noted he really does not want to put Ms. Donner in an awkward spot but that is up to the Board.

Commissioner Smith advised he would like to hear from Ms. Donner.

Mary Ellen Donner, Parks and Recreation Director, stated she is not sure if there are questions for her.

Commissioner Smith advised he would just like to know what the problems are that are being referred to.

Ms. Donner advised at the first of the year in 2019, there was a Sponsorship Agreement that was entered into by the Senior Center and a third party, and there were some allegations that some of the Sponsorship Agreement terms were not adhered to; she acted as sort of a mediator and was able to get the attorney in question and the Senior Center to agree to terms and a second Sponsorship Agreement was entered into; she believes Chair Lober had brought it up at a meeting but she was able to resolve the issue prior; that Sponsorship Agreement expired on February 28, 2020; and she is not sure the sponsorship party ever went back to the Senior Center, but she knows there was a renewal made that took it to the original term, which has since ended.

Commissioner Smith thanked Ms. Donner; he stated he personally has not heard of any problems with these people; if Ms. Donner has issues, he would like to hear them because his staff has not heard it either; it is in his District and he thinks he would have heard; and if there is something going on he would surely like to hear about it.

Chair Lober stated if Commissioner Smith would like, this could be continued out and he would see if he could get the other party to show up and provide a first person account as to what

happened and how it was dealt with.

Commissioner Smith stated he seems to remember dimly when Chair Lober had brought it up about a year ago.

Chair Lober agreed it was about a year ago. He asked if the Board will move to continue this out to whatever date Commissioner Smith would like.

Commissioner Smith advised to the next meeting.

Chair Lober inquired when is the next Board meeting.

The Clerk responded it is August 4.

Chair Lober inquired if he could consider that a motion; and he noted he will second it.

The Board tabled the renewal of a lease of real property for Wickham Park Senior Center Association, Inc. to the August 4, 2020, Board meeting.

Result: TABLED

Mover: Curt Smith

Second: Bryan Lober

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

F.19 Appointments to Brevard Workforce Development, Inc. Board of Directors dba CareerSource Brevard

Chair Lober stated he did not know if Commissioner Tobia would like to address it first or if he would like to hear the comment first.

Commissioner Tobia advised he would rather hear the comment first.

Marci Murphy stated she only wanted to come up in case there were any questions that needed to be addressed about this Board appointment, she believes that the County Manager had sent information regarding this appointment from the last meeting.

Commissioner Tobia stated he appreciates her response, but it did not address the root of the issue that he had brought up; and he inquired with minorities disproportionately affected by unemployment in Brevard County and their primary goal to assist in employment, why CareerSource's board is consistently more white than the population.

Ms. Murphy responded it is complicated; their board is mandated by Federal and State law and its own bylaws; 49 percent of their board consists of mandated seats that they have no control over, whatever gender or ethnicity, they are on the board; they have the Superintendent of Public School on their board and when it was Dr. Blackburn they had an African American, but now it is Dr. Mullens who is the on board; and the other 51 percent are business seats which is 13 seats total. She went on to say of those 13 seats, they have to ensure that they are nominated by a local business association, per Section 107(b)2(a); they have to ensure that the businesses have at least five employees which is mandated through County-approved Bylaws; there should be representation from all parts of the County; two members must represent small businesses, Code of Federal Regulations (CFR), Title 20, Volume 14, Section 679.320; and the representatives must be an owner of a company or a C-level employee.

Commissioner Tobia stated she had answered all this stuff in her email, however, there were 13 more choices; and he mentioned he has a couple more questions. He inquired how many non-white applicants they received for these board seats.

Ms. Murphy asked for clarification if Commissioner Tobia means the new ones or the reappointments.

Commissioner Tobia replied the reappointments, CareerSource could have gotten people to reapply for those, but they just decided to go forward with those ones; and he inquired how many non-white applicants they received.

Ms. Murphy responded zero non-white applicants.

Commissioner Tobia inquired if the seats were advertised in places where minority communities were likely to see it or if it was the result of phone calls to groups of insiders who just tend to be white.

Ms. Murphy replied they actually reach out to the Chambers, the Economic Development Commission (EDC), and trade organizations per law, to ask them for potential board members; she advised she is not really involved in that process, there is a committee that looks at the applications and then it is brought before the CareerSource Brevard, Board of Directors for approval and then brought before the County Commission; and in fact two of the applicants on there, two of the new members, she has never seen before. She noted she has only talked with them on the phone because of COVID-19.

Commissioner Tobia stated that sounds like CareerSource did not seek minority applicants; and he inquired if Ms. Murphy said they reached out to the EDC.

Ms. Murphy responded that is one of the trade organizations they can reach out to.

Commissioner Tobia inquired if the Director of the EDC is one of the Directors.

Ms. Murphy responded affirmatively; and she mentioned she is one of the mandatory members.

Commissioner Tobia remarked a mandatory member.

Ms. Murphy explained she actually represents two seats, a business seat and a mandatory seat; and they have to have an EDC person on their board.

Commissioner Tobia asked if they needed someone from that organization; but stated she is not the mandated individual from that organization.

Ms. Murphy stated that is correct, but it has to be C-level.

Commissioner Tobia interrupted by asking if there are any minorities in the EDC that could fill that seat per Statute as well.

Ms. Murphy explained if they are a C-level employee, like if they are a Vice President, Chief Financial Officer (CFO), or Chief Operating Officer (COO) then that would be okay.

Commissioner Tobia asked if they had advertised in any publications that are geared towards

people of minority backgrounds.

Ms. Murphy responded they had not.

Chair Lober stated he has served for the past three years on the Judicial Nominating Procedures Committee in Tallahassee; one of the items that is consistently brought up when looking at the pool of applicants to send to the Governor to appoint his judges, whether it be Circuit or County Court judges, the question always comes up about why or why not the applicant pool is or is not diverse; he has heard so many discussions, some thinking it should be representative of the population versus it should be representative of the composition of attorneys as a whole because otherwise it would be discriminating against other groups, perhaps Asians, Hispanics, or Whites; then the other school of thought is it should be representative of the school of applicants; and he does not know if there is a perfect answer for that. He mentioned in his mind, first and foremost, the question that comes up when there is an issue with respect to ethnicity, is there something being done maliciously one way or the other and he believes there is no question, there is not; after that, is something being done which excludes or somehow dissuades minorities from participating in the process; the answer to that is he does not see anything being excluded or dissuaded; and really at this point, with 49 percent of the seats being mandated essentially coming from a particular organization, there may not be much sway with respect to that. He continued by saying he thinks perhaps the Board should give CareerSource clear direction, moving forward, with what the Board expects of them with the composition mirror; does the Board want it to mirror the population as a whole, does it want it to mirror the applicant pool, which it appears as though it does not, or does it want it to mirror the composition of businesses which may not be the same as the composition of the population at large; and he does not know if there is a perfect answer but he kind of feels bad for CareerSource at this point because the Board is saying it wants them to do something but it does not necessarily give them a guideline to strive to meet. He went on to ask if it should be 10 percent African American and 30 percent White with 15 percent Hispanic and then fill the rest with whatever remains; and he stated he just thinks the Board should give them something so they can move forward.

Commissioner Tobia stated by no means does he think there was any malicious nature nor does he think there was a concerted effort to keep an overwhelmingly White board; he also does not see any effort made, when it comes to outreach; the questions, as far as the representation, there are two measures that he thinks can be looked at, either the minority representation of Brevard County or, as CareerSource looks to employ people and according to the latest Census numbers, African Americans are twice as likely to be unemployed as their White counterparts, therefore, either the population of Brevard County's minority or those that they are serving; he thinks diversity is very important and he thinks the Board needs to encourage it; but, he thinks it needs to be advertised in those areas in which they will reach folks. He went on to say calling on the EDC or the Chambers, he does not think, while not being malicious, that it shows any effort to get a diverse population that he would like to see on this board; he would be happy with the lower of those two which is just the population of Brevard County; he would certainly be more happy with meeting a standard of service to the individuals that participate or use that organization; and that is not being met with either of the two.

Commissioner Pritchett stated she thinks diversity is important too; and she asked Ms. Murphy if there is anyone on their board that the County has influence on, that is African American.

Ms. Murphy stated of the 13 businesses, two of them are held by African American men which equates to about 15 percent.

Commissioner Pritchett inquired if there are any Hispanics.

Ms. Murphy responded there is not, however, they had one who was the General Manager of Walmart Distribution but in January he had to step off the board because he was busy.

Commissioner Pritchett stated she thinks if they could try to get to what is statistical with the general population that would be good; women are 51 percent of the population; and she inquired how many women are on the board.

Ms. Murphy inquired if Commissioner Pritchett is talking about business seats or the entire board.

Commissioner Pritchett advised she actually has the number already, there are four women and 20 men.

Ms. Murphy responded affirmatively.

Commissioner Pritchett commented if Ms. Murphy could look at that, CareerSource will have to do what it has to do and she agrees with Commissioner Lober, if CareerSource can just do the best it can with the population; if it gets down to diversity, she is not trying to slam anybody around, but she has to point out with all the diversity stuff going on, that women are still doing a lot of struggling; and she mentioned she is fine with what they have right now, until they receive more applications.

Ms. Murphy stated if the Board Members have any businesses in their Districts that might qualify to please let her know so she can send them applications to fill out because she would love to have a lot of applications.

Commissioner Pritchett stated CareerSource has a lot of the Chamber trying to help them so that is comforting; maybe the Board Members should reach out to the Chamber in their Districts and give them some direction of what they would like them to send to CareerSource; and she thanked Ms. Murphy for what CareerSource is doing and for taking this punch for them in this heated time period.

Ms. Murphy thanked Commissioner Pritchett.

The Board appointed/reappointed Daryl Bishop, Mary Jane Brecklin, Colleen Browne, William Chivers, Brian Jaskiewicz, Kristen Patchett, and Lynda Weatherman to serve on the Brevard Workforce Development Board, with said terms to expire June 30, 2023.

Result: APPROVED

Mover: Curt Smith

Second: Bryan Lober

Ayes: Pritchett, Lober, Smith, and Isnardi

Nay: Tobia

Approval, Re: Appointments to Brevard Workforce Development, Inc. Board of Directors d/b/a CareerSource Brevard

Chair Lober mentioned to Ms. Murphy that with future applications, he thinks the Board having

given her directions, it is probably going to be a little more critical if there is not some amount of diversity on there.

Ms. Murphy advised she got it.

Chair Lober went on to say he is not saying CareerSource should pick less qualified people by any means, he thinks what it comes down to that Commissioner Tobia was suggesting, is outreach; there may need to be a little more outreach done within sections of the population; and he thinks the Board has taken off the immediate pressure by getting through the Item at hand, but next go-round may not be as easy.

Ms. Murphy advised she understands. She thanked the Commission for the CARES Act funds and for approving it to help businesses in Brevard County. She stated CareerSource rolled out the program yesterday; her staff has been working very hard, they got the contract signed with the County, they got their media approved, they are working on getting documents together, and as of 5:00 p.m. yesterday they have had 50 business applications so far in one day and that is really good; and they have opened it up for 10 days, through July 31. She mentioned there does seem to be a need out there and she thanked the Board again, for those funds to help Brevard County businesses.

Chair Lober expressed his appreciation to Ms. Murphy as well.

G. PUBLIC COMMENTS

Charles Tovey stated he has his purse and it is not glamorous, but he did not want to offend anybody, and he will provide more information about his purse later; he put on his card about his property and the Lagoon; about his property, he spoke about the deputies threatening him with arrest if he steps foot on their property, while a man bulldozes his property, and destroys and cuts his trees down; he has video of that altercation; and when he asked Sheriff Wayne Ivey, Brevard County Sheriff's Office (BCSO), on his day of inauguration if he wanted to witness it, he responded no. He went on to say he came into the Board meeting and there was language on there, not his, that was questionable, and he was escorted out; with the clearing of his property almost seven years ago, there was no prior notice; there was no notice given at all, except for him letting them know he would be moving out on Monday; come Monday morning, they cleared his property and there was nothing he could do about it, except get shot, tased, arrested, or baker acted because they said he was acting irrational, while they destroyed his property; he reiterated there was no notice given, not prior, not that day, and not at any time; and the reason is because they wanted to rid him of his property. He stated as far as the Lagoon, he revealed that he primed the Lagoon to get it flowing again; how he does that is by increasing the volume and the calibration naturally so it restores back to its regular flow; and the acronym (FACE) is Flow, Agitation, Circulation, and Exchange, and to do all of it as natural as possible or as close to the natural process. He expressed his appreciation to Commissioner Pritchett for her awareness and recognition of women's rights; he stated there are a lot of people that have been suppressed and abused in this world besides just one section or division; if everybody were given the same respect that would be helpful; he asked the Board not to mess with his program and he will reveal details about what he does, where he does it, and why he does it; and he thanked the Board for its respect and kindness. He advised his headaches are getting better; he asked the Board to excuse him for being irritable and grouchy but his headaches are getting better; and he mentioned there is no excuse for it, so he apologized.

Peter Carnesale stated basically he is there representing Melbourne but it also carries over into Rockledge because both are parts of Viera; going back to Indian River Colony Club (IRCC) and

the right hand turn lane off eastbound Viera Boulevard onto Independence Avenue into the back gate entrance, it is only a matter of time, not if, a rear-end collision will occur; pedestrians, bicyclists, and golf carts traveling the sidewalks are not visible from the road until being on top of the right hand turn, and they do not stop for cars, leaving the residents with fear of hitting someone if they do not slow down; and the short entryway before the gate, is another reason the cars making the turn have to slow down to below 10 miles per hour (mph) and sometimes stop on Viera Boulevard before making that turn into IRCC. He added as a result, cars are stopping on a road where the speed limit is now 45 mph and it is known that people usually do five to 10 mph over that; and if someone just misses the turn light, there will be a rear-end collision, it is just a matter of time. He went on to say the other item is the one that crisscrosses over is IRCC, Herons Landing, and Faith Viera Church, that could use a traffic light on the corner where Herons Landing and IRCC exit onto Viera Boulevard; there is a parallel road, Thrasher Drive, from Faith Viera Boulevard which goes to Lutheran Church and Herons Landing and that connects the two, making it usable for the church as well as Herons Landing; and basically that is all he has for this Item. He mentioned he has questions for Item H if the Board wants to look at those; basically it relates to the millage rates; and he stated he would like to know what the new millage rates will be for the Viera East Community Development District (VECDD) and what the old one was.

Chair Lober advised the Board will address it in the order it comes up.

H.1. Petition to Vacate, Re: Public Utility Easement - 2049 Arnold Palmer Drive - "Eagle Point Subdivision" Plat Book 52, Page 37 - Titusville - Wineland Family Trust - District 1

Chair Lober called for public hearing on a petition to vacate a public utility easement at 2049 Arnold Palmer Drive, Eagle Point Subdivision Plat Book 52, Page 37, in Titusville, and requested by the Wineland Family Trust, located in District 1.

There being no comments or objections, the Board adopted Resolution No. 20-077, vacating a public utility easement in "Eagle Point" Subdivision, Titusville, lying in Section 24, Township 21 South, Range 34 East, as petitioned by the Wineland Family Trust.

Result: ADOPTED

Mover: Rita Pritchett

Secunder: Kristine Isnardi

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

H.2. Petition to Vacate, Re: Public Utility & Drainage Easement - 843 Heron Road - "Poinsett Shores Second Addition" Plat Book 19, Page 143 - Cocoa - Mira E. Chapman - District 1

Chair Lober called for public hearing on a petition to vacate a public utility and drainage easement at 843 Heron Road in "Poinsett Shores Second Addition" Plat Book 19, Page 143 in Cocoa, and requested by Mira E. Chapman located in District 1.

There being no comments or objections, the Board adopted Resolution No. 20-078, vacating two public utility and drainage easements in "Poinsett Shores Second Addition" Subdivision, Cocoa, lying in Section 34, Township 24 South, Range 35 East, as petitioned by Mira E. Chapman.

Result: ADOPTED

Mover: Rita Pritchett

Seconded: Bryan Lober

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

H.3. An Ordinance Rescinding Selected Companies' Economic Development Ad Valorem Tax Exemption

Chair Lober called for public hearing on an ordinance rescinding selected companies' economic development ad valorem tax exemption, all of which are located in District 2.

There being no comments or objections, the Board adopted Ordinance No. 2020-09, repealing Ordinance No. 2012-11, relating to the Economic Development Ad Valorem exemption granted to Diamondback CNC, LLC, repealing Ordinance No. 2012-08, relating to the Economic Development Ad Valorem exemption granted to East Coast Paper Stock, Inc., and repealing Ordinance No. 2014-31, relating to Economic Development Ad Valorem exemption granted to Project Transom, that no longer qualify for the County's program.

Result: ADOPTED

Mover: Kristine Isnardi

Seconded: Bryan Lober

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

H.4. Adoption of Proposed FY 2020-2021 Ad Valorem Millages

Chair Lober called for public hearing for adoption of proposed Fiscal Year 2020-2021 Ad Valorem millages. He inquired if anyone on staff could address the questions that Peter Carnesale had brought up in Public Comments.

Frank Abbate, County Manager, stated he would have to ask Jill Hayes, Budget Office Director, to come to the podium for that.

Jill Hayes, Budget Office Director, stated she could not hear what specific millage rate Mr. Carnesale had asked about.

Peter Carnesale stated he asked about two rates the current millage rate and the projected millage rate.

Ms. Hayes inquired on what specifically.

Mr. Carnesale replied on the Viera East Community Development District (VECDD) he thinks basically the millage rate would be the same for all of Brevard County.

Ms. Hayes explained the millage rates are geographically dependent on where someone lives; the aggregate millage rate takes an average of each taxpayer; looking at the current year, the aggregate millage rate 5.8447; the proposed millage rate is 5.6404; and that is a decrease of 3.5 percent.

Mr. Carnesale asked if it was broken down to know, Ms. Hayes is saying it is done geographically, but does she have numbers of what would be covered by VECDD.

Ms. Hayes went on to say there are different tax codes depending geographically where someone lives; she could look at what taxing District Mr. Carnesale is in and see what millage rates apply to that, then look at it in total as to what the millage rate is; and she mentioned she

can say that every millage rate has decreased.

Chair Lober noted if it is something that applies to the County as a whole he would be happy to have it during the meeting, but if it is specific to some particular portion of the County, he would ask that Ms. Hayes and Mr. Carnesale get together outside of the meeting and get the information exchanged that Mr. Carnesale is looking for.

Ms. Hayes responded affirmatively.

There being no further comments or objections, the Board approved the FY 2020-2021 proposed Ad Valorem millages for the purpose of notification to taxpayers by the Brevard County Property Appraiser; and authorized County Manager to complete the Florida Department of Revenue's Certifications of Taxable Value, Forms DR-420.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

J.1 Approval Re: Contract for Sale and Purchase from Owners Jennifer Grant, Max Brandes and Teresa Paiva for the Lift Station F02 Reconstruction Project- District 2.

The Board executed and approved the Contract for Sale and Purchase; and authorized waiving the requirement for a Phase 1 Environmental Site Assessment as required by Administrative Order 37.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

The Board recessed at 9:35 A.M. and reconvened at 9:39 A.M.

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

Chair Lober stated he has some questions for Maria Stahl, State of Florida Department of Health (FDOH) Brevard County Director, then he will give her the floor for any other updates; he thanked her for coming to speak; he mentioned there are some conspiracy theorists out there who say that masks do not work; and he inquired as a multi-decade clinician and as the highest ranking Florida Department of Health official in Brevard County, if Ms. Stahl has any question whatsoever that masks reduce transmissibility.

Maria Stahl, State of Florida Department of Health Brevard County Director, replied no; she stated masks obviously are not the only answer, people need to use masks in addition to, the social distancing and avoiding the crowds; masks will decrease transmissibility; the country has never been in a situation in which it is right now and she does not believe the country has ever had a pandemic like this where masks were being advised; and she noted that masks are a barrier that stop the aerosol transmission.

Chair Lober inquired if the Board does not somehow either encourage or require increased masking, if she has any doubt that the County will have increased COVID-19 spread, as opposed to doing nothing.

Ms. Stahl replied she thinks there will be a greater spread; she went on to say some of the spread that is going on right now is in the pre-symptomatic and asymptomatic individuals and also the younger population; not wearing masks will definitely increase the transmissibility to others, especially with the vulnerable population; and she advised the vulnerable and the elderly are the ones that are most at-risk.

Chair Lober stated as Ms. Stahl has indicated that masks affect transmissibility, given that one has to be infected with COVID-19 to die from it; and he inquired if it would then make sense to say that lowering the transmissibility would likely lower the death toll.

Ms. Stahl agreed with that statement.

Chair Lober asked if encouraging or requiring masks would literally save people's lives.

Ms. Stahl responded affirmatively.

Chair Lober stated he wants to go back to July 1, if Ms. Stahl does not have the data that is okay, the day after his proposal for universal masking failed; and he asked what Ms. Stahl has seen with respect to an increased death toll since that date.

Ms. Stahl stated that is some of what she was actually going to report on; she replied since July 1, the deaths have increased by 33, the cases have increased by 2,342, and the cases in the long-term care facilities have increased by 18 facilities; and she mentioned she can actually go from July 13, which was actually a week ago, and the County has increased its deaths by 21, cases by 794, and long-term care facilities are up to 20.

Chair Lober asked what about the positivity rate over either period of time.

Ms. Stahl responded the lab positivity rate is variable; she stated since July 7, the range has been from 5.3 to 11.4; overall the positivity rate is 6.22, but it varies on any given day; and yesterday the labs reported out at 5.5 percent which was truly a low point compared to what the County has been having.

Chair Lober inquired if Ms. Stahl recalls or remembers the last day that a report came out that did not have any COVID-19 deaths.

Ms. Stahl responded yesterday; she added that it was not true because there were deaths yesterday; to explain a little bit of how it works with the deaths, even with cases, they get reported out from the labs, but the labs then report into the State's Merlin System; that is not to say that the investigation waits necessarily until it is in Merlin because if they receive a faxed lab report from anybody, they will start to take action on it; however, it does not actually get reported out until it is in the State system. She explained yesterday there were none that were verified in the State system but she knows for a fact that Brevard County had deaths.

Chair Lober asked if Ms. Stahl recalls when the last time was, prior to that, when there were zero deaths reported.

Ms. Stahl responded she does not recall but it has been a little while, they have consistently had deaths reported everyday and on some days it is as high as five or six.

Chair Lober stated he thinks the County has had several days with at least five.

Ms. Stahl agreed.

Chair Lober inquired if Ms. Stahl recalls off-hand how many deaths there were over the immediate past weekend.

Ms. Stahl replied she can tell the Board what is reported to her Department from the Medical Examiner's Office; she stated all of those have not come through as labs; the labs have not come to them yet, nor has it been reported in Merlin yet; yesterday the Medical Examiner's Office did tell the Department they had 20 deaths over the weekend and five yesterday; and out of those 20 deaths, four of them were actually Indian River County residents, so they will not show up.

Chair Lober clarified it is 16 then.

Ms. Stahl responded affirmatively; and she mentioned in addition to that, the Department has not seen the lab reports on that yet, and it was just a verbal report from the Medical Examiner's Office.

Chair Lober stated he is sorry for starting off this way; and he asked if Ms. Stahl had anything else she would like the Board to know in terms of numbers or status.

Ms. Stahl replied as of yesterday there were 4,304 total cases and it was up 84 yesterday; she advised she had already reported on the lab positivity rate; the long-term care facilities are really a concern right now; yesterday there were 41 long-term care facilities out of 168 that have had cases; there are 239 residents and 174 staff that have tested positive; there are a few facilities that they are little more concerned about; they are working with Affordable Care Act (ACA) and the State on those facilities; she has already reported on the deaths; she can say the median age, the last time she reported to the Board, was running between 20 and 40; and that has increased a little bit to 40 or 50, so there is a slight increase in the median age. She continued by saying the age of the deaths are from 56 to 101, Brevard County is fortunate, although no death is fortunate and she feels for all the families, but there have been children who have died in the State, she thinks four under the age of 18, that have died Statewide but not in Brevard County. She went on to say the lag in the labs is running between five and seven days right now; she thinks last time she reported it was seven to 10 days; the State goal for testing is two percent to be tested per month; this month so far, they have tested five percent; they have tested about 11 percent overall; and she reiterated for everyone to take the mitigation measures, number one is to stay home when sick, it is the most important thing, if going out to enclosed public places wear a mask, practice social distancing, have good hand hygiene, and avoid large crowds.

Commissioner Tobia stated he wanted to avoid this, but it appears as though Chair Lober is trying to qualify Ms. Stahl as the expert on this when it comes to masks, so he does have some questions for her; at the Board's last Special meeting, Chair Lober said to the public, "Please let the Commission know if you are licensed to practice medicine in the State of Florida, or we may simply assume that you are not and your opinion will be weighted accordingly. Also if you are a physician, an MD, or DO please let us know so we may refer to you as a doctor."; and he inquired if Ms. Stahl is a medical doctor or a doctor of osteopathic medicine licensed to practice in the State of Florida.

Ms. Stahl responded she is not.

Commissioner Tobia stated on March 3, Ms. Stahl's office held an in-person briefing in the Emergency Operations Center (EOC) where the room was filled to capacity, in which she explained the importance of taking basic precautions in distancing; during this meeting the impact of the cruise industry was mentioned; and he inquired if she went on a cruise the following week.

Ms. Stahl responded she had.

Commissioner Tobia asked upon returning from the cruise if Ms. Stahl was forced to isolate for about two weeks.

Ms. Stahl advised she was.

Commissioner Tobia inquired if Ms. Stahl was aware the Center for Disease Control (CDC) has issued a no-sail order because, "The outbreak of COVID-19 on cruise ships poses a risk of rapid spread of disease beyond the voyage and into the communities across the globe."

Ms. Stahl responded affirmatively; and she noted the cruise she was on was the last week of sailing.

Commissioner Tobia mentioned he does not know if that helps her argument.

Ms. Stahl advised she received approval from Tallahassee before she went on that cruise; she had the cruise planned and two days before the cruise she received approval to go; and she wanted to put that out there.

Chair Lober clarified that the no-sail order did not apply at the time Ms. Stahl left.

Ms. Stahl responded affirmatively.

Chair Lober inquired when it was said that Ms. Stahl was forced to isolate was she legally obligated to isolate or did she do that because it was the responsible thing to do.

Ms. Stahl explained that was the rules of the Florida Department of Health (FDOH) at the time when she came back, therefore, she did: and she worked.

Chair Lober asked since March 3 because that was the date that was brought up, has any of the guidance from either FDOH or the CDC changed.

Ms. Stahl asked for clarification of March 3.

Chair Lober explained he thinks that was the date that Commissioner Tobia brought up.

Ms. Stahl responded yes, things are changing every week.

Chair Lober asked what Ms. Stahl has a doctorate in.

Ms. Stahl answered her doctorate is in nursing practice and leadership.

Chair Lober inquired if she is entitled to write prescriptions.

Ms. Stahl responded no.

Chair Lober asked if she is allowed to offer advice regarding matters that fall within her area of practice.

Ms. Stahl responded yes.

Chair Lober inquired if there is anyone within Brevard County that is consistently here that is a higher ranked official with FDOH than her.

Ms. Stahl inquired if he is talking about Brevard County.

Chair Lober clarified he is talking about Brevard County.

Ms. Stahl noted not with FDOH, however, she has a Medical Director that works along side of her.

Chair Lober asked if she is then really the top dog in Brevard County.

Ms. Stahl advised the Medical Director reports to her.

Chair Lober asked if there is anything the Board has missed.

Ms. Stahl asked if anyone had any questions.

Commissioner Tobia stated he is looking at an article in which Ms. Stahl spoke in favor of the Amateur Athletic Union (AAU) Junior Olympic plan coming down; and he asked in her expert opinion if bringing tens of thousands of people in would increase or decrease the spread of COVID-19 in Brevard County.

Ms. Stahl advised it could potentially increase along with any crowds.

Chair Lober asked if adequate measures are taken, namely if they do not have wrestling and events where social distancing is impossible, they keep people six feet-plus apart, and they wear masks where appropriate if that would do anything to sway concerns that transmissibility would become a concern at that point.

Ms. Stahl stated she had reviewed all the plans and she made the same comment on every single plan, the crowd size should be less than 50; she said that on every single plan; each board developed their own plan and the plans are very good; they are cleaning with the Bio Tech, they are wearing masks, and they are screening spectators, visitors, and athletes coming in; for each sport one might have had one comment versus another; and she reiterated on every single one she advised of crowds of 50 or less.

Chair Lober stated with respect to what Ms. Stahl has said today and with everything that has been referenced in the exchanges with Commissioner Tobia, he asked if she has ever taken a position which is contrary to FDOH or CDC stances.

Ms. Stahl replied not that she is aware of.

Commissioner Tobia stated he has a follow up on the comment about the AAU; he asked if the AAU is taking any precautions with the participants prior to their transportation to Brevard County; and he inquired if they will be testing people before they get on planes or before they

get in cars to come to Brevard County.

Chair Lober advised Ms. Stahl if she does not know, not to speculate.

Ms. Stahl responded she does not know and that would probably be a question for Rusty Buchanan.

Commissioner Tobia stated so in other words, if they were not and it is a fair assumption, Ms. Stahl said, "really thought this plan through very well" according to the paper, and it is not listed here; and he asked if they are identified as COVID-19 positive, not before they came, the County could have new COVID-19 people, and that they would not be able to participate but the County would potentially have more people with COVID-19.

Ms. Stahl stated potentially the County could with any crowd, the visitors coming in for the beaches and hotels could be the same thing.

Chair Lober asked just for the clerk's benefit, what city does Dr. McPherson resides in.

Dr. John McPherson stated he lives in Melbourne Beach.

Chair Lober stated Dr. McPherson graduated from an accredited medical school in the United States, and he asked if that is correct.

Dr. McPherson responded affirmatively.

Chair Lober asked if 2020 marks his 30th year of having been licensed to practice medicine in the State of Florida.

Dr. McPherson responded that is correct.

Chair Lober asked if Dr. McPherson is in good standing with the Board of Medicine.

Dr. McPherson responded yes.

Chair Lober inquired if Dr. McPherson completed a residency in Emergency Medicine with the University of Florida.

Dr. McPherson agreed with him.

Chair Lober inquired if DR. McPherson is Board-certified right now in Internal Medicine and a fellow with the American College of Emergency Medicine.

Dr. McPherson stated actually Emergency Medicine is a specialty, therefore, he is Board-certified in Emergency Medicine.

Chair Lober apologized for having misspoken. He inquired prior to being accepted into medical school at the University of Pittsburgh, which he believes is ranked in the top 15 nationally of all medical schools, had Dr. McPherson completed all the course work at University of Pittsburgh's Master Program in Public Health.

Dr. McPherson responded affirmatively.

Chair Lober stated separately from those two programs, Dr. McPherson also has a post-graduate Master's degree from the Florida Institute of Technology (FIT).

Dr. McPherson responded he does in business administration.

Chair Lober stated Dr. McPherson has been trusted to serve as the Emergency Medical Services Director for at least four beach-side municipalities in Brevard County; and he inquired if that was correct.

Dr. McPherson replied that is correct.

Chair Lober clarified that Dr. McPherson is not speaking on their behalf.

Dr. McPherson agreed with Chair Lober's statement.

Chair Lober stated Dr. McPherson is also Brevard County Fire Rescue's (BCFR) Emergency Medical Services Director, essentially the County's own Emergency Medical Services Director.

Dr. Mcpherson stated he is.

Chair Lober asked for clarification that Dr. McPherson is not speaking on behalf of BCFR.

Dr. McPherson responded he is not.

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

Chair Lober stated he would like to get to the issues at hand; he pointed out there is one of Dr. McPherson's slides on the overhead in case he wants to reference it at some point; and he inquired if Dr. McPherson is familiar with any recent studies pertaining to micro-droplets produced by the coughing of COVID-19 infected patients.

Dr. McPherson replied he is; he stated there are two studies, one study is from the University of the Atlantic, here in Florida, its a 2020 March study and they looked at the distance that micro-droplets could be expelled with various types of masks and no masks; they were able to measure on average eight to 12 feet with no masks, that the micro-droplets would be expelled forward; if someone was wearing a simple one-ply mask or handkerchief the micro-droplets would be blunted to about three feet; if someone had a two-ply homemade mask that would stop the micro-droplets from passing any further than 15 inches; and if someone had a commercial-made two-ply to three-ply mask that would stop micro-droplets from going further than three to four inches. He continued by saying a surgical mask and an N95 Respirator will not allow any micro-droplets to expel past the mask.

Chair Lober stated the Board has heard from a lot of people who have graduated from the social media school of medicine regarding the efficacy of masks: and he asked that Dr. McPherson, as an American-educated, Board-certified, three-decade Emergency Medicine physician who is trained in public health, to speak on the level of consensus that exists amongst the group most qualified to render expert opinion as to medical issues, as Commissioner Tobia pointed out, Dr. McPherson is a physician, an MD, and that masks truly help reduce Coronavirus from spreading.

Dr. McPherson stated he thinks everyone noticed when seeing broadcasts from South Korea or Singapore, that everyone wore masks; at that point in time, people did not think it was necessary to wear a mask in the United States, and they did not think the prevalence was that

high; he thinks there were some issues with the Surgeon General when stating masks may not be helpful and can actually cause further infections because the average person is not putting the mask on correctly, they will get a false sense of security, they do not want to have to social distance, and a variety of other things regarding a sense of comfort and therefore, lacking on the hand washing and so forth; and there was an about-face on that position as the prevalence of the Coronavirus was noted to be much higher than first thought. He continued by saying there have been a lot of asymptomatic and minimally symptomatic cases; at that point in time, it was determined that a mask barrier was necessary to avoid continual passage of micro-droplets from person to person, especially when people did not think they needed a mask because they did not feel ill; there has been a lot of asymptomatic spread that has exceeded all of people's expectations; one of the very difficult things with this virus is that there can be a 14-day incubation period before someone has symptoms and during that period of time someone can be infected; and it kind of breaks all the rules with all the usual kind of virus protection that people are used to. He added if someone is sick they should put on a mask and people would stay away from them; that is why this one is very tricky and why wearing a mask to diminish the spread of the asymptomatic patient to the rest of the people is really vital to controlling the rate of this infection; when someone wears a mask, it is not to protect themselves it is to protect others, and vice versa; there is a risk factor group that is impacted very dramatically if they were to develop COVID-19; he is 60, he has diabetes, and he is very concerned; he makes his son wear a mask and only have two or three friends who are allowed to come to his house; and if anyone is sick they are not allowed. He further stated that to him he thinks it is critical to wear a mask, for people to protect themselves and their loved ones; and it has been very clearly shown to stop the transmission of COVID-19.

Chair Lober stated he has a couple questions he did not intend to ask; as Commissioner Tobia implicitly questioned whether a nurse practitioner is qualified to render certain medical advice, Dr. McPherson has an MD from a very solid school and he has a license to practice in Florida; he just mentioned that transmissibility would be reduced by masks; and given that someone has to be infected with Coronavirus in order to die from it, and he asked by extension, if it would be fair to say that by mandating or encouraging mask, it could also prevent deaths.

Dr. McPherson stated that would be a correct assumption.

Chair Lober stated he will leave it at that.

Commissioner Tobia stated he was not meaning to diminish the credentials that are clearly far more than what he has, on that as Ms. Stahl is a medical practitioner; he was just citing the information Chair Lober did at the beginning of a meeting; and he did not know the Board was certifying these people as experts. He stated he would like to talk about judicial case number 052016CA031577 with a settlement date of February 27, 2020, in which Dr. McPherson's insurance company or himself were found liable in the amount of \$250,000; and he asked if he was reading that correctly. He noted he is looking at FDOH, Dr. John Ramsey McPherson.

Chair Lober asked if Commissioner Tobia has a specific question for Dr. McPherson.

Commissioner Tobia responded he has an incident date: and he asked if Chair Lober was qualifying him as an expert because he asked about all of his credentials.

Chair Lober concurred he did ask about his credentials.

Commissioner Tobia reiterated he is looking at FDOH and it sounds like all of that is correct; there was something on there that he did not quite understand; and there was an incident date,

a settlement date, an amount, and he was just curious because that was the one thing that Chair Lober had not talked about. He mentioned he has the license number, the beginning of practice, it is all mentioned, and he was just curious.

Chair Lober stated he can absolutely help with respect to that, but he knew nothing about it until Commissioner Tobia brought it up.

Commissioner Tobia stated he knew nothing about it either and that is why he asked the question.

Chair Lober advised he likes specific questions rather than open-ended ones; and he asked Dr. McPherson if he is in good standing with the Board of Medicine.

Dr. McPherson responded affirmatively.

Chair Lober inquired if Dr. McPherson has any discipline on file with the Board of Medicine.

Dr. McPherson replied he does not.

Chair Lober inquired if that was sufficient for Commissioner Tobia.

Commissioner Tobia stated if Dr. McPherson would rather not answer the question, he understands.

Chair Lober inquired how many individuals Dr. McPherson has that are subordinate to him with respect to being subordinate to his license, PA's and the sort.

Dr. McPherson replied there are no specific PAs, the EMTs and the Paramedics work under his license and that is about 600 to 700 people.

Chair Lober clarified Dr. McPherson stated 600 to 700 people are under his license; and he inquired, if by extension one of them did something could it result in a claim on Dr. McPherson's insurance.

Dr. McPherson responded affirmatively.

Commissioner Pritchett stated she is starting to feel like she is on The Perry Mason Show; she asked Chair Lober if he is trying to go somewhere with this; and if so, she would like to know where he is headed with it.

Chair Lober noted he is just trying to get this in there as a courtesy because he asked both Ms. Stahl and Dr. McPherson to come; he was trying to get them in and out as quickly as possible; he will bring it up in his Board report as he noticed there was a speaker card with respect to the same issue; and he reiterated he wanted to get these two speakers in and out because it was a courtesy that they came out. He inquired if Dr. McPherson had anything that was not touched on that he thought would be important.

Dr. McPherson advised for a word of caution and on a positive note, this surge has never really stopped, it is continuing to escalate, it should have stopped as this is a seasonal infection, and it is continuing to spread at a higher rate; his colleagues down in South Miami, West Palm, medical directors, their Emergency Departments are overrun, their hospitals are diversion, and he hopes Brevard County does not achieve that here; the good news is there are about three

medications; one came out yesterday from England that can decrease by 79 percent the chance of dying or going on a ventilator if someone is an Intensive Care Unit (ICU) patient; and he noted it is their first experimental trial. He continued by saying they have Dexamethasone now for ill patients having respiratory distress; it decreases their chance of having to go on a ventilator by 30 percent or more; there is the convalescent plasma which is essentially antibodies that have been extracted from blood from people who have had the Coronavirus infection; they are able to generate multiple antibodies by churning T-cells causing their DNA to produce many more antibodies, and this is in phase three trials; and these are things that are not a vaccine but he truly believes are going to mitigate until there is a vaccine. He went on to say the very positives on the vaccine line, Oxford and Astrazeneca have had very positive third clinical trials; level three reported yesterday with 100 percent antibody response to these antigens and 100 percent of the patients develop T-cells which generate the antibodies; therefore, there are a lot of positives out there, people just need to mitigate, wash their hands, social distance, and wear a mask until the time the vaccines come out.

Commissioner Isnardi stated admittedly she is not Dr. McPherson, but she does hold a Doctorate in Nursing Practice and she works in family practice; and she asked if Dr. McPherson would admit over the course of the last several months that this virus is not just the projections and the predictions, and that the course of the virus with the infection rate is changing by the week.

Dr. McPherson replied definitely.

Commissioner Isnardi inquired if he would admit that the recommendations by the CDC have been changing by the week; and she asked what he thought about the death toll predicted in Brevard County, by some medical experts as well as plenty of politicians, that said Brevard County was going to see 10,000 to 20,000 deaths within the first two months and that sort of thing.

Dr. McPherson went on to say Brevard County only has 50 deaths at this point; for some wonderful reason Brevard County has been kind of spared compared to those in West Palm, Broward, and even in Orange County; the infection is going to move this way and Brevard County is going to have higher and higher numbers, it is inevitable; then it will be flu season on top of that; he is looking for a very difficult next three or four months with increasing cases, complicated by the flu and deciding which one it is; and he thinks Brevard County is not going to be spared.

Commissioner Isnardi stated personally she thinks this virus was here long before people started to get excited about it; she had plenty of patients and she is sure Dr. McPherson had or had heard that the ER that tested negative for flu A and B were lying on the exam tables; she has been in that situation so she can only imagine that probably many have the antibodies for that already; and she inquired if he was the decision maker, if he would recommend Brevard County mandate masks for all of its residents and how he would suggest that be enforced.

Dr. McPherson replied enforcement would be very difficult and he does not think law enforcement would want to be in the business of arresting people who did not have a mask; and he mentioned there could be fines associated, but enforcement is a real hard one to deal with.

Commissioner Isnardi inquired if he would recommend that the government mandate the masks as government, or that the Board mandate masks across the County.

Dr. McPherson stated he thinks a mandate without the ability to enforce it is in a way, a non-starter; he inquired what a mandate means to the Board; he explained a mandate to him means some sort of enforcement; and he inquired if the County would have that plan in mind.

Commissioner Isnardi asked Dr. McPherson if that is a yes or no; she stated she is not trying to be a lawyer; and she asked if he would recommend the Board passing an ordinance that mandates wearing masks, if he had the ability to make that decision.

Chair Lober advised Dr. McPherson that he can assume it is enforceable for that because he thinks that is where Dr. McPherson's hesitation is coming from.

Dr. McPherson stated he would recommend that the Board encourage wearing masks in any way that it can, that it would enhance the protection of the citizens.

Commissioner Isnardi stated she knows the government is rushing these trials and what is happening during those trials is a little scary to her; and she inquired if Dr. McPherson would be okay with a government mandate on vaccination for COVID-19, a mandated forced vaccination.

Dr. McPherson responded he is a bit of a libertarian in a way; but he thinks a mandate for enforcing people to get a vaccine has not seemed to have worked up to this point, in American history that he is aware of.

Commissioner Isnardi noted she agrees with Dr. McPherson on that.

Dr. McPherson stated he thinks that would be problematic; and he thinks encouragement, social expectations, and good education would work.

Commissioner Isnardi stated that has sort of been her message to people as well; she knows that is how her work practices, they take temperatures at the door, wear masks sometimes 10 or 11 hours, and what that does to people's skin and to their breathing, she gets headaches and everything else, but it is fine if it is protecting her patients and her co-workers, therefore, she would agree with encouragement and things like that; she was just curious of Dr. McPherson's position on government because he is speaking before government; she wondered if he was asking the Board to pass a mandate; and she mentioned she was just curious on the vaccination thing because she has had a lot of those questions.

Dr. McPherson stated France just mandated face masks in any public buildings; the United States of America is a nation that is Republican and part of the issue with that is that there is a lot of control of policies and procedures that stay at the municipal level; he does not know that mandating a vaccine, if it would create a lot of resentment; there is a lot of fear about vaccines; however, if the County were to hit a point where there are about 50 to 60 percent of the population vaccinated, it gets the herd affect where the virus diminishes and goes away.

Commissioner Isnardi stated the U.S. has seen that with Measles and Polio.

Dr. McPherson stated that is correct.

Commissioner Isnardi stated she agrees.

Dr. McPherson stated he thinks without making it a legal requirement, which has a lot of medical legal entanglements, to strongly encourage it, and that there is a citizenry that would welcome a vaccine rather than staying home again and not working.

Commissioner Isnardi asked Dr. McPherson as a medical professional, if it scares him a little bit that the government is trying to rush this vaccine through. She noted she understands why they are doing it; and she asked if it makes Dr. McPherson nervous.

Dr. McPherson stated it does not because they are still having three phases of experimenting with a vaccine to see if it affects animals and if there are any side effects, if it has any human side effects, and if it has efficacy; that is phase three, to actually choose what someone wants, to have immunity against the COVID-19 virus, from the vaccine.

Commissioner Isnardi mentioned people are, the CDC has even put out things, saying they cannot guarantee that the antibodies will protect people.

Dr. McPherson stated that is true.

Commissioner Isnardi stated to her the science keeps changing, and the information keeps changing.

Dr. McPherson stated he thinks that is a little cover your butt, generally antibodies protect people if they are exposed to antigens which is a vaccine; people develop antibodies and antibodies destroy the vaccine; he does not know why this virus would be any different; but, everybody's head is in their vest and they are saying they cannot promise this because it may not. He added historically antigens, stimulation of antibodies when the antigen is similar to the virus, are affective and attack the virus.

Commissioner Isnardi stated she thinks it was even a CDC official that said their concern was mutation, and she believes that was the concern with the antibodies.

Dr. McPherson stated the flu mutates every year and that is when they get a different vaccine.

Commissioner Isnardi stated that is about 40 percent affective.

Dr. McPherson stated if the Coronavirus mutates they will have to create a different vaccine every year which is a challenge but it can be done, they do it with the flu.

Commissioner Isnardi stated people are vaccinated for the flu with the prediction of what strains they think are going to come, that is why it is only 40 percent affective.

Dr. McPherson stated that is correct; they sample it in Asia and Australia what variations or mutations have gone around the planet and now are going to be exposed to the U.S., and they develop a vaccine based on proteins from those viral walls and sometimes they miss; last time they missed the strain came from Australia; Coronavirus generally, historically does not mutate that much; there are about six Coronaviruses they know of, common colds, MERS, and SARS and they do not have a history of mutation like the flu does; and yes, it could mutate, but that is not its general pattern with that family of viruses.

Chair Lober stated with respect to the estimate of 10,000 to 20,000 deaths in Brevard County, he does not want to suggest that he is responsible for what other healthcare professionals may have said; and he asked if Dr. McPherson has said, at any point, that there were going to be 20,000 deaths in Brevard County.

Dr. McPherson responded he has not.

Chair Lober stated he did not think so; with respect to the changing science throughout this whole pandemic, he asked if Dr. McPherson is aware of any medical professional, with either FDOH or the CDC, who suggested in any way that masks are ineffective in reducing the transmissibility.

Dr. McPherson asked him to repeat the question.

Chair Lober stated he knows that there have been different recommendations as to which groups should wear masks and what type of masks they ought to wear, but he does not recall there ever having been any question or suggestion from either FDOH, CDC, or otherwise suggesting that masks are not effective in reducing the transmissibility of the virus.

Dr. McPherson stated no.

Chair Lober stated he was not going to ask any policy questions, but since the conversation has already gone there he might as well; what is going to end up coming up later on today is a discussion regarding incentivizing compliance with this to businesses; as Dr. McPherson is likely aware there is over \$105 million that the County received from the Federal government in the form of CARES Act funding; and what he was looking at doing was conditioning business grants from that funding upon their compliance with a masking policy in their businesses. He went on to say it would basically be saying these businesses are not entitled to this money but it will be made available, but to be eligible for it the business must require masks and would have to post it prominently using the County's designated forms that are already available at every customer accessible location; and he inquired if Dr. McPherson thought that would be something that would reduce transmissibility. He noted he would not have asked that if not for the discussion that had come up before him.

Dr. McPherson stated he believes that any incentive, monetary or otherwise, to have businesses support masks in their facilities or enterprises would be good for everyone; they can enforce mask wearing in their own enterprises; and he thinks that is probably the best way to encourage with a little bit of leverage for mask wearing in the community to mitigate infection transmission.

Commissioner Pritchett stated she does not have any questions for Dr. McPherson, but she thinks he brought some real good information; she does not want to get into a debate on whether or not a mask works, she believes it does; the debate the Board is getting on is if it should be mandatory to wear a mask; she does not want anybody sick and she does not want anybody to die; and she loves what Ms. Stahl said that if someone is sick to stay home. She mentioned the question is does the Board need to mandate masks; as she goes through this information, she is not a doctor or a lawyer but she has an ability to read information and try to interpret it; she heard someone say the other day that the data does not lie, but it certainly can be interpreted differently; and Commissioner Isnardi brought up some really good information about how this changes continually because people are discovering things. She continued by saying it is very hard to get on a path of where to go without looking at data which is what she does; she thinks the infection rates and the death rates make a significant statement on this virus; flu season is going to hit soon and it kills people too; since people will not get vaccinated for the flu, are the people in the U.S. just going to live in a mask forever; she is not trying to downplay the Coronavirus, it is a problem and Ms. Stahl brought up her biggest concern which is in the long-term care facilities; she has had a few people throw out to her that it is her fault that people are dying; and she advised if it is her fault then it is everybody's fault, and on a personal note her dad died of one of these eight years ago in a nursing home facility, a whole

bunch of people died. She further stated looking at those long-term care facilities, those people in there are pretty sick and waiting to transfer over to a better life, they are a very vulnerable population; people need to do the things they need to do to prevent the high-risk population from getting things; when this came, they were expecting some levels going up and down where infections are up and infections are down, this is typical of any flu virus; and she inquired if Commissioner Isnardi agrees. She went on to say when the Board had this discussion the goal was not to let the upper level, the curve, get above where the healthcare facilities could treat people that were sick; the crunch was flu season because they thought they would have extra flu with this; the President went with the 15 days to flatten the curve; she never thought the U.S. would not have infections but the goal was to keep it under what could be managed; going into that has got her paying attention; she called the hospitals again yesterday and asked if they were overwhelmed, their responses were, no the trends are level; and they told her the ICU is typically 60 percent, right now it is 70 percent, but it is in with the fluctuation that is level for now as far as any infection at this time of year. She added they told her the hospitals are typically 60 percent and it is the same thing, they are not overwhelmed with COVID-19 patients; their testing rate was 6.9 percent and they are very encouraged with the treatments they are using for the critically ill COVID-19 patients, Remdesivir, and the plasma treatments are having great results with the really sick and high risk people; Parrish sent her information this morning, they are not overwhelmed and are at their normal capacity with who they have in the hospital; they have one ICU bed with COVID-19 with the ability to have 12 more; and they also stated they believe this is a typical trend, so they are all in their typical trend. She mentioned she thinks about what is going on in the community and she knows this sells papers and it is an emotional thing for everybody, and Lord knows it is an election season right now; her favorite meme is a little girl walks up to a doctor and asked the doctor how long COVID-19 is going to last and the doctor responds he does not know he is not a politician; one thing she is looking at in this community, is the Florida TODAY had a headline that some Brevard hospitals are recruiting temporary nurses as COVID-19 cases spike; she has been buying the paper for over 40 years and she will continue to buy it, but she was disappointed because Health First is hiring but that is what they always do, nothing is abnormal and Parrish said the same thing; and all these headlines that are coming out are terrifying. She stated she does not want to downplay this virus, it is a virus and people need to pay attention to it and do the right things to get it under control; to get back to the subject of mandating, before mandating masks, the State of Florida death rate is 1.4 percent right now; there have been 2,691,000-plus of negative, 360,394 that were positive, and New York was at 7.9 percent death rate; in April, before Orlando mandated masks, the death rate was 2.45 percent and Brevard was 2.8 percent and after the mandate of masks, the Brevard death rate is 1.64 and Orange County fell to 1.85 percent; it is not that infections have not gone up, it is the treatment of this infection is making great strides due to the wonderful healthcare people who are learning how to treat it; then she went to infection rate whether or not to mandate; and the infection rates with Brevard and Orlando since they mandated the masks in Orlando there really is not any change in the delta, it is about the same. She added if Dave Berman prints anything this time, to please print Commissioner Pritchett says please wear a mask when in public; she does not enjoy wearing the mask, she cannot breathe in it in humid situations but as Commissioner Isnardi says, this is being done to protect other people, so she is taking a risk to keep others safe while wearing her mask; she does not see a significant difference right now for a reason to mandate the masks; she had people sending her emails that really wanted her to mandate mask-wearing and she sent an email back asking if they wanted a mandated vaccine because she sees the flu vaccine work because when she gets the flu shot she does not get the flu; she received back a very strong no; therefore, nobody wants a mandated vaccine, and to be honest she does not either but she is going to get the vaccine when it comes out. She suggested while going through this about whether to mandate a mask or not she would ask that people please wear their masks in high risk situations; she noted if the Board goes down this road and

starts mandating a vaccine, she just does not want to go there; plus if it is mandated, she is not going to punish people if they are not wearing one, she just cannot do it; if people do not wear their masks they are taking a risk; and for those people who wear a mask with the little ventilator, they are blowing their bacteria out all over everybody. She continued saying if there are all these people right now with COVID-19 and they said it was 10 and most of these are the younger people, there has probably been over 30,000 people in this community who have gotten through it, and she will make a plea to them right now to go donate this plasma because the plasma is working; if people do not know if they have had it, then get the test, or donate some blood because then they can find out and maybe something can be done to get the death rate down to almost zero; then this can fall into the same category as the flu as everyone moves forward; and that is the place everyone wants to go to. She mentioned she would like to hear some good news put out in the media and in the paper like Dr. McPherson had stated, there are treatments coming, they are starting to work, and maybe get some of the fear aspect off of this; be wise and be careful; there has to be some common sense, it cannot be mandated that people do the right things, personal responsibility cannot be mandated; and she will make a plea that people do it.

Chair Lober stated with respect to the Orlando analogy, he wants to point out that when they put that mandate in place, it was not really a mandate because there is no enforcement; to really compare the efficacy a person would have to look for a similar County in population density that actually has teeth in the enforcement; the concern he has is looking at a county for comparison purposes that did not have any enforcement mechanism whatsoever and saying because Brevard County trended in the same direction, he does not know that it is untrue, they could be perfectly accurate, therefore, the mandate is not effective; and he noted it may not be as effective if there is no enforcement mechanism, as Dr. McPherson mentioned earlier.

Commissioner Pritchett stated or perhaps that this community wearing masks as responsibly as Orlando is, although Brevard County is not mandated; and that could be another hypothesis.

Chair Lober noted that is potentially correct; there are so many variables that someone really cannot get an apples to apples comparison; he does not know what good it does the Board; he has heard at this point, a couple different Commissioners mention mandatory vaccines and he does not think anyone at the meeting or elsewhere were mandating COVID-19 vaccines; there is a huge difference in his mind between puncturing someone with a piece of steel and injecting something where they could actually have some sort of an anaphylaxis reaction to it even if it is small in terms of the percentage that has that, where it is really designed more to protect them than to protect others versus putting a piece of cloth over their face not puncturing them, not causing them to bleed, and not injecting them with a foreign substance where it is perhaps inconvenient or slightly uncomfortable; and as far as not being able to mandate people doing the right thing, the State mandated a long while back that people cannot smoke in restaurants, they did not do that to help the smokers out they did it to help the population that otherwise would be getting that second-hand smoke and he thought that was a good thing. He went on to say is it a regulation on business, but it is a smart regulation that will have saved lives in the long run because less people are getting all of the carcinogens in their lungs that are not getting the enjoyment out of smoking to begin with; he does not want to poke holes in everything that is being said but his concern is talking mandate, mandate, mandate, and he tried that route before, it did not work; at this point, he is looking at an incentive-based option, not a mandate, where the Board says as Commissioner Tobia had stated before, there is no entitlement to CARES funding; if the Board said it was sending everything back to Washington D.C. aside from making Commissioner Tobia's day, there would not be a cause of action for these businesses to turn around and sue the Board for giving their money away because it is not theirs and it is not something they have any legal right to; and if the Board, as a condition of

giving them something that they are not entitled to, say they have to have a mask policy, that is not a mandate, they do not have to have a mask policy, they do not have to take the money that they are not entitled to. He further stated to him it seems to be a way to strongly encourage compliance because there is money on the end of that, without telling people they have to do one thing or another; and to him it seems to be the most light-handed way of at least taking a measured step toward the goal of anything he has come across.

Bryan Lober, Commissioner District 2, Chair

Commissioner Tobia stated to Chair Lober that was a Florida Clean Air Act and was not actually a mandate because it was voter approved, therefore, the voters made that unwise decision.

Chair Lober stated he stands corrected.

Commissioner Tobia stated this is Commissioner Lober's discretion as the Chair, but it seems as though the Board has crossed the threshold of what may be a proposal coming out of Chair Lober's office, with the memorandums the rest of the Board has received; he would imagine that would come later in the Agenda but since there are experts here, he would go with him either way whether he wants to bring this up again later; and he noted the Board is pretty close to his proposal.

Chair Lober responded Commissioner Tobia is correct; there is one public comment card and he does not know if it is going to be in favor or opposed; and he asked if the Board would like to hear from that individual.

Commissioner Tobia advised it is Chair Lober's show.

Tom Unrath stated if this were in fact a discussion about wearing masks he would support it, but it is not; a report in the paper recently indicated that Georgia Tech has a program now that County by County, across the U.S. and will help people to understand just exactly how widespread the Coronavirus is, even though test right now would indicate around 4,300 in Brevard County; according to what they said, it would be more like 43,000 people who do not know they have the virus; and he thinks it is a lot more widespread than a lot of people are giving it credit for. He continued to say if the Board is talking about getting businesses onboard with wearing masks, he thinks that is a good thing; if the Board were to say people need to do this, then what it is doing in fact is kind of taking the onus off them and giving them some cover; if someone comes into a business and says they are not going to wear a mask, the business owner could say yes they will because the Board said that they should; Commissioner Smith stated in the paper yesterday, no one can cure stupid and he gets that; however, the Board can cure ignorance by putting out there how dangerous this virus is, and how widespread it is; and it can help cure the ignorance and get people to pay a little more attention. He went on to say he has heard people say it is taking their rights away and so on, but the Declaration of Independence talks about life, liberty, and the pursuit of happiness; there cannot be liberty in the pursuit of happiness without life; as it has been mentioned several times, the Board is talking about saving lives; and he really thinks this is what it gets down to. He further stated having had the Coronavirus himself, he can say wearing a mask is nothing compared to that experience and he would wish to prevent others from having that experience; in today's paper Chair Lober is quoted as saying, "While only a small percentage of the overall population has died due to this virus, any avoidable death is one too many."; and he believes that is absolutely the case; and he would like to encourage the Board to put as much teeth into this as it possibly can.

Chair Lober stated as for the people who are not necessarily onboard with what the proposal was that was circulated, essentially what he would like to do is with the CARES Act application for funding that is slated to go out next week from the County, it could be modified, so it still goes out next week, with an additional self-certification box where they essentially check saying they have posted a County-provided placard which the Board had voted on and made available with a strong recommendation resolution or proclamation, a meeting or two ago, indicating that masks are mandated inside this establishment and that they will maintain that placard at all customer-accessible entrances until the local state of emergency subsides or until further action of the Board; and that way there is an end date in sight. He added it could be a month it could be three months, he really does not know at this point; the Board still has control over it and it can be revisited whenever anyone on the Board wants to revisit it; in terms of the exceptions, he does not think the Board needs to get into whether it is someone over 75 or someone under 6-years old, someone who has an Americans with Disabilities Act (ADA) issue, or someone who is on supplemental oxygen; and the bottom line is the County needs to have something that is broad enough that the average person walking in understands they really need to be wearing a mask in those establishments. He further stated the down side in respect to this, he has been opposed to criminal enforcement broadly with respect to anything mandating masks or suggesting masks; he just does not think that is the way to go about it for a variety of reasons, even when he brought up the prior proposal that was shot down three weeks ago or so; he was talking about having the first violation be a warning and the subsequent violations all being a \$50 fine; he thinks when he spoke with Deputy Mayor John Dittmore of West Melbourne yesterday, he put in place a tiered fine structure that started with a warning and it goes all the way up to \$500; and what he understands having spoken with him yesterday, and he apologizes if any of this is at all inaccurate, but it does convey the gist of it, that even after they put in place a mandate at a number of their stores, over 80 percent of the people who were polled by the City indicated they were happy having it in place, and that is having a mandate. He went on to say what he is talking about now is something that is far more hands-off; this really gives the businesses the opportunity to make the decision for themselves; and if they do not want to do it then they do not have to do it. He mentioned this is the most hands off way to accomplish it; if there is a complaint that a business is not posting it and that they receive CARES Act funding, and frankly he does not believe the Board is going to get complaints because someone would have to know that they had received CARES Act funding, they would have to go by and see that they had something posted, the Board could have staff look into it, whether it is Mr. Golden or Mr. Calkin's department, to take a look and see whether or not it is posted and then use discretion in terms of whether or not to give a warning and tell them to put it back up immediately or tell them they are obligated to reimburse the County for the funding that was provided, and not obligated to be provided, in the beginning; that is essentially where he is at, to require a self-certification for those folks that were applying for CARES Act funding on behalf of businesses; and he noted this has nothing to do with the individual direct relief, where they are saying they have up the placard that was provided by the County, which is already available, and that they will maintain it until the state of emergency subsides or alternatively until they are told they do not have to maintain it by the Board; and if there is a failure to adhere to that, staff would look into it and if they do not adhere then they are on the hook for paying back the County.

Commissioner Tobia stated he thinks Chair Lober pulled the proverbial rabbit out of the hat on this one; he took a losing hand and turned it into a very competitive one; he agrees that the condition of emergency funding on steps being taken to alleviate that emergency is in fact, appropriate; as Chair Lober mentioned this would represent a choice to businesses; and it is not a heavy-handed mandate which is where his issue was. He further stated to make him a little more comfortable with this he would like some assurances that Dave Berman put it in the paper, so it should not be a surprise to anyone; there was a question of the non-profits as

mentioned by Eden Bentley, County Attorney, so maybe another thing could be placed in there, he would like the non-profits limited to 501(c)(3) and 501(c)(19) which are tax-exempt organizations; and what makes them different from the other ones is they are not allowed to employ lobbyist. He went on to say if the Board did this, it would keep the CARES Act out of the hands, directly or indirectly, of lobbyists; it is important that the Board express conditions be added that no business organizations have an outstanding tax in arrears; he does not want this money to go to businesses and then they turn around and pay fines whether it is directly or the money is shipped around; and finally, most importantly, he would ask that the motion include that the Board's intent is that this represents the final portion of this program, in other words, the Board will not increase this funding and limit it to \$10 million. He further stated while he was not in favor of this amount, if this is where it ends it is something that he could vote affirmatively for, being a given amount as well as having the mask as a condition; he would ask for those three; and with those three, he would support Chair Lober's proposal.

Chair Lober stated the first two are not going to be tremendously controversial, the second one if someone opposes he could not imagine why, he agrees and he will have the proposal contemplate that they cannot have taxes in arrears; and if Commissioner Tobia can go a step further he would be fine if they could not have Code Enforcement fines either.

Commissioner Tobia stated he thought the Board already did that one.

Chair Lober inquired about that and stated Commissioner Tobia is correct. He further stated he is fine with that as far as non-profits; to him that is a small step to encourage people to mask and if that is what it takes to get Commissioner Tobia onboard he is fine with that; however, the concern he has, frankly it does not matter without limiting it to \$10 million because he does not know that it is going to pass with the rest of the Board, he is happy to go either way with that, but he would want to clarify that limiting it to \$10 million does not mean that the Board cannot use any of the other CARES Act funding, it just means the Board cannot increase that pot with those conditions to the \$10 million that was allocated; and that he can live with. He mentioned he does not want to say yes and then alienate a majority of the Board.

Commissioner Tobia stated his \$10 million would be for the pot of businesses and the non-profits listed; if Mr. Golden came back and said that the \$4 million allocated in direct food assistance was not enough and there was a greater need as the pandemic went on, he would not have a problem voting for food assistance; he does not think it is right for the money to go to businesses; it has been mentioned with the Board that it wants to get the money to the people and he thinks filtering it through the businesses is the wrong way; however, if it is capped at \$10 million for businesses and non-profits for that category, the Board can debate the other \$90-plus million or whatever, the other \$70 million later, as long as this is taken off the table.

Chair Lober stated he wants to see where the rest of the Board is at with this; to him the most important thing in mind is to get a policy in place where the Board strongly encourages masking; he is flexible and he really does not want to limit it; but if that is what it takes, then that is what it takes.

Commissioner Smith stated he will be opposing this as he does not think it would be a good idea; he thinks small businesses being the backbone of the economy should not be penalized; leave wearing mask up to them, they are in business and it is all about competition; if they feel like they best serve the community by requiring a mask, then they will require masks; if they think it has no effect on their business then they will not; they are very sensitive to the public because if not then they do not stay in business for long, that is what they do; and he thinks

penalizing businesses that need help would be big government at its worst and he will not be in support of this.

Commissioner Pritchett stated she totally respects Chair Lober and his passion for this because it is what he believes; and he has her utmost respect on it because she believes in all her heart that he is doing what is right in his heart. She continued by saying this is stimulus funds and the Federal government is not putting all these stipulations on it; if anyone in the room received PPE they barely had to fill out an application and nothing was verified; they are trying to get the money into the community because no one is working; what the Board needs to do because they are giving it to the government to help disburse it on places that are missing; Commissioner Isnardi nailed it a little while ago and it really got her thinking; and she thinks the Board has to get this money into the community as quickly as possible because people need it, and if they do not need it now, come October and November there is going to be a big crunch economically on this. She stated if Mr. Golden needs more money, she is for it; the Board needs to get this money out; there is a limited period of time to get this out; with small businesses there is already a frame work ready and if Commissioner Lober wants to do a \$1,000 bonus to all the ones that hand out masks at their doors for everybody going in, she is in on that; she thinks that is a great incentive; but as far as this, if businesses want to mandate masks in their stores, they have her complete support and she will fight for their right to do that; however, she does not feel as though the Board should withhold stimulus funds that have been given to the Board to get out so the community can have some money to get the economy up and moving. She went on to say she is probably not going to support this either unless Chair Lober wants to do a bonus amount instead to all of the businesses that will have the masks and hand them out at the door, she would be in for that one.

Chair Lober stated it is interesting and his thoughts just to start back chronologically; as far as penalizing businesses if the County were hitting them with some kind of a fine, it would certainly be penalization; but it is by definition an incentive when saying the Board will give something that they are not entitled to if they comply with this criteria; the Board has already taken the step of putting in criteria that they have to comply with; and it is no more penalizing than the criteria that the Board already put in place anyway.

Commissioner Pritchett stated she knows, but the Federal government gave everybody money without penalties; these are Federal funds so along the same personality of nature, she thinks that is consistent with it; she reiterated she really loves Chair Lober's heart and she gets that it is what he really believes; and she advised he would win her if he wanted to do little bonus for the ones that will do that as an incentive, but she does not think she can vote for the other.

Chair Lober asked if there is some way to incorporate or figure out a bonus, he does not necessarily have opposition to that, it makes some sense; he pointed out regardless of what the Board does, certainly with what has been proposed thus far, there is not going to be any delay in terms of getting it out; he knows Commissioner Pritchett mentioned that she wants to get it distributed as quickly as possible and he agrees with that and thinks it is a good goal; however, he spoke with Jim Liesenfelt, Assistant County Manager, and he talked with Katherine Wall, and forgive him if he is speaking out of line or if what he says is not 100 percent, his understanding is this would be an easy change to add a self-certification. He noted as far as the delay concern he would put that to the side; thinking off of the top of the cuff he does not know how the Board would go about implementing \$1,000 bonus to businesses that handed out masks because the problem is the conditions federally about handing out the money; it mandates which expenses are reimbursable and which are not; by extension he does not know if they hand something out if the Board can therefore, legally give them the money; and he inquired if the County Attorney, Eden Bentley, knows if there is any way to do that.

Eden Bentley, County Attorney, responded they would absolutely have to meet the Federal criteria; she stated it may be that if there is a point where there is not enough money for everyone, they could weigh those applications more heavily or something like that; however, just a pure bonus without COVID-19 related expenses that would not work.

Chair Lober stated maybe that is something to work through in the future when the Board looks at re-upping if that is the way the Board decides to go; he would be open to it; but, he just wants to make sure if it is done that the County is not on the hook to pay it back out of County funds.

Commissioner Pritchett stated spoken like a lawyer.

Commissioner Isnardi stated she does not like being in this position at all; even initially she gets Chair Lober's intent, but there is no way she could support this; she thinks it puts the Board in the middle of that stimulus fund as Commissioner Pritchett brought up; she thinks it just adds another burden; she thinks people who do not want to shop places that masks are not mandated, will not shop there, people who are worried about their health; and once again the Board is in that position of trying to force people to do something that they may not be equipped to do. She advised she is not comfortable with any of this; she does not think it is the Board's place to step in; the bonus thing scares her even more because that is saying way to go for enforcing something the Board thinks people should do, but it is not forcing the County; she thinks it is punishing people and she is not comfortable with that; and definitely without knowing the need of the small businesses, she definitely has no interest in capping had this item passed. She reiterated she will not be supporting this.

Chair Lober inquired without the cap, if she would be interested in supporting this.

Commissioner Isnardi responded no. She stated she is not comfortable with it tied to only receiving small business help if they force their customers to wear masks; she does not like that at all; she does not think it is the Board's place; and they are a private business and it is not the Board's goal to tell them how to run their own business. She mentioned she really appreciates Commissioner Pritchett's impassioned statement on masks, she wears a mask everywhere she goes; however she does not think it is the Board's role to dictate what other people should have to do; and she thinks everybody should use their own common sense and discretion.

Chair Lober stated he agrees with that.

Commissioner Isnardi went on to say the Board is just trying to grasp and find something to put in place so the Board feels good; she thinks the Board should continue doing what it is doing and keep encouraging people to wear masks, to social distance, but not put another thing in place that could potentially impact the economy; and she just will not do that.

Chair Lober stated he would like to ask another question about impacting the economy; since that measure of his failed three weeks ago, the Board certainly did not trample on businesses and it was very hands-off with respect to them; it was not required that businesses mandate their customers to wear masks; and he asked what about those businesses that have had to shut down because their employees have been getting sick, while the Board did right by them because it did not require them to wear masks, but now they are closed.

Commissioner Isnardi responded it is still that business that made the critical decision not to

require their employees to wear masks, so shame on that business for allowing them to have close contact with the public or be put in a situation to get sick or not have a back up plan; and the Board cannot be held responsible for bad judgment on their businesses.

Commissioner Smith added he cannot imagine that anyone would have been fired had they worn a mask; they are adults and they can wear masks if they want; he thinks the onus should be put wear it belongs; and it is up to the people.

Chair Lober stated well he sees where there is a large percentage of the population that will not do the right thing, with the numbers in Brevard County spiking; the onus can stay with them and the numbers will either stay where they are or potentially get worse; and he thinks they are certainly going to get worse.

Commissioner Smith commented maybe the stupid people should wise up and start wearing masks.

Chair Lober stated maybe.

Commissioner Tobia stated he thinks there is one thing the Board needs to understand; these are private businesses but the money they are asking for is public money; he supports private businesses to make the decisions they want and they are welcome to not offer masks or choose to mask; if they do that they can continue to operate under the structure that Chair Lober has stated; the Federal government does this with unemployment; it does not just hand out unemployment checks, it states that people have to go look for another job, if someone is going to receive unemployment; it is just a condition of that; people are allowed out on probation as long as he or she does not commit another crime; people do not have to be let out on probation, people do not have to get unemployment, but if people want to receive a public good, then they have to play by the rules; Billy Prasad, his Chief of Staff, would love to take his car 150 mph down the road, but in order to use the road he has to obey by the speed limits; and he can go rent a track and go as fast as he wants on a track. He added he wants the Board to understand these are private businesses and he greatly respects that they have the ability to do what they want, but now they are coming with their hands out and asking for the people's grandchildren's money; for Chair Lober to say if they want to do that then maybe the Board should take proactive steps in order to solve what is causing this; and he does not think it is unreasonable as no one is forcing all these businesses or charities, they have the opportunity to say whether it is in their best interest to not accept the money and allow people not to wear masks; and he may think it is the wrong decision but he would respect their decision as a private business owner to make that decision. He continued by saying it is completely false to say someone wants to gets this money out as fast as possible, yet it is going to be filtered through businesses; even the Federal government, even President Trump realized the fastest way to do this is to hand \$1,200 out to everyone, or as long as these people earned below a certain amount; he even thinks Orange County did that when they set up an online portal where people could go get money; and he thinks this is absolutely wrong, but it is false to say the Board needs to get this out and then filter it through businesses, those two statements are not congruent. He added he is going to support Chair Lober on this because he fights many times and loses and does not come back, but Chair Lober came back more towards the middle, and he greatly appreciates that and his persistence on this; he mentioned he made a promise to his sister-in-law who keeps telling him to mandate masks; there is a compromise here; and he did not find it, but Chair Lober did.

Chair Lober advised this is not something he is asking everyone to support because it is important to him or one's self, this is really something for the County; and he would say that

Commissioner Tobia summed up his stance perfectly and he cannot really add to it.

Commissioner Pritchett stated in a normal universe she would completely agree with Commissioner Tobia, but this has not been normal; if this would have been a year ago, she thinks the Board would have had to do things differently; there is so much money being printed and handed out, she has great concerns of the economy after this; the President seems confident that he is going to be able to turn it around, maybe he will; living through that housing and banking crisis, it was a long road back; she thinks there will be some situations coming up soon; and she reiterated in a normal universe she would do it but she thinks these funds have a totally different personality to them. She advised Chair Lober when he is ready to vote she is ready.

Chair Lober stated it sounds like there is not necessarily a point based on where everyone is at, unless Commissioner Tobia wants to make a motion to have everyone on the record as being in their position which is fine by him.

Commissioner Isnardi stated this money came from the Federal government but it came to the County with a packet of rules that had to be abided by to use those funds; the Board putting in additional rules because someone wants to say whether someone is worthy or not is not the Board's place; she is not going to justify her vote against this anymore than she already has because she thinks it is like beating a dead horse; she thinks punishing small businesses and giving them additional things to do when they are just trying to keep their doors open is not a fair thing to do; and she will not support it.

Chair Lober further stated the last thing he would add to that is if Commissioner Isnardi does not think it is the Board's place to add conditions to the Federal money then the Board should not have capped it at 50 employees or at \$10,000; he asked why not open it up to those with 1,000 employees that really do not need the money or make it \$1 million or \$10 million per business; the Board has already put conditions in place; and if Commissioner Isnardi is going to vote against it, then she can vote against it, but it should be for a legitimate reason not because she does not want to put conditions on it when that is exactly what the Board has done.

Commissioner Isnardi stated the Board may have put conditions on it, as far as the amount of employees but it is not giving them additional steps that they have to go through; she would not have capped it at \$10 million, not because she thought that businesses necessarily would need more than everybody else, she was the first Commissioner pushing to get the money out to the people that were without jobs and that were impacted the most, but this money was designed to help businesses impacted by COVID-19; it was not designed for the Board to say it is going to help them out but it wants to make sure they are doing X, Y, and Z when it is not even a law that the Board put in place itself; this Board did not vote to move forward with passing its own ordinance, but it is going to expect them as a private business to do it; and she stated this is like beating a dead horse, she could talk for another 15 minutes and go back and forth but it is pointless unless Chair Lober has three votes.

Chair Lober advised Commissioner Tobia that he thinks it is obvious that it is not going to go anywhere today so unless he wants it to go on the record he is going to just let it be.

Commissioner Tobia stated he wants to go on the record saying thank you to Chair Lober for attempting to find a common middle ground; he thinks Chair Lober did a very good job; clearly a lot of work came out of his office on this; and he prays that this does not get worse. He added maybe if it does, instead of jumping directly to a mandate maybe the Board could start here and see where it goes; and he thanked Chair Lober again for taking the time and effort to

put this in and he is sorry that it did not move forward.

Chair Lober stated he appreciates Commissioner Tobia's flexibility as well; frankly, the first couple ideas he had even though he was not thrilled with the third, were good ideas; and his input is certainly appreciated.

J.2 Staff Direction, Re: Tourism Development Council's Recommendation to Place a 12-Month Hold On Indian River Lagoon Grant Program and Lori Wilson Park Project Until End of Fiscal Year 2020-2021.

Chair Lober stated he does not know what Peter Cranis, Tourism Development Office Director, is requesting or if he is going to just provide some options to the Board; at the end of the day he is going to suggest that it leave \$1.25 million available so they can redo the walkways and the restrooms at Lori Wilson because they really need it; the remainder, given the financial circumstances, if it has to be taken off the table for now, he is not thrilled with it but he thinks everyone needs to play ball with their individual Districts and this one is in his District; he does not like it, but he thinks the rest of it can wait; and he does not think the walkways can because they had someone get injured in the recent past because their foot went through the walkway. He added that will happen again if something is not done or alternatively they will have to keep blocking off the walkways, which he thinks is bad too; and the restrooms obviously. He commented he thinks \$1.25 million, given the size of the park because it is humongous and the widths and lengths of the walkway, would probably do it.

Peter Cranis, Tourism Development Office Director, stated the only other thing he needs for the Request for Qualifications (RFQ) that was issued last year, is for the Board to reject it since it is now out of date; and if the Board accepts Chair Lober's proposal for the \$1.25 million to be used for repairs that would not require his office to do another RFQ because they have contracts in place that can be used to accomplish that.

Chair Lober asked for a motion to reject all of the bids that came in. JT/BL

The Board rejected all bids received to RFQ 05-19-12, Redesign of Lori Wilson Park.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

Staff Direction, Re: Tourism Development Council's Recommendation to Place a 12-Month Hold On Indian River Lagoon Grant Program and Lori Wilson Park Project Until End of Fiscal Year 2020-2021.

Mr. Cranis stated the bottom line of this is the Tourist Development Council (TDC) was recommending to hold on spending due to the production of Tourist Development Tax (TDT) tax collection; that being said, as Chair Lober mentioned, there are definitely repairs that need to be made; they also need to maintain the park so there are some expenditures; the TDC's recommendation is to hold on the \$5 million project which was a larger refurbishment project of the park; the TDC also recommends holding on any Indian River Lagoon (IRL) grants for next year which typically they would have \$1 million in the budget for that, but with the reduction and expenses they are trying to be prudent; and to make sure the TDO is able to adhere to the contract they have with the Army Corp of Engineers, so that is what is driving that.

Chair Lober stated with respect to the other, he would like to bifurcate this and deal with Lori

Wilson Park on one hand and the IRL on the other; he has a different position with respect to each of those; and he may be on the same page with one and not the other.

Commissioner Tobia inquired if the Board is going to bifurcate, which one is it going to start with.

Chair Lober told Commissioner Tobia to choose.

Commissioner Tobia stated he will start with Lori Wilson Park; Commissioner Pritchett had said that this budget is going to be tight, not this one but the following one and the Board has to make priorities and to make that apparent in the budget; he thinks there are some opportunities where the Board can make some cuts without decreasing services; he thinks parks, it is something his office and the Parks and Recreation Director under the Board's direction, has been looking at; and the County had some parks wholly in Palm Bay and Palm Bay decided that it was in their best interest to manage the parks that were within the jurisdiction of Palm Bay. He continued by saying there are a number of parks that are wholly within the jurisdiction of a city; there are some other issues when it comes to parks Municipal Service Taxing Unit (MSTUs) and this is why it is not as simple of an issue; there are interlocal agreements that can be entered into whereby the County turns over County Parks to the City, no loss, and the cities can make determination as to moving forward; and he mentioned he is going to support Chair Lober in this one because he likes to see that this was a Commissioner Barfield idea that he thought was pretty poor to begin with but the more he wraps his head around it he wishes it was expanded. He further stated he wishes the County could take TDC dollars, and he wishes there were more of them, and use it on the parks that are within the County because there are a number of beach parks in his District, under the County that meet the definition so they could use TDC dollars; and if there were more TDC dollars this would be a way the Board could keep levels of service where they are while reducing the General Fund. He explained what he is saying is something will be coming out of his office in the short term as to look at the possibilities based on current Interlocal Agreements as well as whether the cities even hopefully want these parks; he reiterated he is going to support Chair Lober here and he asked that he keep an open mind as the Board moves forward to take some County parks that are fully encumbered within a city and looking at whether or not the city should have the responsibility to take care of them instead of the County.

Chair Lober stated he is good with that; he has spoken with Mayor and the City Manager out there specifically about transferring this park; one of the concerns and Commissioner Lober may want to talk to some of his constituents to determine what their thoughts are, that comes up is what the cities are going to do with respect to parking and how they intend to monetize that, because turning over a County asset that is prime real estate, even if it is maintained as a park or the County has a n obligation to maintain it as a park, gives him a little unease to take something that is totally accessible and handing it over to a city and the city saying why should they take it if they cannot monetize it; it is something to consider; and he is not saying there are not circumstances under which parking should be charged for but if that is something that happens with this park or another park he would like to see the money they make from monetizing the parking go right back into that park, as opposed to being a cash cow for the city.

Commissioner Tobia stated Chair Lober has brought up the exact same issues that he has with Community Redevelopment Agencies (CRAs); Cocoa Beach used CRA money, 45 percent or better, that was from County taxpayers and built a garage and is now using that as a cash cow; in effect these people are not only paying for the garage they are then paying to park; he completely understands that and it is something, with an interlocal agreement, the Board could make sure it remains a park and if the city decided to go in the direction of monetizing parking

that it be used to maintain or better that park; and he agrees those are things that could be hashed out.

Chair Lober advised he will keep an open mind.

Commissioner Pritchett stated she was going to ask the same thing because with what the County is dealing with right now with being unsure of the economic future she thinks the Board should put a hold on things until it gets figured out; she agrees with Chair Lober about the repairs at Lori Wilson Park because it is a County park with some need issues; and she thinks up to the amount that Chair Lober mentioned to get those repairs done and to make it safe would be good. She went on to say as far as turning that one over, from what the Board has just learned, with the ability of keeping some parks opened or closed, she is not real sure that she is going to agree with relinquishing Lori Wilson Park anytime while she sits on the Board unless something really happens to change her mind; she thinks it became a very important park over a period of time; and she advised Chair Lober she is going to be in agreement with him on this and she thinks it is a wise move right now because the County does not know what it has ahead of it.

Chair Lober stated he is going to pick Commissioner Tobia out as the victim; and he asked if he would mind making a motion to make available up to \$1.25 million from the TDT to perform repairs at the Lori Wilson Park and reduce the amount that was allocated from \$5 million by \$3.75 million to the \$1.25 million.

The Board approved up to \$1.25 million from the Tourist Development Tax (TDT) to perform repairs at Lori Wilson Park and reduced that amount from the \$5 million that was allocated for the Lori Wilson Park Project.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

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

Staff Direction, Re: Tourism Development Council's Recommendation to Place a 12-Month Hold On Indian River Lagoon Grant Program and Lori Wilson Park Project Until End of Fiscal Year 2020-2021.

Chair Lober stated this is the one he is real skittish about, the IRL grants; he knows what Mr. Cranis put in he thinks the Agenda Report unless it was discussed; the Board has a couple different options, it can cut it to nothing for a year, it can cut it in half, the Board can do whatever else it wants to do with it, or it can leave it where it is; he really does not like cutting it; he will not support cutting it even if it is a lean year because he thinks it is important enough to keep something going there; and he does not want to set a precedent where that is being hammered as the first go to.

Commissioner Pritchett asked if it is possible to just put it on hold for X months and have this discussion again in six months as far as grants because she thinks that would be some wisdom.

Mr. Cranis advised he could do that.

Chair Lober mentioned he would be happier with that to be quite honest.

Commissioner Tobia stated his understanding is the Board is trying to decrease expenditures so there is the ability for the matching grants for the dune repairs.

Mr. Cranis responded affirmatively.

Commissioner Tobia stated if the Board were to put a moratorium on doing anything or keep the spending, he asked where Mr. Cranis would make cuts because he obviously cannot create more tourists in this, so the County would have that matching, is it seven, eight, or nine to one, it is a huge return.

Mr. Cranis advised it usually comes out to nine to one; he thinks in that fund, they have carry-forward funds so they are okay for right now; they just did a big project in the mid-reach and the south-reach so they do not think the Army Corp of Engineers will be coming back for any major expenditures in the next 12 months; obviously when looking at the 50-year plan they will have to have funds in the future; and if they keep spending at the current level they would not have it. He went on to say for one year he thinks they will be okay if they hold for six months and have another discussion to see where they are.

Commissioner Tobia stated in the off-chance the Army Corp of Engineers did come back in the 12 months he would assume Mr. Cranis' Department would be lobbying for it for a nine to one match; and he asked where those funds would come from.

Mr. Cranis reiterated they are carry-forward funds.

Commissioner Tobia asked Mr. Cranis if there was enough to cover that.

Mr. Cranis responded affirmatively.

Chair Lober inquired if Mr. Cranis would like to have a motion for that.

Mr. Cranis answered yes for a delay of six months.

The Board approved delaying the Indian River Lagoon Grant Program for future grants for six-months; and directed Tourism Development Office Director to bring this back to the Board within six months.

Result: APPROVED

Mover: Rita Pritchett

Seconder: Bryan Lober

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

J.3 Legislative Intent and Permission to Advertise an Amendment to Section 74-102, Brevard County Code of Ordinances

Commissioner Tobia stated this is a request for permission to advertise an ordinance, one that he mentioned last week; he threw out some options and there seemed to be some general support; he limited this so the Board would have the opportunity to advertise; before he gets into this he wanted to discuss some of the very good points that his fellow Commissioners made, and some that he did not have good answers for; the first one brought up was the difference between an offender and a predator; this section of the ordinance amends Section 74-102B, already expressly applies to both offenders and predators and for good reason;

according to Florida Department of Law Enforcement (FDLE) there are 771 sexual offenders released in Brevard County and 96 predators; and that is a grand total of 867. He continued by saying some examples of crimes which would require registration as an offender but not a predator, transmission of child porn under Florida Statute 847.0137, knowingly selling obscene material to a minor, Florida Statute 847.0133, transmission of obscene material to a minor Florida Statute 847.0138, sexual misconduct when the victim is in a facility for the disabled 893.135; Commissioner Smith had mentioned something about an age and this is something the Legislature has dealt with on a number of occasions, he just did not have the specifics; it is Romeo and Juliet and what that did under Section 943.04354 it creates a system for which people who were convicted in these scenarios to be removed from the registry; and in fact an offender who has sexual relations, 18-year old with a 14-year old, can be removed from the registry because there was a four year age difference and as such the individuals that Commissioner Smith had mentioned the 18-year old with the girlfriend who was a few weeks shy of 16 and later got engaged, would be able to be removed from the registry, thus this would not impact him. He went on to say the proposal would basically allow the businesses to close the loophole that currently exists in the County's Code because now it only applies to publicly owned parks; this would create a voluntary registry for businesses; the businesses would be required to certify that it is a place where children regularly congregate and the primary purpose of its business is recreation; these requirements are based on State Statute definition of parks and its sexual offender definitions; some examples might be Andretti Thrill Park, Chucky Cheese, Urban Air Trampoline and Adventure Park, or Sky Zone; the registration would be valid for one year; and based on the experience of creating a registry for animal abusers the cost would be minimal. He further stated the ordinance would not place any liability on the business to enforce; the penalty for violation would be the same that currently exists for public parks, Section 74-103 up to a \$500 fine, 60 days in jail; more importantly if the violator represents a violation of Conditional use this offense may be used for reincarceration; he expressed his appreciation to Sheriff Ivey for working with him and supporting the concept as it moves forward. He noted this has not been fully vetted; there are some issues that he thinks can be worked out but that is what the purpose of advertising is; he is more than willing to answer any questions; and he mentioned he would also like to make a motion when it is all done for legislative intent and permission to advertise the ordinance as indicated in the Agenda Report.

Commissioner Smith stated he has one quick question for Commissioner Tobia, he asked if there was one particular instance that occurred causing him to instigate this measure.

Commissioner Tobia responded yes; a constituent, not in his District, who constantly contacts his office saying that Brevard County is too strict on sexual offenders, that Brevard County goes above and beyond what the limits of the State are; he thought that was too harsh; therefore, he took some time and looked at some of his complaints and saw that they were absolutely incorrect; in fact, he thinks the regulations in Brevard County are far too lenient; the fact that an offender or sexual predator can hang right outside a business that caters to kids but is legally prohibited from hanging out in a park is just a loophole that he did not see; and this Board has the opportunity to fix this. He mentioned as much as this individual probably would not like to know, and he was invited to come, that his intent was to make more lenient, he went in the other direction.

Commissioner Pritchett stated she is good with this; the same thing was done with animals; she has a request, Commissioner Tobia put this in here and it jumped out at her, the County's definition of park is a publicly owned or operated area used for the public use of recreation facility and she would like to go ahead and change the ordinance to say what the State does for park, all public and private property designed and designated being used for recreational

purposes and where children regularly congregate; she likes what he has; and she would also like to move forward and make the change in the ordinance to have the same definition for park as the State of Florida does.

Commissioner Tobia stated he went in that direction initially but he would advise that Commissioner Pritchett speak with Eden Bentley, County Attorney, because he thought that was an easy fix but the more they looked at it because in fact the County is more stringent than what State Statute reads, that would actually roll back and be positive for sex offenders and predators but would be negative for the 99 percent of the people that do not touch kids; that sounds good but unfortunately it would have the exact opposite effect; and Commissioner Pritchett's constituent would probably be very happy.

Commissioner Pritchett noted she understands what Commissioner Tobia is saying with what he wants to do with that, but all the Board did was expand it and it is adding in the Sky Zone and stuff because the sexual predators are the people who do that; she has to do back ground checks all the time on people and they know they are not supposed to go to specific places and that is the parks; if the Board expands it out to private properties where kids typically congregate then it just puts a bit of teeth in it as far as the County; she also knows Commissioner Tobia has taught her through the years that whatever the State mandates the County cannot do less; and she asked if the Board is under that.

Commissioner Tobia explained the State says these people cannot live within a halo of a park, it does not necessarily say they cannot congregate; the County has taken that as a congregation and then expanded it from the 500 to 1,000 feet; if he is mistaken of what he has heard from the County Attorney's Office, and that in fact goes to solve it by making the County's Ordinance more strict, then he would certainly support it because it is a heck of a lot easier; and unfortunately, from what he was told, that would have the exact opposite effect.

Commissioner Pritchett noted he has her hesitating because that was something she thought of and if she could have picked up the phone to call Commissioner Tobia and not looked dumb she sure would have; and she advised she will spend a little more time looking at that.

Commissioner Tobia mentioned he would say to speak with Attorney Bentley.

Eden Bentley, County Attorney, stated she could probably look at the State definition and address both issues in a draft and maybe circulate that and get it moving as quickly as possible assuming there are not any additional problems; she understands the intent, Commissioner Pritchett wants to go with the State as much as possible and not weaken the regulation; and Commissioner Tobia wants to strengthen it.

Commissioner Tobia stated she is correct; and if they were not mutually exclusive he would be more than willing to add that.

Commissioner Pritchett thanked Commissioner Tobia for advocating for the kids; she stated she is always going to err on the side of the children and the vulnerable population; and she really appreciates Commissioner Tobia looking into this.

Chair Lober stated he thinks the thing to keep in mind is when talking about sexual predators, he is talking about someone who would otherwise qualify as a sexual offender, but they have been convicted of at least two second-degree felonies of that nature or one first-degree felony of that nature; to him that is a clear problem, a clear danger; using Commissioner Tobia's example earlier to talk about just sex offenders, if there is an 18-year old that is working in a

convenience store and he sells a Playboy Magazine to a 16-year old kid, it is possible that person may be a sex offender; to him quite frankly, he does not know that it rises to the level of concern that he or she would now want to prohibit him or her from accessing places that he or she should otherwise be able to access; predators of course, that is a different story; and that is why on the license there is a different designation based on a different State Statute to identify someone as a predator versus an offender. He continued by saying the level of risk by a predator versus an offender is night and day in his mind; he does not want to punish someone that did something stupid like selling a Playboy to a 16-year old, who might have looked 18 and that was the be all, end all; he would certainly support it as to predators; he does not think he would support it at this juncture as to offenders; and he asked if Commissioner Tobia thought now would be a good time to do public comment.

Commissioner Tobia responded yes but he would like to respond; he stated first of all, Chair Lober's issue is not with Brevard County but with the State of Florida, so he would encourage him to get in contact with his State Representative, whether it be Randy Fine or Thad Altman and explain maybe that should be rolled back; that individual that inadvertently does that and lands on a registry is prohibited from being in a park right now; and he understands Chair Lober's concern, he does not necessarily agree or disagree with it but that is something that would be handled best at the State level. He went on to say he is pretty adamant, as Chair Lober knows as an attorney that many charges are pled down, so he does not want to know what actually happened and what the outcome was; either one scares him and he would not want to make the distinction of whether someone is an offender or predator; if it bothers Chair Lober that much, what he would be willing to do, and they did this carve out for him on the alcohol, if he wants to create a sanctuary for sexual predators in his District...

Chair Lober interjected not predators.

Commissioner Tobia responded okay offenders in Chair Lober's District he would vote for it and encourage all minors not to go to Lori Wilson Park without close monitoring.

Chair Lober stated he does not know that is one that he would really be in favor of a tear out on; his thought is this is something that really impacts people in his District and other Districts the same; he has gone to other District's parks himself and he has people from other District's come to his District's park; the problem is it is going to impact District two residents regardless; and he noted he wants to go to the cards to see if something is said that will change one of their minds.

Jason Perez stated he is bringing down a reality, he is not a sexual offender, but his loved one is; for the past six years he has been residing according to the Brevard County guidelines regarding this; and he 100 percent opposes this. He went on to say Commissioner Tobia is right, it is stricter than the State is and now he is trying to make it more strict.

Chair Lober asked that he speak up so he can be heard.

Mr. Perez reiterated he has been living this life for six years; he is not a sexual offender; he has five children; he has to live by these rules everyday; and he opposes this 100 percent. He continued by saying it is bad enough that he has to work two jobs and go to school; he has to take his kids to the park because his significant other cannot; he asked if the Board knows how hard it was to find a home in Melbourne because of the 1,000 feet; he asked if the Board knows large a baseball field is; has a Board Member ever sat behind home plate and looked at the outfield and identified if it is a male, female, or a child; now the Board wants to add 1,000 feet to that; and it is bad enough that she is already restricted, that she cannot go to certain areas,

she cannot shop for certain foods, she has to travel from Melbourne all the way to Cocoa to go food shopping. He noted he knows people who live behind a dumpster because they cannot find a place to live; now Commissioner Tobia wants to impose this on businesses; he asked where she is supposed to take the children to, where are they going to be restricted to, how are they going to spend time with their mother outside of the home, and how is that even fair; the Board cannot justify what someone did for a Playboy versus what someone did in a public place, there is no classification besides predator and sexual offender, that is it; a crime is a crime and that is it; there are different types of levels of crimes, felonies from class A to D and the same for misdemeanors; however, it does not have that for sexual offenders. He further stated Commissioner Tobia is judging everyone for one action that they could have done 20 years ago; he understands the concern that Commissioner Tobia is trying to do better for the community, trying to protect the children, and he is all for that; now because what one person did in one County it has to spread out to everyone else; and he asked how is that fair. He went on to say kids congregate everywhere, video games stores, shopping centers, parks, anywhere it does not matter; the only place they do not go is to bars so is he going to restrict everybody into they cannot go anywhere but a bar; she tried to work at a bar and she cannot even serve alcohol, so she cannot even be a bartender; he asked what she is supposed to do; and he asked how that is fair. He continued by saying as a father he has to work two jobs, go to school, and be a mother at the same time just so his children can have a decent life; and he 100 percent opposes this.

Chair Lober asked if Commissioner Tobia had any questions for the speaker.

Commissioner Tobia stated no but he thanked him for coming; he stated he cannot imagine the courage it takes to get up here and stand up for the rights of sexual offenders; that had to be extremely tough; he commented that he as a policy maker is more concerned about one of the two classes of people, those that committed sexual offenses on minors and those that did not; he is more concerned with the 99 percent that are on the other side; and he mentioned he would like to read a Florida Statute, it is kind of interesting because the Legislature put in intent, normally that is not done but they did in this one. He noted this is Section 944.606, and he read, "The legislature finds sexual offenses, especially those who have committed their offenses against minors often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectancy of privacy because of the public's safety and its effective operation of government"; he noted it is not only him, it is the Legislature that has an intent that when a person is found guilty of these offenses, they give up rights; having to drive a little further to go to Publix or WinnDixie fails in comparison, and he does not want to know because it would hurt him to even understand that people could even commit these crimes on young folks, whatever innocence was taken away from people who do not deserve that; and he thanked Mr. Perez for showing up, clearly many folks did not want to, and he means that from the bottom of his heart because it takes a lot of courage to come and advocate on behalf of the rights of sexual offenders and sexual predators.

Mr. Perez asked if he could say one more thing.

Chair Lober stated it is up to Commissioner Tobia.

Commissioner Tobia stated that is fine.

Mr. Perez asked if this passed and these people have 1,000 feet restriction on parks and on businesses where would they be able to go, in general.

Commissioner Tobia stated to a business that was not 1,000 feet within an area that children congregate.

Mr. Perez stated it is limited now, what he is saying is what would they be able to do.

Commissioner Tobia stated he has a choice, to look out for 600,000 plus people in the County that have a made a decision not to have a sexual offense on a minor or he has a decision to look out for 867 folks that have made a decision, a bad, horrible, terrible decision to have committed a sexual offense on a minor whether it be a misdemeanor or a felony; as he explained even a misdemeanor sounds pretty horrific to him; and he has to look out for the 99 percent of people who make good decisions, not the one percent of people who make bad decisions, especially when the Legislature says that one percent has a higher propensity to engage in that same terrible activity over again. He noted that is not him that is Florida Statute 944.606.

Mr. Perez stated he would suggest that Commissioner Tobia at least look into how someone...

Chair Lober stated he apologizes but he cannot have the back and forth.

Commissioner Tobia advised this is just permission to advertise so to be clear, no matter what happens today, there will be more opportunities for the public to come in; and even if it does pass it is not immediately going to go into effect; and the Chair can explain that there will be other opportunities.

Commissioner Pritchett stated she believes the intent of this, if she is right, there are parks where kids hang out and now there are also businesses that are made specifically for children, the Sky Zone and the video places; she knows things are tough but the goal is to reduce the risk and the danger to the vulnerable population; she thinks sometimes people do certain things and they serve their time or whatever, but that does not mean they have not lost the privilege to be able to do certain things; if certain things that people do in society negate safety to others because of what someone has done, it is just something they have to deal with; and she advised her heart goes out to Mr. Perez as he sounds like a wonderful father and person. She noted with some things the Board just tries to bring some leadership to, there is always going to be a couple people outside that do not fit in these categories, but it has to do what is best for the majority; and she is going to support this moving forward and she hopes to change the definition.

Chair Lober advised he is going to reiterate his prior concern; he agrees ideally the Legislature up in Tallahassee would adjust things that someone who sells a porno magazine to a 16 or 17-year old is not potentially labeled as a sexual offender for years to come; the fact is he has to operate here with what the law is that is in place right now; and he does not see further penalizing people who are marginally on that list for reasons such as the example that comes to mind. He further stated certainly sexual predators, when talking first-degree felonies and multiple second-degree felonies there is not really much of an excuse out there for that; he has no problem implementing the restrictions that Commissioner Tobia would like to see with respect to that; however, simply for offenders, given that there are a lot of people who get swept into that category, that frankly, if listening to the circumstances, they would not be traumatic for Commissioner Tobia to hear, he does not know that he can support it on that; he is sure the politically popular thing would be to crucify all of them regardless, but he does not think that is the right thing to do in this circumstance. He commented Commissioner Tobia may get it to pass either way, but if it does not with offenders in the mix then he can do it with just

predators and he will support that.

Commissioner Pritchett stated she has a question; Chair Lober does bring up a good point; and with the item that Chair Lober brought up, she asked if it is possible for them to come off the sexual offender list.

Commissioner Tobia stated he is not 100 percent; that is covered under Section 943.04354, but he is not an attorney; that Section deals with the age difference and there are a whole bunch of different qualifications on there; he is not an attorney so he does not know; he does want to reiterate to remember that many of these defenders have pled down in order to become an offender; some of the offenders, transmission of child porn, knowingly selling obscene materials to minors, it is not just accidental as Commissioner Lober mentioned accidentally selling; Florida Statute is knowingly selling so that is different; sexual misconduct where the victim is in a facility for the disabled, he cannot believe that is not a predator; and that may be his fault for not fixing that when he was up in Tallahassee, however, that is what would get someone on the offender, not the predator list. He mentioned if anyone has a question to just put themselves in that situation, does anyone want their child, or does it make that much of a difference if their child is okay with an offender not a predator; and the decision he would make is reflected in the ordinance.

Chair Lober stated with respect to that as far as knowing, to look at the actual jury instructions for that charge, there is nothing that requires explicit proof that they knew; someone can infer that but if they get the wrong jury they are going to make the inference regardless; that is the concern that he has; and he does not want to do something that is going to unreasonably punish certain individuals that are quite frankly, already on a list that he thinks the people who put in place that list would not necessarily want them to be on.

Commissioner Tobia stated this Board created a registry, and he hates asking this, but Chair Lober is the one who brought it up, for people that abused animals; he inquired if abusing a child is not as worthy of a registry but abusing an animal is; he noted this comes differently because Chair Lober does not have children, but he does not have animals so he does not understand; this is just a policy difference that the two of them may have; and he is just trying to figure out how Chair Lober can explain the County having one for animals, which he hopes he voted for because he does not think abusing animals is okay, but he also thinks that abusing kids is just as bad, if not worse.

Chair Lober advised Commissioner Tobia that he does not think he voted for it; but be that as it may, if Commissioner Tobia wants to stick with his analogist then he should stick with his prior position.

Commissioner Tobia stated he does not think that is similar.

Chair Lober stated Commissioner Tobia is talking about animal abuse and child abuse; sure child abuse if he wants to say that it is no less evil than animal abuse, fine he will not argue with him about that, however, Commissioner Tobia is not just talking about people who abused children; he will just go back to the same example so it is not throwing out a hundred analogies today, but when there is someone who sells a Playboy or a Hustler magazine to a kid that is 16 or 17-years old and maybe the one selling it is 18 or 19-years old, he asked if that is really something he now wants is for that person to be prohibited from going to certain places as a result of that; and he mentioned he does not know that it really benefits anyone.

Commissioner Tobia stated he does not understand the jury, he just knows what Florida

Statute says; it says clearly, knowingly selling; he is not a judge and will never be a judge; that is what the Statute says; he does not know the fancy words a defense attorney would use for the instructions, a judge would; he can read State Statute and that is what it sells; and he honestly believes that if there is a mistake made, and as an attorney Chair Lober could probably answer this, but he does not want to get into it, but if it was a sheer accident an attorney would probably hope for a different outcome.

Chair Lober stated he will give Commissioner Tobia, as a hypothetical, that he has an 18-year old kid in high school and a 17-year old kid in high school and the 18-year old went to the 17-year old's birthday party six months prior and knows how old that kid is and they know perfectly well how old that kid is, he asked if that is worth prohibiting them, even if they do know, is that still worth prohibiting them now from going to other businesses because they are a risk to children; and he advised he does not know that they are.

Commissioner Tobia advised his suggestion would be this, there are some offenders that, sexual misconduct where the victim is in a facility for the disabled.

Chair Lober noted he is good with including that.

Commissioner Tobia went on to say, his suggestion would be to advertise this and if there are certain Statutes that Chair Lober does not think meet that threshold maybe the Board could pull those one or two out; he would not be necessarily opposed; but to throw the baby out with the bathwater, he does not want someone that has sexual misconduct where the victim is in a facility for the disabled; he cannot even believe that does not put someone on the predator list; and he does not want kids to be in that general vicinity thinking they are going to have a good time at a private business. He went on to say they are protected in a park; he thinks that equal protection should be at a private business that caters to those same kids; and he stated he would be open, he has his commitment, if Chair Lober wants to do that.

Chair Lober stated that is fair, and in that case he will support it.

Commissioner Isnardi stated this is just permission to advertise so she herself would like to see some options; she will definitely be highly supportive of this; she thinks she has touched on it a little bit in her history with this; she was actually going to move forward with something much stronger than this like putting signage in sexual predator's front yards, imagine that; it has been done in other places around the country because the definition of a sexual predator under the State of Florida, people will understand why; and they would not want their children anywhere near them. She continued by saying she is happy to support this and she asked to call the question so the Board can stop talking about it.

The Board approved legislative intent and granted permission to advertise amendments to County Code regarding sexual offenders and sexual predators, in order to close the private park and playground loophole.

Legislative Intent and Permission to Advertise an Amendment to Section 74-102, Brevard County Code of Ordinances

Commissioner Tobia asked Chair Lober if he would mind identifying those areas that he does not think would be worthy, and to send those out the same way that he did the memo that does not affect the Sunshine Laws.

Chair Lober advised he would do it the same as the memo and he advised the Board Members not to reply to the email.

The Board recessed 11:47 A.M. and reconvened at 11:53 A.M.

K. PUBLIC COMMENTS

Dr. Michael Lesser stated he has lived in Brevard County for 52 years with occasional stints out to the University of Central Florida where he graduated with honors and was elected to Phi Beta Kappa; he then went to medical school at the University of South Florida College of Medicine for a three year medical school where he was elected to Alpha Omega Alpha which is the honorary society as well as receiving the Lange Medical Book Award for academic excellence for two consecutive years; he holds four separate board certifications in medicine, internal medicine, cardiology, cardiac computed tomography, and advanced metabolic medicine and anti-aging; the idea that Brevard County would require masks in his opinion is insane; that is not why he was in attendance, but he was listening to the conversation; and he did not hear a single mention of using funds to help businesses or buy Ozone generators. He further stated COVID-19 is a respiratory virus and it is 120 nanometers in size; he showed an N-95 mask and stated its pore size is .3 microns; the reason there was such a severe event in New York is there are large numbers of people traveling in enclosed area spaces which were untreated; there only needs to be one sick individual to fill that whole car up with virions and it is the viral load that causes the magnitude of infection; viruses do not go through a person's skin they have to be inhaled, they have to enter your cells, and they have to bind to the ACE2 receptor in the lung; and there are plenty of studies that actually show, believe it or not, that the ACE2 receptor can be down regulated by nicotine. He added someone could actually wear a nicotine patch and help maybe as much as wearing a mask; there are studies that have been published in France to prove that; and before the Board starts going about and doing crazy stuff and mandating masks, consider helping businesses out by educating them in giving them financial help to buy Ozone generators especially those that are closed during the evening because all that has to happen is for it to be turned on, they run for two to eight hours, the gas goes everywhere, and it kills 99.99 percent of all bacteria and viruses. He stated he is the medical director at a spa in Viera; he shut the whole place down two days after the Governor issued his Emergency Declaration because it was very unclear at the time what the virus was all about, how it worked, what the potential treatments were, and etcetera; there are now well-documented out-patient treatments that are very effective when given early; there are many treatments that can be given outside of what people have heard, outside the hospital to address this particular viral illness; and he noted he just wanted to make sure the Board was aware of these things before it does anything crazy.

Chair Lober advised he had found Dr. Lesser's card; he is just curious why the card says Brevard County autonomous zone and crypto currencies.

Dr. Lesser stated yes that was what he was going to speak on.

Commissioner Tobia and Chair Lober both stated they wanted to give him the three minutes on crypto currencies.

Dr. Lesser stated in addition to his academic honors he is blessed, he is a MENSA-certified genius; he has several U.S. software patents; the reason he was going to speak on crypto currencies is because they are stable currencies; they cannot be printed out at will; if the Board was to encourage local businesses and local taxes to be paid in crypto currencies it is possible that it can protect this community in the future from what he believes will be a hyper-inflation of the dollar; now whether this will occur in 10 years or 15 years he does not know; he is actually pretty good at predicting the future, people can read his book, but that is another thing altogether; and it is just something he thinks should be encouraged for local businesses and taxes because it will help people protect their savings. He continued by saying protecting the

purchasing power and savings of people who live in this community is an important thing to him; his mother lives here who is 97, his grandson who is seven lives here, and his step-granddaughter who is one lives here; most of his family lives here; and he can see a better future for them if the Board thinks about these things. He provided his email to the Board and offered his time and knowledge for free any time if any of the Board wants to learn more about any of this stuff.

Chair Lober inquired when Dr. Lesser said he was a MENSA-certified genius if that also qualifies him to man the genius part at the Apple stores.

J.4 Banana Riverfront, LLC

Commissioner Isnardi disclosed she had spoken with Kim Rezanka and Bruce Moia about this Item yesterday for approximately 10 minutes a piece.

Chair Lober disclosed he has had some text exchange with Kim Rezanka, they have spoken about it several times; most recently was yesterday when he asked her if she would waive the tolling argument in exchange for getting a 30-day extension; and she declined it.

Commissioner Tobia inquired if the Board has to disclose information and if this is a Zoning Item, because he did too.

Chair Lober responded he does not think it does unless Ms. Rezanka wants him to.

Buz Underhill stated he had an opportunity to look at the packet the Board had and it just appeared to him that this is getting down in the weeds; he wanted to draw back a little bit and kind of put things in perspective; it seems to him what they are all really dealing with is a form over substance matter as it relates to this whole deal; the property that he represents has historically had 100 percent discharge into the Indian River Lagoon (IRL); when they were involved in negotiations to settle the issue with the County, they were interested in trying to minimize the damage that was going into the IRL; and he agreed to mitigate for 25 percent of the solids that were historically going into the Banana River and treat those in ponding them through the site. He continued by saying he went ahead and he did that a year ago; they created the ponds and the ponds were not created exactly the way the engineering was setup; some of the ponds were half an inch too shallow, some were three, four, or five inches too deep, but in reality those ponds have been doing what they were intended to do; they have been trapping the solids for a year; they did not technically meet the exact description on the elevation; they had a meeting in October and in the first part of November the engineers submitted a plan to County staff for approval to make the adjustments; they finally received a final on June 2; on June 3 he put it out to bid; he had one company that wanted to bid it because it was such a small job; on June 26 he signed the contract with them; they had a job at Ihop they were working on and were scheduled to come in on July 6; and when they got on site there was a lot of water because of all the rain and the ponds were wet. He stated they waited for a week, during that week their lead guy got COVID-19; they are in there now and working on it; it is a project that will only take a very short period of time; he has the letter from the contractor for seven to 10 days and that job will be finished; and it is nothing more than changing the contour on the ponds. He reiterated that those ponds have been holding the water, they have been filtrating as was stated; and he thinks the engineer will testify that they probably are getting 90 to 95 percent of what they have agreed to do anyway; he further stated they are making the adjustments so that it does meet the new plan; it will not be completed by tomorrow but they will finish making those adjustments fairly quickly; then there is a process to go through to be able to get the approvals and everything else signed off; and he really wants the Board to look at it and see what he is talking about, he is not talking about a gross

malfeasance because for over a year they have been treating that water, it just has not met the technical requirements, the exact requirement of the elevation of the bottom of the ponds that were approved on the plans.

Bruce Moia stated he is just there to try to figure out where they are and what is left to do; as Mr. Underhill mentioned they have the approved plans, work is underway and should be finished shortly; once that work is completed the surveyor comes in and does an As-built survey which then comes to his office; his office checks it to the County's standards; then they send it back to them for whatever adjustments they need to make; then they make formal submittal to the County staff; they make their review and comments; the surveyor makes the corrections; and that happens once or twice until they receive the County's approval, then they are done. He mentioned he just wanted the Board to know there is a process after just doing the work; Mr. Underhill is correct there are already pond there; they were not done per the original approved plan and that is why they are going through the revision process that took some time to get done; and he feels if the work is done and the As-built survey process is run through the regular process, they are probably 60 to 90 days away from being 100 percent completed with this whole process.

Kim Rezanka, Cantwell and Goldman, stated she put in the Agenda request because she has been trying to work through this process for a couple of months and not been able to get any real direction; as it says in the Agenda request, they have three permits, one is site plan permit, one is a temporary Certificate of Occupancy (CO), and in her opinion the settlement agreement is actually a Development Order; she was looking for direction because once the disaster hit, a Statute in her opinion came into play, Section 252.363 which is the Tolling Section, there is a natural disaster that is declared; and that is what she was trying to get direction on. She went on to say they believe that extension is correct but they have also asked for an alternative to extend the deadline to the Bond date; Mr. Moia had said 60 to 90 days and 90 days puts them at October 20, still six days to call the Bond; however, calling the Bond would be severely inefficient because there is less than 10 percent of the Bond that is needed; it is a very minor amount of work that needs to be done and it is moving forward as the contractor and the owner have said; the request she put forward she believes is factual, she did not intend to blame staff; she was trying to show that many, many attempts had been made; and things came out on the ground that did not actually work right, the water level table was different than given to them by Universal Engineering, a well-respected vendor. She went on to say their report was not to place blame on staff; staff has worked with them and she wanted that to be made clear; there were disagreements with staff over the process about whether they had to bring everything up to Code standards and those discussions took some time; the Settlement Agreement from 2017, which she sent to the Board again was the result of a denial of the rezoning, and it was a subsequent Burt Harris mediation; it was a negotiation as was somewhat of the same tact as Preserve Palm Beach Pack case that she cited and supplied; in that settlement agreement they tried to cover everything, but as they have come to see they could not cover everything; things have come up along the way and there is some ambiguities in it; and what is clear is that the only remedy for failure to complete all these site plan improvements are the calling of the Bond. She further stated that is not a material breach it is a very minor amount of what has not been completed; she does not think the settlement agreement can be deemed void; another instance is in 1.8 which she cited, it said Banana Riverfront shall be entitled to a Certificate of Completion upon posting of the performance bond; that bond has been completed, yet another ambiguity; and she has raised this before and let it sit, but now it may be an issue to bring back. She further stated Banana Riverfront wants to get the work completed; it has almost been a Murphy's Law every time they move forward something else happens; they have been moving forward, they are doing the intent of the Settlement Agreement, and she asked that the Board extend the deadline to 90 days or provide direction regarding whether or not these

permits are extended by Section 252.363.

Chair Lober stated he just wants to provide a little background in terms of where this was left off months and months ago; as people may recall, he believes it was Commissioner Tobia that put up an Agenda Item sometime back regarding this; he has asked to have the opportunity to meet with them and he did, along with County staff, including County legal staff; they had asked for a certain amount of time and he offered them more time than what they had asked for, which he did not quite frankly believe they were entitled too, with the understanding he did not want to hear about things being impractical between then and completing the project; and he believes the language he used at the time was, there was time for multiple natural disasters or acts of God to take place because this is giving them he believes three months longer than they originally asked for, which gives them time for multiple acts of God or natural disasters; and he recalls that real specifically. He added with respect to whether it is a hurricane or two hurricanes or COVID-19, it does not change anything in his mind; he specifically said he did not want to hear about implacability; now what he is hearing is it is not more than changing a little contour on the ponds and that it is a minor amount of work to be completed; if it is that minor then why was it not done; when he communicated with Ms. Rezanka about a month or so ago, or sometime in June, she was asking about the County's interpretation of whether or not the tolling would apply to them and his response was essentially to have them complete the work as soon as possible; and he advised that is not verbatim what he wrote, and he can provide that if anyone wants, but when this came up yesterday he was still willing to, potentially willing to, give her another 30 days in exchange for waiving any arguments pertaining to tolling, and if it is really that small amount of work that is where he would be at today; he is not willing to give any more than 30 days; and what he is going to ask after staff has a chance to introduce this, and he has spoken at length with staff both legal and Planning and Development, is to have the request denied and secondarily to see if Ms. Rezanka is willing to waive tolling in exchange for a 30-day extension. He advised if she is not then he is sorry and it is unfortunate; but the County can go for the bond.

Tad Calkins, Planning and Development Director, stated he thinks a lot of information has been presented here and presented correctly; the Board gave staff direction last October that Banana Riverfront would receive a single nine-month extension to finish the work; that expires tomorrow and they are here looking for another extension which would be the sixth extension to this project; and it was the Board's direction to call the bond if the work was not done without coming back for it. He further stated the applicant, Mr. Underill and his people are here now asking for another extension; the proposal to look at this falling under Florida Statute 252, staff does not believe it falls under those provisions; and the County Attorney may be able to explain more if the Board wants more information on that.

Chair Lober called on Eden Bentley, County Attorney, to explain.

Eden Bentley, County Attorney, stated 252, if this were a normal permit situation then yes 252 would extend, however this situation arise from a Code Violation of illegal construction, and subsequent efforts to cure that; therefore, she believes it falls under exceptions of Chapter 252.363.

Chair Lober inquired if Attorney Bentley is essentially saying that it is distinguishable from the Case Law presented by Ms. Rezanka.

Attorney Bentley responded in the affirmative.

Mr. Calkins continued on to say if the Board has any questions he would be happy to answer

them from staff's standpoint; and he mentioned he is not sure if John Denninghoff, Assistant County Manager, has anything to add or not.

John Denninghoff, Assistant County Manager, added there was a great deal of difficulty getting through a number of technical issues associated with the site; he wants to remind the Board that it was actually a modification to the site plan; the reason they were doing that was because there was a number of features associated with the original approved site plan; the reason they were doing that was because there was a number of features associated with the originally approved site plan that were not constructed, one of which was the stormwater system, and it was not constructed in compliance with what that approval was; and that required an engineering approval or modification and then associated approval, which they were able to achieve on June 2. He went on to say he thinks Mr. Underhill has pretty accurately expressed when work actually got started according to staff's efforts, which staff frequently went by the site, and work began last week, not certain what day, but he believes they got about three days worth of work in last week; he thinks Mr. Underhill's representation as to how long it would take is pretty accurate; the County's engineers thought that last week it would probably take about 10 to 12 days to get it done; and that was before they had realized they were three days in so that is why staff believes they are nine or 10 days from completion.

Chair Lober inquired if Mr. Denninghoff thought 30 days should be sufficient.

Mr. Denninghoff stated to complete the work it would be more than sufficient; the as-built process, if it has been built in accordance with the approved plans, it goes very smoothly; if not built in accordance with the plans, it gets a little more difficult to deal with and it will drag on; he pointed out there was a number of changes to the parking area which changed the handicap parking spaces, which involved American Disability Act (ADA) accessibility routes which rendered the drainage design to become a more complex situation; therefore, staff has been in a process to make sure that the ADA was complied with; and he advised the County does not have the right to waive or reduce standards of that either in a stipulated settlement or any other source.

Chair Lober asked if Mr. Denninghoff is suggesting that what was submitted would not have been in compliance with ADA.

Mr. Denninghoff stated they had found a problem as Ms. Rezanka indicated; the problem was with the water table information; what that resulted in and translated into was that the accessibility areas would be flooded at various points in time; they corrected that when it was all figured out; and now it is ready to go.

Chair Lober inquired when Mr. Denninghoff said staff found a problem with that portion of the submittal, was that a problem that County staff somehow caused or some kind of reliance on the County's information.

Mr. Denninghoff responded no.

Chair Lober clarified that it was not a problem contributed to the County.

Commissioner Pritchett commented this is one of the first ones when she was elected to the County Commission that she really had to do a lot of studying on and get information together; she is tickled with the substance over form one because this is the one they revisited the building that had a bunch of changes and did not have any permits; and she inquired if that is correct.

Mr. Denninghoff stated that is correct.

Commissioner Pritchett stated she remembers when the Board first went through this trying to figure it out; she thinks the Board, at that time, graced it so they could go back and fix things to get it into compliance and maybe permit it; that was like four years ago; she thinks if someone was going to pick a lawyer, Ms. Rezanka was the one to go with, because if they did not have her, they would have been sunk a few years ago on this; and she noted she will be voting with what Chair Lober wants to do with this because he is the one who has to live with it. She stated she really would hope they do not have Squid Lips come back; she hopes Mr. Underhill is doing great with his business, but she hopes it never comes before this Commission again with this same thing; and she thinks the four years of patience and grace has been a lot, and she just wanted everyone to hear that because otherwise, this Board is going to sound like it is really mean right now.

Chair Lober commented the Board has bent over backwards.

Commissioner Pritchett noted the Board has been really patient; she is with Chair Lober on this one; and she feels like staff has been a little abused with their time through this process and it really should have never happened.

Commissioner Tobia commented, if the Board gets a chance he would suggest reading the staff report, it was very interesting to not only see the amount of time that went in here but also, he assumes this made it to Mr. Denninghoff's office, and if anyone was tired of this situation, he cannot imagine as Mr. Denninghoff was the head of that Department, it is incredible; and this is about seven days of work. He continued by saying after an extension, he thinks it started at six months and it is all on tape what Chair Lober said about the nine months, and he could not have been more correct; he mentioned he is going to ask for a little bit of indulgence and he would like to explain why; it says in the staff report that this equates to a total possible time frame of five weeks; Chair Lober mentioned 30 days, and if Mr. Denninghoff can see in his heart to offer 35-days; what it comes down to, he is a teacher and he allows students to turn in their papers early, and he tells his students he will get them back as soon as possible so they can make corrections and turn in a paper that they are ultimately proud of; he receives the papers and turns some of them back the next day because these are the students that have a 95 percent and are shooting for 100 percent and did a really good job; however, some people turn in some papers that are like 65 percent and unfortunately it takes a couple of days because if someone turns in a one paragraph 10-page essay it takes a little bit of time; and that is the nicest analogy that he can think of on this. He went on to say if a decent paper is turned in on day nine of weeks, he has confidence that Mr. Denninghoff is going to get this back to the people as soon as possible; he would be willing to ask for a motion for him to send an email the second he gets it and send an email to the Board the second he releases it, and he guarantees it would jump to the top of his desk; if he is willing to offer 35-days, that is more generous than he would be; Mr. Denninghoff is showing his heart; he does not want to get into the history of this because it predates him; and he asked for the same indulgence from the Board that they get from Mr. Denninghoff and that would grant the extension that was offered of 35 days. He further stated he is going to trust the County Attorney that the tolling argument Chair Lober made, he thinks it was very good and he agrees with the County Attorney that since this was a Settlement Agreement it falls outside of that, but why not put it in there, that gives plenty of time; and then reaffirm the remainder of the Settlement Agreement, he thinks that is more than generous for seven days worth of work. He stated he is not an engineer so he called an engineer and said if someone has water in a pond how do they get it out and he found out there are pumps that dewater ponds, so people do not have to wait for long extended periods

of drought; apparently people do build in the rainy season in Brevard County; it is a little more of a cost but he guarantees it probably pales in comparison to the amount of time and effort that staff went through for this; and he knows Chair Lober will have a motion but he would like to give a back-up after his motion is done to grant 35 days, that is in the staff report, assuming the tolling is waived and reaffirm the remainder of the Settlement Agreement.

Chair Lober stated he thinks he is good with that; first order of business is to reject the request; and he asked for a motion to reject the request so he can move on to the next.

The Board denied the citizen request by Banana Riverfront, LLC for a 90-day extension.

Result: DENIED

Mover: John Tobia

Second: Bryan Lober

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

Banana Riverfront, LLC

Chair Lober stated what he would like to get on the record is they are waiving tolling in exchange for being granted a 35-day extension and additionally, he would like the motion to include, it does not come back before the Board again; he really does not want to hear about it in the future; the Board has wasted so much time and staff has wasted so much time, that he wants staff to just go for the bond at that point; and in terms of a citizen's Agenda Item he is not going to sign off; the Board has altered the Policy so now there has to be a Commissioner to sponsor a citizen's Agenda Item; he was not real strict on this one because he wanted to give them every opportunity to make their case, but he will not sign off on it next time, so it would have to be another Commissioner; otherwise, it just will not be added to the Agenda. He inquired if the motion is to essentially give them 35 days extension and before it is voted on to get on the record and say that they will waive any tolling arguments that they may be entitled to make.

Commissioner Tobia mentioned if that is what needs to be done to get them on the record; and he would greatly thank the generosity and the kind-heartedness of Mr. Denninghoff.

Attorney Bentley advised she has a draft of an amendment to the mediated Settlement Agreement to address the tolling if the Board would like to look at it.

Chair Lober inquired if Ms. Rezanka has had a chance to look at it.

Attorney Bentley responded Ms. Rezanka has not; but she stated she was not sure where the Board was going with this today.

Chair Lober asked Attorney Bentley how she wanted to handle it and if she wanted to take five minutes to discuss it with Ms. Rezanka.

*The Board recessed at 12:25 p.m. and reconvened at 12:32 p.m.

Chair Lober stated he knows it is getting late in the meeting but he wants to try to keep it together as best they can; and he asked Attorney Bentley if she had a chance to get with Ms. Rezanka about the proposed Settlement Agreement.

Attorney Bentley advised she had; she advised that Ms. Rezanka would probably like to speak

for herself; and it is her understanding that they are not willing to agree to that.

Chair Lober called Ms. Rezanka to the podium.

Ms. Rezanka stated this is obviously a surprise to her; there are things in there that no way in the world would someone let their client agree to; she is not saying there is a health safety violation, they are not saying the stormwater is noncompliant, and they believe those are inaccurate; he will agree to the 35 days; however, he is concerned about waiving his rights. She advised they seriously disagree with the County Attorney's analysis of whether or not the Settlement Agreement is a Development Order; the site plan is still valid; and the temporary CO is a permit which is definitely tolled, so he would be waiving valuable rights.

Chair Lober interjected asking Ms. Rezanka if what she is saying is her client is willing to take a unilateral extension without giving anything whatsoever in return.

Ms. Rezanka responded she is telling the Board what her client is telling her; pulling the bond at this point is going to take longer; he is going to continue doing the work even if the Board pulls the bond; it is going to make his life more difficult by pulling the bond when he is trying to get the work done; and there is a natural disaster, there is a reason for that Statute it is not just out there because of no reason. She added there are a lot of people that had problems; he had a contractor die; he had one of the workers get COVID-19; there were a lot of things that happened along the way; and she understands that Chair Lober did not want impossibility but sometimes it happens, that is why people have lawyers and there are courts. She mentioned they do not want it to go that far and she does not think it will, but he agreed to the 35-days and then the Board can pull the bond; otherwise, he is going to continue on and they will see what happens; and it could be a tug-of-war out there.

Chair Lober stated he appreciates that, Ms. Rezanka did an admirable job as anyone could expect of her; this is certainly no slight to Ms. Rezanka, but he is not willing to give a unilateral extension without anything being exchanged for it; and his thought is there is no further action the Board needs to take on the Item unless someone feels compelled to do otherwise.

Commissioner Tobia asked Attorney Bentley to explain the status quo; he inquired if the Board will recall the bond and whether he continues to work on the project or not, he will continue to be able to operate the business; and he asked if that is correct.

Attorney Bentley stated she believes the County will pull the temporary CO because he is not in compliance; they will call the bond; and she assumes they will look at Code Enforcement action immediately.

Chair Lober noted this is entirely avoidable but he does not want to waive any tolling requirement; frankly, the Board is in a position where he was not entitled to get in the first place; Mr. Underhill has been given every benefit of even nonexistent doubts; and he does not have empathy at this point. He continued by saying there is an argument made that out of Tallahassee, there was a change which serves to extend by a certain amount of time the duration that he would have to comply; Attorney Bentley does not believe that it applies and he thinks she has a good argument with respect to it not applying; Ms. Rezanka believes that it does apply or at least that there is an argument to make sure that it applies; and that is kind of the nuts and bolts or cliff notes of it, but if they are not willing to waive tolling then he would do a thing, not even extend for five minutes.

Commissioner Tobia stated it sounds like a business is going to shut down whether there is

legal action, one way or another; that is outside of the Board's control; and he asked if there is a middle ground to be had there.

Chair Lober stated he thinks the Board offered it.

Commissioner Tobia stated he is wondering if the Board were to pull the CO for a period of time until which the situation was ameliorated, it is not as good as the first offer, but it sounds like the status quo is pretty draconian.

Chair Lober advised it is an emergency created by one side, after a prolonged set of interactions with staff where they have had every ability to make this go away; in fact if they changed their mind right now they could tell the Board and this would not happen, and they have elected to do this; the middle ground that he sees, and it is not really a middle ground necessarily, is to have a motion to authorize County staff to enter into an agreement with them to extend by 35 days should the applicant agree to waive any tolling entitlement; and if they change their minds in an hour, six hours, or tomorrow, as long as it gets addressed before the bond is pulled.

Commissioner Tobia stated he thinks that is great with the one exception that the time would have to start now.

Chair Lober agreed the 35 days would have to start from right now.

Commissioner Tobia stated as they go through the process of looking into the potential outcome he thinks that is a great option.

Chair Lober stated if Commissioner Tobia wants to make a motion or he can take that as a motion to authorize staff and if he needs to sign something to authorize the Chair, and staff to execute any necessary documents in order to extend by 35 days, the duration to comply with this provided that a waiver of all tolling requirements is made by the other party.

Commissioner Tobia stated at the time which starts immediately.

Chair Lober added with time starting now.

Commissioner Isnardi stated obviously the Board could blame Squid Lips; she has seen a little bit on both sides; she knows the County has bent over backwards with the amount of work they have put into it; she agrees with Commissioner Tobia on that; and the goal was to get it into compliance. She mentioned she is a little nervous about asking them to waive their rights because it may have other impacts that the Board is not aware of; it never really had a straight answer on that until now on the tolling; she does not think it is a big deal herself because this is not a negotiation as far as a deal between the two; she thinks 35 days is not the end of the world; and to shut them down and threatening to pull a bond, and holding a CO she thinks is just crazy. She went on to say they are talking about 35 days; if he fails to comply then pull it; he is doing work that was negotiated upon based on preventing run-off from the Lagoon; he was late and that stinks; she is not saying he deserves a free pass for that, but it is 35 days; and this is not like a divorce settlement where both have to give, it is just what the Board decides to do. She went on to say she wants to see him in compliance, definitely; has he made huge mistakes along the way, sure he has; the Board has pretty much kicked his teeth in for it; staff has put in a bunch of time, no question about that; and she asked that the Board to just get him there.

Attorney Bentley advised there is another option; the Board could deny the request which it has; it could direct staff to pull the CO; and then direct staff to delaying calling the bond for a period of time.

Chair Lober stated he would not give them 35 seconds.

Commissioner Isnardi stated that really was not what she was suggesting, but she appreciates the input.

Chair Lober stated he is looking through his text messages; this is back from last month to Ms. Rezanka; he read, "I spoke with John in person and staff is not planning on extending the completion time and my strong recommendation is for your client to get things done as soon as possible before the deadline"; and he added this was not a surprise to anyone.

Commissioner Isnardi stated she is sure the death of somebody and COVID-19 with everything else was a little bit of it.

Chair Lober advised he gave them months longer; the bottom line was he gave them more time than requested with the very explicit and it was explicit that he did not want to hear any excuse for why it was not done; and he does not have any empathy at this point, it has dried up.

Commissioner Pritchett stated just to define this, it is a small amount that is left to be done; there should be no reason why it could not be done in 35 days; and then all this just goes away anyway.

Chair Lober reiterated if they would agree to a 35-day extension and waive any tolling arguments then that is fine, it is up to them; and if they do not want to do it then they are putting the County in this position.

Commissioner Pritchett stated logic says they are not going to get this done in 35 days anyway and this is going to come back, since the Board has added some time to it; if they came up and asked for 41 days that would be prudent at this time; she agrees if they got a small amount done and they say it is only going to take a few weeks to do it, she does not understand the significance of the 5-day timeline; and then everything is fine.

Commissioner Smith stated he would like to remind the Board that as much as he can remember he has been dealing with this since 2015; and what the other Board members have been hearing is what they have been hearing, but he has been hearing it a lot longer than the rest of them have.

Chair Lober asked if there were excuses back then as well.

Commissioner Smith responded affirmatively. He mentioned he just wants to see it get done; he understands he is a businessman; he does not understand why it keeps taking as long as it does; he is the guy who signs the checks; he can crack the whip; and the Board gave him six months, nine months ago when Chair Lober was kind enough to say he would throw in another three months just to give him all the extra time he could possibly ever need.

Chair Lober asked if what Commissioner Smith was saying is the contractor may have died from old age working on this project.

Commissioner Smith stated he is not sure what happened here.

Chair Lober asked Commissioner Tobia if he would mind making the motion to authorize the Chair and County staff to execute any necessary documents in order to grant them a 35-day extension starting today in exchange for their waiving any tolling arguments they may have.

Commissioner Tobia stated that and adding in reaffirming the remainder of the Settlement Agreement. JT/BL

The Board authorized the Chair and County staff to execute any necessary documents in order to grant a 35-day extension starting today, in exchange for Banana Riverfront, LLC, waiving any tolling arguments they may have and reaffirming the remainder of the Settlement Agreement.

Result: APPROVED

Mover: John Tobia

Second: Bryan Lober

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

L.1. Frank Abbate, County Manager

Frank Abbate, County Manager, stated he has a number of Items he wants to go over; the first one being the Small Business Personal Protective Equipment (PPE) Program, he wanted the Board to know that one did get underway yesterday; on the first day they had received 212 applications; that will be continuing until July 31, the online application at BrevardFL.Gov and any businesses that are qualified for that can make the application, and staff will be getting them the PPE package that the Board has approved; and he mentioned that business is limited to certain types of small businesses of 25 or less because that is what the Board has approved. He continued on to say the second Item he wanted to mention was the Small Business and Non-Profit Economic Relief Program and he wanted to give the Board a couple of updates; first, after discussions with the Chambers staff tried to get to a place where they would administer the Program, they were provided a draft contract, and they advised, after reviewing with the way things were, they did not think that was a good fit for them so they declined the opportunity to move forward in administering that Program; staff is now going to do it internally, using staff from all different departments; he met with senior staff yesterday and strategized a plan moving forward; he has a meeting with the Directors tomorrow and then he is meeting with appropriate staff that would be involved in reviewing applications as they are received; and they will meet with that staff starting on Friday. He went on to say he anticipates that Program being a place for online applications from July 27 through August 10; that would be the period when businesses can apply for that Program and non-profits can apply for that Program; mentioning non-profits, as he is sure the Board will recall, at the last Board meeting the issue came up and it directed the County Attorney, Eden Bentley, to look at options relating to non-profits to address concerns that the Board had raised; and for staff to move the Program and the application forward, they really need Board direction relative to any input that the County Attorney's Office has provided. He noted the County Manager's Office worked with the County Attorney's Office on that but Attorney Bentley did the bulk of the work in that; one of the areas they thought the Board might want to consider, in addition to what Attorney Bentley has outlined in her memo, was the issue of non-profits Internal Revenue Service (IRS) status 501(c) and which types of agencies; they would recommend (c)(3), (c)(19), and if the Board wanted to include the Chamber (c)(6) would be businesses that were Chambers or Commerce, or business leagues such as League of Women's Voters, that would be included in that; and those are the three types of 501(c) agencies that the Board might want to include, they just need to get the Board's direction so they know how to complete the application and be able to move that forward.

Commissioner Tobia stated he mentioned this on Chair Lober's mask proposal; he expressed his appreciation to the County Attorney's Office for doing an amazing task of going through the non-profits that were out there and deciding which ones met that objectionable criteria but without using any criteria to say that it was absolutely objectionable; he advised he would like to advocate for the first two of the three that Mr. Abbate mentioned, the 501(c)(3) and 501(c)(19) for two reasons; reason one being the Federal Paycheck Protection Program (PPP) only allowed organizations that were 501(c)(3) or 501(c)(19), therefore, the County would just be mirroring what the Federal government had decided; and number two, what makes 501(c)(3) and 501(c)(19) different from the other ones is they have strict Federal restrictions from lobbying. He further stated in other words the Board is not contributing to organizations that turn around and take some of the taxpayers money and give it to lobbyists who turn around and give it to the Board Members; this is a perception type of arrangement and certain Chambers give money to lobbying organizations that turn around and give it to the Board Members; this is not happening in Washington D.C. necessarily, but it happens in Brevard County; if anyone received a check from Business Voice at one time or another it was money that came from the Chamber; they have not given him money this time but previously; this was money that came from businesses and the Board would be accused of funneling money from taxpayers into these organizations that would end up in campaign accounts; for those reasons he would advocate to limiting the non-profits to the 501(c)(3) and 501(c)(19), the fewer organization that receive it, the argument would be made, if there is a pot of \$10 million, the more money that would go to the businesses that help to employee people; and he believes that was Option 2.

Chair Lober asked Commissioner Tobia if he wants to do some horse trading.

Commissioner Tobia stated they were on the same side last time; he inquired what Commissioner Lober wants to trade; and he noted they are only two votes and they failed before.

Chair Lober stated what he is thinking is he will support that if Commissioner Tobia will also support allocating out of the unallocated portion of the CARES Act or even out of the \$10 million he does not care either way, if that would make it or break it for Commissioner Tobia, up to or a cap of \$100,000 per Commissioner District where the Commissioners would be able to allocate that funding to either not-for-profits or non-profits which comply with the Federal CARES Act requirements but are otherwise excluded due to the County Policy; in this case one of the policies would be (c)(6), and he does not intend to give any money to a (c)(6), but if someone feels really compelled in their heart to give to a particular (c)(6) or whatever, they can do that as long as it still gets vetted by staff to make sure it is compliant with the Federal requirements; and if someone does not do it then it is \$100,000 less than what would potentially be on the table.

Commissioner Isnardi stated a 501(c)(6) seems to be the subject of the Chambers and Commissioner Tobia's crossfire; quite honestly most people like businesses that write people checks for running; someone could easily argue that as well; there are many big businesses also have more paid lobbyists that some Chambers do; she thinks it is the Melbourne Chamber that does not even have a paid lobbyist; she thinks maybe that could be a requirement, they qualify if they do not have a lobbyist, if that is Commissioner Tobia's gripe.

Chair Lober asked for how long.

Commissioner Isnardi stated she does not know, and she does not know what the solution is; Commissioner Tobia talks about picking winners and losers but that is exactly what he is doing;

and he is saying they are excluded because their lobbyists might go to Tallahassee and give them money.

Commissioner Tobia stated he likes the argument but he is fighting a losing battle right now; and the response is to avoid this altogether and take this money that belongs to the Board Member's grandchildren and great children and send it back to Washington D.C., that is the solution.

Commissioner Isnardi interjected because they spend it so correctly when that is done.

Commissioner Tobia stated no it will go to the U.S. Department of Treasury so it is not spent; either way, just because they waste money it does not give this Board the right to waste it; quite frankly, he will not do it; he likes the idea it is very interesting; it would be fun writing \$100,000 check to the Treasury, that is the only time that would be okay; and it is not that he does not trust anyone here, he just does not think that puts the Board in the best light. He continued by saying and as far as when it goes to the Chambers, here is what happens, it is not rocket science it is very simple, and the Chamber transfers money in Brevard County to Business Voice, a direct transfer; there are receipts and he would be more than willing to share; then Business Voice turns around and writes checks, so does the Chamber have a lobbyist, well they have hundreds of lobbyists in Washington D.C. and at least 10 lobbyists, individual and contracted lobbyists in Tallahassee; and do they have a lobbyist here in Brevard County, no, but they play in elections, absolutely, and it is a direct correlation.

Commissioner Isnardi asked if they do it or if their members do it because she thinks he is giving, and she does not mean any offense and she will probably cut her own throat for saying this, but she thinks Commissioner Tobia is giving Business Voice way too much credit. She added up until last year nobody would even talk to them because of what some of their members were doing.

Chair Lober commented he still does not.

Commissioner Isnardi went on to say honestly if a politician can be bought with a \$1,000 check from the Business Voice then everybody is doomed; she knows some of those members and they are good business owners; and she knows accountants and people that she is sure Commissioner Tobia respects. She continued saying it is not like they are building signs or working on street corners.

Commissioner Tobia stated whether, and to his knowledge they have not endorsed either him or his opponent, they have not given him any money in this cycle; he supports their decision to play in campaigns, he encourages everyone to play in campaigns whether it be volunteering or direct contributions; he supports Business Voice or any other organization out there doing it; his issue is now the Board is taking public dollars and giving it to an organization that is playing in races, then he has a problem; and it is the same with giving to charities. He added, yes, it is good to give to politicians but the charities probably should not be giving public money to politicians; the same way it is good to give private money to charities, but the Board probably should not be giving public money to charities; and he does not disagree with Commissioner Isnardi.

Commissioner Isnardi stated she gets Commissioner Tobia's point.

Commissioner Tobia further stated horse trading was giving it to 501(c)(3) and 501(c)(19); the reality is he would like to give it back to the Federal government because the money does not

exist; this is money that is borrowed from future generations; he wished they understood the mountain of debt, the more than \$26 trillion of debt that they are being born into; by saying this is a small percentage, yes it is, but it is also \$105 million which is certainly a lot of money; and he advised he can vote for the 501(c)(3) and the 501(c)(19), but he cannot vote to have these little pockets of money whether they come with the \$10 million or come from outside the \$10 million. He noted the other Commissioners may disagree altogether; and he asked Mr. Abbate if he happened to look at the number of charities that fit the 501(c)(3) and 501(c)(19) and those that fall outside of that.

Mr. Abbate responded there is about 500 non-profits that fall in the 501(c)(3) in Brevard County.

Commissioner Tobia asked what about 501(c)(19).

Mr. Abbate advised he did not know but he does not think there are that many.

Commissioner Tobia asked how many charities there are altogether.

Mr. Abbate responded he has no idea; and he asked if Commissioner Tobia is talking about non-profits.

Commissioner Tobia responded affirmatively.

Mr. Abbate replied he has no idea.

Commissioner Tobia stated if the County has a pot of \$10 million and there is a cap of \$500,000, that is more money that will go to businesses; that is a Policy decision whether or not the Board wants to include that or not; and he is on the idea of erring it just to the 501(c)(3) and 501(c)(19).

Commissioner Smith stated he thinks the comment was made at the last meeting and that it is funny that Commissioner Tobia wants to put limits on something he is not going to vote for anyway; he thinks that is worth repeating; if the Board is going to spend it, he wants to see it go to as many places as the Board can get it; he thinks the whole purpose of the money is to get money into the economy and the quicker the better; if it is sitting in a pot in the County and not being used, then it has no purpose; and the purpose is to get it out into the economy and stimulate the economy. He went on to say as many responsible business people and business companies as the Board can find, key word is responsible not some fly-by-night operation, but legitimate companies that stimulate the economy, he is for it.

Commissioner Pritchett stated the 501(c)(3) and 501(c)(19) are good; Commissioner Tobia started getting her attention a little bit and she started thinking about the Chamber; she does not know why they did the 501(c)(6); they probably should have just been some other entity like a corporation; it makes sense to her for the businesses that they do and what they serve; she would guess they did that for tax purposes; but on that note she was kicking through it and they do good helping businesses get together and continue moving forward; and she thinks the economy is so important with what is coming up. She noted she is going to support that, but she would like, just from what Commissioner Tobia said, she will make a commitment and will not take any money from the Business Voice in this campaign; she would like to stipulate in this the Chambers does not throw any support money there until after the elections and until the County gets through this; that makes it a cleaner process, there is nothing that is going to affect this election as far as the Chambers getting money; she thinks doing this with the

Chambers to make a commitment not to write any checks to Business Voice until after the election cycle; and the Board could do whatever it is going to do, but she is going to support the Chambers in this because she thinks they do a good job. She mentioned she does not know why they are a 501(c)(6) but that is what they are so she is going to support that.

Chair Lober advised he is going to step back to his prior proposal; he has been kind of honing it to make it a little more understandable and to make it make sense because then the individual Commissioners could decide to throw some money toward the Chambers in their Districts if that is what they choose to do; if they do not want to they do not have to; and if they want to put it in another District they could do that too. He went on to say he would suggest the Board allocate up to \$100,000 per Commission Office to be allocated to non-profits or not-for-profits businesses which comply with CARES Act Federal funding requirements, that are for any reason not compliant with one or more County requirements over and above the Federal requirements, so they would have to comply with that.

Commissioner Pritchett stated she would feel a little funny doing that in an election season; she does not think with good conscience she can do that because it could look like she is trying to buy votes; she reiterated she cannot support that in an election season; and if she was not running she might.

Chair Lober stated for Commissioner Pritchett to give him her \$100,000, he will parcel it up fairly.

Commissioner Pritchett asked if Chair Lober wanted all \$500,000.

Chair Lober stated actually he does not want all of that because the calls would be incredible.

Commissioner Pritchett noted anyway that is why she feels she cannot support that.

Chair Lober advised he would like to see where the other folks are at because alternatively for Commissioner Tobia, if he does not want to allocate that \$100,000 he could return it to the Federal government; or send it back to the Treasury; Commissioner Tobia could make sure that at least \$100,000 was not spent that he does not want spent; and that is just something to think about.

Commissioner Tobia stated that is less than one percent of the \$105 million; and he asked Chair Lober if that is what he is referring to.

Chair Lober advised the \$105 million is less than one percent of the overall pot too, so yes.

Commissioner Tobia stated his is with Chair Lober but still during election season, understanding Chair Lober is not up for election so he does not think he is doing it with any type of intentions whatsoever, and since Chair Lober self-funded clearly that is not the case; it is not a position he would like to be in, not a position he would like to put staff in; and if the Board is going to go down that road, it might as well divide the money the Board spends on roads and hand it to the Board Members to pick which roads each Commissioner wants to pave or reconstruct instead of having a professional staff make those recommendations for the Board Countywide; and he is really not comfortable with it.

Chair Lober stated he thought he would just throw it out there as an alternative; the one he was thinking of, it does not benefit him personally but the Humane Society; and the requirement with the cap of 50 full-time equivalent employees cuts them out.

Commissioner Tobia stated he is okay with making an exception to the Humane Society that they do not necessarily need to meet that threshold, if that helps Chair Lober get there.

Chair Lober responded it does.

Commissioner Tobia went on to say they would be offered an equal amount with everyone else; and they would not get a \$100,000 check but if everyone got a \$7,000 check, and he has no idea what it will be, the Humane Society would be granted that equal amount.

Commissioner Isnardi asked if the Board is just going to pick the Humane Society or is it all animal rescues because the County has a lot of really good organizations and that opens the door.

Chair Lober stated the problem is most of the other ones do not have 50 full-time employees, that is why them; Coastal Poodle Rescue, he does not know if they have qualifying expenses, but there is no way they have 50 full-time equivalents; he thinks the vast majority are already in the mix; and he does not know about the SPCA, but he does not know those people to the extent he knows the Humane Society.

Commissioner Isnardi stated she does not want to just exclude them and it could be said just animal rescue with more than 50 employees.

Chair Lober stated he is fine with animal rescue with more than 50 employees; and he asked for a motion to allow to apply within the group of \$10 million that has been allocated at a prior meeting, any animal rescue organization that otherwise complies, and simply relieving them of the obligation to be capped at 50 employees.

Commissioner Smith stated he does not have anything on this particular Item, he just does not feel comfortable being a Commissioner in charge of \$100,000 to give out to anybody or any entity; he would rather staff, they are totally disassociated and do not have to worry about being accused of playing favorites; and he just does not think it is a good idea.

Chair Lober commented with part of it he was just thinking with the Chambers that is the way to get the 501(c)(3) and 501(c)(19) included but also the Chambers to be funded, but it would not come out of the same pot, it would be coming out of a restricted smaller pot; it is an idea but he is not going to push forward with that at this point; he commented he was not thinking about the political side of it with the elections; it does play a part; and he asked if there is any further discussion on the motion.

Commissioner Tobia inquired if this limits it to 501(c)(3) and 501(c)(19), or is it separate.

Chair Lober replied his thought is after addressing this, there will be a separate motion in all likelihood dealing with whether to restrict the 501's; he stated this is just to relieve animal rescue to non-profits or not-for-profits from the obligation that they not exceed that cap of 50 employees; and that is the only thing contemplated by the motion.

The Board approved including nonprofit Animal Rescue Organizations to the Program, relieving them of the obligation to be capped at 50 full-time equivalent employees.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

Frank Abbate, County Manager

Chair Lober stated now the Board can get on to the 501(c)(3), 501(c)(19), and 501(c)(6).

Chair Pritchett stated she would like to make a motion to go with the recommendation to include 501(c)(3), 501(c)(19), and 501(c)(6), with a stipulation that the Chambers would not, until after the November election, write any checks out to Business Voice.

Chair Lober clarified if that means instantaneously from now through then in order to qualify.

Commissioner Pritchett responded affirmatively.

Commissioner Isnardi stated normally she would not have a problem with that but it is a very specific requirement.

Commissioner Pritchett asked if Commissioner Isnardi has another idea of how to phrase it.

Commissioner Isnardi responded no; she advised what she is saying is it is sort of picking on one organization; it could be perceived as that; she is not saying she even agrees with the motion necessarily, but if the Board wants to include those organizations, the Board is essentially saying they cannot do business, or dictating how they do business; and she thinks that puts the Board in a bad place.

Attorney Bentley responded it is Federal money and they can accept it or reject it; and she thinks the Board has more leeway in this situation than in many others.

Commissioner Pritchett stated her only concern with that is what Commissioner Tobia brought up because the Business Voice typically supports the Board because it is pro-business and she does not want anything to look like it is giving to the Chambers err it is receiving support that way; and she is just trying to find a way to get the Board Members out of the equation.

Commissioner Isnardi stated for the Board Members personally could just make a commitment not to accept money from them.

Commissioner Pritchett stated she would be fine with that too, she would make that commitment.

Commissioner Isnardi stated she has no problem with that.

Chair Lober noted the problem still exists that they would in all likelihood support people in municipal races and it would simply shift the money from Board Members to elsewhere.

Commissioner Pritchett explained that it is the Board's decision right now, the municipalities do not have any.

Commissioner Tobia interjected saying or State races.

Commissioner Smith commented if the Board gives money to XYZ business, organization, or animal rescue and then they turn around and give \$100 to somebody; and the Board cannot

restrict anyone from doing that, it is a constitutional right.

Commissioner Pritchett stated that is exactly what Commissioner Isnardi said.

Chair Lober advised it is not a constitutional right.

Commissioner Smith inquired donations.

Chair Lober responded no; and he stated it is not a constitutional right to have the money that they are not entitled to, free and clear without any obligations or restrictions.

Commissioner Pritchett stated she wants to change her motion to remove her restriction because Commissioner Isnardi is at the same place she is as far as not receiving funds.

Commissioner Tobia inquired if this is a restriction or a condition.

Chair Lober replied it is a condition as he sees it; and he mentioned he is seeing Attorney Bentley nod.

Commissioner Tobia advised he was leading there; and he asked if this is the same condition with that masks.

Chair Lober commented, bingo.

Commissioner Tobia stated no one is entitled to the money, the Board makes the decision whether or not to go for it; and he inquired if that is what Chair Lober is contemplating and thus there is no constitutional issues one way or another.

Chair Lober replied none whatsoever; he stated he is comfortable saying that; and if Commissioner Tobia is willing to get him a voting buddy shirt to make sure it is under the reporting limits because he does not want to have to fill out a form. He further stated there is a motion and he believes a second.

Commissioner Pritchett pointed out she did change the motion to remove the stipulation.

Chair Lober inquired if the second stands.

Commissioner Isnardi responded she thought it was his second.

Chair Lober noted his second does not stand.

Commissioner Smith seconded the motion.

Commissioner Tobia asked to have the motion repeated.

Commissioner Pritchett stated she makes a motion to move forward with the 501(c)(3), 501(c)(19), and 501(c)(6).

Commissioner Isnardi stated she thinks the Board Members all have good intentions, they are just so paranoid with being painted with a broad brush; honestly, what if a business applies for a business grant and that business happened to be one that had wrote one of the Board Members a check even in the last election; that is what her big fear is, she keeps thinking this

money is available but yet at the same time she feels like excluding businesses or Chambers, 501(c)(6)'s or 501(c)(19)'s, she thinks it actually discriminates against them, so she is trying to be fair and equitable; and if any one on the Board can be bought for \$100, \$500, or even \$1,000 then shame on them. She noted she does not think that is anyone on the Board; and with that said, she is going to support it. She advised she is going to Call the Question.

Commissioner Tobia stated technically Calling the Question is a debatable motion, just to be clear.

Chair Lober stated it is in fact.

Commissioner Tobia noted it is not a nuclear weapon to assume.

The Board approved staff recommendation to include 501(c)(3), 501(c)(19), and 501(c)(6) in the Small Business and Nonprofit Economic Relief Program.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Curt Smith

Ayes: Pritchett, Smith, and Isnardi

Nay: Lober, and Tobia

Frank Abbate, County Manager

Mr. Abbate stated when the Board approved the CARES Programs on May 5, it had indicated a variety of municipalities being included; one entity that was not included was the School Board; and he has had some recent discussions with them.

Chair Lober asked if he could interject; and he asked for a motion to allow the School Board to fall within any of the existing reimbursement categories that the Board has outlined.

The Board approved the School Board to be included with any of the existing reimbursement categories previous out-lined for the CARES Act.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

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

Commissioner Pritchett stated when the Board did the Personal Protective Equipment (PPE) for small businesses, she went through the list; and she wanted to ask the Board if it did restaurants, and if it could include small retail stores in that mix for supplies.

Chair Lober advised he is good with that; his only question would be how to define small retail store; and she can work that out with staff.

Commissioner Pritchett mentioned under 25 people.

Frank Abbate, County Manager, stated 25 people less.

Chair Lober stated okay.

The Board approved providing PPE for small retail businesses with less than 25 full-time equivalent employees.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

Bryan Lober, Commissioner District 2, Chair

Chair Lober stated he had sent out a memo earlier which is included in the minutes for today's meeting regarding Administrative Order 05; there are couple different proposals he had; he thinks one is entirely noncontroversial where he asked to amend or update any reference to Efacts to Brevard Electronic Court Application (BECA), Efacts is obsolete at this point and has been replaced by BECA; and he understands it is not being supported any longer by the court system. He continued by saying the other deals with AA05 as far as it deals with partner volunteers; it is not a request to change it insofar as it applies to employees or any other type of volunteers, but specifically recreation partner volunteers as defined in the memo; it is a volunteer serving with a group or organization which has a current recreation partner agreement with the Board of County Commissioners providing for nonexclusive use of a facility in order for the group or organization to provide recreation programs; it is a real narrow group; and he advised what he is asking is to have an exception crafted to allow for people who fall under that recreation partner volunteer definition that have convictions for nonviolent misdemeanors and or nonviolent felonies of the third degree, where their conviction dates are at least 2,500 days in the past, which is 6.8 years. He continued on to say they would have to have all terms of sentencing, excluding financial obligations completed; this would not hold them up from volunteering if they owed court costs and everything else is complete; it would disqualify anyone with first and second degree felonies; to qualify for this under a misdemeanor or a third degree felony, which all would have to be nonviolent, the recreation partner volunteer applicant would need to produce a letter either from the chief law enforcement officer of the municipality in which he or she resides or from Brevard County Sheriffs Office (BCSO), namely Sheriff Wayne Ivey or the Sheriff in the future, it cannot be delegated to another law enforcement officer, and the letter has to be dated within 60 days preceding the application for recreation partner volunteer status; and he has included some proposed language in the memo that was circulated and included in the minutes, basically saying the Chief Law Enforcement Officer is familiar with the applicant, they do not believe they pose and elevated risk of recidivism, that they believe the applicant to be law abiding, and basically ask the Board to consider exceptions for them to volunteer as a recreation partner volunteer with Brevard County; it also has to be on their letterhead, bare their signature whether physical or electronic, and alternatively if they cannot get that from the Chief Law Enforcement Officer they would be able to substitute that with a letter from a Circuit Judge from the Eighteenth Judicial Circuit, one from Brevard or Seminole County that essentially says the same thing; and it would not be eligible to originate from a County Court Judge sitting as a Circuit Judge, therefore, it would have to be a legit Circuit Judge. He continued by saying under no circumstances would the aforementioned proposal serve to permit those with convictions involving in any way drug-related, including alcohol-related, felonies to operate vehicles and or heavy equipment belonging to the County; and under no circumstances shall the aforementioned proposed exception serve to permit those with convictions involving in any way, whether misdemeanor or felony, and child abuse, neglect, or endangerment to volunteer in any capacity which may require or involve direct or indirect supervision of juveniles. He went on to say the applicant still

has to meet all other criteria for recreation partner volunteer status; that is what he is asking the Board to consider changing; the one modification which he thinks is totally noncontroversial is updating Efacts to BECA; and the other allows for people with certain nonviolent convictions to volunteer as Brevard County recreation partner volunteers.

Commissioner Pritchett stated the first one is easy.

The Board approved modifying AO-05 to change anything referencing E-Facts to be updated to BECA.

Result: APPROVED

Mover: Rita Pritchett

Secunder: John Tobia

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

Bryan Lober, Commissioner District 2, Chair

Commissioner Pritchett stated as far as the second one, if it has to be voted on today she is going to vote no because it has a lot of Items that are giving her some heartburn on them; she is heavy into youth sports in her District and she was thinking what if they were allowed to do it with the men and women, maybe they could be recreation partners with men and women; and she does not know how to get an age criteria on there because sometimes when they get older there is still a vulnerable population again.

Chair Lober stated he is not following what the concern is.

Commissioner Pritchett explained there are children's sports and Commissioner Tobia had brought this up, that people do plead down on things; in her lifetime she has known a few people who might have ended up with just the charges of drugs or something but there was something else underlying that just did not come up; she thinks this has been working as far as protecting the vulnerable population; and as of right now she does not want to change it. She advised if she was given a little time, there might be some things she can think through, but right now she has great caution right now making a change on something that seems to be working.

Commissioner Isnardi asked if the County has problems, and if it has volunteers that request to come to recreation or want to volunteer for recreational things that have convictions.

Chair Lober stated there was a fellow and it comes up from time to time.

Commissioner Isnardi asked if the Board is changing the rules because of one guy.

Chair Lober stated it is the first one that has come to his attention.

Commissioner Isnardi stated it is the first time she has heard of it; the reason she is asking is because that creates a big bureaucracy, a big set of rules, and a big change in the way the County does things and have worked based on one incident that maybe is unfortunate but has managed to keep the population safe; therefore, she is not comfortable with this right now as it sits, especially if Chair Lober is going to tell her it is one or two people.

Chair Lober stated it was first brought to his attention not too long ago, this past week; his office received a call from Michael Blake in Cocoa, and there is also a BCSO Commander who

is essentially vouching for this individual who want to serve as a recreation partner volunteer; it is someone who had a lot of drug issues in their past but have not had any convictions for anything in many years; this is like one of those people who turns their life around and now wants to contribute to society; it is not someone who had any violence in their history ever, not abusing children, endangering or neglecting them, or anything of that sort, and they want to volunteer with the Pop Warner League; the County's outside agency that screens them said that he was approved as far as the screening process was concerned; in fact the School Board approved him to volunteer with the School Board; however, past the outside agency that does the checks it was discovered that he had certain convictions that may run a foul of AO-05 because they require a level 1 clearance which is a high level security check that has inordinately more difficult requirements to get through than some of the others. He went on to say this is someone, at least according to a BCSO Commander, as well as Michael Blake in Cocoa, really does not pose any risk to anyone; when he looked at that, he heard there have been other folks denied in the past for lesser convictions; and that is concerning to him. He continued by saying if someone had a theft 20 years ago or possession of cannabis 10 years ago, he inquired if they are really a danger to coach kids Pop Warner, he does not think so; he does not want to put someone that is going to pose a risk to children, but if the Chief Law Enforcement Officer is willing to vouch for them and they otherwise pass everything, he thinks that is a pretty high bar to meet to begin with; and that is why he is not saying just let them do it period. He added it is specifically for this type of volunteer, not even volunteers as a would have that overwhelmingly difficult step to get a letter from either a Circuit Judge or the Chief Law Enforcement Officer; and there is certainly a safeguard there.

Commissioner Isnardi stated she really feels for that person but at the same time she has been there almost four years now and she has never had one person contact her office saying they could not be a recreational volunteer and they wanted to change the rules; she hesitates to do that based on one; and if it is a marijuana charge she inquired if it was an assault on the marijuana charge first.

Chair Lober responded no.

Commissioner Isnardi stated she is not talking about him, she feels really bad for him because he is probably a really fine individual; but again, she is not comfortable changing the entire rule because there is one guy who is a really stellar citizen.

Chair Lober noted he is the one guy who happened to bring it to his attention; in finding out that there have people who have been disqualified for less, that to him is concerning; if it were just the one guy, he does not know that he would approach it this way; but his thought is if there have been others that were shot down for things that does not involve violence or anything with children.

Commissioner Isnardi stated she gets it but staff could have brought it to any one of the Board Member's attention before; and it has never been brought to her attention.

Chair Lober stated it is now.

Commissioner Isnardi commented she knows it is now, but she is not comfortable changing all the rules.

Chair Lober stated he is not in a rush to get this done; he knows that there is a deadline for Pop Warner training so if it is not approved today he is not in all likelihood going to be able to do it this year; but if it is something the Board could implement by next year and that is what the

Board is more comfortable with, he would certainly encourage the Board to look at it.

Commissioner Tobia asked if Chair Lober is at liberty to share the individual's name that he is referring to.

Chair Lober stated he believes it was Livingston; and he requested from Mary Ellen Donner, Parks and Recreation Department Director, if that was correct. He noted he has an extensive background.

Commissioner Tobia asked for a birth date. He stated there are a couple issues here; first of all, this is a technical issue and one that the Board could move forward and around, he does not know that the Board wants to be amending Administrative Orders; he thinks that probably comes under the purview of the County Manager; and he mentioned what the Board could potentially do is a Board Policy and let the Board Policy change the Administrative Order instead of stepping on the County Manager's toes.

Chair Lober advised that works.

Commissioner Tobia asked if Ms. Donner has a year, and if it is 64.

Chair Lober asked Ms. Donner if it was basically drugs and theft from years back.

Commissioner Tobia stated he is just looking for the date of birth; and he inquired again if it is 64, and the name is Ralph.

Mary Ellen Donner, Parks and Recreation Director, responded yes it is Ralph.

Chair Lober stated he has a bunch of stuff but it is all old.

Commissioner Tobia advised he is looking at felony theft, failure to appear, violation of probation, attempt of court, obstruction by disguised person and he does not even know what that means, burglary, and trafficking in stolen property; some of these fall outside of Chair Lober's six years but are within the last 10 years; he cannot support it for number of reasons; first of all, Chair Lober stated excluding court costs, the voters of Florida when voting for the amendment about felons voting were pretty darn clear that all conditions of the sentence be met in order to get their ability to vote again; and some liberal judges have disagreed, but thankfully the Supreme Court has upheld the will of the people and those felons cannot vote, not upheld but they have decided not to hear it until after Florida's August election. He continued by saying Chair Lober mentioned Child Abuse and Child Neglect as being crimes that would not be eligible under this Policy.

Chair Lober responded right.

Commissioner Tobia asked if he is referring specifically to Florida Statute 827 which is abuse, aggravated abuse and neglect of a child.

Chair Lober advised he left it real broad; and he thinks he phrased it in there as any way related to so it would certainly contemplate that and anything else where there is a causal connection.

Commissioner Tobia stated he hates to bring this up, this is covered under a different Chapter, 847 is the stuff that was just talked about, transmission of obscene materials to a minor which is a third degree felony, now Mr. Livingston is not there, but that would fall underneath the

criteria most likely, if it was more than six years in their past, allow them to participate.

Chair Lober stated no, no, no.

Commissioner Tobia inquired why, because that is a different Chapter of Law.

Chair Lober explained if someone ever had anything involving in any way, whether misdemeanor or felony, child abuse, neglect, or endangerment that would automatically prohibiting regardless of when it occurred, same with violence.

Commissioner Tobia stated he is with Chair Lober but abuse, aggravated abuse, and neglect of a child is described in 827; and the transmission of obscene material by a minor is a completely different Section of law, that is 847.

Chair Lober agreed they are different Chapters.

Commissioner Tobia inquired if 847 would also be covered.

Chair Lober advised yes, whether it is under one particular Chapter or another, if it in any way relates to Child abuse, neglect, or endangerment it would be disqualifying, so he would contemplate that as being disqualifying as well.

Commissioner Tobia stated ok because Statute differentiates those two just to be very clear.

Chair Lober commented they are just in different Chapters it does not say one is and one is not.

Commissioner Tobia asked if Mr. Livingston has any other methods, besides what rubric Chair Lober has set up, is there any other redress to be able to coach Pot Warner at this time.

Chair Lober noted he does not believe so, not here; and he mentioned this is kind of an outlier for him.

Commissioner Tobia mentioned, he knows this is a long shot, but he is only talking about one person, Article IV, Section 8 of the Florida Constitution gives the Governor the ability to pardon State crimes; and he asked if Mr. Livingston has the ability to have all of his crimes pardoned, at this juncture.

Chair Lober stated that is beyond his level of knowledge.

Commissioner Tobia stated he would argue that he or anyone, should they want to do it, instead of wasting the time of judges that as Chair Lober probably knows are backlogged, the Sheriff is putting out fires on a daily basis, to try to get their crime.

Chair Lober interjected he understands where Commissioner Tobia is coming from, but he keeps hearing for one person, and he just want to stress he is not suggesting this solely for this gentleman's benefit; prior to this he had no idea this man even existed; he does not have anything for or against this individual other than what he has heard; he was impressed by the fact that a BCSO Commander is willing to vouch for him and that there are decent upstanding citizens that are willing to vouch for him; it is an outlier to me as well in the sense that Brevard Public School has approved him to volunteer there where he certainly can be around children; but the County has a concern that is disqualifying him even though the County's own outside

agency who does the background investigation says he is good to go; and he says it is not for him specifically because he was the one who caused this to be brought to his attention and in speaking with staff, finding out that people have been disqualified for less which is kind of unfortunate. He added if there is a theft in someone's background and someone is worried about him running off with a softball or baseball that is a small worry in the scheme of things.

Commissioner Tobia stated felony theft in the State of Florida is at least \$300 so it is a real expensive baseball.

Chair Lober stated his point is there is nothing to steal in a Pop Warner game; and Commissioner Tobia is talking about from so many years ago, there does not seem to be a causal connection between what he did long ago and the capacity in which he is seeking to volunteer.

Commissioner Tobia stated he does not this so either Chair Lober or Attorney Bentley can answer; and he inquired if the Board were to change the Policy and grant someone the opportunity and God forbid something bad happens, is there any liability whether it would be on the County or, not the individual Law Enforcement Officer but maybe insurance policy on the agency, that is ultimately paid through tax dollars.

Attorney Bentley advised they can always try; the Parks and Recreation Agreements do address that; and they have an indemnification clause covering any claims arising from the volunteers or the recreation partner's activities.

Commissioner Tobia stated just to be clear if it was challenged there would still be staff time.

Attorney Bentley responded affirmatively, stating the County would have to defend it; she thinks it would be on the recreation partners in the end, but certainly anyone can join the County in a law suit; but the County should have coverage with insurance though.

Commissioner Tobia commented the question would be if the Sheriff signed off on it, or the Chief Law Enforcement Officer signed off saying someone was a good guy, and then that guy turned out doing something horrific, obviously the Sheriff as an individual probably would be safe, but would his insurance.

Chair Lober injected asking Attorney Bentley if is fair to say that anyone could sue anyone for anything they want.

Attorney Bentley responded that is true; she does not know of any case on point that would address that issue; but it is certainly a possibility.

Commissioner Pritchett stated God bless this little fella getting picked out today on this; since Commissioner Tobia said felony theft, if the Board does this it is also opening up recreation partners that do work with the elderly, vulnerable population; that could be a real problem with someone who is a recreation partner that is working with some retirement people, because it is real easy to steal from them, not that he would. She went on to say she thinks when someone has been convicted of something, they are a higher risk population because then people know that person has already crossed a line at one point in time, whether they are better or not; it is not that he does not deserve a second chance somewhere; she does not know him so it makes it easy; however, it is like the Board talked about earlier, sometimes people do certain things that cost them the privilege, it may not cost them certain aspects of life but they lose a certain privilege they may have had, had they not done certain things. She mentioned she just started

getting concerned after what Commissioner Tobia just said; if the Board did this and it let them work with the children, then it puts out word that if someone is convicted of a felony that they could not mess with the old people but they could work with the children, she thinks that is a horrible statement; and she thanked Chair Lober for this but advised she thinks it is going to be a really tough one to change.

Chair Lober advised he is going to let it be for now as he thinks he has an inkling of where the rest of the Board is on this.

Upon consensus of the Board, the meeting adjourned at 1:34 p.m.

ATTEST:

SCOTT ELLIS, CLERK

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD

COUNTY, FLORIDA