

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Tuesday, February 9, 2021**

**5:00 PM**

**Regular**

**Commission Chambers**

**A. CALL TO ORDER 5:00 PM**

**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 Zonka

**B. INVOCATION**

Pastor Ron Meyr, Faith Lutheran Church Viera, led the assembly in prayer.

**C. PLEDGE OF ALLEGIANCE**

Commissioner Lober led the assembly in the Pledge of Allegiance.

**D. MINUTES FOR APPROVAL**

The Board approved the minutes from July 7, August 11, October 6, and October 27, 2020.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**E. RESOLUTIONS, AWARDS AND PRESENTATIONS**

**E.1. Resolution acknowledging Kyle Hecky for obtaining the rank of Eagle Scout**

Chair Pritchett read aloud, and the Board adopted Resolution 21-005, acknowledging Kyle Hecky for obtaining the rank of Eagle Scout.

**Result:** ADOPTED

**Mover:** Curt Smith

**Second:** Bryan Lober

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

**E.2. Resolution acknowledging Thomas Wyman for obtaining the rank of Eagle Scout**

Chair Pritchett read aloud, and the Board adopted Resolution 21-006, acknowledging Thomas Wyman for obtaining the rank of Eagle Scout.

Kyle Hecky thanked the Board for inviting them, as it meant a lot; they worked very hard for this and coming together with the troop really motivates him; and he hopes he can continue the journey.

Thomas Wyman stated he will be 15 in nine days, not six days; becoming an eagle scout was a major accomplishment for him and he could not have done it without friends and family; and he wanted to express his thanks.

**Result:** ADOPTED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

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

**E.3. Resolution Honoring the Distinguished Service of Scott Ellis, Retired Brevard County Clerk of Court**

Commissioner Tobia read aloud, and the Board adopted Resolution 21-007, honoring the distinguished service of Scott Ellis, retired Brevard County Clerk of Court; he mentioned that Mr. Ellis had worked with his dad previously, and though he may be out of elected office, he hopes he stays active with his emails and communications.

Commissioner Lober remarked he had to abstain.

Commissioner Zonka stated she was curious why Commissioner Lober had to abstain.

Commissioner Lober replied he believed he had a conflict with respect to this; and in an abundance of caution, he would rather abstain than have the appearance of impropriety; and he stated he spoke to council outside the meeting to make sure it was acceptable.

Eden Bentley, County Attorney, remarked if he wishes to abstain, it is acceptable.

Commissioner Lober stated he did not know why anyone would want to force him to vote on a Resolution where his vote will not change the outcome anyway.

Scott Ellis remarked one has to have a legal reason to abstain from voting if someone does not vote.

Commissioner Zonka stated she was just curious; she stated Commissioner Tobia read some great things about Mr. Ellis and the things she remembers about Mr. Ellis, aside from those great things, is what a great friend he has been over the years; she knows he is not going away because he cares too much about this community; most people do not know he is a baseball coach, because he does not brag about the things that he does in the community, outside of being a watchdog for the taxpayers; and she thanked him and stated she looks forward to lunch or coffee, talking about how they can do this job better.

Commissioner Smith stated on behalf of the kids and the animals in the community, he wanted to thank him; as Commissioner Zonka pointed out, he has a great way of communicating with kids and he loves animals; and he also mentioned, as tough as Mr. Ellis tries to be, he has a heart as big as this room.

Chair Pritchett stated Mr. Ellis has always been feisty and he adds a little horseradish to everything; he has always been respectful and kind to her and she wanted to thank him for that; she thinks he is a good man with a good heart; and she appreciates him.

Mr. Ellis remarked one can always disagree politely; and he thanked the Board.

**Result:** ADOPTED

**Mover:** John Tobia

**Second:** Curt Smith

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

**Abstain:** Lober

#### **E.4. Resolution honoring Florida Today Reporter Isadora Rangel**

Commissioner Tobia mentioned this just came to his attention, and he appreciated allowing it to be a late ad; and he read aloud and the Board adopted Resolution 2021-008, honoring Florida Today reporter Isadora Rangel.

Commissioner Lober asked if he could make a couple of additions to the Resolution if has not been framed yet.

Commissioner Tobia remarked he was unsure of its passage so he did not get it framed; this one will be coming out of his pocket, as he is willing to pay the \$26 to have this framed, but he held off just in case; and he is open to edits or additions with the acceptance of the Board.

Commissioner Lober stated he had a couple; he thinks the first one may be a little more palatable than the second one, so hopefully he gets one out of the two; he is open to having this inserted wherever the Board would like within the Resolution; and he read "Whereas throughout her employment with Florida TODAY, Ms. Rangel never once let the fact that she has been forbidden from voting in this County, deter her from commenting on our politics and criticizing numerous Republican elected officials"; and he asked if Commissioner Tobia would be okay with that.

Commissioner Tobia replied if it is okay with the Board, he is happy to accept it; but he does not want to sabotage it with a certain "whereas" clause; and he asked if that was the more palatable one.

Commissioner Lober replied yes.

Commissioner Tobia advised Chair Pritchett to buckle up.

Commissioner Lober read "Whereas her recurring and highly partisan criticisms of the manner in which this County, State, and Country are governed, Ms. Rangel deserves recognition for selflessly remaining in this Country, notwithstanding our roughly tenfold higher GDP and approximately one-sixth of the murder rate of the Country from which she hails"; and that is the less palatable one.

Commissioner Smith remarked he thought this was a Commission meeting, but it sounds more like a comedy club.

Commissioner Tobia stated in order to get this passed, it is best to stick with the first option, although he is not opposed to the second one; he would rather have it pass than not pass; and he amended the motion with the first additional whereas clause.

Commissioner Lober asked if he could pay for an additional one to hang on his wall.

**Result:** ADOPTED

**Mover:** John Tobia

**Second:** Kristine Zonka

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

## **F. CONSENT AGENDA**

The Board passed consent Items F.1. through F.15.

### **F.1. Final Plat Approval, Re: Amazing Explorers Academy at Viera (20FM00004) (District 4)**

**Developer:** AEA Viera, LLC.

The Board granted final plat approval and authorized the Chair to sign the final plat for Amazing

Explorers Academy at Viera, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.2. Final Plat and Contract Approval, Re: Hickory Ridge Phase 2 (20FM00009) (District 1)**

**Developer:** Granite Property Development, Inc.

The Board granted final plat approval and authorized the Chair to sign the final plat and Contract for Hickory Ridge Phase 2, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Kristine Zonka

**F.3. Waiver Request, Re: Waiver of Wall Requirement for Fraternal Order of Eagles (20SP00008)(District 3)**

The Board granted a waiver of Section 62-3202(h)(10) which requires a six-foot masonry or solid wall when commercial developments within BU-1, BU-2, or industrial zoning classifications are adjacent to residential zoning.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.4. Waiver Request, Re: Waiver of Wall Requirement for Hampton Manor of Merritt Island (20SP00032)(District 2)**

The Board granted a waiver of Section 62-3202(h)(10) which requires a six-foot masonry or solid wall when commercial developments within BU-1, BU-2, or industrial zoning classifications are adjacent to residential zoning.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.5. Approval, Re: Dedication of Drainage Easement and Warranty Deed from Heritage Lakes of West Melbourne, Inc.**

The Board approved and accepted the Drainage Easement and Warranty Deed from Heritage Lakes of West Melbourne, Inc.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.6. Approval, Re: Donation of Warranty Deed from Sheldon Cove, LLLP for the Riomar Drive Bus Stop Project - District 4.**

The Board approved and accepted the Warranty Deed. From Sheldon Cove, LLLP for the Riomar Drive Bus Stop Project.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.7. Approval, Re: Dedication of Warranty Deeds from 1) S&A Minton Road Corp. and 2) YL-West Melbourne Development, LLC for Right of Way Dedication for the Yourlife of West Melbourne Project - District 3.**

The Board approved and accepted the two Warranty Deeds from S&A Minton Road Corporation and YL-West Melbourne Development, LLC for right-of-way dedication for the Yourlife of West Melbourne Project.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.8. Public Transportation Grant Agreement, Airfield Equipment at Valkaria Airport**

The Board approved and executed the PTGA with Florida Department of Transportation for airfield equipment at Valkaria Airport; and authorized all necessary Budget Change Requests associated with the PTGA.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.9. Approval, Re: Property Access License Contract with Jesse O. Duenas-Fay Lake Wilderness Park (District 1)**

The Board approved and authorized Mary Ellen Donner, Parks and Recreation Director, to execute the Property Access License Contract and any renewals with Jesse O. Duenas for the Fay Lake Wilderness Park.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.10. Request to Write-Off Uncollectible Ambulance Fees FY 19/20**

The Board approved the request to write-off the Fiscal Year 2019-2020 uncollectible ambulance fees for Emergency Medical Services (EMS) in the amount of \$15,372,286.61 and Medicare/Medicaid/Champus in the amount of \$12,791,335.02.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.11. Request Approval to Accept the High Bid for Public Sale of Surplus Property 2021-2538438 and Authorization for Chair to Execute All Necessary Documents**

The Board approved the sale of surplus parcel of property 2021-2538438, pursuant to §125.35(1)(a) by accepting the high bid received in the amount of \$230,000, and received from Aquarius Equity, LLC; and authorized the Chair to execute all contracts and contract related documents upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.12. Brevard County v. Altman - Approval of Stipulated Final Judgment for Attorney's Fees and Costs at trial for BRP Parcel 174 Alex B. Altman, Roberta M. Altman and Thad Altman**

The Board approved settling the Brevard County v. Altman Stipulated Final Judgment for attorney's fees and costs at trial for BRP Parcel 174 Alex B. Altman, Roberta M. Altman, and Thad Altman in the amount of \$36,004.55; and authorized the County Attorney's Office and the County Manager, or designee, to sign or file any necessary documents.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.13. Brevard County v. Altman - Approval of Stipulated Final Judgment for Attorney's Fees and Costs at trial for BRP Parcels 172 and 173 Daniel Hasratian and Karine Melkounian**

The Board approved settling the Brevard County v. Altman Stipulated Final Judgment for attorney's fees and costs at trial for BRP Parcel 172 and 173 for Daniel Hasratian and Karine Melkounian in the amount of \$51,500; and authorized the County Attorney's Office and the County Manager, or designee, to sign or file any necessary documents.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**F.14. Annual Investment Performance Report Year Ended September 30, 2020**

The Board accepted the Brevard County Annual Investment Performance Report for the Year-Ended September 30, 2020.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

The Board appointed/reappointed Katelonne Prasad to the Insurance Advisory Committee, with said terms to expire December 31, 2021; Jordin Chandler to the Charter Review Commission, with said term to expire December 31, 2021; Brian Fleis to the Contractors' Licensing Board, with said term to expire December 31, 2021; and Jason Steele to the Redistricting Committee, with said term to expire December 31, 2021.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

**G. PUBLIC COMMENTS**

Sandra Sullivan stated she wanted to comment on the Save Our Indian River Lagoon (SOIRL) plan; she saw a definite improvement from what was seen last year, with more references to research and in terms of infrastructure; and from the recent Marine Resources Council report, the Lagoon is still

declining in sea grass, even in areas where nitrogen and phosphorus are above State levels, it is still declining.

Chair Pritchett stated she had her down for the Resilient Plan on this one; and the other card is for the Lagoon.

Ms. Sullivan apologized and asked to reset the timer; she stated last night was the Resilient Brevard presentation and the good news is there is about \$1 billion in State funding over four years; the bad news is increased coastal damage and flooding, statistically higher number of category four and five hurricanes, and higher water levels compounded during hurricane season, with higher water level in the river, a higher sea level, and decades to come made worse with old stormwater infrastructure; this means more coastal damage and more flooding; and changes in building codes will come, like houses on stilts, but she asked, what else can be done. She stated in her opinion, having watched what happened in South Florida with the development of the wetlands, she feels the most important decision will be to protect wetland development; this could be flood insurance for the County during hurricanes; this was witnessed after hurricane Irma, when C.B. Smith Park was under three feet of water; she would also encourage the County to implement strong low-impact development regulations in areas of surface water to reduce stormwater impact flooding by natural percolation; and at the meeting there was confirmation that the City of Satellite Beach's intent is to redevelop A1A with density because of flooding in order for the City to remain viable. She added a speaker said that he was consulting for the City and recently wrote their Comprehensive Plan amendments, so this is at play now; high-impact development in South Florida has impacted coasts with high biological and no swim flags, and here would impact the protected near shore reef; she suggests density on A1A would also impact South Beach's sewage plant to near capacity and likely require the plant to be replaced at \$50 million; and another issue is a report that the County did in 1999 that there is not concurrency to get off the barrier island in event of a fast-moving hurricane. She would like the County to consider whether the impact of developing impact along A1A, and impact to the roads, and look at this as a Countywide decision and work with the State; and she added in the past there was more enforcement of their Comprehensive Plan and that is not there now.

## **H. PUBLIC HEARINGS**

### **H.1. Proposed amendments to Chapter 2, Article VIII, Code of Ordinances of Brevard County, Florida**

Chair Pritchett called for a public hearing to amend Chapter 2, Article VIII, Code of Ordinances of Brevard County.

Eden Bentley, County Attorney, stated this is an Item that was authorized by the Board on January 12 to amend Chapter 2, Article VIII, of the Brevard County Code of Ordinances to remove the supermajority vote requirement for the sale or lease of County property and to alter the notice provisions so that posting on Legistar, through the Agenda, will be sufficient.

Commissioner Tobia stated there are no changes since the previous posting.

Commissioner Lober stated about a year ago, Commissioner Tobia had a similar item, in a sense that it was removing regulation as to the possession of alcohol at County parks; he had carved out District 2, and he wanted to let the Board know he is going to revisit that and hopefully include District 2 in that; he spoke with the Parks and Recreation Director and did not hear that there have been any issues; and based on that, and speaking with law enforcement, he is going to support it this evening and he will bring it back at a future meeting to add District



2 back in with the rest of the Districts.

Chair Pritchett asked if he would like that moved into Item J.3.

Commissioner Lober replied he does, in fact; and he apologized, as his numbering was off.

There being no further comments or objections, the Board adopted Ordinance No. 21-03, amending Chapter 2, Article VIII, specifically Section 2-244(a) to eliminate the supermajority vote requirement; amending Section 2-247(2) to eliminate the supermajority vote requirement; and amending Section 2-249 to alter the notice requirements of the Code of Ordinances of Brevard County.

**Result:** ADOPTED

**Mover:** John Tobia

**Second:** Curt Smith

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

**H.2. Petition to Vacate, Re: Public Utility Easements - 917 & 919 Cashew Circle - "Barefoot Bay Unit Two Part Twelve" Plat Book 22, Page 79 - Barefoot Bay - Barry Southard and Valerie Gallo - District 3**

Chair Pritchett called for a Public Hearing on a petition to vacate for public utility easements 917 and 919 Cashew Circle, Barefoot Bay, "Barefoot Bay Unit Two Part Twelve", plat book 22, page 79, as petitioned by Barry Southard and Valerie Gallo.

Marc Bernath, Public Works Director, stated this is a petition to vacate public utilities easements 917 and 919 Cashew Circle, Barefoot Bay; it is requesting a portion of two six-foot wide public utility easements for a single family home; and there are no issues.

There being no further comments or objections, the Board approved the petition to vacate public utility easements at 917 and 919 Cashew Circle, Barefoot Bay, "Barefoot Bay Unit Two Part Twelve", plat book 22, page 79, as petitioned by Barry Southard and Valerie Gallo.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

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

**H.3. Approval Re: Second Amendment to Developer's Agreement with Benchmark Melbourne 35 Associates, Limited Partnership and the City of West Melbourne**

Chair Pritchett called for a public hearing on an approval for second amendment to Developer's Agreement with Benchmark Melbourne 35 Associates, Limited Partnership and the City of West Melbourne.

Tad Calkins, Planning and Development Director, stated this is a request for the Board to consider the second amendment to a developer's agreement between Brevard County, the City of West Melbourne, and Benchmark Melbourne 35 Associates Limited Partnership; and what is wanted to be done is utilize the transportation equivalency matrix to change their development program, but the rest of the agreement will remain the same.

Commissioner Zonka stated she did not have an issue.

There being no further comments or objections, the Board approved the Second Amendment to the Developer's Agreement with Benchmark Melbourne 35 Associates, Limited Partnership and the City of West Melbourne; authorized the Chair to announce the date and time of the second public hearing as February 23, 2021, beginning at 9:00 a.m.; authorized the Chair to execute the Agreement as amended; and authorized the Budget Office to execute any budget changes necessary to implement the Agreement as amended.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**H.4. Approval, Re: Renewal of Lease with the North Brevard Senior Center, Inc. (District 1)**

Chair Pritchett called for a public hearing on approval for the renewal of lease with the North Brevard Senior Center, Inc.

Mary Ellen Donner, Brevard County Parks and Recreation Director, stated this Item is to renew the North Brevard Senior Center release for the property; and right now it is in the Agenda as five years, retroactive to August 18, but she believes Chair Pritchett may have an amendment.

Chair Pritchett stated she was going to request that it is renewed for three years instead of five.

There being no further comments or objections, the Board executed and adopted Resolution No. 21-010, authorizing the Renewal of a Lease of Real Property to a not-for-profit Corporation organized under the laws of the State of Florida; and executed and approved the Renewal of Lease with the North Brevard Senior Center, Inc. for an additional term of three years.

**Result:** ADOPTED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**J. NEW BUSINESS**

**J.1. Adoption of the Save Our Indian River Lagoon Project Plan 2021 Update unanimously recommended by the Save Our Indian River Lagoon Citizens Oversight Committee**

Virginia Barker, Natural Resources Management Director, stated this is the adoption of the Save Our Indian River Lagoon (SOIRL) project plan 2021 update; it was unanimously recommended by the SOIRL Citizen Oversight Committee; it represents a \$5 million decrease over the 10-year life of the sales tax; this adds 28 new projects for an increase in cost to the plan of \$1.3 million; and it adjust the construction index rate based on the latest trends in the local economy. She added the requested action includes approval of the plan and associated budget requests; it also consolidates a lot of prior action approved by the Board in multiple meetings over the years, trying to put all of those approvals in one place and one Clerk's memo, approving signature authority for the Chair to sign contracts that implement projects that are approved in the plan and delegating authority to the County Manager and the department director for things underneath the level of funding that requires coming to the County Commission; and it also grants permission to advertise formal solicitation of bids and proposals

for competitively selecting contractors to implement those projects and would authorize the County Manager or his designee to submit grant applications to try to leverage additional dollars to fund the projects that are approved in the plan.

Chair Pritchett stated to the Board that, when it goes to make a motion, it will be for items one through seven, and asked if there was something it wanted to change, if it could be brought up before making the motion.

Sandra Sullivan stated she found a definite improvement from last year; recently in the Marine Resources Council's (MRC) lagoon report, it showed there is still a decline in sea grass even though areas that nitrogen and phosphorus are above State levels; there is no sea grass left in the Banana River; she asked what about a project to fund MRC doing an analysis with the Lagoon report and add other criteria from the Ocean Research and Conservation Association (ORCA) Kilroy to research what may be correlating to Lagoon seagrass degradation; and she asked about studying the impact of low-impact development for reduction of stormwater impact, as she saw the decline after the rains. She added she saw no mention of contaminant testing in the Lagoon; she thinks this is strange considering there have been studies of dolphins; she asked about Florida Fish and Wildlife Commission (FWC) and the research from testing dead animals in the lagoon; the sea turtles show 60 percent higher Papilloma Virus disease in the Lagoon than the rest of Florida; she asked about contaminant testing, as it is known Patrick Air Force base has been draining its Aqueous Film Forming Foam (AFFF) to the river since 1968; and Michigan has been using drones for foam identification and found that fish and foam are 1,000 percent increase over surface water levels. She stated the base has been draining Organochlorine Pesticides (OCP), which are pesticides that both Department of Environmental Protection (DEP) and Environmental Protection Agency (EPA) have warned of impacts to human health; she suggested maybe funding ORCA with additional testing of biota in the Lagoon; with the COVID-19, more people are fishing and eating the fish from the Lagoon, and she asked if it is safe; and better decisions can be made with data, as it is not just nitrogen and phosphorus degrading the Lagoon, which is evident by the latest Lagoon report. She also wanted to add that she feels a conflict of interest for any city manager to be on this board; she gave an example that at one meeting she asked why it was not spending more on sewage infrastructure (this was before some of those changes) and she was told it would not be fair to municipalities for one to get more dollars than another; Titusville was used as example, as the voters want the Lagoon fixed and they did not care whether it is equitable across municipalities; case in point, the seven million gallons of sewage dumping into the Lagoon before the holidays; most of the reports from the DEP in the last couple of years have been out of Titusville; and she hopes the Board will consider this input with revisions to the plan.

Vince Lamb stated he is the chair of the Brevard Indian River Lagoon Coalition; the coalition was formed in 2013 to serve as public communication and advocacy for the Indian River Lagoon; he cannot help but reflect on this process, in 2016, in these chambers, the SOIRL plan was born and the Commission voted to send it to the voters, and every precinct in Brevard County voted to support the SOIRL plan; this is the fourth year and approaching \$200 million spent, and he and his associates are truly supportive of how the Citizens Oversight Committee (COC) has functioned, how the staff has brought things to the COC, and the process in which the projects have been selected by going back to the original guidelines which were that the projects needed to be chosen on the basis of the ones that provided the best return, or best use of money to the residents; and also to spread it across a number of different areas. He added that has been done in a very good way and the planned update this year shows how it is spread around and shows the scientific monitoring for a lot of these projects; he thinks all should be proud of this as Brevard County citizens, as it reflects well on the elected officials, the committee members, and overall; the bad news is that \$500 million is not going to be

enough to fix the Lagoon for the long term, and they will need to start thinking of other sources of funding in order to get the septic tanks out and do more for stormwater; he just wanted to plant that seed but he knows it is a tough time right now; and the best source for the past five years for outside of the County has been the State. He mentioned the State would be hard this year with the COVID-19 impact, but this is a long-term deal to restore the Lagoon; he encouraged the Board to give some thought to how to accomplish that; he also mentioned not everything that fixes the lagoon requires taxpayer money; he wanted to commend the Board for two things that happened recently, one being no new permits for bio solids, and second, the new septic tank permit requiring advanced technology; he asked to keep looking for ways to help the lagoon without spending money; and he said to pat themselves on the back for providing the highest-level leadership of the Lagoon restoration in this County.

Commissioner Lober asked Ms. Barker if the Board did not take action on this tonight, what would happen; and would it continue on with what was previously approved a year ago.

Ms. Barker replied yes; and she stated the 2020 plan would be the current plan which would continue to be implemented.

Commissioner Lober inquired if the County was paying for the least bang for the buck that is still approved by the plan, about \$1,500 per pound of nitrogen removed, more or less.

Ms. Barker replied it is the least cost-effective project in the plan, yes.

Commissioner Lober stated he thinks it needs to make some important decisions here and has to figure out whether it wants to fix the leaking and aging infrastructure, not just the County's, but also the municipalities that are putting the spills into the Lagoon; it does not matter whether it is County or City owned as Ms. Sullivan just mentioned, a seven million gallon sewer spill is nothing to scoff at; that will get rid of any benefit from these little side projects that are included in the plan; he does not care if Titusville gets more than their fair share if it helps everyone, as that Lagoon stretches past the north end of the County and past the south end of the County; and one sizeable spill negates all of the studies being talked about, all the seagrass efforts, all the filter feeders, and anything to do with that. He added it can keep adding the filter feeders, whether they are clams or otherwise, to a poisoned waterway, or it can finally develop a spine and insist that all of the money goes toward infrastructure and de-mucking, until it is in a better place; the Board will get the blame, regardless, whether it goes with the recommendation or not, and given that, it might as well do the right thing; the County sewer system alone, from his estimates (having spoken with staff and doing some due diligence) the County could use over \$300 million to fix its own County sewer system to put it in a place where it is not having recurring leaks; and the County cannot borrow all of that at a reasonable rate. He mentioned the State's revolving fund, that some people say is a cure-all, caps things out at \$20 million a project; even if it is partitioned out, the chance that it is going to get anywhere near that amount of money is slim to none; this is not rocket science, as the more organics that go into the Lagoon, the more that has to be pulled out, and a filter feeder is not needed to tell it that; when looking at the monster spills that are had again and again, shame on the County for not pushing back and saying no more spills; and it is really not okay. He continued by saying he is happy the State has put its feet to the fire, so to speak, and put in place punitive measures to tell the County they do not want the County leaking any more, as it is not acceptable; he thinks the State and the constituents have made that clear; he thinks the County needs to take a stand and insist that a meaningful change is made to push everything to infrastructure and de-mucking; the specific balance is debatable, but all the other projects, whether \$10,000 or \$100,000, if there is a substantial leak, everything it stood to gain goes out the window; and the County is spending \$1,500 per pound of nitrogen removal, and then there is a leak of seven

million gallons. He went on to say it is a tremendous financial burden on the County to keep allowing what is happening; he appreciates what the committee has done and recognizes that it is not a massive change from last year, but he thinks between then and now he has lost his tolerance for supporting the plan; he respects the folks on the SOIRL committee and does not question that they mean well, but he thinks the County needs to take a stand; and the constituents can be angry but he is still going to do the right thing by not supporting it this year.

Commissioner Tobia stated he wanted to thank the hard work and dedication that all the volunteers at the COC put in; the Board puts out the guidelines which have been changed, and they have reacted accordingly; he also wanted to thank staff and Ms. Barker, as they have done a wonderful job; there has been many shareholders in this and he thinks she has helped lead and guide them; he thinks the spill in the north end of the County brought much of what Commissioner Lober brought to light; and he met with Frank Abbate, County Manager and Jill Hayes, Budget Director, last week regarding Board decisions it will have to make dealing with the failing utilities as well as potential rate hikes that may come accordingly. He added while directing SOIRL funds, these issues may not meet the metrics that the Board has instituted, it can meet requirements that were set forth by the voters; he proposed the Board direct staff to research the necessary steps to institute measures to fund these plans, accomplish the dual objectives of preventing pollution of the Indian River Lagoon as well as alleviating potential rate increases on the residents; they are already paying the half-cent and he thinks that this would provide some synergy; looking at the seven requests, he has no issues with three through seven, however if it is voted on all together, he would have to vote no; but if one and two are bifurcated from the rest, he would vote yes for three through seven.

Commissioner Zonka stated she thinks the board did what it asked them to do; she thinks they stopped focusing on the de-mucking with too much funding being included on things like education and clam beds, which she knows are important; if it had wanted the board to do even more as far as infrastructure, and she has been an advocate for that from the beginning, she thinks there has to be a balance; she heard someone say the County could have a brand new system in place and could still not guarantee there would not be a spill, due to construction or storms; and if it started today, the entire thing could not possibly get done in time for the Lagoon plan to finish. She added she thinks that it is doing the responsible thing and that the COC has done a really good job at taking that information to try to present the Board a plan to vote on and support; and she is going to support it as it stands.

Commissioner Smith stated he would echo Commissioner Zonka's comments; from his perspective, he thinks the board has done the things that it was asked to do and they have looked at a lot of different parameters, and come up with what he thinks is a good balance; he would love to see all the utility problems fixed, but it is really up to the utilities itself, as they have rate payers, and the utilities are charges with maintaining the systems; for the Board to take money out of the Lagoon plan to fix utilities, it is actually taking money from, for instance, Palm Bay residents, as their half-cent taxes are going to fix the Lagoon; but to circumvent it to fix utilities would be counter to what they voted for. He added he is going to support this and maybe it can come up with some other ideas going forward to work on utilities; but his perspective is that utilities are designed to stand on their own; just like Florida Power and Light (FPL), if they have a problem, they fix it internally; and that is what he thinks needs to be done with utilities that have failing sewer systems.

Chair Pritchett stated she is going to be voting with Commissioner Zonka and Commissioner Smith; she added when the Board went into this, she remembers sitting with Ms. Barker and asked about all the pipes underground that leak, because she has lived in houses where they had to dig up the pipes because the roots ran through them; there are a lot of pipes that are

60-70 years old underground and she thinks utilities will have to increase rates to start changing out these pipes; she cannot image the astronomical amounts of money that will go into that; and she likes what the COC did with this plan and she thinks that the cities and the County will have to raise some rates. She added she did not know if they have some electronics that can measure when a pipe is going to blow, but she thinks that is something to consider, as they almost need to dig up every pipe underground and replace them; she knows the City of Titusville is working on replacing the whole line along the Indian River Lagoon and working on some bonding for that; everybody is trying but this is going to be a really big job in the future; and she is glad it will be left for the next Commission, as the problem will be ongoing for a long time, and she is going to vote this one through.

Commissioner Lober stated he agreed with what Commissioner Zonka mentioned about not being able to guarantee there would be no spills, even if the system is brand new; it is not even questionable that the likelihood of spills with a new system would substantially decrease; there are maps of utilities that show known areas, generally clustered together and often based on the age and time of development, of poorly rated pipes; it should not be a surprise when those break, if the money is not put into fixing them; and it is talking about Apollo-era pipes in a lot of places that need to be fixed; with respect to what Commissioner Smith mentioned about it being unfair to the cities, he agrees that it may be unfair, but the real question to ask is where is the biggest return on investment; he does not know that it matters that it is fair, as the voters just want the problem fixed, not to fix the problem but only do as much as it can that is perceived as fair. He asked where does it get the biggest bang for the buck to fix the Lagoon; he does not necessarily disagree that these utilities are designed to stand on their own, but there is not sufficient funding to do that; the chance that it will be able to milk a nine-digit number out of the ratepayers in order to get the system upgraded and maintain it, does not seem realistic; he does not think the money is there to be had; and he appreciates where everyone is, and agrees the plan is far better than it was two or three years ago. He added he thinks the COC did do a lot to adjust in the direction that they were asked to, and he respects and appreciates that, but thinks there is still room for improvement; and he is where he is and understands why folks are where they are.

Chair Pritchett stated she thinks the Board should have a discussion soon about raising fees; she thinks it works like a business enterprise fund and the people that use the product should be paying to maintain the product; she said no fault of this Board, she would pass the buck on the past group, as she thinks the fees should have been raised before to keep up with it; and it needs to be looked at soon so that the business can take care of its own.

Commissioner Tobia stated he appreciated everyone's opinion; he asked Ms. Barker if there have been any dollars from the SOIRL that have gone to any of the municipal or County utilities at this point.

Ms. Barker replied yes; and she stated some very large amounts have gone to or been allocated to them.

Commissioner Tobia asked for examples.

Ms. Barker responded Titusville is receiving \$9.1 million to upgrade its wastewater treatment plant above and beyond what their current permit requirements are; they are receiving \$200,000 to do smoke testing in the area where the spill occurred; Palm Bay is 40 percent complete with a \$3.6 million upgrade to their wastewater treatment plant to update it beyond what their current permit requirements are; Melbourne and West Melbourne also have wastewater treatment requirements; and there are three new smoke testing areas for the

County.

Commissioner Tobia interjected that he appreciated her depth on this; he stated if she would have said millions, he would have been satisfied, as he knows she could go on; the utilities have to be looked at as what they are, regulated industries; he mentioned Commissioner Smith brought up FPL which is a regulated industry and cannot be looked at like a regular business; if rates are going to go up, they have to go through the State of Florida, also if they wanted the rates to go down, because if one does not want FPL, there is not another option; and if one is not happy with Titusville or Brevard County utilities, they do not have another option. He opined it has to look at these uniquely and he is not opposed to having discussion dealing with fees; he is saying there is an option before the Board today to help mitigate those potential increases; this is something that has been done with some of the funds already, according to Ms. Barker, to the tune of tens of millions of dollars; it is not a unique idea out of Commissioner Lober; and he does not expect any support, he just thinks that it should be on a level playing field when it comes to the reality of this situation.

Chair Pritchett remarked she would not necessarily be opposed to that if there was a way to catch up, but she thinks these projects are not regular maintenance projects; they are something above and beyond what a typical plant does; the Titusville plant cleanses the water an extra amount that is not required to do, which is why it became a Lagoon project; she thinks that is the difference in that because, as far as the leaking pipes, that should be the ratepayers; but she thinks everyone will have to make those changes soon. She mentioned not knowing if the Board is even legally allowed to do this because it advertises bringing in new projects to clean up the Lagoon; she does not know if it could be dispersed that way or if it could be done responsibly because that is not what was voted on the first time; and she thinks the SOIRL board has done a very good job trying to keep it equitable across the County, because everyone is paying the taxes and everybody needs some love as far as the Lagoon.

Commissioner Lober stated in reference to what she was suggesting moving out in the future with respect to rates than it does today; he can hold it but thought he would mention it since it was on topic; there are a few things that go into the calculation as far as variables with respect to whether it is fair to make ratepayers fund the entire cost of fixing the system; he gave an example by asking that if someone in the audience moved here a week ago, would it be fair to have them paying for the cost of decades of neglect toward the system, caused by the rates not being what they should have been; and another question would be if someone that was here for 20 or 30 years that did benefit from the lower rates, would it be fair to say to them that they would now have to make up for it by raising rates to get the system back in order. He stated he thinks the system needs to get up to a reasonable state, as there are lift stations that have been without service for longer than should have been, pipes that have been in use past their life expectancy and have not been scoped or realigned; it needs to figure out whether it is a combination of borrowing, pushing the COC to direct more funds toward infrastructure, and figuring out how to get the system to a reasonable state; at that point, he would be okay to see what the rates would need to be to maintain it from there; and he thinks the ratepayer is responsible for maintaining the system, not for getting it to the state that it should have always been in.

Chair Pritchett remarked she completely disagrees; she lives in Titusville where most of this mess is going on; she thinks they need to raise her rates and fix the problem; she does not think Palm Bay should have to pay for where she lives because it has not done necessary things; and she is ready to pay the cost to fix where she lives and take care of it.

Commissioner Zonka stated she wanted to make mention that FPL is required by the State to

make the system hard, which is different than the County; she thinks that this is how it sent the original plan back with the last it voted on it; she asked Ms. Barker about how many millions have been paid as far as what utilities would normally pay for those kinds of projects; she knows it is not tens of millions for laterals; but the things that the utility would typically pay for, and how much of the Lagoon plan funding has been allocated for that.

Ms. Barker replied in terms of offsetting maintenance costs, really very little; she stated the only thing that comes to mind is the smoke testing which is a typical, recommended process, but not a mandated practice for utilities; that was something that the committee felt like they could do to help identify where the weaknesses were in the system so that the utilities could get them fixed; and then the private homeowners would know that they were a part of the problem and help to get those leaks fixed to avoid overflows.

Commissioner Zonka stated part of increasing capacity is also prevention of the spills.

Ms. Barker replied yes; but she stated there are no capacity increases.

Commissioner Zonka remarked she thought the Titusville plant...

Ms. Barker remarked it is improving the treatment of the existing capacity.

Commissioner Zonka asked if it is able to push it out quicker.

Ms. Barker replied Cocoa Beach is more like that where they are providing a larger capacity of some of the early steps in the treatment train so that they can push more water down the well during a storm event and not discharging to the Lagoon.

Commissioner Zonka remarked she thinks the tens of millions in stormwater projects is the biggest impact and that is normally paid for by the County.

Ms. Barker agreed that there is about \$40 million going towards stormwater projects.

Commissioner Zonka stated Ms. Barker has an idea of where the Board is and has heard her rant-on about utility improvements; the utility discussion is probably not meant for this discussion, although she thinks it is good that everybody learns where each other is at; she is happy with the plan; and she thanked Ms. Barker for her hard work getting it all together.

Chair Pritchett stated she loves that this Commission is so passionate about this, and it is really working it; and for everybody that fusses at them for this, the Board fusses at each other more than them.

The Board adopted the SOIRL Project Plan 2021 Update, as recommended by the SOIRL COC on January 15, 2021; authorized associated Budget Change Requests; approved continued signature authority to the Chair, or designee, in accordance with the threshold limits provided in Brevard County Code 25 and 27, and Administrative Order 29, to execute interlocal, non-governmental organization, University and private agreements, task orders, change orders, and contract renewals, using contract terms and templates previously approved by the Board, subject to review and approval by the County Attorney, Risk Management, and Purchasing, as appropriate, to provide cost-share from the SOIRL Trust Fund for projects and programs approved in the SOIRL Project Plan; approved continuing authority for the County Manager to execute contract amendments; approved continued authority for the Natural Resources Management Director to execute up to two no-cost time extensions up to



six-months each; granted permission to advertise formal solicitation of bids and proposals, and to award to the qualified bidder having the lowest, responsible and best response for tangible items, capital improvement projects, and/or equipment when funding is available; and authorized the County Manager, or his designee, to submit grant applications for leveraging cost-share for projects approved in the SOIRL Project Plan.

**Result:** ADOPTED

**Mover:** Kristine Zonka

**Second:** Curt Smith

**Ayes:** Pritchett, Smith, and Zonka

**Nay:** Lober, and Tobia

**J.2. Amendment #10 to Management Lease Agreement #4263 between Brevard County Environmentally Endangered Lands (EEL) Program and the State of Florida and Partial Release from Lease Agreement #4263**

Mary Ellen Donner, Park and Recreation Director, stated this is the 10th amendment to a management lease agreement between Brevard County Environmentally Endangered Lands (EEL) and the State of Florida.

The Board executed and approved Amendment #10 to Board of Trustees of the Internal Improvement Trust Fund of the State of Florida Lease Agreement #4263, for the addition and removal of parcels that have been acquired jointly between the County EEL Program and the State; and authorized the Chair to sign related documents upon County Attorney's Office and Risk Management approval.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**J.3. Legislative Intent and Permission to Advertise an Ordinance Repealing Section 6-2, Brevard County Code of Ordinances**

Commissioner Lober stated he thinks everyone knows where he is with this one.

Commissioner Tobia stated this deals with Section 6-2 of Brevard County Code of Ordinance which was instituted back in 1979; Section 6-2 restricts the possession of open containers in certain areas of unincorporated Brevard County including streets, alleys, sidewalks, parking areas open to the general public, and located within 100 yards of any building containing an establishment open to the general public; he has some reasons why this is probably a good change; and he asked if the Board would like to discuss those.

Chair Pritchett asked if the Board would enjoy them, and asked what he would like to do.

Commissioner Tobia replied they are not bad, and they are delineated in a pretty clear fashion; he stated number one, State already covers dangerous behavior, so Florida's statute regulates all alcohol-related behaviors, for example, Section 856.011 prohibits disorderly intoxication causing a disturbance; this has nothing to do with altering the State statute, primarily because he does not want to do that, and secondly because the Board does not have that authority; he gave an example of a new Winn Dixie in West Melbourne that has local beers on tap for three

dollars; and a person can get a beer and do their shopping, however if the beer is not finished and the person rolls out into the parking lot, if it were County property, they would be violating this Ordinance which would be a misdemeanor with a possibility of 60 days in jail. He went on to say COVID-19 brought the absurdity of this Ordinance further into perspective; while the Center for Disease Control (CDC) is encouraging outdoor dining and social distancing, and restaurants are trying to accommodate this by using outdoor spaces, this Ordinance places penalties on such behavior; repealing this Ordinance would have no impact on the cities, as it explicitly deals only with unincorporated areas; there would be no change to incorporated sections of the County; and Commissioner Lober mentioned similar things have been done in the parks and he thinks this is the logical next step.

Commissioner Smith stated he agrees that the Ordinance, as it stands now, does not matter a whole lot and he thinks nobody will really notice it be taken away; and he has one concern in that if people are walking around with open containers and there is no trashcan nearby, he asked where that container will likely end up.

Commissioner Tobia replied he did not have a good answer and, unfortunately, people do throw things on the ground like alcohol bottles or water bottles; he does not think it should ban people from walking around with water bottles; he is happy that littering has a penalty; and he would not mind making it a misdemeanor with 60 days in jail.

Commissioner Smith stated that was his only concern; and he asked if anyone else had any concerns because he did not.

Chair Pritchett stated he is thinking when people get a little trashed they do a little more trash.

Commissioner Smith replied yes, that is it; he stated it could be done for six months and then revisit it; and he would support it either way.

The Board discussed and granted legislative intent and permission to advertise an ordinance repealing Section 6-2 of Brevard County Code of Ordinances.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

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

## **L. BOARD REPORTS**

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

Commissioner Lober stated he wanted to thank the Board for Item F.11., which was for the property to the side of Criminal Investigations, next to the Brevard County Sheriff's (BCSO) building; it was originally discussed listing it for \$180,000 and he thought it was lower than what the property was worth; he was appreciative for the fact that the Board went ahead and had an initial bid minimum of \$225,000, and it sold for \$230,000; and he wanted to thank the Board for supporting him on that. He also wanted to thank Eden Bentley, County Attorney, and Christie Schverak, Assistant County Attorney, for their help with Item F.13.; when this was originally presented to him, it had a different number that was proposed; they had gotten with the attorney on the fees and the other attorney did agree to decrease their fees; and he thanked them again for their help.

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

Commissioner Tobia asked for a moment of personal privilege; he stated today is his dad's 73rd birthday; his dad served honorably in the Air Force for 20 years, and even more impressive, he has been married to his mom for 50 years as of July 3rd; he could not ask for a better father, as he is an absolute role model; he makes him look like a spendthrift; he is a wonderful grandfather of five grandkids that love him; and he wishes him all the best. He added he saw him this morning and will be going back this afternoon; he has gotten his second vaccine; and he wanted to say happy birthday dad.

Upon the consensus of the Board, the meeting adjourned at 6:13 p.m.

ATTEST:

\_\_\_\_\_  
RACHEL M. SADOFF, CLERK

\_\_\_\_\_  
RITA PRITCHETT, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA