

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, July 20, 2021

9:00 AM

Regular/Tentative Millage

Commission Chambers

A. CALL TO ORDER 9:02 a.m.

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

C. PLEDGE OF ALLEGIANCE

Commissioner Zonka led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL: February 9, 2021 Regular; May 18, 2021 Regular; May 27, 2021 Zoning

The Board approved the meeting minutes of February 9, 2021 Regular, May 18, 2021 Regular, and May 27, 2021 Regular.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

I.3. Approval Re: Access Route to Grissom Parkway

Chair Pritchett asked for a motion to table Item I.3.

The Board tabled the approval of an access route to Grissom Parkway.

Result: TABLED

Mover: John Tobia

Second: Bryan Lober

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

E.1. Resolution acknowledging Pretrial, Probation, and Parole Supervision Week

Commissioner Smith read aloud and the Board adopted Resolution No. 21 086 proclaiming the week of July 18-24, 2021, as Pre trial, Probation, and Parole Supervision Week.

Rachel Richardson, Circuit Administrator for the Department of Corrections for the 18th Judicial Circuit, introduced Charles Colon, Deputy Circuit Administrator, Susan Kowalski from the Brevard Re Entry Center, and Donna Bolton; she thanked Commissioner Smith for sponsoring this Resolution for Pre Trial, Probation, and Parole week; she is honored to be before the Commissioners to recognize the tremendous effort that the staff of Brevard Probation and Parole do on a daily basis, sometimes seven days a week, 24 hours a day, monitoring the 4,000 plus felony offenders in Brevard, and supporting the mission of the Florida Department of Corrections; and the entire staff including support staff, certified officer staff, and supervisory team work each day to provide a continuum of services to meet the needs of those that are entrusted in their care. She added throughout the pandemic, their staff in Brevard and Statewide did not skip a beat, continuing home visits, conducting walk through inspections, full searches, and multiple drug testing operations the whole time; they improvised and overcame many challenges to ensure their mission was fulfilled and they continue to do so on a daily basis; their staff works hard every day analyzing their cases to make the necessary referrals to the numerous social service agencies in Brevard that they work with, including referrals to the Brevard Re entry center; they work tirelessly to assist these probationers connecting the services with the needs that they all have; and staff also monitors and reports all non compliance to the court and follow through with all enforcement of conditions. She

continued to say in addition to all of those duties that they do on a daily basis, they facilitate self improvement programs in their offices, such as Thinking For Change classes, an employment specialist that works every day with employers that are willing to take a chance with offenders on supervision; most recently they piloted a program in the Melbourne office called 24/7 Dad, which adds a parenting skill component to the other in office programs that they have; staff works hard on a daily basis making thousands of contacts in the community, not only with law enforcement and offenders, but with other agencies, family members, and employers; and they work to create a safer community by partnering with local law enforcement with compliance initiatives, where they go out and make sure that the offenders are in compliance and there is no contraband at their home, and making sure the sex offenders are complying with the conditions of supervision. She stated their goal is to reduce victimization, safer communities, and emphasis on the premium of life; the agency vision is inspiring success, transforming one life at a time; staff does this each day with the efforts they put forth in assisting the probationers to become successful; she commends and applauds the hard work of their dedicated and professional staff; their commitment is outstanding to the citizens of the State of Florida and Brevard County; and she thanked the Commission for taking the time to recognize these wonderful people today.

Result: ADOPTED

Mover: Curt Smith

Second: Bryan Lober

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

F.1. Approval Re: Termination of Interlocal Agreement between the City of Satellite Beach and Brevard County for Review and Approval of Building Permits.

The Board approved the Termination of Interlocal Agreement between the City of Satellite Beach and Brevard County; and authorized the Chair to execute the Agreement.

Result: APPROVED

Mover: Kristine Zonka

Second: John Tobia

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

F.2 Approval, Re: Donation of Utility Easement from Kiwi Tennis Club, LLC, for the Lift Station S-27 Rehabilitation/Reconstruction Project - District 4.

The Board approved and accepted the Utility Easement donated from Kiwi Tennis Club, LLC, for the Lift Station S 27 Rehabilitation/Reconstruction Project.

Result: APPROVED

Mover: Kristine Zonka

Second: John Tobia

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

F.3 Approval Re: Interlocal Agreement with the School Board of Brevard County for School Access and Site Improvements - All Districts

The Board approved and authorized the Chair to execute the Interlocal Agreement with the School Board of Brevard County for School Access and Site Improvements; delegated the authority to the Public Works Director to execute Purchase Orders, Change Orders, and other necessary contract related documents associated with this action; and approved any necessary Budget Change Requests.

Result: APPROVED
Mover: Kristine Zonka
Second: John Tobia
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

F.5. Approval, Re: Property Access License Contract with Beyel Brothers, Inc. - Port St. John Boat Ramp (District 1)

The Board approved and authorized the Parks and Recreation Director to execute a Property Access License Contract and any renewals with Beyel Brothers, Inc. Port St. John Boat Ramp.

Result: APPROVED
Mover: Kristine Zonka
Second: John Tobia
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

F.6. Approval, Re: Caretaker Services Contract (District 2)

The Board approved the selection and awarded a Caretaker Services Contract to Tim Herbener at McLarty Park, Rockledge; and authorized the Parks and Recreation Director to execute the Contract, execute subsequent renewals and future amendments to incorporate standard contract clauses upon County Attorney and Risk Management approval.

Result: APPROVED
Mover: Kristine Zonka
Second: John Tobia
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

F.7. Approval, Re: Resolution and Lease at Cuyler Park (District 1)

The Board executed and adopted Resolution No. 21 087, authorizing the lease of real property, Classroom Two at Cuyler Park, to a Not for Profit Corporation, The Pillar of Hope Worldwide Outreach Inc.; approved the two year Lease with The Pillar of Hope Worldwide Outreach Inc. for \$363 per month, with the option to renew for an additional two year term and a subsequent one year term; and authorized Mary Ellen Donner, Parks and Recreation Director, to execute renewals and amendments upon County Attorney and Risk Management approval.

Result: APPROVED
Mover: Kristine Zonka
Second: John Tobia
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

F.8. Certification of Local Option Tax (LOGT) Percentages Allocations

The Board certified the LOGT revenue percentage allocations; and authorized the Clerk's Finance Department to submit the allocations to the Florida Department of Revenue (DOR).

Result: APPROVED
Mover: Curt Smith
Second: John Tobia

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

F.9. Approval of Budget Change Requests

The Board approved the Budget Change Request, as submitted.

Result: APPROVED

Mover: Kristine Zonka

Secunder: John Tobia

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

F.10. Group Health Insurance: Selection of UMR as Replacement for Health First Health Plans eff. 01/01/2022

The Board approved the Employee Benefits Insurance Advisory Committee (EBIAC) recommendation of UMR to replace Health First Health Plan effective January 1, 2022; and authorized Jerry Visco, Human Resources Director, to execute all documents necessary to bind the coverage effective January 1, 2022.

Result: APPROVED

Mover: Kristine Zonka

Secunder: John Tobia

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

F.11. Appointments to Brevard Workforce Development, Inc. Board of Directors dba CareerSource Brevard

The Board appointed/reappointed Lloyd Gregg, Mike Menyhart, Mark Mullins, Wayne Olson, Amar Patel, and Travis Mack to Brevard Workforce Development, Inc. Board of Directors dba CareerSource Brevard with said terms to expire June 30, 2024.

Result: APPROVED

Mover: Kristine Zonka

Secunder: John Tobia

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

F.12. 2021-2022 Annual Budget Resolution, Re: Brevard Workforce Development Board, Inc. dba CareerSource Brevard

The Board adopted Resolution No. 21 088, 2021 2022 annual budget for Brevard Workforce Development Board Inc. (d/b/a CareerSource Brevard).

Result: APPROVED

Mover: Kristine Zonka

Secunder: John Tobia

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

F.13. Resolution supporting the "Kurt Eichin Memorial Trail," District 2

The Board adopted Resolution No. 21 089, designating a portion of the Coast to Coast Connector in Brevard County as the "Kurt Eichin Memorial Trail."

Result: APPROVED

Mover: Curt Smith
Second: John Tobia
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

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

On the recommendation of Commissioner Bryan Lober, the Board acknowledged appointment of Aleks Bologna to the Tourist Development Council with said term to expire December 31, 2022.

Result: APPROVED
Mover: Kristine Zonka
Second: John Tobia
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

G. PUBLIC COMMENTS

Sandra Sullivan stated she has been coming to the Board meetings for about two years talking about the new development going in that impacts the adjacent preserve that was a partnership between the County and Satellite Beach; she has also talked about how there was a requirement by the State for both the County and the City under the Pelican and Hightower Park Preserve Agreements with Florida Communities Trust (FCT) to cap the density on the barrier island; this was done because of a deficiency of a study that was done by Brevard County and the Eastern Central Regional Planning Board (ECRPB); the community is requesting the Board's help in the interest of public safety; according to the State, Pineda Causeway is critically deficient for evacuation in the event of a hurricane; and both Patrick Space Force Base and residents of zip code 32937 use Pineda Causeway for hurricane evacuation. She stated to imagine for a moment, the Board does nothing in response to this information and a category four or five comes and children's lives are lost as a consequence of critical evacuation deficiency made worse because the Board allowed density increases that are not allowed; the bottom line is there is a critical deficiency that resulted in Florida Department of Environmental Protection (FDEP) requiring the City and the County to cap density, to not move density on the barrier island; the City's regard for this commitment now puts lives at risk; she hopes the Board appreciates the importance of evacuation off of a barrier island is the State's prioritization of this matter, especially when coastal area evacuation has been prioritized by the current legislative session; the Governor has put \$640 million dollars, the largest budget ever, towards resiliency; and she quoted from the Governor's site "a component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which takes into consideration the capacity to safely evacuate the density of a coastal population proposed in the future land use plan element in the event of impending natural disaster." She continued to say these were put into place back in 1999 by the County and the City and these parks are also for all of Brevard County residents; it is very sad that in the last year, she has been trying to get an appointment with her own Commissioner and cannot get an appointment; she hears that the Commissioners are accessible; and she wanted to meet with the Commissioners when the City of Satellite Beach hired a lobbyist; and she could not talk to anyone but Commissioner Lober.

H.1. Permission to Participate in and Accept the two 2022 Edward Byrne Memorial Justice Assistance Grants

Chair Pritchett called for a public hearing for permission to participate in and accept the two 2022 Edward Byrne Memorial Justice Assistance Grants.

There being no objections, the Board granted permission to participate in and accepted the 2022 direct and Countywide Edward Byrne Memorial Justice Assistance Grant applications and awards; designated the Brevard County Sheriff's Office as the point of contact; authorized the Sheriff or his designee to sign the applications for Federal Assistance SF 424 form; authorized the Chair to execute the necessary contractual agreement, modifications, and amendments; and authorized the County Manager to execute necessary Budget Change Requests.

Result: APPROVED

Mover: Bryan Lober

Secunder: Curt Smith

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

H.2. Public Hearing, Re: Substantial Amendment to the Fiscal Year 2019-2020 Action Plan for Additional Community Development Block Grant - Coronavirus (CDBG-CV) Funds

Chair Pritchett called for a public hearing for a substantial amendment to the Fiscal Year 2019 2020 Action Plan for additional Community Development Block Grant – Coronavirus (CDBG CV) funds.

The Board of County Commissioners conducted a public hearing and considered input from the public regarding the Substantial Amendment; approved the Substantial Amendment; authorized the County Manager to sign all documents related to the Substantial Amendment; approved public service activity priorities; authorized the Housing and Human Services Department to conduct a Request for Proposal (RFP) process; authorized the CDBG Citizens Advisory Committee as the selection Committee to provide funding recommendations; authorized the County Manager or his designee, to sign contractual agreements, modifications and amendments for recommended RFP services upon approval of the County Attorney and Risk Management; and authorized the County Manager to execute all necessary Budget Change Requests.

Result: APPROVED

Mover: Bryan Lober

Secunder: Curt Smith

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

H.3. Final Public Hearing and Approval of the Fiscal Year 2021-2022 HOME Investment Partnerships Program Consortium Annual Action Plan

Chair Pritchett called for a final public hearing for Fiscal Year 2021 2022 HOME Investment Partnerships Program Consortium Annual Action Plan.

Ian Golden, Housing and Human Services Director, stated this was originally brought to the Board on July 6, 2021; this is the second and final public hearing for the program; this action plan is the sixth year of the five year plan because Housing and Urban Development (HUD) allowed a waiver for the entire nation regarding the action plans; the individual yearly action plans support the five year consolidated plan; this one is unique because of the Coronavirus; and he will be completing a new five year consolidate plan this year, which will then be brought to the Board for approval.

Commissioner Lober asked if there were any comment cards.

Chair Pritchett replied no, if there were any she would be on it.

Commissioner Lober asked staff if this was the late add on to the Agenda, or was it publicly noticed for some time.

Mr. Golden replied it was not late and it has been on the Agenda before the due date to the County Manager's office.

Commissioner Lober asked if he was aware of anyone that had indicated they wanted to speak on this Item that may not be here for any reason.

Mr. Golden replied his department did not receive any public comment.

There being no further comments, the Board conducted the second and final public hearing; approved the Fiscal Year 2021 2022 annual action plan; authorized the Chair to execute the required certifications and SF 424 Applications for Federal Assistance from the United States Department of Housing and Urban Development (HUD); authorized the County Manager, or his designee, to execute the Community Development Block Grant Program and HOME Investments Partnerships Program Grant Agreements and Disbursement Agreements with the four Brevard County HOME Consortium member cities, upon approval of the United States Department of HUD; authorized the County Manager, or his designee, to execute contractual agreements, modifications, and amendments for projects identified in the Action Plan (including any associated budgetary changes), after approval from Risk Management and the County Attorney's Office; authorized the Housing and Human Services Department, as contract administrators, to use competitive processes to secure contractors to complete proposed projects, and services; and authorized the County Manager to execute all necessary Budget Change Requests.

Result: AMENDED

Mover: Bryan Lober

Secunder: Kristine Zonka

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

H.4. An Ordinance Rescinding Selected Companies' Economic Development Ad Valorem Tax Exemptions

Chair Pritchett called for a public hearing for an Ordinance rescinding selected companies' Economic Development Ad Valorem Tax exemptions.

Kathy Wall, Assistant to the County Manager, stated this is an Ordinance to rescind two Economic Development Ad Valorem exemptions from the County's Program; the first exemption is for New Space Center, LLC which was a Project that was to be constructed in the City of Titusville but never constructed; the owner moved out of State to Colorado and the City of Titusville has also revoked this exemption; the second one is Midwest Dental also known as Project Rainbow which is a Project that the County and the State initiated, together with the State Qualified Target Industry (QTI); this is an eight year exemption for 80 percent when the company adds 30 jobs; and they were to add 10 jobs in each year for 2019, 2020, and 2021, however the QTI Program allows for a company to extend the employment creation for a year, which the State did in 2019. She added the County had not received the annual report until yesterday and has not created the 10 jobs in 2020, however, they stated the reason was because of COVID 19 shutdowns; the State will give them an exemption for that year so if the Board does not approve this part of the Ordinance, then the QTI would remain in place; and if

this is rescinded, the QTI Program is gone, as the State has eliminated it.

Frank Abbate, County Manager, pointed out it might be important for the Board to know they did have \$3 million and the Property Appraiser did notify that they completed the capital investment for the Project, and, under the Ordinance, would actually qualify at this point, for the exemption; if they are included in the rescinding of the Ordinance, they will lose the QTI and not be able to get it back even though they made the \$3 million investment in Palm Bay; and he thinks the Board might want to consider that.

Commissioner Zonka remarked she was going to suggest something similar because she does not want them to lose their QTI status; she would support an Ordinance that did not include Project Rainbow; and Commissioner Lober withdrew his motion.

There being no further comments or objections, the Board of County Commissioners adopted Ordinance No. 2021 16, rescinding Economic Development Ad Valorem Tax Exemption for selected companies that no longer qualify for the County's Program.

Result: ADOPTED

Mover: Kristine Zonka

Secunder: Bryan Lober

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

H.5. Adoption of Proposed FY 2021-2022 Ad Valorem Millages

Chair Pritchett called for a public hearing to approve the Fiscal Year 2021 2022 Proposed Millages for the purpose of notification to taxpayer by the Brevard County Property Appraiser, and recommending the County Manager be instructed to complete the Florida Department of Revenue's Certification of Taxable Value form DR 420.

Jill Hayes, Budget Director, stated staff is requesting that the Board set the Fiscal Year 2021 2022 Proposed Millage Rates, and in accordance with guidance given by the Board during the February Budget Workshop, all millage rates have been established within the Brevard County Charter Cap limitations; and additionally, the Aggregate Proposed Millage Rate of 5.4446 is a 1.45 percent decrease from the Aggregate Rollback Rate of 5.5249, therefore according to the requirements under Florida Statute, these Proposed Millage Rates would not be advertised as a tax increase during the Final Budget Hearing.

Commissioner Tobia expressed his thanks to staff for all the work that has been done on this and bringing it in below the mark where it needs to advertise for tax increases; this is positive and other local governments do not have the benefits that are had here, not only in staff but not in tax increase; and he appreciates the hard work done and will be supporting this.

There being no further comments, the Board adopted and approved FY 2021 2022 Ad Valorem Millages for the purpose of notification to taxpayers by the Brevard County Property Appraiser; and recommended the County Manager to complete the Florida Department of Revenue's Certifications of Taxable Value, form DR 240.

Result: APPROVED

Mover: John Tobia

Secunder: Bryan Lober

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

I.1. Request for temporary reduction in rent payments RE: Complex Cafes at the Brevard County Government Center - Viera and the Harry T. & Harriette V. Moore Justice Center

Marc Bernath, Public Works Director, stated this Item is a request for temporary rent reduction for the Complex Cafes here at the Government Center and the Moore Justice Center; Board action is requested on a request by Steven Powers, owner and operator of the cafes; Mr. Powers is requesting a temporary reduction from \$1,200 to \$600 per month in rent payments through December 31, 2021; the assignment of lease was negotiated and agreed upon with very specific terms, including a forbearance of rental payment until June 30, 2021; and on July 1, 2021, he made a payment of \$1,200. He added Mr. Powers states that he has faced continued challenges, specifically COVID 19 related, and is making efforts to improve the quality of food and food choices.

Commissioner Tobia thanked Mr. Powers for showing up.

Mr. Powers remarked he would like to apologize, as Mary Bowers told him he did not need to show up for the first one, so that is why he was not there.

Commissioner Tobia stated he completely understands that coming forward and asking for thousands of dollars in rent reduction, he did not think was worth his time; he says that very facetiously; he stated Mr. Powers purchased the business in February 2021; and asked if that was correct.

Mr. Powers replied that is correct.

Commissioner Tobia stated in February 2021, the world was aware of COVID 19; and he asked Mr. Powers if he was aware of COVID 19.

Mr. Powers replied yes.

Commissioner Tobia mentioned at the time, he negotiated for a four month moratorium on rent payments; and he asked if that was due to COVID 19.

Mr. Powers replied he was told by Mary Bowers and Paul, the previous owner, that he was just to assume the lease that was in place and that was already negotiated and in place; he did not ask for it; the suspension of rent was under Paul; and when he went to purchase, Ms. Bowers said he applied to assume the lease in place and would have to come back to the Board if he wanted to change the lease in any way.

Commissioner Tobia remarked he was not expecting that answer; and he asked if Mr. Powers would have purchased it without the four month moratorium.

Mr. Powers replied at the time, yes, then he found out some other problems.

Commissioner Tobia asked if he is personally running this, or is it sub leased, or if he is receiving any payments from anyone.

Mr. Powers replied yes, he is there almost every single day from open to close.

Commissioner Tobia stated while he has seen some crazy stuff come before the Board, this probably ranks right there at the top; this business owner purchased this with the

understanding that he would receive four months rent free space and now is coming back to the Board; at some point this nonsense has to stop and the Board has to say no; County employees can drive 0.426 miles to Blaze Pizza and get better service and better product; and he asked the Board if Mr. Powers comes up here and asks for a gift from taxpayers, what is stopping every other business that has a contract with the County from getting any type of rent relief. He added they would probably have a better chance because they purchased or had a lease that happened far before the severity of COVID 19; if this Board does decide that it provides this type of relief, or gift, to Mr. Powers, he asks that every other organization or business that has a contract with the County asks, and receives this similar gift; he does not think this is fair and it would start a horrible precedent that he does not want to be any part of; and if this is done he thinks it needs to be fair to absolutely everybody. He stated he would be voting no for this; and if anyone else should come up here, he would encourage that, but would also be voting no for them out of fairness.

Commissioner Lober stated this is one of those things where it is hard to draw a bright line rule and say yes or no in perpetuity; he agrees the Board has to be fair, but thinks this is something that it needs to evaluate on a case by case basis; he thinks there are enough unique factors with respect to this business, primarily to where it is located and the clientele that it disproportionately serves, to give it some special consideration; this is something that is in the same building as the District 4 Commissioner; and since the District 4 Commissioner is on board with it, he gives that great deference and great weight. He added if there is a similar applicant from District 3 and Commissioner Tobia preferred that it not be supported, he would be inclined not to support that as well; and since this is in District 4 and not only a government building, but the building in which the District 4 offices are in, that carries some weight with him.

Commissioner Zonka asked if he did not have a problem answering, did he receive any type of COVID 19 relief from the State or any other organizations.

Mr. Powers replied no, when he applied, he found out that Paul did not have paperwork properly filed and legally things were not done that he had to pay for; by the time he got Paul to get aboard and get his act together, it was already past the deadline; the money he is spending is a permanent fixture into the building; he has spent thousands of dollars on fixing electrical that was bad, although it did pass inspection, it was not safe; and he is not just asking for relief so he can get a jet ski or a boat, he is putting it back in, as he has replaced all the freezers, breaker boards, and a lot of things that are his responsibility. He added he had a problem with the ventilation, so he called out the cleaning crew that does it professionally, and found there were only screens, no ventilation; that was \$4,500 to improve things for his customers and will stay in the facility; it is not like a refrigerator that he can take away; and there are still improvements to be made.

Commissioner Zonka asked if he still did a complete inspection of the facility before he agreed to purchase it.

Mr. Powers replied yes, but when purchasing a restaurant, one does not go into the ceilings to see that there is actually a vent when the vents are there; as far as the electrical, some of the plugs were broken off in the outlet; it passed inspection but was not the safest thing; he is not asking for anyone to feel sorry for him, he just wants to explain where he is spending his money; and if he had not spent the money on repairs, he would not be asking. He added the food is high quality; he has pulled pork, rotisserie chicken, fresh macaroni and cheese; the food is cooked every day; and he ran Roco's Tacos Tequila Bar in Fort Lauderdale and his food is way better than that.

Commissioner Smith stated he had things to say but Commissioner Lober does it much more eloquently; but he basically said everything he was going to say in a much more eloquent form; he will say that reports that he gets from his staff and others that partake at the restaurant say the food has improved immeasurably, and he thanked him for that; the other thing he would like to say is that he is small business and the Commission, the County, and the State have been over backwards to try and support small business; and he was not able to take advantage of any of that money that was given to other businesses. He added Mr. Powers is not asking for the world; he is still willing to pay half for a limited time; he does not feel it is a stretch for the Board to give him a helping hand; if it helps him get past January 1, he will be glad, if not, then he is like too many other businesses that are going to succumb to the effects of COVID 19; but he thinks the Board owes it to him to make the effort, and he will vote in favor of this.

Commissioner Tobia mentioned that Commissioner Zonka asked about the inspection that was done prior, so those considerations were taken in by the savvy business owner; and his position holds.

The Board granted temporary rent reduction from \$1,200 down to \$600 per month in rent payments through December 31, 2021, for Steven Powers, owner of the Complex Cafés located at the Viera Government Center and the Harry T. and Harriette V. Moore Justice Center.

Result: APPROVED

Mover: Curt Smith

Secunder: Bryan Lober

Ayes: Pritchett, Lober, Smith, and Zonka

Nay: Tobia

I.2. County Attorney Recruitment

Chair Pritchett stated she thinks after sitting through the candidates, she pretty much knows where she is settling; there were two or three that rose to the top and she knows who she would like to pick; she was thinking, if the Board was willing to, instead of going through everyone's faults, that the top choice is circled, and if there is a clear indication which candidates are on top there can be some discussion.

Commissioner Lober he is fine with circling the top choice, but whoever the Board selects, he has given some thought as to specific language for the motion rather than just naming them; he does not want to just vote to name that person, as he thinks there are some safeguards that can be put in place regardless of who is selected; and he asked if the Board can revisit that after the Board goes about this, he is fine with this.

Chair Pritchett remarked no motion yet, just to get the feel of it; if the vote is 5:0, then it is done; they will still have a conversation; and she knows there are a couple that she would not consider, so maybe that will eliminate conversation about those as well.

Commissioner Smith stated he would like to thank all five of the candidates and he does not think the Board would miss a beat if it hired any one of them, although he does think several are better than others; he thinks each one would do an outstanding job; and he would like to keep the votes private but would need to ask Eden Bentley, County Attorney, about that.

Chair Pritchett remarked the Board could not do that; but she thought they could circle two.

Attorney Bentley advised the sheets will be public record.

Commissioner Smith stated that was what he was thinking; if they ended up with two, they could be invited back for additional questions; and if a Commissioner has something that was thought of that they wished they had asked or would like to ask these two candidates.

Commissioner Zonka stated she has been through this process before and she knows it is hard to get honest answers from candidates it is hard because they are attorneys; she says that because the Board wants them to follow the letter of the law; she had additional questions for one of the candidates so she called them to ask because she needed to know the answer before she considered them; the Board had the interviews and is accountable for who is hired; and they are an attorney, it is not a political position. She just does not want to make a spectacle and does not want them to be uncomfortable to get drilled by the Board; there may be a Commissioner or two up here that would want to show off and she does not like that idea either; she just feels a little uneasy about putting them in a position, because they are professionals; there is one person on this list that absolutely horrified her; and if they were to make it to the top two, she would be obligated to bring up their discussion and tell them what she thinks of them. She added she does not think that is even fair to them, no matter how much she was offended by the interview; she still would not want to do that to them because they are professionals and they do have to apply for another job if they do not get this one; and those are the top concerns she has with making a public issue of it.

Commissioner Smith stated he is not looking to make a public issue; the Board would be meeting with them in private and being that they are professionals and the Board is professionals, he would hope that professional questions are asked, not to grill them; and be that as it may, he is subject to whatever the rest of the Board thinks.

Chair Pritchett remarked for them to circle two to see if they can get two to have a discussion on.

Commissioner Lober stated he is fine doing the circle if that is how Chair Pritchett wants to do it; a couple of the candidates from the short list had asked him if he knew whether the Board would make a selection today; he thinks the goal is to get this process finished in a reasonable amount of time; he thinks they would prefer to have an answer instead of going through additional rounds; and if the Board wants to have private interviews with the top two, he would not oppose that, but he is ready today.

Commissioner Tobia stated he did not mean to throw a wrench in the system but he thinks this should be open to the public; he thinks they had their private questions and as they went through this interview process, they were gone through subsequently, but issues might have been brought up that were not followed up with one candidate to another; he thinks any time it is opened up to the public, that benefits discourse; also, the legal system is confrontational by nature and he thinks they want a bulldog that is looking out for the Board and the County; and if it brought a couple candidate up here, and ask some pointed questions, that may bring some clarity. He added there are a couple that he is deciding between; there are some questions that were brought up at one interview that he would like to ask the second person and vice versa; there is one that he is definitely not comfortable with; but he does not know that making a decision today versus two weeks from now would overlap on the transitional period to get them up and running; and he does not know if the Board all has the same people, but he is not ready to make a decision today without follow ups.

Chair Pritchett asked if he was fine with two.

Commissioner Tobia responded he would only want two.

Commissioner Zonka stated with all due respect, the Board had their opportunity for follow up and she is comfortable making the decision; there were two or three that rose to the top; she thinks she asked all the questions she needed to ask; she thinks she got a good gauge for their personality; and she has been through this process before and worked with multiple attorneys in her career. She stated she is comfortable making a decision and okay with narrowing it to one or two candidates.

Commissioner Smith stated he could pick one or two today; he does not want to have two or three candidates here for the Board to grill; that could lead to embarrassment and these people are all professionals, but still are human beings; if one of them were to be offended, they would never tell the Board; they might field a question that they may feel is demeaning, but they would never tell the Board, but being human, they will remember that; and he does not think that the Board casting appall upon a professional in public would serve any purpose other than to embarrass them, which he does not want to happen.

Chair Pritchett advised to start with two and let staff tell determine what to come back with; and then wait a while and have a discussion on the two and make a decision then.

The Board recessed at 9:46 a.m. and reconvened at 9:54 a.m.

Commissioner Zonka stated Moriarty was actually her second choice, as she was very impressed with him as well; she personally would recommend Morris Richardson and not because he worked for the County Attorney's Office for 10 years before going to West Melbourne, but because she liked his answers and he follows the letter of the law and has been in County government for a lot of years; she remembers him in the days when he handled the magistrate stuff for the City of Palm Bay and it was always done with perfection; she is a little biased in the fact that she has seen him over the years, and has seen how professional he is; she has seen him go against what his own board may have wanted, but he always followed the letter of the law; and she would support Mr. Richardson. She added she does not like doing this because she thinks Abigail Jorandby is amazing and wonderful and she answered a lot of her questions very well; it is an experience thing for her, and history; she did not know Mr. Richardson very well, so there is no personal relationship; she has just seen him over the years always act in a professional manner and always handle things, even if uncomfortable, by following the letter of the law; and that is what she wants, not saying anything about the other candidates, she is just saying he has demonstrated it and those are the examples. She added he does not go with the politics or what is popular, but always follows the letter of the law; and she would be more in favor of Mr. Richardson as the next County Attorney.

Chair Pritchett stated that is her choice today, as well; she thinks Ms. Jorandby interviewed remarkably well and has done a great job here; she was her first and then second choice; she asked Mr. Richardson some very hard questions and he gave champion responses; he has a good track record and has been at the County before; and that is what was tough, as it is good to have someone from the inside because they are used to it, but then it is better having somebody outside because they have some fresh eyes when they come in. She added Mr. Richardson has the best of both worlds because he trained under Scott Knox here and then moved on to West Melbourne; and her choice is going to be Mr. Richardson although she does enjoy Ms. Jorandby tremendously, and Mark Moriarty as well.

Commissioner Smith stated he is probably not going to help this procedure much because he has worked with both Ms. Jorandby and Mr. Richardson; Mr. Richardson was here for the first two years he was in office so he saw him work in person and he has been watching Ms. Jorandby for the last couple of years and noticed that she is a remarkable individual and very astute; they have two different types of personalities, both of which he thinks lends themselves to doing a good job in this position; when he was Chair back in 2017 and knew that Scott Knox was going to retire soon, he asked Mr. Richardson to his office and presented him with the option to come back to the County because he thought it would be natural for him to step into that position; and Mr. Richardson said to let him think about it and a week later he came back and said he appreciated the offer but when he left and interviewed with West Melbourne, one of the questions that were asked was what if the County turns around and asks you to become the County Attorney. He advised Mr. Richardson gave them his word that he would not do that and would give them at least five years in his position, furthermore, two of his kids go to school and he can see their playground from his window, he is close to home, and he is not ready to leave; Ms. Jorandby has gone above and beyond from his perspective; he knows that she did a really good job on the Ellis case and she is working with us today; for him it is a difficult decision and he has thought about it a lot; and he was impressed with two of the other candidates too, and one he just dismissed out of hand. He continued to say this is a difficult decision for each of the Board members; the good part is, he does not think the Board can pick a bad candidate; whoever it picks today, will be a benefit; and at this time, he is leaning slightly more toward Ms. Jorandby rather than Mr. Richardson.

Commissioner Tobia stated Mr. Richardson is a great candidate and he was impressed with the report that he got back; his concerns with Mr. Richardson were things that most people would consider to be positive; Mr. Richardson decided to run for judge at one time, which is a great accomplishment for any attorney; he does not know if there is that fit at the County level; and there is always availability in the Judicial Nominating Commission. He added he is leaning towards someone who started here and will continue on for a great deal of time; the other thing he is looking at is what this does for internal candidates in the future; Ms. Jorandby has done a fabulous job, even when he didn't want her to, as in the Ellis case; he was completely on the opposite side of that one, but she ended up winning that one; and working under Eden Bentley, County Attorney, has got to be very difficult. He mentioned she preps the Board and does such a fabulous job, and someone has to follow in those footsteps; having someone in there that clearly works well with that; he is leaning towards Ms. Jorandby and was hoping to put them both up here at the same time but thinks that, that adversarial point of view would be something the Board would gain but if Commissioner Smith is not comfortable with that, he understands; he likes where Commissioner Smith is leaning here and this is the great thing about the Sunshine law, as he does not think any of the Board had any idea where the others were going, then Commissioner Lober throws a curve ball with a memo, which is 100 percent legal, but changed the dynamic of the whole situation; and he is leaning on making a decision as to Ms. Jorandby. He added his hits on Mr. Richardson were not hits, as he believes he has greater aspirations based on past performance and past decisions; and he wishes him all the best but thinks right now, absent of any other information, Ms. Jorandby is the best fit.

Chair Pritchett stated she thinks the Board has an ability to vote right now and pick one, but a couple of the Board members stated they were hanging; and she asked Commissioner Tobia and Commissioner Smith if they want to wait until the next meeting or if they feel comfortable voting today.

Commissioner Smith replied he is comfortable making a decision.

Commissioner Tobia replied he is comfortable making a decision for one of those two

candidates right now; if there is a push to go for the other candidate, he is willing to go in that direction as well; he is trying to be as flexible as possible; and he is good with voting for Ms. Jorandby today, but not good with voting for Mr. Richardson today.

Commissioner Lober stated he is not violating anyone's confidence on this, but those were the two that actually had the conversation with him about whether a candidate would be selected today and hoping a decision would be made today; he sent out a memo to be included with the minutes and basically, he feels like he has already won on this in the sense that he narrowed it down from five good candidates to three excellent candidates and the two that remain in consideration were two of the top three he put in the memo; he thinks there are a couple things to keep in mind that were not specifically addressed in the memo; Commissioner Tobia mentioned on CareerSource Brevard and on some other fronts, was promoting diversity in the selections and decisions that are made as a Board; and this is one of those that is exceedingly difficult for him to choose between Mr. Richardson and Ms. Jorandby. He added he has listed positives and negatives that each of them have relative to one another and they come out very close for him; when there are two essentially interchangeable candidates, they are both good for different reasons and both have different weaknesses that roughly even out; all else equal, he thinks if the Board selects a diverse candidate, then all the better; if it can be a woman instead of a man, wonderful, not to take a less qualified candidate for that purpose, but if they are equally qualified, which he thinks is probably a fair statement with these two; and the other thing is he thinks the Board has something available with Ms. Jorandby that it does not have with any of the other candidates. He continued to say the Board could have a trial period and his motion goes into the transition that would be involved with having the handover from Attorney Bentley to Ms. Jorandby, or whomever it would be, and the transition period, if it were to discover it is a bad fit, the Board would find out prior to the reigns changing hands; this is something that is not available with any of the others because someone else would have to quit their job where they are at now in order to come here; if Ms. Jorandby is brought on and all hell breaks loose, there is an opportunity to scale things back without someone having given up employment for the Board to have a trial period; and if the Board is interested, he is happy to run through the motion to see where it goes.

Chair Pritchett remarked not right now, but hold on to it a second.

Commissioner Zonka stated given the discussion and given that these two are the Board's top candidates, maybe learning more, at least giving them a chance to pitch because there was a public records thing that went to hell with one of the candidates; she thinks the track record and the history, and as far as Mr. Richardson not leaving as Commissioner Smith mentioned, she was glad he took her call; she mentioned to him she thought he was getting groomed for this job at the County; Mr. Richardson was at the County for 10 years as opposed to Ms. Jorandby having two years and the Board is talking about experience; and Mr. Richardson made a commitment to West Melbourne and thought he owed that to them but this is his dream job, as he has always wanted to work for the County and loves the law. She added Commissioner Tobia was not part of the interview process due to something pre booked that had him out of town, and not his fault, so his staff had to do the interviews; maybe there are questions he could ask that candidate, even though she does not like the public display, but this is too important; and she thinks the candidates may be too close judging by the initial comments. She wants to give Mr. Richardson a fighting chance because she thinks he is a fantastic attorney; if the Board is pitting experience, 10 years versus two years, Mr. Richardson would have more experience with the County under another fantastic attorney, Scott Knox; she thinks the Board would be losing a potentially great candidate; and if the Board would be amicable to it, she would say to give him a chance to talk about his credentials in a public forum so that Commissioner Tobia can have the opportunity to have a discussion with him.

Commissioner Smith stated he asked Mr. Richardson about that when he interviewed him; he asked him about running for judge back in 2012 and he said that he is not going anywhere and if he got this job, he would be staying until he retires; he stated he could always run for judge when he retires; he just wanted to pass that information on; he does not want a public display to ask them questions but does not mind if they are brought back for the Board to talk with; but he does not know what questions he could ask that he did not already. He added he has done a lot of interviews in his life but never hired an attorney; from his perspective it is not any different from hiring anybody else; the focus is on the job itself, what the job requires, and ask questions that give insight as to who the person is; he has already done that and does not need to meet with either one of them; but if he had to vote today, he would lean towards Ms. Jorandby by the slightest of margins.

Chair Pritchett stated she thinks Commissioners Lober and Zonka are pretty solid; she thinks Commissioners Smith and Tobia are the ones deciding whether this is done today or waiting; and she needs to hear from them so she can see where they are settled about voting.

Commissioner Smith remarked he is good for today, as he has asked all the questions he is going to ask; if the Board wants to bring them back...

Chair Pritchett interjected and asked if he would be changing or is he settled.

Commissioner Smith replied yes; there is no question that he can ask either one of them that he needs an answer to, as he already did that.

Chair Pritchett asked Commissioner Tobia if he thinks he is solid or if he needs another meeting.

Commissioner Tobia mentioned that his office has worked with the County Attorney's office on multiple occasions; he is comfortable right now but does not know about this motion; he wants to know if the current County Attorney is okay with it, and what Ms. Jorandby thinks of it; today he is comfortable with selecting Ms. Jorandby; he has spoken with constitutional officers and current staff; the attorney from his office was the one who sat in on the interview and asked better questions than he could have with no formal legal education; and he is more than willing to go with Ms. Jorandby if the decision is made today.

Chair Pritchett stated if the Board does not mind, it will have a vote on the new attorney; and then talk about the motion afterwards.

Commissioner Lober stated he thinks part of what he intended to get across with this motion, as he did run it by Ms. Jorandby, was to clarify with the transition exactly who is in charge; there cannot be two bosses at the same time; if the Board simply selects someone, it is still left with an ambiguity in terms of who is in charge; this motion clarifies to a very large extent exactly who is responsible for what and when the handover takes place; and he suggests rather than just selecting someone and leaving it ambiguous, it really needs to be looked at. He added he does not know if Attorney Bentley has had a chance so maybe by the end of the meeting, this Item could be recalled to give her an opportunity to look at it; and he would strongly suggest that if the Board does not want to adopt the particular verbiage that he used, that it include something else that would cover those concerns, as this addresses any question that foreseeably can come up with respect to who is in charge, and when they are in charge until Attorney Bentley retires.

Chair Pritchett stated she does not think she is going to vote with this because if Ms. Jorandby cannot jump in at that time, the Board is picking the wrong candidate, as she thinks she can do it; she is comfortable with Attorney Bentley finishing this through and Ms. Jorandby getting started and the same with Mr. Richardson; and she would feel the same way, either they know how to do this job or they do not.

Commissioner Lober interjected that does not answer the question, though.

Chair Pritchett remarked it does for her; she thinks Attorney Bentley can finish it out; she is probably not going to vote for this but if the Board get in a good place of where it is going with an attorney, she will vote with them; and she wants the attorney coming in to know they are very wanted by this Commission.

Commissioner Zonka stated she did not think this would change anyone's mind, but if everyone has such high thoughts on Ms. Jorandby, if Mr. Richardson was the choice, they would still have both, as Ms. Jorandby is the Assistant County Attorney; and that is just a thought that the Board would still have both talents.

Commissioner Lober asked for how long.

Commissioner Zonka stated if he is asking her, she is not them and cannot answer for them.

Commissioner Lober remarked she is saying the Board would have them both...

Commissioner Zonka exclaimed if she is saying Ms. Jorandby would leave because she did not get the job, as she has been there for two years; that would say more about her; she did not know how long she would stay; she asked Mr. Richardson if he would retain the staff; and he replied yes.

Commissioner Lober stated he is not sure he would be comfortable in some place he was not wanted.

Commissioner Zonka remarked that is a pretty big leap to assume that.

Commissioner Lober stated another leap is not wanting to bring candidates back for a round of interviews until her chosen candidate...

Commissioner Zonka interjected she said if someone had more questions because Commissioner Tobia did not interview one of the attorneys that applied.

Commissioner Lober remarked she would not have said that if it were Mr. Richardson.

Commissioner Zonka stated of course she is going to fight for her candidate.

Commissioner Lober remarked his point is that her logic only applies to one candidate, but conveniently not the other.

Commissioner Zonka replied that is not true.

Commissioner Lober stated when she started discussing this she had mentioned that she did not want to have second rounds.

Commissioner Zonka interjected and said that Commissioner Smith said he was on the fence when he initiated the conversation; and she appreciated the back and forth, but no thanks.

Commissioner Lober replied okay, well the minutes reflect everything.

Commissioner Smith stated from his perspective, Attorney Bentley is the County Attorney until she walks out the door; she can turn over whatever workload she wants to whichever Assistant County Attorney that she has working for her, as it is her choice; if she wants to increase Ms. Jorandby's workload as she goes along, that is her choice; if she wants to continue what she is doing now, that is her choice; she is boss until the day she walks out the door; she is smart enough to figure out how to prepare her office for the eventual day she leaves; and he thinks it is a moot point.

Chair Pritchett stated Commissioner Tobia has asked for a five minute break.

Commissioner Tobia remarked yes; and he would like to speak with Attorney Bentley concerning this motion.

The Board recessed at 10:19 a.m. and reconvened at 10:25 a.m.

Commissioner Smith stated he would like to make a motion to appoint Abigail Jorandby to be the next County Attorney.

Chair Pritchett stated the motion dies for a lack of a second.

Commissioner Lober stated he is going to make a different motion that is going to shorten the prior motion but includes the absolute minimum needed; he moved that Abigail Jorandby is named as County Attorney effective November 1, 2021, so there is no ambiguity as to who is in charge until then; and direct staff to begin negotiating a contract and authorize them to perform any necessary changes or actions in furtherance thereof.

Chair Pritchett expressed congratulations to Ms. Jorandby; she stated she has worked with her long enough to know that if Mr. Richardson was picked, she would not have gotten mad and quit; she is in for the long run with the County and it is not her personality; and if she would have thought that, she would not have been in her top two.

Commissioner Tobia asked who the staff would be to negotiate the contract with.

Chair Pritchett replied she thinks that would be the County Manager.

Frank Abbate, County Attorney, stated typically it has been the County Manager and the Human Resource Director would bring a proposed contract back to the Board.

The Board appointed Abigail Jorandby as the County Attorney effective November 1, 2021; directed staff to begin negotiating a contract; and authorized the County Manager, or his designee, to perform any necessary changes or actions in furtherance thereof.

Result: APPROVED

Mover: Bryan Lober

Seconder: John Tobia

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

**J.1. Waiver of Subdivision Perimeter Buffer, Re: Ivey Cove (21WV00008) (District 1)
Developer: Ivey Cove, LLC.**

Tad Calkins, Planning and Development Director, stated this Item is a request from Ivey Cove, LLC, for the Board to waive Section 62 2883(d) that requires a 15 foot buffer tract along residential subdivisions.

Chair Pritchett stated she is comfortable with this.

The Board approved the waiver request of Section 62 2883(d) that requires an undisturbed 15 foot perimeter buffer tract along all boundaries of a residential subdivision for Ivey Cove by Ivey Cove, LLC.

Result: APPROVED

Mover: Bryan Lober

Secunder: Curt Smith

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

**J.2. Staff Direction: Background Investigation Screenings for Parks and Recreation
Department Recreation Partners, Recreation Instructors and Volunteers**

Mary Ellen Donner, Parks and Recreation Director, stated this Item is asking for direction regarding background screening investigation for Parks and Recreation partners, recreation instructors, and volunteers; and she has presented three potential options for background screening and background screening costs.

Chair Pritchett stated she is probably going to want to stay with what is had unless the Board wants to choose number two and make it a little bit tighter; she thinks what is in place is working; but would not agree to loosening it because it involves the children.

Commissioner Lober stated he wanted to address the second part of it first; the background screening cost could go either way; he thinks there are good arguments either way but thinks option B, which is kind of a split the difference option, is something he would be comfortable with; and regardless of which of the numeric options the Board goes with, he would suggest looking at option B, separate and apart from that.

Chair Pritchett remarked she is thinking that the person doing it would help share the cost.

Commissioner Lober replied 50/50.

Commissioner Zonka stated she would prefer the leagues take over their costs at the beginning of the year because that is part of what one pays for when signing up; as parents, they have to pay for their kids to participate all the time; she would rather that burden be less on the County and those monies are invested more into the maintenance of those parks, as that is probably one of the complaints that are received about the ball fields and such; and she would rather pass the cost on to the recreational partners.

Commissioner Tobia stated he is glad the Board has glossed over the first portion of it; he thinks Administrative Orders are something best left in the County Manager's hands, as he thinks he has done a fabulous job on this; he supports Administrative Order 05 and it has done a great job making sure that people that should not be around the children, are not around the children; Ms. Donner brought the Board applicants that were not allowed to be around the children and there were some scary things as to people that applied, which makes him wonder

about the people that thought better than applying in the first place; and he does not think Administrative Orders need to be amended in any way. He added as far as background costs, that is substantial money that is not going to tax breaks or would directly be going to provide better services; Ms. Donner has done a good job bringing the cost down; it could be done per annum so it is not a large hit; he would be in favor of option C, but if the Board goes with option B, it would cut the costs in half; and he thinks B or C would be better than it is currently.

Commissioner Smith stated he likes option B but he would prefer if it was one year rather than two.

Commissioner Lober stated it could be made indefinite, one year, or five years; there is nothing that says option B could not be modified if Commissioner Smith is happier with it being one half for one year and after that, shift to the recreational partner; and he could live with that as well.

Chair Pritchett stated she is probably comfortable with that to give some time for them to adjust; there are already some that are going to cover that time period for a lot of these people; and she asked if this would be just for the new people coming on board.

Ms. Donner replied correct.

The Board approved Option I, leaving AO 05 in place; and approved Option B, Parks and Recreation Department to pay for one half of the cost of the recreation partner, recreation instructor or volunteer background investigation screenings for a period of one year, through July of 2022, and beginning August 2022, the cost of the background investigation screenings would be paid in full by the recreation partner, recreation instructor or volunteer.

Result: APPROVED

Mover: Curt Smith

Secunder: Kristine Zonka

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

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

J.3. Brevard County Receipt of \$58,460,088 from the Coronavirus State Fiscal Recovery Fund (CLFRF) Under the American Rescue Plan Act (ARPA)

Frank Abbate, County Manager, stated this Item relates to the Coronavirus State Fiscal Recovery Fund (CLFRF) under the American Rescue Plan Act (ARPA), and deals with the \$58.5 million that was allocated in the first tranche for the Board; \$8.5 million was already dedicated to Fire/Rescue, leaving \$50 million for the Agenda Item; staff has given a framework for discussion that includes looking at what ARPA funds could be utilized for; the first recommendation of investing in water and sewer infrastructure, staff provided a \$30 million amount; an attachment was provided that showed about \$40 million worth of work that the Utilities Department believes can be completed under ARPA in under two years; and the County has four years in which to allocate those expenditures and six years to complete it. He added there are many other projects in various districts that can be undertaken if the Board allocates \$30 million, or any portion thereof, or more than the \$30 million, including the dollars that are going to be available after May next year when additional \$58 million will be made available; there is \$30 million in that first bucket, in the second bucket, he has categorized for the Board's consideration, the other major programs the Board may be interested in and they have been outlined in the Agenda Item; there is \$10 million placed into those buckets; those buckets include revenue replacement opportunities in three different major areas: tourism, gas tax, and Save Our Indian River Lagoon (SOIRL), which had lost revenues during COVID 19;

and there is about \$10 million that would be available for the Board to do any or a portion thereof in those areas. He continued to say a second major area that is available under ARPA is a negative economic impact; there is a potential of doing it into disproportionately impacted communities or economically disadvantaged areas such as household assistance, small business, non profits, tourism, travel, and hospitality, as these are all specified in the legislation; premium pay and hazard pay during the period which COVID 19 was present is another area that is specified; staff has given a \$10 million starting point for the Board's discussion; and the third area would be, since there is significant time to make these decisions, to put the remaining \$10 million into a reserve, where the Board could decide at any time where to dedicate that. He stated it would be up to the Board to dedicate that more toward infrastructure, or any of the programs that are outlined in that second bucket; and he offers that and the details that are included in the Agenda for the Board to have discussion and then provide direction for staff to proceed.

Chair Pritchett stated the Board is dealing with potentially \$50 million and her thought would be to take \$40 million and divide it among the districts for infrastructure projects that have been laid out; then take the other \$10 million and distribute through the districts, or in reserves; she wants to put some more into some park projects as far as outreach to the community and she has a lot of water projects; and she asked for discussion.

Commissioner Lober remarked that is an interesting way to go about it; he does not know that he is necessarily opposed to that; he came in thinking that if the Board does not exceed the bare minimum recommendation of \$30 million toward infrastructure, then it is not doing its job; and he knows many of the Board campaigned to get here on infrastructure being one of the big things, so this is an opportunity for the Board to show its commitment to adhering to the campaign promises. He added he thinks it should look at how much it can push in that direction; and he thinks \$38 million was the base number he was looking at, but would be okay with \$40 million.

Chair Pritchett interjected saying there are more projects; and staff only gave the Board some, but there are millions in their districts.

Commissioner Lober stated he could live with the \$40 million portion; the \$10 million portion, he does not know if he wants to divide it up by district; with respect to the \$40 million, he would like staff to have a degree of input with respect to what the projects are; he does not think any of the Board are nuts with respect to how it would be spent, but he would still like staff to have a hand in guiding how it is spent within the districts because if he had an asinine idea as to how he is going to spend \$40 million to put up a gold plated road in District 2, he should not be permitted to do that; and he does not think any of the Board would do that, he would just like to see some mechanism in directing which projects are most meritorious or to give some options to the Commissioner. He further stated he had a couple of other thoughts, and if folks do not want to do it, he respects that; he mentioned Commissioner Tobia had stated that at some point it has got to end, or something along those lines, with respect to the Agenda Item for the Complex Café; he does not know if the Board is interested in doing any form of small business relief but is okay looking at that and considering that with a portion of the money; he does not know if it qualifies, but suggested putting a small amount to fund a feasibility study to bring Waste Management functions in house after the current contract; and it is more expensive than he thought, as the number he was given was around \$250,000 for the study. He added it has the merit and potential to help the County tremendously in knowing what the options are when the present Commissioners are all off the Board in six years.

Commissioner Smith stated he liked the \$40/\$10 million idea, and he likes the idea of dividing

the \$10 million between the districts; he relishes the idea that he could spend that and target it for infrastructure and would be subject to doing the same with the extra \$2 million; that would give each Commissioner the discretion to do what is determined necessary in their district, like a pet project that would include some drainage ditch or something that maybe would not be warranted in the \$40 million allocation; and if one or more Commissioner decides they do not need the extra \$2 million, and puts it into the General Fund to do more infrastructure, that would be okay too.

Mr. Abbate stated what he is hearing is that the \$40 million would be split among the five districts, \$8 million each, for wastewater projects, as that is the infrastructure that is being talked about; then the other \$10 million, which is in General Revenue, and will have greater flexibility; he believes that is what he is hearing; and he wanted to clarify that so staff handles it appropriately if that is what the motion is.

Commissioner Zonka stated that is what she would add; going through the infrastructure list, she realized there are big, expensive projects, but her district, compared to the multi million dollar projects in the other districts, she would ask the Board to share in evening up the amounts so she can possibly get more; and she has big road needs and would like to be able to review her priorities and make it fair across the districts as far as the allocated amount.

Mr. Abbate remarked he believes that can be done and that would work because there are Public Works Projects that could qualify for stormwater related.

Commissioner Zonka stated she realizes she has less County than the other districts and there are great needs, especially in the north County, but she has some of the most highly traveled roads in her district and she wants to make sure that she is taking care of them.

Chair Pritchett remarked she liked that and asked if it was allowed to be used on roads too.

Mr. Abbate replied out of the \$10 million.

Commissioner Smith remarked with that scenario, she would have that \$2 million at her discretion; if she had a road or...

Commissioner Zonka interjected she was talking about the utility list.

Mr. Abbate replied on the utility list, it is water, and he believes stormwater is included, so that is how it could get into ditches and all too.

Commissioner Zonka stated she would like this divvied up fair across the districts, because as it stands right now, there is \$2.5 million in District 5, with two projects, as opposed to a significant amount in other areas; and she just wants that to be fair.

Mr. Abbate remarked the Board is talking about \$8 million going to each district; if she did not have water/wastewater projects, this is where it is going to be up to staff to look at it, depending on where she allocates her resources; the County may not need to use the General Revenue Replacement, which would give the opportunity to change it and shift some dollars around and give her more flexibility; but it is being looked at giving \$8 million for each and that is how it would be allocated.

Eden Bentley, County Attorney, asked if it is the intent to process these as was done with the CARES Act items and bring them back to the Board for approval.

Chair Pritchett replied she is fine with that; she thinks Commissioner Tobia brought up making sure that they were completely in line with how it is allowed to spend the money, as well; and she thought that was good.

Commissioner Lober stated he is happy to make a motion with respect to that; he mentioned the Board is dealing with this first half up front now, so to the degree that having a very high likelihood the Board is going to have a similar amount in the future, that may change how it wants to allocate it; but, if the Board would like, he would make the motion to divvy up \$40 million of the amount that is being discussed equally amongst the five districts whereby staff in the appropriate department would work with the Commission Office to provide a list of projects and estimated costs; the Commission Office will go through those items with staff and bring back their proposals to the Board for a vote to approve them; with respect to the remaining \$10 million, it will be split evenly amongst the five districts; and he asked Chair Pritchett how she would like that phrased or wait to address the \$10 million.

Chair Pritchett replied she already knows what she is going to do, but she thinks if that is done, then the Board can come back with what it is doing with it.

Commissioner Lober remarked maybe it would be best to not address the \$10 million now.

Chair Pritchett remarked she would like to go ahead and do \$2 million per district.

Commissioner Lober stated the motion will include earmarking \$2 million per district from the remaining \$10 million, whereby each district will bring forth an Agenda Item or discuss how they recommend using those funds in the respective districts.

The Board discussed and authorized \$40,000,000 for water and wastewater projects, to be divided equally amongst the five Districts; directed staff to work with the individual Commissioners to provide a list of those projects and their associated costs, for each Commissioner to bring back for Board approval; and authorized \$10,000,000 to be split evenly amongst each Commission District whereby each Commissioner will bring forth an Agenda Item, or otherwise, to the Board for discussion on how each Commissioner intends to use those funds within their respective Districts.

Result: APPROVED

Mover: Bryan Lober

Secunder: Curt Smith

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

J.4. Repealing Resolution 18-040, the Implementing Legislation for the Property Assessed Clean Energy (PACE) Program in Brevard County

Commissioner Tobia stated this is dealing with the Property Assessed Clean Energy (PACE) Program and has come to this Board previously; by a 4:1 vote, the Board had authorized the Program in Brevard County; he spoke with Chairman Randy Fine who brought to his attention that in 2010, he had voted for this to become statute; he thinks this was a bad vote at the time, but thinks he made a little bit of amends when it came up here and he voted against it; this is a little strange starting, giving the arguments on the other side, before presenting his, but he appreciates the work he does for this County and wants all the information out there so the Board can make an informed decision; and Representative Fine's point was that there was no cost to taxpayers. He added that on the other hand, he is against this liberal, Berkeley created

Program that was highly touted by President Obama; the Tax Collector pointed out an individual who is having his property sold at the tax auction, somebody that receives veteran's benefits, so this Program is having consequences on the citizens; he has provided everyone with the email correspondence he received from the Tax Collector; as this Program grows, unfortunately, he fears that those situations where people will lose their house will increase; and this is not unusual as both Hillsborough and Hernando counties have decided to go in a different direction and end their PACE Program. He stated his issues with this Program are the same from the beginning, unfortunately, the consequences are now being felt by individuals; this Program allows a financing mechanism that jumps the first mortgage, which bastardizes the system and is unfair, not only to individuals that are not aware of the situation they are getting in, but they are not helping with the mortgage lending business; the individuals that make the first mortgage assume that is their first mortgage, and that is not happening; he also sent out a video that was humorous but also somewhat informative about many of the contractors here that are selling the system but do not have the where for all to explain it in such a way that lenders who provide mortgages do; and now that there is an individual that will be losing his house because of this, he feels this is something that the Board needs to look to change, as this problem is only going to get larger. He further stated he would like to see where the Board is on this; he would like to see where everyone is on this, if there is a middle ground, and if it wants to continue with this; if it needs to be looked at again in 12 months to see if the State takes care of it; Representative Fine put in a bill this past year that did not pass, that put some additional measures on this that would hopefully stem some of these problems; and he wants to see if additional restrictions should be put on it or if it is comfortable with people losing their homes because of this program.

Chair Pritchett stated she voted for this last time and she wishes he had not; not that it does not have the potential for being a good program, but she did not think about if someone gets a loan, and they have a tax lien, they lose the ability to keep their home if they run into a problem; Commissioner Tobia is right, although nobody has lost their home yet, there is a possibility for people to lose their houses; if a person has to take out a tax lien to do something because nobody will give them a loan, it kind of shows they cannot pay it back; she hopes the people that benefited from it were able to afford it and have done well with it; but she will not support continuing this.

Commissioner Lober stated this program was not only approved by Commissioner Tobia when he was a State Representative, but by a solidly republican legislature; in fact, it is his understanding that every republican in attendance voted to approve this Program; he mentioned the Board is made up of five republicans; to him, this Program is one that enables folks who otherwise might not be able to have things like working air conditioning, to have working air conditioning; and people will lose their homes if they do not pay their mortgages, but mortgages are not banned as a result. He added if Commissioner Tobia wanted to come back, or if he is ready now, to introduce some form of consumer protection, whether it is in the form of a disclosure or otherwise, he would be happy to look at that; he is generally disinclined to start abridging freedom of contract because of a small number of bad actors that can be dealt with separately, either through some form of consumer protection or through some penalty mechanism if they are found to be acting in some precluded fashion; he cannot strike the Program as a whole on account of the fact that a small number of individuals may not be conducting themselves in a fashion that the Board is able to mandate that they conduct themselves; and that is where he is at.

Ritch Workman thanked Commissioner Tobia for bringing this up and not only voting for it, but being a co sponsor for that mighty fine bill; he cannot hold him accountable, as one would look back and ask, why did he vote for that; he stated four years ago when he came up to talk about

this, he mentioned he hated debating Commissioner Tobia because he thinks of himself as a pretty good conservative; after walking away from a debate from him, he realizes he is an Obama liberal; Commissioner Tobia has a line in the sand that he admires, which is if it takes government interference in any way, then one should not have to do it; and his line in the sand is that if it does not affect a neighbor, between a person and the government, with no cost to the neighbor, and no cost to the taxpayer. He added when it is considered that 2,000 folks have hardened their roofs, hardened their windows, in some cases air conditioning, things that protect the neighborhood in a hurricane, with very few complaints; there is always the ability to fix it; the gentleman they are talking about, when that complaint came forward, the company that he got his PACE loan from has paid that off as of yesterday; he would say instead of throwing this out, as he knows Commissioner Tobia and the Board is concerned, Randy Fine put forward a tremendous bill with huge protections; PACE has already implemented some things so put it on them; they have a contract with the green corridor and each one of them will have to be held accountable to that; and if it is looked at again in six months to a year, if it is not living up to the new standards, people are still being deceived, that PACE provider can be fired. He stated there are three or four of them in the County; the Board can look at it and say they are not doing the job, as there are eight, nine, or ten people that should not have received it based on State law, and tell them they are no longer allowed to do it in Brevard County; if it is more than that, then it could be reconsidered; he does not think that one to ten out of 2,000 is a reason to ditch it all together at this point, but it is a reason, because every person matters, to look at it again; and he knows they will do the right thing.

Chris Peterson stated he represents the Florida PACE Funding Agency and Fortified Financial, a PACE provider in Florida; he has been in the industry a long time and to say that is has evolved is an understatement; over the last several years, all of the Chief Executive Officers (CEOs) of these companies have been replaced with financial professionals; before, to Commissioner Tobia's point, there were some folks that were policy and clean energy folks in those positions; when the CEOs were replaced, the very first thing they did was implement a set of consumer protection standards and it is first, and he thinks the only thing, that all the CEOs ever agreed upon; but these protections, and these are the same ones that Representative Fine ran in his bill, that unfortunately fell short this session. He added they have already implemented these standards, and as of today and the last year and one half to two years, they have been implementing these and it is a completely different industry; they analyze the ability to pay, they do confirmed term calls on a recorded line for all of the assessments, any time an applicant applies, to go over each of the terms to ensure that this makes sense and if it is for them; if it is not, they would much rather find out today than years down the road; and ability to pay, as well as an inspection for all of the properties once the improvements have been installed; and they go back and ensure and verify that they were actually installed so that there is not fraud perpetrated by contractors, which has been something they have seen in the past. He stated that does not happen anymore whatsoever; rather than getting rid of this program that actually allows a financing mechanism for folks to be reinsured for their roof and to protect their homes from weather events, he recommends that the Board implements these consumer protections, get everybody on the same page, put this standard in place that they are already doing, to ensure that there is transparency and all expectations aligned; he thinks the results will speak for themselves; anything that has been seen in the past is not happening anymore because of the way they have implemented these standards; and he is there to answer any questions and he urges the Board to move towards a consumer protection document rather than getting rid of this very important financing mechanism.

Amy Elliott stated she is a Y Grene representative in Brevard County; she apologized that she could not get any of her contractors here, as she found out about this meeting at 2:00 p.m. and

she was between meetings in Lee County; she wanted to come herself and talk about the John Oliver show, as she helped bring PACE to Florida in 2009 2010, and she remembers the vote; she remembers being involved with organizations like Boma, Sierra Club, Chamber of Commerce, and Associated Industries, as they worked with everybody; and in 2009 2010 there was a huge real estate collapse where banks stopped lending, people were losing their homes, losing their jobs, and no money in the community to do these improvements. She added in fact, last year, at the beginning of the pandemic, it was the same situation; she had so many contractors calling her and telling her that due to the Fair Isaac Corporation (FICO) score, they could not get funded, or financing for; her company has been open the entire time, as they made their entire staff work from home, so they could be here; and they have been here from day one in 2010 to now making sure that people can get their improvements done. She advised she wanted to talk about some of the myths, because there are so many of them; they do a lot of work in the community and she actually brought her daughter here, who goes to Eastern Central Florida College, and she stayed in her apartment last night; what is being said about PACE is that it is a bunch of people coming in, knocking on doors, taking advantage of people, seniors, and people that do not speak English as a first language; that is what she keeps hearing as she is helping people that do not speak English as a first language and helping people with problems they have in their projects; and she mentioned PACE is seen as a program for poor people but it is not, as it is for anybody that does not have thousands of dollars sitting around waiting to do their roof or HVAC system. She continued to say people like her that have two kids in college, one that is 15, and she has bills, not \$8,000 for her HVAC system; there are people obligated to get new roofs who do not have the money, but the insurance companies are making them repair roofs after 10 years and they are struggling to figure out how to pay for \$20,000 to \$40,000; people that use this program are not all completely clueless, as a lot of them actually very savvy with credit; she had a woman who wanted to get a pool, had saved for it, then the air conditioning (AC) broke but she did not want to use the credit for the AC because that would have hurt her chance of getting the pool, so she got the AC through PACE and still got her pool done with her credit; and PACE lets people be flexible. She stated PACE is not predatory, which is one of the things people are saying, as they have permits, maximum pricing guidelines, welcome calls, and all kinds of things; and she had a quote from one of the property owners, but ran out of time.

Jennifer Rojo Suarez stated she is with Renew Financial, a PACE provider, and she is based in Miami; she is the government affairs director for Renew Financial in the State of Florida; as part of their routine underwriting process, they use both automated technologies and manual processes to screen a property owner's tax history to ensure the program requirements are met prior to approval; each of the over 200 applications that they funded in Brevard County are gone through and looked at as well as the assessment that was mentioned earlier; and gaps in their processes are rare, but when they are identified, they roll out additional training and procedures to help eliminate future reoccurrences. She added they strive for 100 percent success rate and when there is a problem, it is investigated and fixed; in regards to the homeowner that was mentioned earlier, Renew Financial is committed to working with homeowners when a temporary hardship strikes so that if there is a missed payment, it does not stop them from getting back on their feet; they have a hardship assistance program that, if the criteria is met, they make the PACE assessment on the homeowner's behalf without requiring repayment; the homeowner previously mentioned, Renew Financial did not know what was going on in that, but as soon as they were alerted, just yesterday, they went ahead and paid off and are in the process of doing that now; and Renew Financial, or PACE, is here to help homeowners with storm hardening, and resiliency; and they do not want someone to have a hardship, as they want to help those homeowners. She stated, with the case of this homeowner, they are in the process of paying the assessment for the homeowner; it is their commitment to protect homeowners and they ask that the Board does not repeal the PACE

program; and they hope that they can continue to work together to add more consumer protections because they believe that this program is a great program for all.

Kate Wesner from Y Grene Energy Fund stated she was before the Board in 2018 asking to approve this program; at that time they had begun to make improvements to the program and consumer protections are a big part of that; since then they have adopted a suite of consumer protections that include disclosures for property owners, three day right to cancel, confirmed terms call, which some of her colleagues talked about, which means they call the homeowner and verify they have received the financing documents, go over the terms to make sure they understand that it is on their tax bill, how that is repaid, either through their escrow or directly to the Tax Collector, and address a number of different things with them; it is about a 15 20 minute call that is not automated, it is a live human and very dynamic where they ask questions that have to be answered, not just yes or no; they have done this because they have heard feedback from other counties, which Commissioner Tobia referenced, that this program did not have those consumer protections; and they have made improvements and this program has evolved quite a bit since she joined this industry. She added she thinks they have helped a lot of consumers in this area; small businesses, homeowners, commercial and residential property owners use this; she knows that some of them have contacted the Board individually; she provided a list of every homeowner that has done a survey that gave them their satisfaction rate; whether it was their experience with the contractor or with Y Grene, it was provided in their words, so the Board can see their honest review of how this program worked for them; and she thinks 77 property owners voluntarily gave them their survey results. She continued by saying if any of them fall below a seven out of 10, their CEO directs that they are called and to find out what the issue is and how to resolve it; they take consumer satisfaction of their homeowners very seriously; the goal of this program is to keep people in their homes, not to lose their homes; this is why they want people to have a new roof, impact windows, or AC, so they are not out on the street and able to withstand the next storm; they are really proud of what they have done in the community; and Y Grene has done about 1000 projects over four years and the program has continued to grow. She stated many businesses in the community continue to use this program and have asked what the problem is; she asks them to please contact their Commissioners to express how this program helps them and helps their clients; she hopes the Board will take that away from the meeting today; they will work with the Board on improving consumer protections whether it is through an ordinance or an addendum to the Interlocal Agreements; they want to keep this program alive; and however they can do that working with the Board, they are open to doing.

Scott Case state is a lifelong Brevard resident and the sales manager with Superior One Roofing; he does roofing in Brevard, Osceola, Orange and Indian River counties; he works with PACE and Y Grene quite a bit for consumers that are credit challenged but need a new roof; right now they seem to be at the mercy of insurers as they are calling the shots on ages of roofs; these folks are taking advantage of the program as they do not have a choice, not to finance a pool or a luxury item; and this is a roof to keep them insured. He stated he thinks what is going to be seen is the insurers now seem to be at 15 years for the cut off for a roof; he does not know if that is going to change but typically, if a person cannot get a roof, the mortgage company is going to put them with an insurer of last resort, which will double, or triple the insurance cost that is added on to the mortgage; basically that puts their mortgage and their home at a risk of foreclosure anyway, if they do not get a roof; he was a realtor for 18 years and sold over 1,400 homes and has dealt with a ton of mortgage brokers; and very few of them had the capacity and the program in place that the PACE program does to explain this in a way the consumer can understand it. He added he would ask that the Commissioners maybe call Kate Wesner, or go through the process as a consumer would, have it explained

over the phone, as they have a great team; as a sales manager, the folks that he deals with and his team do not explain this program, but they send out a video to the consumer, and if they care to log on and put an application in, one of the team members from Y Grene or PACE will call them and walk them through it; he advised to do the call and find out if those protections the Board is looking for are in place already, before making a decision on this; he is on the ground and sees these people face to face; and he has seen folks with tears in their eyes, stating they could not have gotten a roof any other way. He stated he did not want to pull on the Board's heartstrings but this is about people getting things done in a time where people are financially challenged; he asked that the Board looks at it from a consumer standpoint to see that the protections that are in place already suffice; if not, maybe come up with a different plan; but please keep the program.

Commissioner Tobia stated all these PACE providers claim they have protections in place but they are self assessed, there is no penalty, and clearly, people are falling through the cracks; if someone sits up here and says they just wasted 20 minutes of time, well, first of all, every lobbyist for PACE came into Brevard County, paid gas tax, got lunch and all that nonsense; second of all, there was someone who probably served the Country, who was preyed upon by Renew that got that fixed; he does not know where anyone is on this one, but there may be a middle ground here, that all the protections mentioned, maybe more, could be added to the Interlocal Agreement; and then assess that six or probably 12 months from now to see if they are following that and if there are more issues of people losing their houses. He added he is good with that and also good with doing away with the program for the same reason he mentioned before, as Chair Pritchett mentioned these people cannot get loans; the fact that the government is backing a loan is probably not in the best interest of either them or the Board; if wanting to go with the middle ground, he would ask that the Board put people together that would be some of the industry, some that want to regulate the industry more, like Chairman Fine, as he is sure he would more than willing to sit down with that, and maybe some experts on the assessments like the Tax Collector's Office, and see if it can put down some things in that ordinance or Interlocal Agreement, and some penalties should they not follow this; it is like having a speed limit and saying if someone goes over the speed limit, they will not be fined; and unfortunately, that is what is happening here. He mentioned there needs some penalties in place; he understands the legislature is trying to do it, but Chairman Fine can only pass 90 percent of his bills, not 100 percent; this is one he would like to have seen pass; if the Board wants to continue with this program the way it is, just understand that this problem is only going to get larger; those are the options here, as he wanted this discussion; and he appreciates everyone taking the time since he had mentioned most of this before.

Commissioner Smith stated when he first heard this was coming up and he heard the horror stories, he thought wow, they need to protect these poor people that are being taken advantage of; like most issues, it has two sides and he listened to and read and saw the numbers, and he thinks there has been 13 cases in Brevard County where people feel like they have been taken advantage of or have had a problem; he thinks there has been some things that have occurred that tightened up the situations so that those events would not occur again; that is 13 out of 600 plus, so they have a pretty good track record with a very small percentage that have been affected; and he is looking at this and he knows there are people out there that need roofs, impact windows, or solar which would all qualify under PACE. He continued by saying PACE offers affordable financing to get those things done, whereas they might not be

able to do it any other way; it allows these people to improve the value of their homes, increase the resiliency of their homes; it gives them a measure of peace when a major hurricane or storm comes by, knowing they have a new roof or impact windows; it also creates lots of jobs, as this gentleman mentioned, giving them jobs that may not be available otherwise; and he thinks that is an important issue. He added he would guess it has created millions or billions to the economy with the 600 cases, but regrettable that 13 people that have not fared so well; most of the people he has talked to say the issues have been tightened up so it would not happen again; it was just heard that they are going to take care of that, so that person will not be negatively impacted from here on out; there are a lot of protections in place; and it offers positives to people that could not otherwise afford to improve their homes. He suggested it not throw out the baby with the bathwater; if there is a middle ground that can be reached that Commissioner Tobia would be happy with, he would be 100 percent behind that; and he is not going to vote to do away with the PACE program.

Commissioner Lober stated if some sort of consumer protections are wanted to be introduced, they should be brought forth; if someone is ready to put together a group as proposed with a representative from one of the constitutional offices and some other individuals, it could be set up tonight and given a general outlay of what it is the Board is looking for them to come up with and then have it come back to the Commission if that is preferred; he is not opposed to putting protections in place that are reasonable and appropriate; but he cannot do away with it on account of some folks having had a bad experience, even if it was not their fault. He stated unless someone is legally prohibited from entering into a contract, if they are adjudicated incompetent or something like that, then different story, but by and large, if someone wants to enter into a contract that he would not necessarily enter into, that is their right; he might discourage them from doing it, but he does not know it is his place to tell someone that they should not enter into a contract, as they have the ability to do due diligence on it, and not approaching predatory practices; but if there is a concern that there are some that are predatory or misleading to the public, then help come up with some solutions in terms of what can be required of them to offset or eliminate that risk, and he would probably be right there also.

Chair Pritchett stated she did not know what their interest rates are and she thinks the avenue of this is what hangs her up; if someone has a mortgage on their house and takes out another loan, and they renege on that loan, they cannot take the house if the mortgage is being paid; when someone does this and they end up with a tax lien, the house can be sold off to pay the taxes; she questions whether this is truly affordable or is it sure financing, because it goes on the tax rolls and they know the house can be taken as collateral; and she does not know how these loans are being run, the interest rates, or if they are fair. She added since there are so many people struggling, it is like when there was the housing boom and everyone was buying houses that they could not afford, yet still given the loans; she is still siding with Commissioner Tobia but thinks maybe she needs more education on those things, and if they are not in place, they need to be; there should be a cap on the interest rates so the consumer that may be desperate, has some protection; if they are going to do these loans, they should be used for house sustaining projects like roofs and air conditioning; and she is not sure she agrees with solar panels or windows being bought with these loans. She continued to say if a person cannot afford to get a loan for those things that make their ability to live in the home sustainable, she is not very comfortable with that either because she thinks it is risky for the consumer.

Commissioner Tobia asked Chair Pritchett if she would give him six months to meet with these folks and bring back a proposal that integrates many of the suggestions brought up here; if there are any ideas, because of Sunshine Law, please put them in a Board Report; he will get

with Chairman Fine as he understands there needs to be regulation for consumer protection on this; if she is good with that, he is willing to lead that charge; he had not thought of the solar panels but he feels it is a good idea that he will move forward with; and there is one gentleman that fell through the cracks and this helped him out quite a bit.

Commissioner Smith remarked he would go for six months to tighten up anything that Commissioner Tobia finds that is detrimental to someone; he reminded the Board that they are only talking about 13 out of over 600, so it does not seem like there are a lot of predators out there preying on unsuspecting homeowners, but he thinks there is room for improvement; if the Board could come up with something that would make them feel better, without being overly onerous to either side, he is in favor of that; he is a big fan of solar panels, as his last bill was \$26.11, and the one before that was \$9; and if they can be afforded with this loan, he does not see them as a bad investment.

Commissioner Tobia remarked he does not want to see someone lose their house because they got pretty solar panels; he and Commissioner Smith got subsidized when they put up their solar panels and received a 30 percent rebate from the Federal Government; and he thinks the Board is all on the same page.

Commissioner Smith reminded everyone that they are dealing with adults here and there need to be protections in place for people that might be preyed upon; the other side of that is they are adults capable of making decisions based on the information given; if they want to use this loan for solar panels, he does not see a downside for that; and it is up to them.

Commissioner Tobia remarked it was this Board that gave authority for those contracts to take place; had it not, then the legislature decided it might have been the one good thing in 2010 the bill allowed the Board to authorize the program; and if the Board would not have authorized the program, this would not have become available because this is on the tax bill; he thinks the Board ended up in the same place and he will bring it back; and if there are any suggestions, please bring them to any meeting and he will integrate it, as this is good for the industry and the consumer.

Commissioner Zonka stated she thinks Commissioner Smith and Commissioner Lober hit the nail on the head; if protections were put into place, it would make people have to clear it through the Board before getting a car note because with anything there is a risk; it is sad to say that someone fell through the crack, but one would have to assume that people know what they are signing when signing for a loan; she likes the idea of a disclosure to be filed so they know the terms; she has no problem with putting consumer protections in place; and she knows of someone, a single mom, that was helped that could not afford an air conditioner and was able to get a PACE loan which helped her significantly. She knows the program has helped the right people and they have to be able to pay the loan back or they would not qualify; and she is a fan of the program and if the Board has to tweak it to make people more comfortable with it, she is good with that.

The Board of County Commissioners, in regular session on July 20, 2021, discussed repealing Resolution No. 18 040, implementing legislation for the PACE Program, but took no action.

Result: TABLED

J.5. Financial Incentive For Resident Reporting of Waste Management Missed Pickups

Commissioner Tobia stated on October 1, 2020, Commissioner Lober introduced an Item seeking an identical program to the one that is here; in May of this year, after repeated

complaints, Commissioner Lober reintroduced the Item which failed 2:3; now there is data to back up the statements that were put forth; he passed out a graph attached to the Agenda Item; and staff has gone above and beyond by opening the landfills till a later time so Waste Management would have more opportunities. He added clearly, Waste Management is getting worse, they were not good to begin with, but getting worse; the Board has brought it up and said it is going to exercise parts of the contract the exact same way Waste Management exercised parts of the contract when they pulled out of it to receive a 39 percent increase; everything that was requested by Commissioner Lober was what Waste Management argued for; Waste Management is not a mom and pop company as their Chief Executive Officer (CEO) made \$12.4 million last year, and \$11.8 million the year before; and this is a large employer that pays their employees an absolute ton of money, so they can afford to pick up the trash that the County has contracted them to do. He went on to say the Board needs to exercise the contract when they do not meet that standard; the number of verified missed pickups over the last couple of months has more than doubled; this is getting worse, so he would ask that the Board exercise this part of the contract and authorize staff to create and implement a program with formalized procedures incentivizing reporting of future solid waste collection items and delays, with payment to parties reporting legitimate complaints; direct staff to verify claim and withhold maximum justifiable liquidation damages value allowed under the County's contract with Waste Management until further direction of the Board; and authorize the Chair to execute all documents necessary for these changes. He added these were verified missed pickups, not complaints, as these have been verified by County staff; and it can be seen that it is increasing.

Commissioner Lober stated Commissioner Tobia mentioned that they are hardly a mom and pop shop; the 39 percent increase, he has had constituents ask him where that money has gone; he does not know where all of it has gone, but he knows where some of it has gone; he learned through County staff there has been quite a bit of lobbying done by the waste collection industry to amend Chapter 403, Florida Statutes and he is shocked there has not been many news articles on this; what matters and the operative portion, from what he gathers, is that it would require the County giving Waste Management three years notice before terminating the contract with them and be obligated to pay them an amount equal to the company's preceding 18 months gross receipts for the displaced service in the displaced area; and this not only denigrates home rule, but it also interferes with freedom of contract, which can be gathered from the last Agenda Item is something he feels strongly about. He added it is one of the lease capitalistic laws or amendments to a law that he has seen come out of Tallahassee, and an incredible disappointment that the legislature thought was appropriate to put in place; the level of complaints from his constituents is at an all time high with respect to Waste Management; he appreciates Waste Management appearing to do what can be done on a case by case basis, and helping some of these folks with respect to addressing the missed pickups, that should not be occurring in the first place; instead of spending money on lobbying to screw the consumer and constituents here and to extend the middle finger to home rule, that money should have been used to increase the wages to a more competitive level to get drivers; and he gets that Amazon is a problem for them, as it is not as sexy and glamorous to drive a green truck as it is to be the cool guy dropping off gizmos. He stated the problem is with any amount of money being spent on lobbying, that money has an opportunity cost and if they have problems picking up and servicing the areas that they are obligated to serve, all of the lobbying money should be going to that instead; he is not going to repeat what he has said in prior meetings; and he is supportive of this.

Chair Pritchett stated that her and Commissioner Lober's districts have been hit the hardest with the misses; she called the County Manager and told him that she was over it and she is going to give them 60 days to get this turned around; she thinks the end of that 60 days is August 20, 2021; she knows there are problems with getting staff, it is Statewide, but her

community is getting jerked around; she has calls continually reporting missed pickups, which is uncomfortable; and she thinks they are in over their heads. She added she does not know how to fix all that; she thinks they need to invest more money to get drivers or the contract needs to be renegotiated; she is going to agree to a maximum penalty as of August 20, 2021, and hopes they get it settled by then; either that or they need to renegotiate a new contract for probably less money; and she knows it is a big job but she just cannot have the community keep calling about missed pickups. She stated she knows they are trying but something has to be done to fix it; she knows one day a week is not popular but maybe that is where they need to go so at least people know they are getting the garbage picked up one day, and the contract drastically reduces in cost; she is probably not comfortable picking up funds to pay the people to complain, as she does not think that is a good idea, and it initiates a whole other thing that she does not want to deal with; and she thinks if it is imposed, she wants the payments to go to the County for funds to help negotiate a new contract later.

Nathan Slusher stated he wanted to make it clear that he understands there is an issue between the County and Waste Management; his only issue is the incentive and he is there to speak on the citizen's behalf, not on the contract; reading through the legislative text, he would like to believe that this proposal was written with good intentions to only hold Waste Management accountable after the increase in the contract; at first glance, the proposal seems great for the citizens but it does fall short in a few areas that concern him; and fiscal impact is quoted as unknowable and people are supposed to agree with it and move forward and hope it never costs the taxpayer a dime, but unknowable should always be a red flag. He added he pulled the census data to find out how many houses are being talked about but he does not have Waste Management's specific number; according to the census, there are roughly 90,000 houses in unincorporated Brevard, so if there are only 300 missed, that is .0003 percent as a problem; he is sure there are plenty that are unverified, but it seems to be a very small issue; the plan to withhold it is not applicable to rentals, as it specifically states in the text, and if somebody who rents a house, which is 25.7 percent of the County, has a missed pickup, the landlord gets the money instead of the renters; and back payment are proposed back to August of 2020. He stated his point with the incentives is that if something goes wrong and Waste Management goes to court and wins, then the taxpayers pick up all the costs, which is his fear; and he wanted to re-emphasize he believes the proposal was built to hold them accountable but he wants to take a look at what it could cost citizens if something were to go wrong.

Sandra Sullivan stated as a community leader in unincorporated on beachside, there are a lot of residents that do not know where to report and she would strongly urge the County to have online reporting; a lot of people use their phones and apps and it is much easier to just plug in the information in a centralized place; right now they do not know where to go on the County site to report a missed pickup; she ends up doing it on their Facebook page for the community when she sees people talking about it; and she recently had her trash sit on the road for four days on multiple streets. She added there is a degradation of service; there was a recent Florida TODAY article talking about if there is a washing machine size amount of yard waste, it must be called in now and that is exceedingly inconvenient from what has been done in the past, as her yard generates that much yard waste on a weekly basis; that is a big degradation of service from her perspective and a pretty big one if she has to call in every week or every other week to have the yard waste picked up; so far, it has been picked up as normal but that is a concern for her; and she would not be in favor of residents getting money for submitting complaints, as she thinks it should go to the County.

George Geletko, Waste Management, wanted to share a few thoughts about the County solid waste and recycling program; the County is in uncharted waters with the China pandemic; no one asked for this, as it impacts all of us negatively; people live in a great nation with free

elections and elect the Board into office to guide the society through difficult times and to support people and industries that provide us with a quality of life in a time of need, such as now; in Brevard County, the population is over 610,000; and Waste Management touches well over 100,000 residents and commercial businesses per week with garbage twice weekly and recycling, yard waste, bulk waste, bulk trash, white goods, electronics, and cart repair once weekly, and commercial businesses from one to six times weekly. He added there is a potential of two million touches a month, with four to six hundred issues logged per month; many are for service requests, many are for residence non compliance issues, some are weather related, mechanical issues, or traffic incidents, and in the last year, COVID 19 related; when looking at the number of issues that come in on a monthly basis, one would see five decimal points of one percent; although the government started out with good intentions, it extended into an employment nightmare; and all industries are suffering today. He went on to say the Board is government and can help by enforcing its own collection rules, as it can be negotiated in the contract; and creating incentives to complain, not enforcing its own contract collection rules, and educating the general public.

Commissioner Tobia stated he had questions about this China pandemic and how it has negatively impacted and everyone is suffering; he mentioned he pulled the U.S. Securities and Exchange (SEC) filings and last quarter, revenues were up \$185 million in Mr. Geletko's company; and he asked him to explain how he is suffering, and how his company is up \$185 million.

Mr. Geletko replied he would explain it to him this way, six companies in 2013 attended a pre bid meeting, with three submitting proposals; and only one company committed to a \$50 million capital investment to help the County reach its goal.

Commissioner Tobia interjected that was not his question, his question was...

Mr. Geletko exclaimed to let him finish his statement.

Commissioner Tobia remarked if he would answer his question, he was welcome to; and he made \$185 million...

Mr. Geletko replied he was answering his question.

Commissioner Tobia asked Chair Pritchett if Mr. Geletko could be asked to answer the question, as he was given his three minutes for BS, which is what it got; the problem is they are making excuses and not picking up the trash; they claim they do not have drivers and are picking districts in which the Commissioners are not supportive, which are getting short changed; last time it was Commissioner Lober's district, as they decided they were short drivers in his district; and he mentioned he was next. He stated until the Board does something, this type of behavior is just going to continue; it may be .03 or .05 percent, but the problem is this stuff is sitting out there when the consumers are paying a 40 percent increase; the fact that they are suffering but the profits are going up, and their Chief Executive Officers (CEOs) are making tens of millions of dollars; and he has trouble answering these emails and phone calls.

Mr. Geletko stated his company made a \$50 million investment in this community to support its infrastructure, and without that financial weather all, this could not have ever happened; and there were three other companies that had the same opportunity.

Chair Pritchett interjected and stated she was going to have to call his time, as she thinks they

are not getting anywhere on this path; and she has Dina Reider Hicks next to continue the conversation.

Dina Reider Hicks, Public Affairs Manager for Waste Management, pointed out that Commissioner Tobia was correct with regard to its earnings, as they are a for profit company and she will not apologize for that; he is also correct in his assertion that they pay their people a ton of money; unfortunately, the situation they are facing is a shortage of drivers, not a lack of equipment or a lack of infrastructure, but has been the result of a multiple array of issues she thinks all are well aware of, that has been experienced not only in their industry, but others; they have taken that ton of money and raised driver pay significantly to the fact that they among the top, if not the top, compensator in the industry with regard to the full package they offer; and they have instituted substantial signing bonuses for drivers and technicians in Brevard County, with some bonuses of \$5,000. She added they have enhanced their employee referral program to encourage their employees to bring more drivers and technicians to them; they are paying for college education for all of their employees and dependents; if someone does not have a Commercial Driver's License (CDL) and they are a promising candidate, they will also pay for the CDL training and licensing to bring more drivers on board; they are facing this critical shortage of drivers and that is the crux of the issue; and they have

made gains. She stated in the northern part of the County with their Cocoa hauling district, they have five individuals that have been offered positions that are pending a background check; they have two new drivers starting this week and two more starting Monday; in the central and

southern portion of Brevard, they have made 14 offers to individuals, with eight of those in training and six of them pending a background check; and provided they pass the background check, they will go into the training program. She mentioned when driving an 11 ton truck, they are not hired and put immediately into the truck; they have a comprehensive 90 day training program to make sure when they are put into the truck, it is as safe as possible to do so, as safety is an issue where they will absolutely not compromise; she stated there is a path forward, and they are extending offers to individuals and doing all that they can to recruit more candidates; and she thanked Commissioner Lober publicly for the role he played in helping to reduce the incentive programs that were coming into the State to help bring more individuals back into the workforce.

Chair Pritchett asked if they just hired for all those positions and more are coming online, if they would be able to hit that 60 day deadline she threw out earlier.

Ms. Reider Hicks replied they are really pushing for that.

Chair Pritchett remarked if they could do that then the penalties will not come in or anything.

Ms. Reider Hicks stated there was a member from the Florida leadership team here and hearing everything being said; unfortunately, this is a Statewide and a nationwide issue and it is not just Waste Management, every single hauler and potential contractor is facing this issue; the district manager and the senior district manager have been given carte blanche from their supervisor to get whatever subcontractors they can in the area; they brought DCI in and asked for everything they had, every driver, every piece of equipment, and they would pay their price

for those; and they have brought DCI drivers in to collect more of the clam yard waste. She added they asked DCI for more and were told they were given everything they had, as they had two trucks sitting because they could not find drivers; and they are bringing in drivers from other areas as they can.

Chair Pritchett asked how many more positions needed to be filled.

Ms. Reider Hicks asked her district managers and was told four for the south and six for the north.

Chair Pritchett asked how many positions are advertised to fill.

Ms. Reider Hicks replied they have multiple positions advertised from entry level technicians through senior technicians on the mechanic side, and on the driver side there is everything from driver helpers all the way up through senior drivers.

Chair Pritchett asked if all those positions are advertised.

Ms. Reider Hicks replied they are advertised on Wastemanagement.com and on multiple national job boards; they have purchased billboards along Interstate 95.

Chair Pritchett asked if for everyone that applies, if they are trying to run through the path to get them busy driving.

Ms. Reider Hicks replied absolutely, anyone that meets the qualifications; and they have conducted local job fairs and hired some on the spot if they qualify and putting them through the background check and training program.

Chair Pritchett remarked hopefully she gets that because as of August 20, 2021, it will get expensive; and she thinks right now, they are over their heads, so if they do not pull this off, the Board needs some type of plan because she cannot continue to let the community suffer through this.

Commissioner Zonka thanked Ms. Reider Hicks for contacting her office when she has complaints and needs; she feels bad because she is the one that takes the brunt of it coming to the microphone defending Waste Management, but she is at her wits end and getting to the point to where she gets tired of looking at the trash cans because it is late; if subcontractors were the issue before, she asked why was Waste Management not subbing out before; and if they had the right number, they would get the drivers, bottom line; and she does not know what it is going to take, but she is done defending Waste Management. She mentioned contacting another elected official in the City of Palm Bay and they said they were not having issues with Republic who just took over Waste Management's contract; they had to come in with all new infrastructure and were told multiple times they would fail; they still have some things to work out, yet they do not have the number of complaints in her non scientific opinion; it makes it really hard to defend Waste Management because they were so good and now they are failing; and the Board keeps asking and begging to fix this and hearing excuse after excuse, so it is hard to defend. She knows what the company is capable of and it is hard to swallow when looking at the profits for the past year and what the CEO makes; and she is prepared to take whatever action the Board wants to take at this time.

Commissioner Smith stated he is listening and he is frustrated, as he has had some issues in his district; he walks his dog and sees the yard waste; back in May, there was one pile that had

some oak in it and he went back with his chainsaw in a hurry because he thought it would get picked up; as of about a week ago, that pile was still there, so he is seeing it in his district as well; he is not as emotional as his fellow Commissioners, although he is not happy with Waste Management's performance; and he looks at it as black and white. He stated the County has a contract with them and if they are failing the contract, there are remedies; if they can live with those fines, which he thinks is around \$39,000, that some people may argue is pocket change for them but it probably represents the salary of a driver for a year; they are business people and they know they have a problem and are working hard to fix it; he has every faith that a company as profitable and as big as they are, will figure it out, or their heads will roll; and if they fail the contract, the County is going to levy fines against it and they will have to pay them as it is part of the contract. He added they need to get their act in gear and fix it, bottom line; there is a deadline of August 20, 2021; the Board will see in a month from now and hopefully they can make the Board happy; and at least he knows that they are going to make every effort to do that.

Commissioner Lober asked how many Waste Management employees were at the meeting and did any of them have their CDL license.

Ms. Reider Hicks replied six and yes they have CDLs.

Sara Wagner stated she did not know this was on the Agenda and she was actually here for something else; she actually lives on Adamson Road directly across from the dump; she owns three homes in District 1 and says that Waste Management misses a pickup at least once a month, which she never reported, and that is just for her home; she lives directly across from the dump and she is affected that much; on that one road, there is constantly debris from the trucks that does not get picked up; and there is yard trash that never gets picked up and that is on the dump road. She added a person could drive down that road every day and wants to know the excuse for that road, as it is only one road in Brevard County; and she pays an astronomical amount of taxes in the County.

Chair Pritchett asked Ms. Wagner to call her office when her pickup is missed.

Commissioner Lober mentioned as to that area, he was over there last week and there was a pickup truck with a fridge vertically in the back and it came right off and shattered all over the street; he has great dash cam footage if anyone should want it for the public record; he wanted to address a few things that were mentioned by the speakers on this item; first, he went on Google and typed in "missed pickup Brevard County" and the first result is BrevardFL.gov and if the link for curbside collection is selected, on the header to the far right it says "file a complaint"; and he talked with the County Manager months back and asked him to make that option available online or to see about having it more prominent, which it is. He added on the Solid Waste portion of the website, there is an icon with a pen and paper as well to file a complaint; with respect to Ms. Reider Hicks, he likes her a lot and thinks she is a very nice person, but her company he does not like so much, and he asked to not take this personally; anyone shy of god almighty could not have done anything beyond what she has done in her position; and there are six Waste Management employees here with at least some of whom having their CDL license, so he hopes there are no missed pickups today, because if so, there is no reason to have anyone with a CDL license from Waste Management sitting here to try to justify or explain why they are in this situation. He went on to say as to the unknown financial or fiscal impact, the unknown is as to the amount of damages that Waste Management would have to remit or credit the County, so it is an unknown in the positive direction for the County; as far as it not being applicable to rentals, is true in a way and untrue in a way; rentals are not excluded, the bottom line is the person that pays the bill is the one who receives the credit; if

someone wants to negotiate their lease where if the credit is extended, it is transferred, the County is not going to interfere with freedom of contract with respect to that; as far as losing a lawsuit, there has to be a cause of action specified for a lawsuit and he is not aware of a particular cause of action that would be a great fit for them; what it amounts to is the County exercising its existing contractual rights and remedies; and if they do not like that, they should not have entered into the contract. He stated the question for him is what the limit is; he has heard the same things today that he heard the last two times he brought it up; he wishes Commissioner Tobia success on this where he has failed twice; he looked up the definition for insanity and it is doing the same thing over and over again and expecting a different result; he asked if the Commission, as a body, is insane; and he thinks there is an opportunity to show the public that it is not. He mentioned nothing has been done on this topic to expect the service to magically change; he is at a point where he thinks something needs to be done; he likes the folks from Waste Management that are here today but either they do not have the authority or they do not have the ability to change it, either way, this needs to result in something occurring that will change the equation for them; if they are just told they are bad and not to do it again, they are not going to change; he has no hope that this is going to be any different; and he is ready to vote today.

Commissioner Tobia stated he understands why Chair Pritchett is giving them 60 days, but unfortunately what she is threatening, the County is already doing; the issue is one of her constituents...

Chair Pritchett interjected by stating she was about to jump in with what the Board wanted to do as of August 20, 2021; she was getting ready to jump in with other things; and she did not know this was going to be brought up.

Commissioner Tobia stated he would be willing to amend the motion on the floor; what he would like is contemplated in the motion that it is brought back to the Board so it is ready to go on that day and he would like to set a number here; the chart is here, 100 is when it was first mentioned, and he does not know what the magic number is but it keeps getting larger; these are verified numbers, not numbers of those who are calling, as they are ones that the Board agreed upon; and if it is more than 100 after the next meeting, he would amend his motion to begin the program after August 20, 2021, if the number of verified missed pickups be any more than 100.

Chair Pritchett stated her only other thing is she would like the money to come back to the County because she has a feeling it will be spending a lot of money to get a new contract; and it is still going to cost them.

Commissioner Tobia stated that causes issues for a number of reasons; the legislature precludes the Board from doing that; the constituents in District 1 have to be dealt with as there is no incentive for her to complain; it is not that they have missed 300, they have missed 3,000 but 2,700 have not called; it is wonderful that she took the time to come here but the Board needs to find out what the number is of the people that just take this as normal; and remember this company caused the Board to go back and assess an almost 40 percent increase. He added that they exercised the contract so the people need to be incentivized to contact the office; the only way to get that true number is to provide them a share of that missed amount; he does not remember what the number was, whether it was \$20 or \$25, but there needs to be that incentive for them to call and complain; and remember these are verified complaints.

Chair Pritchett remarked the Board can research that part still, even if it makes this motion it can still figure out those details; she asked if that was correct; and that is the only place she did

not spend a lot of time.

Commissioner Tobia responded there has to be some stick; and if the Board says it will give them until August 20, 2021, and then does the exact same thing it is already doing, that is not a threat.

Chair Pritchett asked can the Board be ready to do this on August 20, 2021, but come back the next meeting with how it will implement it.

Commissioner Tobia asked to defer to Commissioner Lober since this was initially his idea.

Commissioner Lober stated first, the initial proposal was for \$20 going to the ratepayer if they call and an additional \$5 if they report it online, and that applies to verified missed pickups; it saves staff time and having to deal with it by fielding a call; as far as the number suggested by Commissioner Tobia of 100, he would just be clear that if that is the trigger, and it falls to 98 next month, that it not obviate the program and do away with it; it will remain once it hits 100 until further direction or order of the Commission; and he is somewhat cynical and understands it is a possibility that certain entities might be inclined, if there is going to be a service failure, to target those districts in which the Commissioner has been least favorable to them. He stated he is not saying that is happening here but if that is a concern, he would support in addition to specifying a Countywide number of verified missed pickups, if Commissioner Tobia wants to have a second number that either/or would trigger it; he could say 30 in any individual Commission District, or whatever number he is comfortable with; it could be 100 Countywide or 30 in one district, it could not be all piled in one district for it to have all the problems; he would not want to see that happen, and he does not know that they would do that; and he hopes that they would not, as he does not think they would. He added if Commissioner Tobia wanted to throw that in as a second trigger, he would be fine with that too.

Commissioner Zonka mentioned what she was going to comment on is going to sound completely out of place since so much discussion has gone on; she wanted to say it for the record that Ms. Reider Hicks has been the most responsive individual to her office and she is impressed; she emails back even when she should not be working; she wanted to thank her as she is probably bound by the limitations she has, but she is courteous, professional, and good to the residents that she responds to; and she cannot give her enough praise. She stated she just had to say that and she thanks her enormously; that is why it makes it hard for her because there is a tendency to get emotional about things and personalities and relationships are interjected; and she is prepared to move forward.

Chair Pritchett stated she would like to bring this back at the next meeting to figure that out; she still has a bit of heartburn about trying to facilitate getting money to people who complain and does not know the cost on that for staff; and she has not had enough time to think that through because it is the first time she has even considered it.

Commissioner Smith agreed that Ms. Reider Hicks is doing a good job; he did not want to be remiss and not say it also; he cannot say that any of the folks have not done a good job; and he asked Eden Bentley, County Attorney, if the Board can do this and would it work.

Attorney Bentley replied it can be tried and whether it is effective or not, she could not say.

Commissioner Smith remarked that is not the question; and he wanted to know if legally the Board can do something like this.

Attorney Bentley replied as with any new program, she is sure they will hear challenges from one side or the other and will deal with it as it comes.

Commissioner Smith stated he is not in favor of it; there is already a contract that provides penalties; people need to know that they can call their Commissioner; they do not even need to be local to call his office; his office will keep tallies on that to go to Waste Management and to the County for reimbursement; and he thinks maybe the County needs to do a better job of letting the public know they can reach out to the Commissioners. He added that it looks like he is one vote out of five that is not going to support this; he understands where the other Commissioners are coming from but there is already a contract in place; they are failing the contract and paying the price; he does not know how to incentivize them to do a better job because their jobs are on the line, as their bosses do not like hearing that customers are unhappy; they are not twiddling their thumbs because they do not care, they have a problem and they are trying to fix it; and if they do not fix it, they will not have a job.

Chair Pritchett stated she is in favor of penalties, she just does not know how to distribute them; she is not ready to vote on how to place the penalties and give them to the individual homeowners; but she is in favor of that.

Commissioner Zonka mentioned that most people do not know their trash has been missed until the end of the day and most people do not have the time or know who to call; they are calling the wrong offices, as sometimes her office gets forwarded messages; when trash is missed at her place, she does not call, but hopes it is picked up the next day; usually it is just late or the next day and she can be a little understanding with that; then there is the yard waste that is growing weeds from sitting there for weeks and weeks as the yard waste clam trucks drive past it; and maybe the homeowner did not call it in like they are supposed to, but the driver still sees it. She added she thinks Waste Management needs to do better; she does not think it should be put on the residents to call and complain about it; the goal should always be to get the trash and the yard waste picked up; she does not want to incentivize to call but if it makes Waste Management do what they have to do to make things work better, then she is okay with that; they do not want to be penalized for it no matter who the money is going to; and if it is verified then residents cannot just call randomly without some sort of proof.

Commissioner Lober stated he agrees there is an existing contract in place and the County has been abiding by it; the Board is not talking about any action that would cause a change to that contract, as it remains in place regardless of how this vote goes or the motion is phrased; as far as Waste Management paying the price for service failures is part true; the proper way to phrase it is they are paying part of the price because the extent of the issues is unknown; he showed a chart of missed pickups but the Board does not know what percent it reflects; and folks do not know where to report the missed pickups. He added he has encouraged folks to call Solid Waste so it can maintain a Countywide tally instead of the Commissioner's offices and it could reach out to Waste Management to lobby on their behalf to get the pickup corrected; he suggested Commissioner Tobia makes the motion to implement this program and direct staff to come back at the next reasonable opportunity to bring options to the Board for remitting the payment or crediting the consumer; in the meantime the Board knows they are going to be credited effective the date it is triggered and will address the mechanism by which that takes place, after staff has the opportunity to make their suggestions; that particular portion of it would not have to be figured out today, as he does not want to hold everything on account of one small piece being an unknown; and that one piece can be revisited, not whether it is going to pay the incentive, but how it is paid.

Commissioner Tobia stated he thought that is a decent compromise; he just thinks something

needs to change, as the Board says Waste Management has until the August 20, 2021, to do this or the County will collect it, but it is already collecting it; something needs to be changed on August 20, 2021; he thinks if Chair Pritchett is not comfortable, then maybe staff or the Board can bring something back but that deadline needs to be there; the Board needs to find out what that real number is if she is not comfortable with \$25; and Waste Management has control of this, as the Board could charge \$100 and they would have the ability to pick up trash to avoid that. He added that it would not really matter to them because, as Commissioner Smith said, \$39,000 in fines, which is one third of one percent of what the CEO made last year; he loves for profit companies, but he loves for profit companies that actually do what they are supposed to do; the fact that they have six people here, shows they are worried about the County exercising part of the contract; they did not worry about that when they got out of the contract so they could charge the County 39 percent more; take the email excuse from Ms. Reider Hicks

and end that to the single mother that is not having the trash picked up; and he bets the response

would be "yeah, they are trying their hardest". He asked that the email is sent to the people with

missed pickups; he mentioned there is one person right here and he would be more than willing to ask her what she thinks of the email that says they are trying, as she lives right across from the

dump; the Board needs to do something and it cannot be the same exact thing it is currently doing;

maybe there is another alternative here, as he likes the one Commissioner Lober had, but again,

if Waste Management does not like it, it can be fixed by doing their job, the one they promised to

do when they signed the contract; and remember when it benefited them to get out of their last contract, the first thing they did was increase rates, which turned out to be 39 percent. He went on to say the contract allowed them to do that; he was mad initially, but the former Commission

decided to give them an out, and he is asking the Board to do the same thing; the contract allows

the Board to do this but they are not happy about it, but they signed the contract; this is a multi-billion dollar corporation; they are an intelligent actor and the fact that they have six people here is probably a pretty good indication that they have the ability to remedy this; but if they are just asked to do it and do not change anything, the numbers are going to get larger. He stated Ms. Reider Hicks' emails are going to get longer and trash is going to continue to not be picked up, and the Board will not know about it, unfortunately; and if staff is asked to bring back some options

at the next meeting, the deadline needs to be kept, and the number of 100 needs to be kept, and

a decision is made at that point.

Chair Pritchett remarked she is good with all that; but she does not know what it is going to cost to get the money and mail the money out.

Commissioner Tobia stated Waste Management has the ability to fix this; god forbid, he hopes the Board does not have to do this because they have the opportunity to drop this 100 and it is never brought up again; and he really hope that happens.

Chair Pritchett remarked she is good with that if the Board is okay with August 20, 2021, because she wants to keep her word; she would really like for staff to come back and let the

Board know if there is a cost; she would just like some input on that; and it is not his fault, she just did not spend the time to ask them offline before the meeting.

Commissioner Lober mentioned to Commissioner Tobia that if he wants, he is still amenable if he wants to make a motion today to trigger these particular actions, either upon a threshold of 100 or if he wants to add a second trigger per district, or otherwise, and have the mechanism by which a portion of the liquidated damages would come back and be remitted to the rate payers; he feels he would have the support today; if he would prefer to wait on it that could be done; but he would hate to see the momentum lost because the Board waits.

Commissioner Tobia stated he thinks it comes down to Commissioner Zonka; if she is willing to do that or rather wait with three options; the question is if the Board wants to talk about it for an hour at the next meeting; he was going to ask how many folks are either employed by Waste Management or have contracts with Waste Management, but the follow up on the CDL was a good one; and he asked Commissioner Zonka if she wanted to institute the penalty now or talk about the possibilities of instituting the penalties at the next meeting.

Commissioner Zonka replied it depends if he wants full Commission buy in as far as the deadline; if he changes the deadline, it does not matter if the penalty is in place because the Board is still going to do the penalty; she is fine either way because the will of the Board is going to institute the penalty, but as far as logistics and how it is implemented, that is up to staff; if the Board agrees there is going to be a penalty by August 20, 2021, that will not change from this meeting to the next; she is ready to move forward any way which the Board would like to because the details of how staff is going to handle it can be talked about afterward; the payout amount to the consumer could be less the cost of the County; and that is how it would be worded.

Commissioner Lober stated if Commissioner Tobia wants to skip the trigger and just say effective immediately or the first month that service failures hit the threshold he wants, his motion would be to direct staff to seek all available contractual remedies in the form of liquidated damages for service failures from that point until further direction of the Board; and in the meanwhile, his motion contemplates directing staff, additionally, to come back to the Commission with options for how to share a portion of the liquidated damages with the rate payers pending verification of the actual service failures.

Chair Pritchett stated she would vote if August 20, 2021, is included because she gave her word.

Commissioner Zonka asked if there was a dollar amount.

Commissioner Lober stated it could say that tentatively, the intention for the Commission is to share \$20, less administrative costs for verified phone reported missed pickups, or \$25, less administrative costs for verified electronically reported missed pickups, with the maximum to be refunded in the course of any year being what is paid for the actual service; so they cannot receive more of a credit than the full cost that is paid over the course of a calendar year; and if the Board wants him to make that motion, he is fine with it.

Chair Pritchett asked if that included August 20, 2021.

Commissioner Tobia stated it seems like August 20, 2021, is a buy in on this one.

The Board directed staff to seek all available contractual remedies in the form of liquidated

damages for service failures by Waste Management beginning August 20, 2021, until further direction from the Board; authorized sharing the proceeds with the rate payers who report these failures as follows: \$20, less processing or Administrative costs, for verified phone reported missed pickups, or \$25 for electronically reported and verified missed pickups using the County's online system, less administrative costs; and authorized that the maximum amount that any rate payer would receive in the course of a year, would be what they pay toward the actual service.

Result: APPROVED

Mover: Bryan Lober

Secunder: John Tobia

Ayes: Pritchett, Lober, Tobia, and Zonka

Nay: Smith

K. PUBLIC COMMENTS

Chair Pritchett asked Abigail Jorandby, Assistant County Attorney, to step to the podium to congratulate her and speak for a minute.

Attorney Jorandby expressed her appreciation and stated she is excited for this opportunity; this is her dream job and she is all in for the Board; she has only been with the County for a couple of years, but she loves the staff, loves Brevard County and the residents; she is here to serve the Board and the residents; and she is so excited.

Commissioner Zonka stated she was going to save this for a private conversation, but she hopes Ms. Jorandby does not hold her bias towards the first candidate against her; she would not be doing her job if she did not fight for her candidate; she thinks Ms. Jorandby is amazing; they had a good interview and she hopes they can continue with a good relationship; she mentioned she and Attorney Bentley did and she did not support in house then, because she wanted more options; and it is nothing personal, as she is talented, brilliant, and she looks forward to working with her.

Attorney Jorandby remarked she is looking forward to serving the Board and the residents.

Nathan Slusher mentioned this was more of a technical suggestion that staff may be better at than the Board; it has been brought to his attention that the people want to see what the Board is seeing on the giant board behind them; like when Parks and Recreation gives options, the Board is saying A, B, C, but nobody knows what A, B, C is; it can be printed out but the people in the room cannot see it; and he just saw the projected for the first time today and he was going to suggest something for public comments, but seeing this, if it could be used more often. He stated it was brought up to him again today; and he just wanted to suggest that it is used to make more transparency.

L.2. Eden Bentley, County Attorney

Attorney Bentley stated she wanted to let the Board know, in case it was missed in the email yesterday, the Obloys have submitted another offer of settlement at \$172,500; they owe about \$350,000, so she is not recommending settlement unless the Board says otherwise; Waters Mark Development Enterprises, LC, had a judgment against the County and the County is proceeding with the appeal; she thinks the Board has an email about that; and she does not see any other route to go at this point.

L.4. Bryan Lober, Commissioner District 2

Commissioner Lober stated his response to the Obloy settlement is no, with a suggestion to maybe save the billable hour and not submit a subsequent settlement proposal; the settlement proposal that he thinks the Board may be amenable to is payment in full of the amount that is owed; if they cannot do that, save time and the billable hour; he wanted to take a moment of personal privilege to let folks know the reason that he had to appear telephonically for the last meeting has a happy ending; and his puppy had his spleen and a lobe of his liver removed. He remarked he loves this dog and it might as well be his kid, as he has no children; the pathology came back benign and he is beyond elated; he and his wife had a lot of sleepless nights waiting for the results and during recovery; for the folks that said a little prayer or kept them in their thoughts, he expressed his thanks; today was a great meeting and a lot got done; and it is always fun having a little back and forth here, as it kind of reminds him of being in the courtroom.

L.7. Kristine Zonka, Commissioner District 5, Vice Chair

Commissioner Zonka expressed her thanks to County staff for coming through once again; there was a request from Aging Solutions because they have received more wards of the State and her chief of staff has sort of been the lead on that; we were able to collect more toiletries for these folks, as they have nobody; she gave kudos to those that helped load the truck today and she has another trunk load; and she mentioned they will always take donations and they always need them. She wanted to express her thanks to Tom Neidert, District Chief, the Brevard County Fire Rescue folks, and the County staff for once again coming through for these folks; and it means a lot to her office and to these people.

Upon consensus of the Board, the meeting adjourned at 12:38 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

RITA PRITCHETT, CHAIR

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA