

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, January 11, 2022

5:00 PM

Regular

Commission Chambers

A. CALL TO ORDER 5:03 PM

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

C. PLEDGE OF ALLEGIANCE

Commissioner Tobia led the assembly in the Pledge of Allegiance.

Consent Item Pulled

Chair Zonka asked if the Commission has anything they want removed from Consent.

Commissioner Lober responded he would like to pull Item F.8., Bill Folder - Court Administration Travel Request.

F.1. Contract for the Save Our Indian River Lagoon - Melbourne Tillman Water Control District Mechanical Aquatic Vegetation Harvesting Project (Districts 3 and 5)

The Board authorized the Chair to execute Contract No. Save Our Indian River Lagoon (SOIRL) 21-171 with Melbourne Tillman Water Control District for mechanical harvesting of vegetation from the District's Canals.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

F.2. Approval, Re: Warranty Deed and Bill of Sale from The Viera Company for Additional Conveyance to Support Lift Station W31, Sendero Cove and Sierra Cove at Addison Village Phases 4 and 5- District 4.

The Board accepted the Warranty Deed and Bill of Sale from The Viera Company for additional conveyance to support lift station W31, Sendero Cove and Sierra Cove at Addison Village, Phases 4 and 5.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

F.3. Approval Re: City of Melbourne Request the Renaming of Lipscomb Street Regional Park to the Eddie Lee Taylor, Sr. Community Complex - District 3

The Board approved renaming of Lipscomb Street Regional Park to the Eddie Lee Taylor, Sr. Community Complex.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

F.4. RE: Approval to extend for 90 days a Use of Space Agreement with Merritt Island Volunteer Fire Department.

The Board approved a Contract Extension with Merritt Island Volunteer Fire Department for 90 days to April 27, 2022, to allow the parties to incorporate terms and conditions for the continued use of space into the existing contract for Fire Protection and Rescue/Emergency Services.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

F.5. Approval, Re: Budget Change Request

The Board reviewed and approved the Budget Change Request.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

F.6. Revision to Board Policy BCC-32, Acceptable Use of Technology Resources

The Board approved revisions to Board Policy BCC-32, Acceptable Use of Technology Resources.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

F.7. Appointment(s) / Reappointment(s)

The Board acknowledged appointment/reappointment of Loni Phipps to the Art in Public Places Advisory Committee, with term expiring December 31, 2022; Gabriel Jacobs-Kierstein to the Charter Review Commission, with term expiring December 31, 2022; Dan Daniels, Jay Longway, Gordon Mark, and Jeff Vayda to the District 2 Canal Dredging Committee, with terms expiring December 31, 2025; Janette Roig to the Employee Benefits and Insurance Advisory Committee, with term expiring December 31, 2022; Dan Aton and Stan Retz to the North Brevard Economic Development Zone Special District Board, with terms expiring December 31, 2025; and Gerald E. White to the Titusville Public Library Advisory Board, with term expiring December 31, 2023.

Result: APPROVED

Mover: Bryan Lober

Second: Rita Pritchett

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

Consent Item Pulled

F.8. Bill Folder - Court Administration Travel Request

Commissioner Lober stated he would like to pull Item F.8., Bill Folder, Re: Court Administration Travel Request; after looking at this it is clear that a substantial portion of what is being requested is reasonable; he has a concern with another portion that does not strike him as reasonable though; he has driven out of the County a number of times and he has never billed

for a hotel room, not that he is saying that there are not circumstances in which doing so might be appropriate, or allowable, however, in looking at this, it is a two-day event; he noted that this is in Kissimmee, which is roughly 60 miles one way and it takes about one hour and one-half maximum; and he thinks that is a pretty good time estimate, because he used to work in Kissimmee. He added to have two nights of a hotel and two dinners for a two-day event does not make sense to him; it means when the event ends on the second night, not only are they staying the first night but they are hanging out and getting dinner on the taxpayer's dime, and then going to sleep at the hotel instead of going back for that hour or so drive. He advised he is comfortable with the \$425 registration fee, the millage should be double at \$141.12, instead of \$70.56 because they should be driving both days, the tolls at \$28 times two and that should be \$56, the parking fee of \$40 he is fine with, and it looks to be in the ballpark of \$480 or so in terms of those expenses; and he would move to approve the \$425 registration fee, double the milage requested at \$141.42, double the tolls requested at \$56, he has no issues with lunch both days at the requested rate of \$22, and deny the request of the other items listed in the travel request.

Frank Abbate, County Manager, advised someone from the Court Administrator is present, should there be any questions.

Mark Van Bever, Court Administrator, advised he can speak to the hotel stay or answer any other questions the Board may have.

Commissioner Lober stated what is really troubling him the most about it, is looking at the documents, and that it appears the intention is to hang out, have dinner on the taxpayer, then go back to the hotel to sleep, and get up bright and early to come back; and he asked if that is not the case, he would love to know.

Mr. Van Bever responded the case is, because of the Interstate Highway I-4 and the U.S. Highway 192 traffic, the person would go the night before because the training starts at 8:00 a.m. the next morning, and then stay the first night, for the second day of training, and when the training is over they come home; and he reiterated it is for two nights in a hotel, but it would be the night before so they do not have that drive in before the training on the first day, which is on the front end and the middle, not on the middle and the end.

Commissioner Lober stated he does not want to dox this person; but he asked if the individual lives in the central, northern, or southern part of the County.

Mr. Van Bever replied he believes it is central.

Commissioner Lober mentioned he has never taken Interstate Highway I-4 going to Kissimmee from Viera and he has always taken U.S. Highway 192; and it has never taken him so long, even for programs starting at 8:00 a.m., that it has been a problem. He stated if the Board wants to approve one night for hotel, between the two days he will live with it; but it just seems like it is a bit much.

Mr. Van Bever stated he understands; he added they are not requesting additional funding and they have a budget that the Board has approved, and he is just requesting that funding be used in this way because when he submitted their Budget Change Request, it was not specified or detailed that this travel would take place; he felt it to be prudent to let the Board know how they wanted to spend their budget, by including the hotel stay; it is the Board's decision; he understands it is drivable and the net cost would be another \$70, as Commissioner Lober mentioned, for mileage if the person commuted both days; it is recognized that it is the Board's

decision; and it is to make the training easier for the traveler.

Commissioner Lober expressed his appreciation for that; he stated maybe folks have a different opinion, because he has driven to Groveland and back and far further than this all in the same day, without it even occurring to him to spend the night; he does not know where folks are on the Board; his motion stands, but is willing to modify it to include one night of hotel; but he still thinks the two nights is still too much.

Mr. Van Bever pointed out he was able to get a fee waiver of the \$425 registration fee and that has been waived because of the position of the person traveling.

Commissioner Lober remarked that is good to know and he appreciates that.

Commissioner Pritchett stated since it is early in the morning, she does not know how confident the person is driving during the middle of the night; and she is okay with the hotel, but Commissioner Lober did bring up a good point because that is only one night of dinner, so cutting off one would be a savings due to arriving in the evening and would have already had their dinner. She added she is probably fine with it and with the fee being waived as well; this, typically is not seen by the Board; and she asked if it is because they did not get them in, in time for the budget which kind-of is making it tough on Mr. Van Bever right now.

Mr. Van Bever responded this specific travel was not anticipated to occur and is related to Family Division Judges, that is a very important update on family law; he stated it was not specifically in the budget and rather than just spend the money, it was thought to be prudent the Board is okay with spending that way.

Commissioner Pritchett advised Commissioner Lober that she does not know what the Board wants to do, but if she had to be on the road at night she would prefer getting locked in to a place safely before having to attend a seminar; and mentioned he is guy so that is a little different.

Chair Zonka stated she is okay with it too; she understands if the training starts at 8:00 a.m., she knows how those training sessions typically go, and they are all day long; she thinks it is not a matter of convenience and not like a 15-minute drive; she thinks it is a good use and she appreciates him getting the fee waived; and she thinks that is pretty incredible that he is saving \$400 out of his budget; she has no problem with his travel request, it is not unreasonable, and it is not unlike anything else, as far as other training within the County; and she is okay with it the way it stands.

Mr. Van Bever expressed his thanks to the Board.

Commissioner Lober stated it sounds like Commissioner Pritchett is good with it, shy of one of the two dinners.

Commissioner Pritchett stated because Commissioner Lober brought that up.

Commissioner Lober stated he appreciates that; and if it does not go the way he suggested whoever makes the motion that is certainly better than nothing.

Chair Zonka remarked she thinks it is nitpicking.

Commissioner Lober advised he will withdraw his motion.

The Board approved the travel request as submitted by the Court Administrator.

Result: APPROVED

Mover: Rita Pritchett

Secunder: Kristine Zonka

Ayes: Pritchett, Tobia, Smith, and Zonka

Nay: Lober

G. Public Comments

Charles Tovey provided the Board with micro marine life construction of his rehabilitation area for the environment; it is falling apart because of the type of material used; he inquired if the Board thinks the virus is being passed through masks, because masks are supposed to keep the virus in and prevent from exposing other people; he stated if the virus is caught on the mask and the mask is laid down here or there, unconsciously the disease is being spread; Eddie Rickenbacker was saved to serve God; and he has been through several death situations. He mentioned every time he goes to Canova Beach there is an accident and if there could be a one-way traffic sign where the faded out do not enter sign is, it might save the population nowadays; and he is halfway done with his property, it should be done by the end of this week, and then he will begin construction on the rest of the house. He advised he does construction recovery in the Indian River Lagoon from Canova Beach at Eau Gallie Boulevard to the County line, which nobody is interested in; and the Board might think he is crazy or whatever, but when it sees what he has to reveal, maybe not. He indicated the guy had not sent the Board a copy of his letterhead, his child had to be airlifted to the hospital, he did not want to interrupt him, and he will contact him this week; he stated they are donating their time and material, so he cannot be too pushy on things which that is part of his problem, he has to cooperate with everybody else as well since he has nothing left; he has a positive and productive thing for the Brazilian peppertree; he tries to look at everything for how bad or good things look, no matter how terrible the situation is; and he will provide photographs of his property by email or get them to the Board somehow soon. He noted he is working on everything; he hopes the Board had happy holidays; and he wished for the Board to have a good night.

Sandra Sullivan stated while the development of the luxury Westin Hotels and Resorts is great news for Cocoa Beach, by replacing the International Palms Resort; she inquired why there is lack of transparency with the County with the proposal to pay \$80 million to build a convention center and a parking garage for this hotel; she went on to say the proposal from Commissioner Lober to the Board was not in the details for the April 2021 meeting; a records request of the presentation was done by the lobbyists, but Commissioner Smith came back with no records found; when the Tourist Development Council (TDC) discussed this, it was eight days after a Commission meeting; she opined it should have gone to the TDC first; and she mentioned a TDC board member had to push hard to put this on its Agenda. She mentioned according to a Commissioner's comment, she did not have a copy of the 19-page document until the morning of the 9:00 a.m. meeting; comments were made by the Board that there was not enough time for due diligence; the developer was in a rush and the County responded with moving ahead with bidding before the Johnson Study was ready; and that Request for Proposal (RFP) meeting with TDC, had Peter Cranis, Tourism Development Director, saying conventions are lost leaders that do not make money, the funding with tourism dollars is an issue in a down economy, TDC dollars will be the first to go, and he expressed concern of whether the taxpayers would be on the hook. She continued to say an inflationary period is being entered

and a recession may be likely; the RFP was to evaluate the Johnson Study which was expected the next week, but that was May 2021; it is now eight months later and the County still does not have the report, hence the contract expired December 31; this business entity has not been able to keep its deliverables for a report, yet, again, is pushing for action now; and what was in the Request for Proposal (RFP) was is not a good deal in a free-market economy, capitalism, and Driftwood is here already. She inquired why the County is evaluating and picking winner and losers. She added that is not fair to the other stakeholders of hotels and that deal eight months ago, is not a good deal for the County; they have removed the profit-making parking garage, reduced the size of the business center to 20,000 square feet, ownership has changed, and the risk to the County has increased on the downside; and the only legal analysis that was done was with hope that the Commissioners will not authorize a new agreement with the Driftwood Study. She concluded by showing the Board the proposal presentation that was done, that she got a copy of from the TDC, and she showed a copy of the letter that went out to the Board that was not in the Commissioner meeting details.

Michael Dagen stated today he spoke to Commissioner Lober regarding the Merritt Island Airport-COI; he does not know if the Board is aware that the Merritt Island Airport-COI is the third busiest airport in Florida, not non-towered airports but all airports, not including Fort Lauderdale, Orlando, Jacksonville, and Tampa, they fly from 7:00 a.m. to 8:00 p.m., and it is mostly one flight school that has foreign flyers coming in and going non-stop; and he has a report that was done for the Titusville-Cocoa Airport (TICO) for October to the middle of December, showing not only the heights they are flying, but the dangers of flying up. He mentioned providing a letter to Commissioner Lober from the Federal Aviation Administration (FAA) that says they will enforce any laws that are brought about by the local government. He stated he would like to bring forward, to require that all flight schools work at towered airports; towered airports control the flight schools by making sure they fly at proper levels, and at proper times; there is nothing worse than a plane being 200 feet above your head at 6:00 a.m. on a Sunday; his other concern is this is a non-towered airport, meaning these planes can do whatever they want and no one can stop them; right now, they have a new satellite company coming to the area, and launching one to two rockets a week; and the cruise industry had seven cruise ships in, just the other day, not at full-capacity, but when adding everybody up it is about 35,000 people there; and nothing can stop these planes, at any point from going to those areas. He went on to say Patrick Space Force Base tells it flat out, if a person contacts them all they can do is watch the train coming at them; and if it was at a towered airport, they would be able to control, see where the person is going, and see their flight plans. He concluded by saying this is being brought up to TICO, the FAA, and Commissioner Lober; and he knows the County Attorney is looking at, but he would appreciate the opportunity to require all flight schools to work out of towered airports.

Commissioner Lober stated he has a few comments to make; first, to Ms. Sullivan, he does not want to rehash this because it would take one-half of an hour to do what he has already discussed at public meetings; there is a 25 minute interview he did this afternoon on Space Coast Daily's website that gets his position across, with respect to a lot of concerns raised; second, as to Mr. Dagen's comments, he advised him prior to the meeting that his office had been in communication with the County Attorney's Office, and he had sent Abigail Jorandby, County Attorney, a hardcopy to review of the document that Mr. Dagen provided him with today; and depending on what she determines what the level of authority the Board has, if any, to address those concerns. He mentioned having no problem going to TICO to determine if they have the same view, a different view, or no opinion whatsoever; and bringing it back to the Board to see if it wants to do anything. He stated in just the few minutes he has had to scan through the document that was provided to him, he is not saying Mr. Dagen's incorrect at all; but he noted there are a few phrases that causes him concern. He stated he will provide the

handout to the Clerks so they can include it in the minutes; he read aloud that the handout says, as long as the pilot or student is operating in a safe manner, they are within their rights to operate at the airport and in the surrounding area, and they cannot be restricted from using the airport or conducting training operations in the surrounding area, and the airspace belongs to the Federal Government and cannot be governed by local authorities; however, it does talk about the local zoning regulations potentially applying and land use Ordinances applying; it may be something where the Board has an ability to do something, but he just does not know; and it is something that is so niche and specific, he would hesitate to do anything until the Board has all of its ducks in a row. He went on to say he just wanted to point those two things out, but if the Board does have the ability to do something after he get TICO's feedback, he will bring it back to the Board to see if there is some desire to look at it.

Attorney Jorandby mentioned Fritz VanVolkenburgh, Chief of Staff, sent her the letter earlier and she believes it is from 2012.

Commissioner Lober noted that is correct.

Attorney Jorandby stated they are looking at the same letter and just briefly looking at some case law, she did see some preemption; clearly the Board is preempted, as far as the Federal air space and that could be a serious issue of the supremacy clause, under the constitution if the Board did pass an Ordinance; typically, the times flights are taking place, whether at night, city ordinances have been reversed by the courts; she would seek direction from the Board if it wants her to pursue and continue looking at it. She added she did look at this letter because it was sent to her regarding this; but if the Board wants something more detailed, she would seek the Board's direction on that.

Commissioner Smith advised he was at the last TICO Board meeting and Mr. Dagen was there, and the TICO Board said that they were going to look into this issue; he has every expectation that it will; the flight school guy seemed to be cooperative; he does not have any further details; but that was the general gist of the conversation.

Commissioner Pritchett advised this is the first she has heard of a concern about this; she stated the Bristow Academy is at TICO; it has been a very good program that has trained a lot of pilots; and she is going to be a little more hesitant about this until she gets something that catches her attention for concern.

Chair Zonka advised she has not received any feedback at all about this; she stated it is the first complaint by one individual; she urged caution; and she appreciates Commissioner Lober going to the TICO Board and finding out what its thoughts are about it.

Commissioner Lober mentioned if the Board wants him to, he will reach out to TICO's legal counsel for an informal opinion as to whether there is anything that can be done; and if the answer is no then maybe the answer is no.

Chair Zonka stated or maybe what kind of feedback that board has received up until today, because if this Board has never heard anything and TICO is not screaming, she would just hesitate for this Board to even put any time or effort into looking into changing something by the complaint of one individual; and she would caution that.

Commissioner Lober indicated that his office from time to time has received other complaints, but he does not want it to appear as though it is literally from one person; he stated he is not going to say that this has been the biggest issue by volume in his office; it is not, and is one of

the smallest issues by volume; but it is not one person. He added if the Board prefers, he is happy to reach out to the TICO board or to its legal counsel to try and get a better understanding of their research done and furtherance of what Commissioner Smith mentioned.

Commissioner Smith pointed out what Commissioner Lober is offering is very generous; but he thinks making a phone call to the TICO chairman, John Craig, and he can fill him in.

Commissioner Lober advised he will start there and depending on what he hears, he will come back to the Board to see if there may be something else that is or is not appropriate to pursue.

H.1. DeRosa Holdings, LLC (Bruce Moia) requests an amendment to an existing BDP in a RU-2-12 zoning classification. (21PZ00059) (Tax Account 2534267) (District 2)

Chair Zonka called for a public hearing to consider a request by Bruce Moia for an amendment to an existing Binding Development Plan (BDP) in a RU-2-12 zoning classification for DeRosa Holdings, LLC.

Tad Calkins, Planning and Development Director, stated Item H.1., is a request to conduct a public hearing to consider an amendment to an existing BDP in Medium Density Multi-Family Residential zoning classification for DeRosa Holdings, LLC, for requested application (21PZ00059), and (Tax Account 2534267) by Mr. Moia; this application went to the December 2, 2021, Board meeting, and it was tabled to this meeting; there was a concern about removing the BDP with the limitation of 13 units and how the rest of the lots would be developed out; the zoning classification only allows for 12 units to the acre, and when looking at the acreage of each of the six individual lots, it limits them to two units to the acre, except for one northern lot which would be three units, and is how they came up with the 13 units; and there is a provision by Code that limits the density on each lot.

Commissioner Lober advised in the interest of keeping this meeting going as well as it started, he is going to make the motion to approve it; he appreciates Mr. Moia having agreed to table this to this particular meeting, because he was not in the position where he could have supported this before; but having had the chance to go over some of those concerns with staff, he is happy with it.

There being no further comments heard, the Board conducted the public hearing and approved amending an existing BDP in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification for DeRosa Holdings, LLC, request by Bruce Moia (21PZ00059) (Tax Account 2534267).

Result: APPROVED

Mover: Bryan Lober

Seconder: Curt Smith

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

H.2. Creation of Proposed Chapter 46, Article XI, Landscape Irrigation, Relating to Watering Schedules consistent with St. Johns River Water Management District model ordinance - First Public Hearing - the second is scheduled for January 25, 2022.

Frank Abbate, County Manager, stated this Item is pulled from tonight's public hearing, it needs to be advertised; only one public hearing is necessary; it is scheduled for January 25, 2022; and he asked for permission to have that public hearing advertised and conducted then.

The Board tabled the creation of the proposed Chapter 46, Article XI, Landscape Irrigation, relating to watering schedules consistent with the SJRWMD model ordinance to the January 25, 2022, Board meeting.

Chair Zonka advised there is a speaker's card for this Item, but since it was not properly publicly advertised, the Board is not going to hear the Item.

Result: TABLED

Mover: Bryan Lober

Secunder: Rita Pritchett

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

H.3. Petition to Vacate, Re: Public Utility & Drainage Easements- 110 Silver Hill Lane - "Silver Hill Subdivision" Plat Book 35, Page 54 - Cocoa - Richard Joseph and Jennifer L. Rasor - District 1

Chair Zonka called for a public hearing to consider a petition to vacate for public utility and drainage easements at 110 Silver Hill Lane - Silver Hill Subdivision Plat Book 35, Page 54, Cocoa, as petitioned by Richard Joseph and Jennifer L. Rasor.

Marc Bernath, Public Works Director, stated this is a petition to vacate a public utility and drainage easement at 110 Silver Hill Lane; Mr. and Mrs. Rasor are requesting a public hearing to consider vacating a public utility and drainage easement and for the Chair to sign the resolution to vacate 43.26-plus square feet of the aforementioned easements, for an existing structure to remain; and there are no objections at this time.

There being no comments or objections heard, the Board adopted Resolution No. 22-001, vacating a portion of two public utility and drainage easements in plat Silver Hill Subdivision, Cocoa, lying in Section 05, Township 24 South, Range 36 East, as petitioned by Richard Joseph and Jennifer L. Rasor.

Chair Zonka stated she had a significant number of card for I.1., so if the Board is okay with it, she is going to go ahead and Item J.1.

Result: ADOPTED

Mover: Rita Pritchett

Secunder: Bryan Lober

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

J.1. Request adoption of Towing Rate Resolution establishing new towing rates.

Motion by Commissioner Smith, second by Rita Pritchett for discussion.

Commissioner Lober advised he does not have a problem with the vast majority of this, but there are a couple items that really do cause him concern; in short, he has two things, one he thinks is mission-critical for him, and two is if someone has a better idea, he would like to see what it might be, as he does not have a solution to the second; as to the first item that seemed to be absolutely percentage-wise massive, as far as an increase is the tarping cost, and he is not suggesting that the actual cost of the tarp is not a certain amount but to go from \$17.11 to \$1,200 for a tarp that is referenced twice, he cannot support; there are some others that he thinks are essentially subjective, but he can live with them; and this is important for people to

realize that this is not something that is impacting people who call American Automobile Association (AAA) or who has a vehicle that breaks down and it needs to be towed, but is going to impact people who end up getting stopped by the police and arrested for Driving Under the Influence (DUI) or driving without a license, due to being taken into custody and their vehicle gets towed. He added if someone is going to make a poor decision along those lines increasing the cost to reflect where the industry is now at, he does not have an issue with; he would be supportive if the tarp was struck; as to the other item of tying it to Consumer Price Index (CPI), he supposes it is better than tying it to nothing, but he cannot help but wonder if there is not some transportation or automotive transportation index that it could be tied to, that is a little more specific to the industry because about one year ago there was Board discussion about utilities and what index it should be tied to; and there was Board consensus that the best index was one specific to the utilities industry, not just CPI in general. He went on to say he does not know whether it is going to work out to be a higher or lower number, but it makes more sense to him if there is a better index to tie this to; he reiterated that is not mission-critical, but the tarping costs to him are mission-critical because he thinks that is an astronomical increase; but the rest he is happy to support.

Commissioner Tobia stated as someone who has been towed, not for DUI but many times while in college, and he may need to drink if the Board passes this; he is going to go over the reasons why this does not deserve a vote or anyone's consideration; base rate increase would go from \$114 to \$238, that is more than 100 percent increase; the mileage rate goes from \$3.12 to \$6, that is almost 100 percent increase; the hourly rate goes from \$75 to \$225, now, he is sure these are professionals, but there are many physicians and attorneys who do not get anywhere near \$225 an hour; daily outside storage goes from \$22.80 to \$55, for \$55 he can park at the Port; inside storage goes from \$28 to \$75, that is relatively a good deal; and as Commissioner Lober mentioned his favorite one tarping that has 7,000 percent increase. He pointed out when there are fee increases and new fees instituted, they are most dangerous; under Class 'D' towing the hourly rate is \$1,250 and there is two hours minimum, and people will be hit with \$2,500; there is a new fee of \$200 to shrink wrap a vehicle; it gets kind-of scary when getting into the details, there is a fuel surcharge for the tow truck to go from the vehicle to wherever it is going which does make sense, maybe; however, the scary part is they are adding in a provision where the tow truck would get mileage from wherever they start; and Florida has a way during hurricanes where it brings down utility companies from other states, so conceivably a tow truck driver could start in Georgia, drive 300 miles, and bill for a few miles tow on top of that. He opined this is crazy to him; he asked what are other counties doing; he stated he spent a little time on that and Palm Beach county has base rate of \$123 and Brevard County right now is at \$114, and would go to \$238, almost double than what is done in Palm Beach; he looked at Duval and Flagler counties and they are at \$109, that is quite a bit lower than Brevard County; Orange County is at \$125; this puts Brevard County right at the top of this; and people who are accused of DUI does not necessarily mean they are guilty of it, but there is plenty of people who park in error, and they should not be penalized thousands and thousands of dollars. He mentioned that he could go into more detail on this and he feels bad for the tow truck drivers; and if the Board passes this, he may go in the towing industry because it is far more lucrative than being a teacher. He pointed out one part that he would support, that he thinks is fair is Section 11, Increase in Rates, per annum of three percent or CPI whichever is lower; an argument he is sure to be made is these rates have not been touched since 2008; if the CPI was computed from 2008 to today, it would be up to 24 percent; he reiterated the base rates and he does not think 23 percent is reasonable because it is at multitudes of that; there are fees suggested to be listed in the ordinance that are not even mentioned in other counties, such as shrink wrapping, oil-dri absorbent, and extra man power; an argument may be made to be similar to other counties; Brevard County is going to be two, to three times higher in fees, and having fees other counties do not have; and for all of those

reasons and many more, he cannot support this because he does not think it is fair to the citizens.

Commissioner Pritchett inquired if there is someone present who is representing this proposal. She stated when her office received this, it started making calls to find out what was competitive; she thinks Class 'A' and 'B' are for regular vehicles, but Class 'C' and 'D' are for semi-trucks that fall over on the Interstate; she knows tow truck operators are going in the hole with the 2008 numbers; she does not know how to find the competitive rates for the bigger trucks, but she knows it takes big equipment to get semi-trucks off the Interstate; she inquired about those Classes being a little higher than what is in the market, they are really close to what the market is charging right now for towing, but she had no where to call to find out about Class 'C' and 'D' because they are regulated; and she inquired how the 14-year change in numbers were come up with.

Kendall Moore responded his particular clients are for the multiple tow operators and may have weighed in on this, they are particularly interested in the Class 'C' and 'D'; his clients particularly are in the heavy tow business where they are responding to wrecks on I-95, and the like, and are using the Class 'C' and 'D' Class 'D' is moving the large, 18-wheeler trucks and others since the price disparity; he thinks what Commissioner Tobia referenced about asking the industry what others have done with price comparisons industry-wide across-the-board would likely come in with a number higher than what the original 2008 Resolution proposes; and are very interested in adding the categories, that did not exist in 2008 Class 'D' because those particular pieces of equipment probably were not in use at that time, and are certainly interested in the increases. He went on to say he certainly understands where Commissioner Tobia is coming from, from a percentage perspective; that is a request that is coming from the local tow operators; and they would appreciate and be open to any request that the Board supports.

Commissioner Lober remarked this is far from mission-critical for him; he advised after hearing Commissioner Tobia's comments, he looked at some things online; oil-dri absorbent is \$30 per bag and regardless of the size of the bag, the bag size may need to be specified because it looks like they come by pails, 32-quart quantities, and 20-pound quantities; the Commissioners will receive complaints and tow operators may end up being sued for the differences of quantities used for oil-dri absorbents. He inquired if there is on-hand information regarding what Commissioner Pritchett was saying of what the reasonable rates really are because he would like to support something to increase this, because it has not been revisited long enough that there really needs to be a profound readjustment to get it back to where it needs to be; and he stated he is kind-of at a juncture where he has heard so much, that he wants to sit on it for a meeting and come back, with having more due diligence based on the concerns expressed today.

Mr. Moore responded for his clients, that an additional meeting with information he has collected, both industry-wide, other counties, other states, and the like would be beneficial for the Commission to review; tabling is not time critical, since they have been waiting since 2008; he knows Commissioner Tobia believes the operators should have rates raised; he agrees there has been significant changes since 2008, with no increase in price; and he is happy to provide information for the Board's consideration. He added that for the future meeting, he would give information to the Board to make its decision.

Commissioner Lober stated if this ends up not passing or getting tabled, he wants to make it clear that he intends to support an increase that is substantial for bringing it to where the rates need to be; and he advised that he had concerns about doing something tonight, so that is

where he is at if people are counting votes.

Commissioner Tobia appreciated Mr. Moore's great job arguing for the industry; and he inquired if he is correct that the numbers provided tonight were asked of the industry themselves.

Mr. Moore replied he presumes so; he stated he knows there are multiple tow operators that have contacted staff or the Board, in relative to that, but not certain of the exact specifics of the ones that are in front of the Board; but certainly, he is sure if they were asked, their information went toward what was provided to the Board in the Agenda Item.

Commissioner Tobia mentioned under no situation would he get close to voting for fee increases that are up to 500 times more than what the CPI would be; he stated he has no right to make an ask on this, because he will not support it, nonetheless, he is going to make an ask for the taxpayers, but he is not going to support it whether Mr. Moore adds it or not; and he asked if Mr. Moore is representing Class 'C' and 'D'.

Mr. Moore responded his clients are primarily in the heavy tow business and they brought these issues forward, due to being confronted by insurance companies of prices or missing items that they were not allowed to be charged for.

Commissioner Tobia mentioned being towed a couple of times while in college, he imagines that is Class 'A', the regular tow, and he imagines that most of the residents in Brevard County that are towed are not driving those big rigs on the highway; he asked to come with a somewhat reasonable base rate for the Class 'A'; he thinks when it is double the amount of what the surrounding counties are, it is not reasonable, that would have a large impact on many of the residents, and it would not seek addressing the issues Mr. Moore brought up for the large wrecks that take place on I-95; he advised if votes are counted, he is not going to be there, no matter what, due to the astronomical increases; but he asked to take into consideration the people who are driving the regular vehicles instead of those who are driving large trucks, that insurance pays instead of the individuals having to pick up the tab.

Mr. Moore responded he would be more than happy to take into account Commissioner Tobia's request and at the request of Commissioner Lober, to table this Item to be able to provide background information.

Chair Zonka stated she understands by Ordinance, that this was supposed to be increased by three percent or CPI, whichever is lower; she would like to see what that number looks like; obviously, it would not apply to the new items listed with the larger equipment and the expenditures involved with that; she thinks that is where there is a lot lost; she likes Commissioner Tobia's idea to make a base rate for the average resident be a little more affordable; and she understands the industry needs to recoup its costs and she wants to see a little more of a comparison, like take out some of the other silly things that they are charging for, especially if it a \$30 bag of oil-dri because it should be included in the cost of the expensive tow.

Mr. Moore mentioned that has been a pretty significant industry challenge with the heavy tows on I-95; there is a series according to the State policy of things that must be brought to that particular scene; some of those are applicable to the much larger scenarios; he would probably argue to Commissioner Tobia that, that tarping falls into the same category; this is tarping for a much larger vehicle that would fall into the category of the multiple tarps and the larger size, to get to that higher multiple; and he would be happy to clarify what specifically those are that

apply in that category.

Chair Zonka advised the examples she received were interesting, talking about a truck that is filled full of sugar that ended up causing a bee problem at the tow yard.

Commissioner Pritchett stated if Mr. Moore comes back with an estimate of what the competitive rates are for base rate; her office called around and received rates for \$130 to \$220; this is not that far out of the delta, but it might be a little higher; maybe examples could be provided for things that have to be done for the Class 'C' and 'D'; she thought the other Classes were a little higher and those could be negotiated a little bit; she knows Class 'C' and 'D' have been losing money and equipment keeps being updated, to get things off the roadways as fast as possible to keep other wrecks from happening; and that is what she is looking for when Mr. Moore comes back.

Mr. Moore remarked he has it and he is happy to provide that.

Commissioner Lober stated he agrees with a comment made by Commissioner Tobia and he is concerned about where the vehicle is originating from and how the mileage and time are built in, getting from wherever the origin is to the actual site where the pickup is occurring; and he does not necessarily have the same degree of concern as Commissioner Tobia does, but he thinks it may be appropriate to look at implementing a cap of whether it is 25 miles or some other number of miles, so there is not someone from Mims driving down to Valkaria having to pay an absolute fortune, because he does think that has potential to be a little extreme.

Mr. Moore remarked that would be referred to as point of origination.

Commissioner Smith advised since having been in the body shop business he has seen and received vehicles that have been in crashes, he never dealt with a big rig, but he can say one size does not fit all; that is kind of the situation where these clients are because if oil-dri is not charged for, it is the kind of thing that really adds up over time; and he inquired how that is priced. He went on to say if there is a pickup truck carrying a bunch of paint and it gets rear ended, that paint is everywhere, and is the kind of thing that has to be taken into account; the tow truck driver should be reimbursed because it is their responsibility when cleaning up; he has seen a lot of intersections that have a pile of debris swept up into a pile and left there; he does not know who is responsible for making that cleanup happen, but he thinks it is the officer in control of the accident scene, whether it be State, Federal, local municipality or the Brevard County Sheriff's Office; and he asked for Mr. Moore to look into that because it is more of an appearance and quality of life issue than a safety issue when debris accumulates.

Mr. Moore advised at his request, he would be happy to have the Item tabled, and he would be happy to return at the next meeting after having the opportunity to share the information requested.

Commissioner Lober pointed out the way to handle this procedurally is if the motion is withdrawn and Commissioner Smith can add it to the next Agenda.

Commissioner Smith withdrew his motion.

The Board tabled towing rate resolution, setting forth the maximum towing rates to the January 25, 2022, Board meeting.

Result: TABLED

Mover: Rita Pritchett

Seconder: Bryan Lober

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

I.1 Board Discussion: Malabar Scrub Sanctuary

Commissioner Tobia stated he will provide a little background, he will listen to what the speakers have to say, and then he will make some recommendations to the Board for its action; having been in public office for about 14 years, he has received many emails and letters from the Audubon Society, normally he crumples them up and throws them in the trash, not in the recycle bin but in the trash; he was happy to see that the Audubon Society and the position that he has were in direct alignment which makes him smile; more seriously, this issue has come down to the Scrub Jay population in an area that he represents; and if something is not done, as the experts have pointed out, the Scrub Jay population could disappear in 20 years. He added this is a very serious issue and it is something that has evolved relatively quickly; he thinks most know of the background that Commissioner Smith had given the Board of the biology of why cutting down trees is actually beneficial to the population; but there is quite a bit of science that backs that up. He informed the Board about the Town of Malabar threatening to withhold permitting necessary for Scrub Jay maintenance which they had previously provided on May 18, 2021; a land clearing permit was issued in November; work was to begin on said land; attention was brought to the permit because it was only good for six months; and now Town of Malabar's Council is threatening to withhold said permit. He mentioned according to Mike Knight, Environmentally Endangered Lands (EELs) Program Manager, there are dire consequences that could be faced for a species that is extremely important; on January 3 staff gave many presentations to the Town of Malabar regarding the Scrub Jay Sanctuary, consistent with the Board of County Commissioner's previous direction to engage the public and interest groups; Town Council responded in a manner, that he believes requires immediate attention; there was an email sent on Friday that he thought was pretty interesting; and he read aloud "I am the Town Clerk. I assure you, the summary of the meeting is in no way inflammatory or threatening." He added he has some audio that he is more than willing to have played, but the Town Council indicated if the Board does not acquiesce to its demands, they will make it "painful", difficult, and expensive as possible for the County to carry out its restoration function. He referenced the Board is trying to help birds out, on land that it is in charge of, and they are making threats. He asked Space Coast Government Television to play the audio, he does not want anyone to be misquoted, "To set the circumstances, such that the easiest way for EELs to do what they want to, is to come to an agreement with the Town that is mutually excessive, and that any other method is painful, difficult, lengthy, and expensive. They need to take it seriously, that we really mean this, and if we go to the meeting, they are going to just say this is what they are doing and they are going to have a bulldozer out there." Commissioner Tobia stated that is not the Board saying this, this is science saying it, and there is a particular Town Councilman who is extremely, extremely hypocritical; this person is a Professor at Florida Institute of Technology in sciences, but has absolutely disregarded any science, nor provided countering data to show that doing away with the trees will help the Scrub Jay population; the worst thing is this individual was on the advisory group that reviewed the Management Plan, and voted for the Management Plan of this; and now this individual is grandstanding for the six or eight bike riders that enjoy recreation. He went on to say that it is wonderful that they enjoy recreation, but there has to be balance; the future of a species in South Brevard versus some people that want some shade; they still will be able to bike ride there, they just would not have that amount of shade; he is a little disappointed by being threatened by a Town Council; he has some suggested action that he thinks the Board can undertake; but he would like to hear what certain residents or experts have to say on this. He mentioned every email he received back, he invited anyone to provide any type of data that

would show leaving the trees there was beneficial to Scrub Jays, but he did not get any.

Chair Zonka stated she listened to that meeting as well and she thinks what is most disturbing was when that same individual, and she does not know why his name is not being said but that same councilman that discussed the sciences said, it does not match their objective; she thinks is what the argument was; and Mr. Knight, is a saint for how he managed the accusations; she reiterated she listened to the two hours and 45 minutes meeting; and she thinks she played that same section that Commissioner Tobia played before he even provided it to the Board for the audio.

Sue Hanna stated she is about a 30-year resident of the Town of Malabar and she is one of the six to eight bikers, but she is also a resident and has been very concerned about this; she is concerned about the public engagement process that was afforded to them in Malabar; she thinks if the Board listened to the full meeting, it heard a lengthy presentation done by her, and after researching all the guidance documents for the EELS Program; to their credit, Mr. Knight has done a really good job meeting with the Town residents, and meeting with Town Council; they really have not had much time to work together, she thinks these properties are 20 percent of the Town; and she thinks it requires a little bit more special consideration of the impact of the management of the properties on the aspects and the quality of life of the Town. She reiterated that from her perspective Mr. Knight is doing a good job of bringing his team into the Town, they have a meeting next week, and will have some time in the field with the Selection and Management Committee; it feels to her, as someone who has been on these properties for the last 30 years, that it is not an all or nothing approach, and that they really should be able to collaborate and preserve enough of the vegetation that is adjacent to several homeowners associations; and this is not about six or eight bikers. She went on to say that as a biker, it is that for her, but for the residents of the Town it is a broader issue than just the trails; she thinks it is really important that the EELs Program respects the Town of Malabar and understands why the Town is acting the way that it is acting right now; there is a history that has gone on for a long time, where there is competing objectives of the EEL Program; and if all the guidance documents are read, the ballot language, the land management manual, the sanctuary management manual can all be seen, and they have references to both the environmental preservation aspects of the mission, as well as passive recreation; that is what was in the ballot, they were on equal footing; she appreciates that there is a desire to preserve the Scrub Jays in south Brevard; she thinks most of the Malabar residents would support that; but it does not have to be done tomorrow. She continued to say that she thinks the better course of action could be to have some time in the Town to work through the Trails and Greenways Committees and the EELs Program Recreation Education Advisory Committee that could inform this process, provide good guidance, and there are scientists living in the Town who would like an opportunity weigh in on this; there has not been the opportunity to do so yet; and she asked for the Board to give them time to work through the process.

Kim Zarillo agreed this conversation has gone on for a long time; she stated some years ago it started out with a drainage problem and the Town of Malabar wanted the EEL Program to pay for that; then when that did not happen or there was some agreement or something got worked out, then the Town wanted to share the property and the cost of a Town hall, which did not happen because they did not build the education facility; now this particular disagreement has gone on for 10 years; in the interim the Town was successful in winning a Florida Communities Trust (FCT) grant for another piece of scrub property; in the agreement with the State, they agreed to maintain, restore the scrub, and some other things; the Trails and Greenways Committee is very focused on the trail and she understands that, but she also understands that it takes capacity, money, knowledge, and resources to manage these lands; and the Town has not been able to take care of the FCT property, and they are supposed to be working with the

EEL Program, in order to get that done because they do not have the capacity. She mentioned there being nothing in their budget or in their minutes that says they have thought about this or that there is a plan to do this; there has been discussion and presentations with numerous public presentation in the past before COVID and then there is Zoom, which is limited; however, recreation is encouraged and welcomed on EEL properties; this particular property is a very key piece of property in the corridor of scrub that needs to be maintained and restored for scrub habitat; and that does include plants, although they are not as exciting as birds to some. She asked the Board to move on; she stated let the EEL Program do its job by managing the property and get on with it; she sees no reason to turn over management of land to an entity that cannot manage what they have already; and there seems to be no plan for it and they do not seem to want to plan for it.

Vince Lamb stated the Brevard County EEL Program is critically important because so little land remains as natural habitat for the native wildlife and plants; most people choose to cover their properties with buildings, pavement, turf grass, and exotic plants; then chemicals are applied that kill insects and unwanted plants, even many of the Parks are covered with turf grass and exotic plants, and sprayed with hazardous chemicals; these human habitats have been chosen where wildlife cannot survive; Brevard County was ground zero for the extinction of the Dusky seaside sparrow in the 1980's, the bird that existed for thousands of years last lived in the wild of the St John's River basin of the County; and the last few perished in captivity at Disney; a species is considered becoming extinct when it no longer occupies its original range; the Florida Scrub Jay clearly fits that condition; and a population of approximately 30 birds vanished from North Brevard Buck Lake properties, most likely because of the habitat needs were not met. He added the EEL Program was founded in 1990 by local leaders who saw the need to protect natural areas from massive development that was taking place; more than 70 percent of the voters chose to tax themselves, to fund conservation land purchases and the required land management; from the onset, the EEL Program has had a mission of maintaining lands for biodiversity including protection of endangered and threatened species; and the Program was extended in 2004, again with more than 70 percent of the voters taxing themselves. He mentioned 28,000 acres of conservation land are currently managed by the EEL Program, in a County that spans almost one million acres; the Commissioners are the ultimate oversight of the EEL Program and its lands; and he asked to ensure that these properties are managed properly to protect the wildlife and natural areas.

Keith Winsten, Executive Director of Brevard Zoo, thanked Commissioner Tobia for how he framed up this issue today; he stated when he first came here over 17 years ago, he went to a meeting, and the first thing he was asked is what is the zoo going to do about Scrub Jays; he is glad to say that 17 years later the zoo has done a lot; very soon after that he was approached by Federal and State agencies, to develop a way to translocate Scrub Jays from properties known that they could not survive, to properties where they can survive; the zoo has since built on that, it monitors Scrub Jays in many area including Malabar scrub; and this is not about recognizing those Scrub Jays, it is about a whole population that lives up and down the Atlantic Coastal Ridge, where he has a house as many do because of the sandy dune. He mentioned bringing in the world's expert on forecasting animal populations, for pandas and tigers and every exotic species; and it is about having tools in the toolbox and restoring property. He advised he has three points; one, it is not just about the Scrub Jays there but is one population trying to be saved that is really in trouble; two, is the trees are the death of Scrub Jays because the biggest issued faced is they do not have the kind of habitat they need, they are really poor flyers, and they are picked off by Cooper's hawks, so if a person has trees nearby, the hawks stand up in the tress, as alluded to, and pick them off which that cannot be had because the people love the trees, but real scrub, the kind of scrub habitat that was present and maintained for fires for thousands of years, cannot be burned as it used to because of homeowners which

creates having to go in and do that work; and he reiterated his second point being if there are trees the Scrub Jays, at best, hang on, which is what is happening to the Malabar population, which is needed for a place for the Scrub Jays to flourish. He continued with his third point by saying it really just upsets him and bothers him to his core that as somebody who runs the zoo, he does not own the zoo, a board runs the zoo, and for any private landowner having the idea of because there are other people using it, they get to dictate what happens on it; that land is owned by the State of Florida and managed for the EELs Program, specifically for the Scrub habitat to bring it back, and that is the number one priority and that needs to be the priority. He appreciates the Board standing up for Scrub Jays, they do help to find Brevard County because he has visitors who come every year to see the Scrub Jays; he stated it is known what just happened to the Space Coast Birding and Wildlife Festival, there is not enough birds to see which is an economic impact when losing these species, that is really part of the heritage and what makes Brevard County special; there is other property there that is not scrub, that can have trees; but the scrub needs to be restored to what it is.

Bill DeBusk, Chairperson of Turtle Sierra Club, stated they have about 8,000 members and supporters in Brevard and Indian River counties; he is an avid biker and hiker and he has personally enjoyed the Malabar Scrub and the Jordan Scrub areas; the Sierra Club's mission is to enjoy, explore, and protect the environment; he is not present to speak against fellow bikers and hikers, the Sierra Club supports and promotes the enjoyment of the outdoors; but is present to speak for the importance of maintaining the habitat of Florida Scrub Jay. He continued to say the Florida Scrub Jay is only found in Florida and its population is declining and is listed Federally as a threatened species; if that population continues to decline it will be an endangered species and then an extinct species; Mr. Knight provided some information in December indicating 80 percent of the Scrub Jay population has been lost in the last 20 years in Brevard County; development and lack of habitat maintenance are the leading cause of this drastic decline in population; and the latest population viability study indicated unless the habitat is improved in Brevard County, the Florida Scrub Jay will be extinct in all of Brevard County, within 40 to 70 years, with one exception of the Merritt Island Wildlife Refuge. He continued to say they have a large population and even that population is going to continue to decline, unless they continue maintaining their habitat; improvements must be supported for the Scrub Jay habitat to stop the decline of the population; the plans to improve the habitat and the Malabar Scrub are going to leave the trail system and is not going to prohibit the public from using it; the public will still be able to enjoy nature, which is good; because extinction is a definite possibility, the subject matter experts have developed this plan to protect the Scrub Jays; and with this plan both Scrub Jays and people will be able to use the Malabar Scrub, and Scrub Jays will have a better chance of surviving. He asked the Board as it makes decisions tonight and in the future, to keep the Scrub Jays from going extinct in Brevard County.

Jim Burney stated he voted in favor of the Bond Referendum based on his trust of the professionalism and the expertise of the EEL Program and its positive working relationship with the State and Federal agencies; he lacks the confidence in another municipality managing the land at the same caliber and level of commitment as the EEL Program could do so, in relation to the protection of endangered species; any authority transfer to municipality represents a dangerous precedent to abandon other EEL Programs and other properties if there is ever a dust-up over management issues; the Scrub Jay habitat is probably the least appealing to humans, it is low, hot and wide open, but it opens the vista to a tremendous view; when there is ten thousand acres historically it really did not matter, but when it is a fragmented scrub and are looking across at a Walmart, or a neighborhood it is visually unappealing; and he thinks is one of the main issues for the bikers. He went on to say he thinks the people of Malabar do care about the land greatly, however, it is a difference of opinion; if the Scrub Jay preferred habitat was a nice oak hammock there would not be an issue there, but it is not; the habitat is

critical, but it is just not very appealing to humans; and he thinks that is one of the biggest issues. He stated he understands the fiscal conservative approach to getting management costs off the books is fine, but he thinks it could be taken as a vote of no confidence to the EEL Program, employees, and the Selection Management Committee even though the intent could certainly be viewed as that; the actual process of transferring management authority is going to be time consuming of EEL resources, as well as legal resources; it would take approval of multiple Committees and State agencies if there are any legal challenges from other organizations; and he opposes a transfer, but the management of the scrub being based on science is important.

David Montgomery stated he moved here in 1979 and he started working at the Harris Corporation, by the Jordan Scrub Sanctuary in 1985, he used to run recreationally, and he knows the Malabar Scrub and Jordan Scrub Sanctuaries very closely; in 1985 the developer at Malabar had just cleared the property and it was basically a moonscape; the properties on Jordan and Malabar Sanctuaries have grown in 40 years; but he is very worried that situations are going to keep the EEL Program from doing its maintenance on properties. He went on to say he has been out there several times over the past few weeks to walk the trails he used to run on; it is really overgrown and it is a problem which is explained in detail in the Sanctuary Management Plan, but the scrub pines take over the environment and that is what is happening; he has never seen it so overgrown, both in Jordan and Malabar Scrub Sanctuaries; he is worried that lack of maintenance is going to continue and will essentially prevent any Scrub habitat being available for any Scrub Jays due to very little sandy soil left, and being overgrown with Wax Myrtle, Scrub Pines, and other bushes which are more than six-feet high which is not Scrub Jay Sanctuary habitat; he reiterated he is worried this season will be missed, it will go into next season for maintenance, and he does not think a transfer will occur to the Town of Malabar; but he does think in another couple of years things will get tied up and maintenance is not being done. He added as a person who is very experienced with this area, this area is very overgrown and very un-maintained; and he does not know what the solution is, but he is very worried about the time urgent situation where the habitat is essentially not there right now.

Heather Elko stated she comes before the Board as a citizen who has cherished the Brevard County environment for over 40 years; she supports the EEL Restoration Plan for Malabar Scrub, because it is based on thorough analysis and ecological best practices; the EEL Program does what it was intended to do, it manages EELs for the benefit of all Brevard citizens; Scrub Jays cannot survive in a non-scrub environment; and citizens who value trees for their aesthetic qualities and the shade the trees provide, may not realize that by ignoring the EEL Land Management Plan, they will be contributing to the demise of a beloved species, that they probably already cherish. She added human wants are just that, wants not needs; native animals and plants of the rare Florida Scrub do not have a choice, they cannot pick up and move if humans destroy their habitat, and they will simply fade away; and overly large trees in the Scrub environment are unnatural and their removal will benefit all, including humans if they take the measured responsible approach that is the EEL Management Plan.

Bo Platt stated he is a board member of the South Brevard Chapter of the Florida Native Plant Society and he is representing the Chapter; the Chapter fully supports the preservation and the restoration of the Scrub habitat, to ensure the viability of the Scrub Jays; and the Chapter supports the work efforts of EEL to maintain this habitat in that manner for their continued enjoyment of the Scrub Jays and for those who come after them can.

Laurilee Thompson stated she has been a citizen of Brevard County for almost 70 years; she can remember as a kid when lightning would start fires, there was not that many people who

lived in Florida back then, the fires would burn for days, and ashes would rain on Titusville for days from these massive Scrub fires that took place; and those things do not happen anymore. She mentioned not many counties in Florida have Scrub; Brevard has a responsibility, not only to the citizens that voted to preserve these lands for biodiversity, but Brevard has a responsibility to the whole State of Florida because it has a lot more Scrub than any other county; and this Program was started to manage the Scrub and to keep that legacy going. She went on to say it is not all about Scrub Jays either, some of the rarest plants on the entire planet live in Florida Scrub, and over 90 percent of Florida Scrub has been turned into shopping malls and housing developments; there are properties that have been purchased and Brevard has a responsibility, not only to itself but to the people of the State of Florida to manage those properties, so that it is a healthy Scrub habitat for others to come here and look at it; she is the founder of the Space Coast Birding and Wildlife Festival; it was unfortunately canceled because of COVID; but a lot of people come from all over the world to come here and look at Scrub properties and Brevard should be maintaining them. She added the population of Scrub Jays on Merritt Island cannot be depended upon to be the Scrub Jay population because that could be a sink; if there are no Scrub Jays on the mainland too, Brevard is in trouble; the EEL Program has basically given up on trying to keep Scrub Jays viable in North Brevard County; within a few years the Scrub Jays in the north end of the County are going to be extinct; it cannot be stopped; and there is not enough quality Scrub in the north end of the County; the Scrub jays have been gone off the barrier island for years now; the only place left is the south end of the County; and she is hopeful the Board is proud of what has been done with the EEL Program, continue its legacy, and keep those Scrub properties viable for itself and the visitors.

Chair Zonka asked for a brief discussion of what a sink location is.

Ms. Thompson responded a sink is where the population continues to go down even with good management; she stated that is happening on some parts of the Merritt Island Wildlife Refuge; then there is the commercial space industry, they are taking a lot of upland habitat around the runway, and that is prime Scrub Jay property; Merritt Island and the U.S. Fish and Wildlife Service (FWS) cannot be depended on to keep the responsibility to the State of Florida, and to keep the Scrub Jays viable; and having to keep the mainland population going too.

I.1., Continued

Sandra Sullivan added on to what Ms. Thompson just said, there being enough genetic material, too, is one of the things talked about; the Florida Scrub Jay is the only bird species unique to Florida; she mentioned not knowing why it is not the State's bird; the name says it all for the Malabar Scrub Sanctuary, it is all the purpose of the EEL Program to help save the Scrub Jay from extinction; that is the first priority of these lands; the second being complementary to the use, in such a way that works with the purpose of Sanctuary; this reflects the will of the voters who voted for EELS; and she just wants to put on the record how incredibly impressed she is by the EELs Program and staff, the brain share knowledge that they have on its board is so impressive. She advised going to Google Scholar and searching Scrub Jay Brevard, the scientific studies that have been done here can be seen, and those scientists sit on the EELs board; she attended an EELs board meeting about the Scrub Jays and it lasted for five hours, discussing the challenges and strategy to saving the species, which is expected to go extinct in 20 years; now with the rate of development going on, she sees in some of the Planning and Zoning meetings where it is discussing Scrub Jay habitat with Scrub Jays being there, and it is being developed; the Florida Scrub Jay is vulnerable to extinction because of habitat destruction, degradation, and fragmentation; and this was discussed a lot because of the lack of continuity that relates to the lack of genetic material. She mentioned printing just a few pages of the study and it says biological criteria for the recovery of Florida Scrub Jay

populations on public lands in Brevard County and Indian River county; it was funded by FWS and David Barringer, a subject matter expert that lives in Brevard County, who did another study discussing the Scrub Jay populations on the coastal barrier islands, Hightower which is another Florida Communities Trust (FCT) site, and there were eight pairs on Hightower when Satellite Beach took that over; there are none now; and the comments made about the lack of FCT management by some of the local entities is a very valid point. She reiterated the Scrub Jays study was done by FWS, focusing on existing and proposed non-Federal conservation areas along Florida's Central Atlantic Coast; she wholeheartedly supports the EELs Program; and conserve and conservation is just common sense as it relates to human health as being in harmony with the health of the lands and water around everyone.

Commissioner Pritchett stated on Friday when the Board received the email, it got her attention because the body of it said that the meeting was no way inflammatory or threatening; she had to click the meeting and watch the topic, and her response back was thanks for the email; and it was not so much threatening, but it was definitely inflammatory. She thanked Commissioner Tobia for bringing this forward; she started doing some research on this and when the Board gets information it tries to just gather data so that good decisions can be made; she is respectfully proud to serve with this Board; and some of the accusations she heard from that meeting caused her to do some eye rolling while listening to it. She stated this Scrub Jay sanctuary was acquired specifically for Scrub Jays when it was purchased; it is owned by the State of Florida and Brevard County just took over the maintenance which is \$40,000 to \$60,000 a year, and as a County has invested \$1.1 million to \$1.6 million; the County has done what it can do because the EELs board is spending the time trying to figure out how to maintain this property; and there probably needs to be some work done for maintaining which was suggested by Mr. Montgomery. She went on to say the primary goal and purpose for this piece of property was for Scrub Jays; in that meeting she kept hearing that was not voter intent; she pulled out the language of the ballot and when hearing EELs, people are thinking of things that are about to go extinct, or are critical in trying to help maintain; this was bought for the Scrub Jays and they are already having some problems with survival, this is definitely within the voters intent to have purchased this property for this; it was interesting to her that the County had the permit, as Commissioner Tobia mentioned, the problem was having a hard time getting the grant funding needed to do this recommendation from this Board; the permit expired and for it to switch around that quick from the Town was very interesting; she knows it is in the Town's area; but it is Federal property that the County pays to maintain. She added the conversation she heard at the meeting was kind of interesting and to hear Mr. Knight handling himself very professionally was very impressive, along with the way he brought the information forward, and the way he respectfully gave answers; she thought he was incredible and she thanked him for that; and she found it interesting when he brought up the project manager of NASA who did the report, but nobody asked to see it beforehand, or to look at it which she thinks is a good thing to do if a person is wanting to find out if a good decision is being made with this. She remarked nobody wants to have to cut trees down, it is expensive, messy, and time consuming; for the EELs board to come back saying that this is necessary for the survival of the Scrubs, one has to consider that information when on the Board trying to make decisions; as far as whether the County should do this or not, she is leaning to the side of this is something it definitely should do; and the recommendation was given. She mentioned when she listened to the Town of Malabar's commission, she agrees with Commissioner Tobia, and she did not like the way Mr. Knight was treated and it concerned her very much; she did not like the way commissioner Tobia's name was brought up; she did not like the fact of those who did not agree with what was being brought forward classified staff as arrogant; it really concerned her when the conversation started getting shut down; and the clip Commissioner Tobia played that they are going to make it expensive for the taxpayers to do what the taxpayers wanted done. She stated she does not know why names are not being mentioned and the language

used, again, is very concerning to her because the County is very good to cities; she thought it to be very unprofessional and unnecessary; she did not like the way Mr. Knight was treated; and she is probably going to support whatever Commissioner Tobia needs to bring forward today.

Chair Zonka advised she will say the name of who the majority of those unfair comments were made by, it was Councilman Steve Rivet.

Commissioner Tobia disclosed EELS is running out, it will sunset; he stated this is not a program that he would have supported before; this is not a program that he will support as it moves forward, whether as a voter or a voter of the Commission; he does support the system and the more than 70 percent of people who said that they wanted their tax dollars to voluntarily go to this program; the objective is very simple and stated in the Policy manual, the primary objective of land is acquisition, EEL for preservation and conservation; there is a secondary on dealing with activities, but they are not doing away with anyone's right to these lands; they still have the opportunity to participate in activities, maybe with less shade but they are not taking it away; and putting on the brakes was mentioned. He went on to say it would be wonderful if the brakes could be put on the extinction or on the decreased number of Scrub Jays, but that is not something that can be done; when coming up with some suggestions of what can be done, the first, and obvious one would be to say thanks so much Malabar but the County is going to clear the land anyway despite the permit; he does have some reservations, being an organization that does issue permits, to act in such a hippocratic manner, but it did cross his mind; the second, to look at permits that the County has with the Town; apparently there is a sharing of individuals who oversee construction; pulling those individuals away would impact citizens in Malabar that are not involved in this fight; and he thinks that would be the worst course of action to harm those that are not impacted. He stated he has three recommendations and one has already been proffered by at least two people; the first one was his error, he brought it to the attention of the Board that it could potentially transfer this land over to Malabar; in retrospect, this would be, as pointed out by two of the speakers that this would be a terrible idea; and Malabar has a record of terrible conservation, an example would be Cameron Wildlife Preserve, obtained by Malabar through the FCT grant, as part of the agreement they were required to have a management plan, and submit an annual report, they have not done that. He went on to say to turn it over to Malabar when they have a track record of poor management, would not be very wise of this Board; he apologized for making that suggestion; he asked that the Board reevaluate that; he agrees with Commissioner Pritchett on this, though he does not ever mind his name being brought up; in fact, he kind of enjoys the fact that the Board is getting under these folks skin; he is not in a position to deny arrogance; but what he does have is an issue with staff being treated that way. He stated the Board made decisions as elected officials to get up here, to put their names out there for good or bad, staff did not do that; Mr. Knight has handled this and has said that it is inconsistent with science; an individual should not have to do that over and over and over again; there has been five public meetings and there is talk about this being rushed, that is blatantly false; December 6 there was Town Council meeting, December 9 there was the EELs webinar with public input opportunity, December 17 there was EELs Selection and Management Committee meeting, December 20 there was Town Greenway and Trail Committee meeting, and January 3 there was Town meeting with EEL presentation; there are three coming up; and his second suggestion would be to forego this, Mr. Knight does not need to have to go through that anymore. He advised the information is out there, everyone has the ability, and folks had plenty of opportunity, and they will still have opportunity to contact the Board, but subjecting staff to that he thinks is not very fair; here is where the third one comes into play and this comes down to six or eight bikers, and one is in the audience; he thinks the best option the County has is to put up a fence blocking access to this Scrub Sanctuary, until such a time that

Malabar decides that they want to grant the permit, and then charge Malabar for the expense of not only putting that fence up, but then taking it down; and they should have to deal with this not as a consequence, but for not having to care about the very things that 70 percent of voters thought was best management practice. He suggested doing away with the offer for Town of Malabar to take the land back, to accept the five meetings that have been had and to forego any more meetings instead of subjecting staff to that, to have a blocked entry using a six foot high chain-link fence costing roughly \$6,100 and billing the Town of Malabar for that expense, until such a time that they grant a permit to help the Scrub Jays; those are his suggestions; he would like other ones; but those are the best he could come up with at this juncture.

Chair Zonka stated she does not know how many people had the pleasure of listening to that entire meeting; it sparked Commissioner Pritchett's interest, based on what the Town Clerk said, because the Town Clerk knows that it got a little bit off the rails; and without repeating what everyone has said, she thanked Mr. Knight for his patience. She asked if the Scrub Jay plan was to move forward, how is going to impact the trails; and she stated the trails will still be in place, and the people will still have access to the trails.

Mr. Knight explained all the trails would still be there.

Chair Zonka asked if the public will still have access.

Mr. Knight replied absolutely; and he stated there might be some days here and there where it would have to close a particular trail, just because the equipment is working in the area due to a lot of debris being in the area.

Chair Zonka asked when it is done, what the impact is on the trail, other than the nice shaded area for the people who are going to be using it.

Mr. Knight responded it would just be the loss of shade.

Chair Zonka remarked it would be landscape, correct.

Mr. Knight replied correct.

Chair Zonka stated she is going to refrain from going back to that meeting, but she thinks it needs to be said because that audio was early on in the meeting; it is funny, because she actually received by no error, the link to the meeting audio because everything goes to the Chair that is presented at the meeting; she got the audio, but it was not the audio that Commissioner Tobia presented this evening; she had actually written down the audio; for the record, she thinks that some of Commissioner Tobia's points were because of the words of Councilman Steve Rivet; this is basically in response to him directing his Town staff to come up with some Code revisions to make it miserable for the County to get permits to do that land; and she asked if it was discussed at length.

Mr. Knight responded yes.

Chair Zonka advised that Councilman said he wanted to come up with Codes for the easiest way for EELs to come up with an agreement that is mutually acceptable to them and that any other method is painful, difficult, lengthy, and expensive; in other words, he was going to make the EELs Program suffer and pay; she thinks the suggestion was \$40 per tree, because they are going to try to equate it to a residential permit; and she asked if that is correct.

Mr. Knight replied that is the current rate, yes.

Chair Zonka stated they wanted to hurry up and get some Code language passed and hold all permits, that to her is more disturbing than any personal attack, more disturbing than the laughter, at the fact that they even talked about holding the County hostage or trying to extort it, or obstruct it; that is possibly a legal question for Abigail Jorandby, County Attorney; the County has a case, if they hold the permit up they are in violation of what law; and a complaint could be filed. She asked if the Board complains to the State and sends it the last 10 minutes of the audio from the meeting, and maybe some other portions of the meeting to say this is what the County is dealing with, it cannot move forward with this project. She added this is someone who said throughout the meeting that they wanted to work with the County in cooperation; that is the crazy part, work in cooperation as they laughed about how they were going to hold the County hostage; that to her is not working in cooperation, it is give them what they want or this is what they are going to do; and she asked what kind of legal remedy would the County have if the Town does not allow for the permit, or if they hold the permit so the County could not move forward.

Attorney Jorandby responded at this time, what they issued was a building permit, which has expired; the Town is treating this as a building permit; Mr. Knight has been in contact with the State to see if whether a building permit is actually required for this type of land clearing for a land management, because the Town is looking at it as a building permit Code for doing construction; staff is looking into whether a permit is actually required for this; that determination needs to be made, if there is another avenue for that; there is also the option of preventing access and closing the site, as Commissioner Tobia mentioned; staff has been looking into that; and she is looking for further direction from the Board.

Chair Zonka remarked she does not want to get into these childish games with the Town; if they are going to hold the permit then maybe blocking it off is all the County can do while it gets hashed out in court; she does not think it is fair or that it was the voter's intent for the EELs Program; EELs has a Committee and this goes through the Committee, it is not like the Manager of the Program decides what the County is going to do with the property; the property cannot be half done; the reason she brought up the sink area is because she has known Mr. Winsted for many years and he is the subject-matter expert, as far as she is concerned on Scrub Jays and restoration of the population; it kind of broke her heart when he talked about how this is where they are going to die; and that is just not good management. She asked what the maintenance plan is after clearing this; and if there are funds allocated for it.

Mr. Knight responded he would just continue the burning plan once the trees are done; he stated the burns should continue to take care of it; there might be some periodic mechanical work to be done; but it gets pretty straightforward after the tree canopy is down.

Chair Zonka stated another possible thing, but it is kind of poking fun back at them; the County could always charge them a surcharge for Sheriff services for the people who use the trail if they require them, if going silly back-and-forth with the Town of Malabar; hopefully, it does not come to that; to her it is about landscape, shade, and an area that looks more beautiful for the people who enjoy the recreation; she has always said that she wanted people to have access to EELs property; she has been a big fan of the trails; this does not impact their access or their use, it just impacts possibly what kind of afternoon they are going to have, and how much shade they are going to have; and for her this is an easy one. She mentioned she did not mean to rant, she just got really impassioned about the threats made; but for a Town that wants cooperation and a mutual agreement, and threatens to hold the County hostage does not sound like somebody who has any interest at all in working with the County.

Commissioner Smith stated he wanted to do this yesterday; he thinks it needs to be done; it should be done, the County is charged to do it; the County needs to move forward and leave it in the hands of the experts to decide what, and how many trees need to be taken down; it is the Manager's call to make this the best habitat he can make it for Scrub Jays; the County is charged with that; the Scrub Jays are disappearing and even with the County's best effort, they could disappear; the County needs to do it, just get it done; and whatever the Board wants to do, he is ready to support it.

Commissioner Pritchett stated she likes what Attorney Jorandby mentioned, because this is State property, the County is just responsible for maintaining it and taking care of the Scrub Jays; she asked if the County really does have to get a permit from the Town for proceeding with this; and if the County is able to sue the Town of Malabar for endangering the Scrub Jay population and bring suit against them for every bird that dies from them being irresponsible from allowing the County to do this process.

Attorney Jorandby responded there are a couple of options; going back to the building permit, they had issued it, it has expired, and at this time she is under the understanding that they will not issue a permit if the County reapplies for a new permit; she was looking into talking to the State, as far as it thinks they may not need a permit to do this type of work, since it is not a construction project, and may not need to get a permit from the Town; it is being looked into and she does not have that answer yet; as far as moving forward without a permit, would be a potential option but that would perhaps cause Code Enforcement from the Town if the State takes the position that the County needs this permit; they could take the County to court, in an attempt to get an injunction and that would have to be battled out in court; there is a possibility of just moving forward without having that permit, but in the meantime find out one way or the other if the County is actually required to have it; and again, this is State property and Code Enforcement liens would be going against State property. She believed that was mentioned to the State when Mr. Knight talked to them that, which would not be an issue for them, as far as the lease, if there was a Code Enforcement proceeding.

Mr. Knight referenced the discussion was that they would not consider it a violation of the lease, because the lease says that the County is responsible for municipal permitting, but is primarily related to development and not to habitat management.

Attorney Jorandby stated the other option she was thinking of, but she would have to look into it, is there a potential of filing a mandamus to get the Town to issue the building permit if the County feels that is a requirement before doing the work; it is something that has to be looked into; that is a possibility, she is not sure how to tell the Board one way or the other that the County would be successful in that; the County is kind-of in Catch-22 because the land is the State's and the County is the management; and at this point, the County is being frustrated in doing what it needs to do for the property.

Commissioner Pritchett inquired if the County is allowed to file some kind of lawsuit on the Town for endangering this Scrub Jay population by putting this off; she imagines the more time this is put-off, the big birds are continuously waiting for these little birds to swoop down and eat them; the longer the County waits, the higher the risk is for these birds to disappear, and not being able to multiply; and she feels what the Town has done now is reckless and it should be held responsible for endangering this species.

Attorney Jorandby asked that she be given some time to look into that option, specifically. She opined it really does start with the State, if they have anything; right now what she understands,

as far as State agencies, the building permit would be required, but is it going to be considered a real building permit or is it more of land management; the County needs that determination and to work with the State; then it can proceed forward, as determining what cause of action the County may have, or it just moves forward, and just takes that step forward, or actually needs to go to court and file some kind of lawsuit.

Commissioner Pritchett remarked she is kind of bothered that none of them showed up tonight to talk to the Board about this; different opinions are allowed and there can be a conversation had, but the stance that was taken on this without conversation very much concerns her; she mentioned to Commissioner Tobia that she understands the fence thing, but she does not want to punish the people of Malabar for what their Council is doing and she is struggling with potentially shutting it off; but she thinks the County needs to take a hardstand on this somehow, somehow.

Chair Zonka added an argument by one of the resident was the County should be holding Town meetings down there in the Town of Malabar; the Board comes from different districts; Malabar is Commissioner Tobia's district; all of the Board comes to Viera; and she is a little shocked that for being so strongly opinionated, that not a single one of them showed up.

Commissioner Tobia stressed that the County needs to act relatively quickly. He pointed out at a minimum, he thinks that the five meetings attended is plenty; first, he would like to take action were they do not subject staff to any more of what they had to go through; it was handled admirably but he thinks that is just not fair on staff; it was his error and he hopes the Board can move to make the decision, that the Board does not want to turn this over to Malabar, which was his directive and he got two other folks to support it, but he would like to rescind that as a second action point; third, he would like to do the fence immediately, however, he is hesitant to compromise for a group that is not here, and it looks like the Town of Malabar likes to cancel a lot of their meetings; on February 24 they have a special meeting and the County would begin constructing that fence if the permit is not issued by close of business the day after that Town of Malabar Council special meeting on the February 25, which gives them two weeks; as well as a fourth option that was just brought up here to ask the County Attorney to look at all options for not needing the permit or taking legal action; and if that meets Board approval, the motion would capture all four of his points.

Chair Zonka stated that is assuming the Board requires a permit, because in a perfect world there would be no permit needed; obviously the Board wants something back from the State; she does not want the State to see the Board as being combative; and she wants to follow the rules.

Attorney Jorandby remarked yes.

Commissioner Smith asked if Commissioner Tobia would entertain an addition to his motion, to ask Attorney Jorandby to reach out to the State tomorrow, for direction and determination if the County actually even need a permit, and get written direction from them.

Commissioner Tobia stated he thinks that is a good idea that she pursues all avenues available.

Commissioner Smith added to dismiss the necessity of staff to attend any more of their meetings.

Commissioner Tobia agreed that is a very good idea.

The Board discussed the Malabar Scrub Sanctuary and directed Mike Knight, Environmentally Endangered Lands Program Manager, to forgo attending any further meetings with the Town of Malabar regarding the Malabar Scrub Sanctuary; approved rescinding the offer of transferring the Malabar Scrub Sanctuary to the Town of Malabar; approved the immediate installation of a six-foot chain-link fence at the close of business on February 25, if a permit has not been issued by the Town, blocking access to the Malabar Scrub Sanctuary at an approximate cost of \$6,100, and billing the Town of Malabar; directed Abigail Jorandby, County Attorney, to look at options for not needing the permit or taking legal action; and directed Attorney Jorandby to contact the State requesting written direction and determination if the County actually needs a permit.

Result: APPROVED

Mover: John Tobia

Seconder: Rita Pritchett

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

L.1. Frank Abbate, County Manager

Frank Abbate, County Manager, stated the current meeting schedule needs to be revised to move the 9:00 a.m. July 26, 2022, regular/tentative millage to July 19 at 9:00 a.m.

The Board approved revising the meeting schedule to change the date of the July 26, 2022, Regular/Tentative millage to July 19, 2022.

Result: APPROVED

Mover: Rita Pritchett

Seconder: Curt Smith

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

L.4. Bryan Lober, Commissioner District 2

Commissioner Lober stated Commissioner Tobia mentioned during the tow rate Item, that he was towed a couple of times while at college; and he asked if he was towed while attending college as a student or if he was towed as a Professor at college.

Commissioner Smith remarked statute of limitations has ran out on that one.

Commissioner Lober stated he will let him off the hook on that one. He congratulated his wife for them having a big anniversary last week, or gave his condolences for her having dealt with him for so long; and he is going to get her a plaque or a medal, not at taxpayer expense, but for congratulating her for her tolerance.

He stated he is not asking the Board for anything right now, he just wanted to give it a heads up that at the next meeting on January 25, he intends to bring forth an Agenda Item addressing what staff ought to do with respect to the funds that are still in escrow from Driftwood; the County had a contracted agreement with Driftwood that contemplated receiving a particular proposal and sending that proposal out, on the basis of an Request for Proposals (RFP); that agreement expired last month on the 31st; there will be a couple of options that are coming up for the Board, to direct staff to seek amending that with Driftwood; his initial inclination was somewhat skeptical, but after speaking with staff, they share his skepticism that it may not be able to be modified; he thinks the changes may be too substantial, but it can be looked at on this coming meeting; it may be simply to direct staff to remit the funds back to Driftwood and

have them come back to the Board requesting it be done over, by sending it out for an RFP; his inclination is not to shorten the RFP process this go around; he understands time is of the essence and it has been uttered a number of times; he is not saying they did not believe it at the time or that there was any gamesmanship there; he thinks it should go through the process at the regular rate; and the Agenda Item will contemplate if the Board does enter into a new agreement with Driftwood, that it involve the same terms, and their money funding the study. He mentioned instead of that analysis coming back to the Board for discussion, he would like staff to add it to a Tourist Development Council (TDC) agenda, so that TDC will have an opportunity to express whatever concerns and to answer any questions they may have; only at that point, if it survived that process, does it come back to the Board for review; he thinks it is several months out realistically, before it ever comes back to the Board; and he just wanted to put this out there because there has been a lot of people that are chronologically way further down the road than making any sense at this point with respect to supporting, opposing, or having other feelings with regard to the project.

L.5. John Tobia, Commissioner District 3

Commissioner Tobia state Gabriel Jacobs-Kirstein is new in his office; he wished congratulations to Billy Prasad and Jamison, who is Bethany's son, they worked hard together on a science fair project with electro magnets and roller coasters, they placed, but he does not know who was excited more, Billy or Jamison; and House joint resolution one was presented, that doubles the Homestead exemption to public employees. He added he believes he would actually fit under that because it is classroom teachers, law enforcement, correction officers, firefighters, and child welfare but that would come down to less money and less resources that the County would receive; this is just something for the Board to be aware of what is going on above and below the Board in the whole system; and he thanked the Board for its time, consideration, and research for the Malabar area and the Scrub Jays that are there.

L.6. Curt Smith, Commissioner District 4, Vice Chair

Commissioner Smith mentioned starting Monday, January 17, Brightline will begin running trains between West Palm Beach and Cocoa; he stated the purpose is to train the conductors and the engineers to learn the tracks, the curves, the lay of the land, and doing so five to seven days a week until the track is ready to go to in Cocoa; and they will not be going by at 75 to 120 miles per hour, they will be limited to the speed of freight trains, which is about 65 miles per hour.

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

Chair Zonka stated to Matt Wallace, Public Safety Office Director, that she is so sorry for Alabama Crimson Tide's loss; she is so excited that the Georgia Bulldogs won; she congratulated the Bulldogs on being national champions; and if anyone ever has a chance to look at Stetson Bennett, his story is pretty inspiring and pretty amazing.

Upon consensus of the Board, the meeting adjourned at 7:13 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

KRISTINE ZONKA, CHAIR

BOARD OF COUNTY COMMISSIONERS

BREVARD COUNTY, FLORIDA