

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Thursday, May 6, 2021**

**5:00 PM**

**Zoning**

**Commission Chambers**

**A. CALL TO ORDER 5:04 PM**

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

**C. PLEDGE OF ALLEGIANCE**

Vice Chair Zonka led the assembly in the pledge of allegiance.

**D. MINUTES FOR APPROVAL: February 9, 2021**

The Board approved the February 9, 2021, Regular meeting minutes.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**Absent:** Pritchett

**E.1. Rolling Thunder Memorial Day Freedom Ride**

**Dr. Lance Armstrong**

Dr. Lance Armstrong expressed his appreciation for this opportunity and thanked the Commissioners for their service to the County; he showed a couple of pictures that showed where they normally go on Memorial Day weekend and what it looks like; he mentioned to notice the clogging of the motorcycles on the Interstate trying to get into Arlington National Cemetery, as one may imagine his organization doing on Memorial Day Weekend; his organization is called Rolling Thunder and the term was coined as B-52's bombing in Vietnam were heard by the soldiers on the ground hearing the rumble, and labeled as such; they are a Missing in Action, Prisoner of War Advocacy group, that is it; one does not have to be a veteran to join, though many are; and one does not have to ride a Harley Davidson, though many do. He stated one just has to want to see the Missing in Action accounted for and recovered if possible; they meet on the fourth Sunday at 2:00 p.m. at the Veterans Memorial Center; they take a small claim to fame in this County, as on May 11, they will finish all 86 schools after the Brevard Public Schools Superintendent, a veteran, asked them to complete the Congressional mandate of posting that flag at all the schools; they did this in less than two and one-half months; 34 years ago, 1,400 motorcycles went to Washington, D.C. to ride the street slowly, in a slow protest ride of the slow recovery of the Missing in Action; and this has morphed in 2019 to where 1.7 million motorcycles shoved into Washington, D.C. He reiterated that the FBI aerial surveillance found 1.7 million motorcycles; he pointed out his motorcycle is in one of the seven Pentagon parking lots in 2017 full of motorcycles ready to roll up Independence Avenue and down Constitution Avenue, a short seven minute ride, which took over five and one-half hours; his organization was told not to do that again, and to make it a State run event; last year it is known what COVID-19 did to people, but this year the same thing was about to happen until his Chapter grabbed it; and then a few weeks ago, he was made Chairman. He stated a committee of ten could have had this for a year and he does not think that his committee of seven that he has could have done any less in that period of time; he has found that states including Virginia, Tennessee, North and South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, and possibly Montana and Minnesota, will be riding here in the Space Coast of Florida to represent the Ride for Freedom; he mentioned the Cocoa Beach Explorer has an article explaining most of this; and it all starts on Friday evening at the Veterans Memorial Center. He added in Washington, there is the Vietnam Wall and they will be setting up the rolling wall; in front of it at night, there will be a candlelight vigil with gold star families like Don Weaver, carrying the flame of freedom in front of that wall where, unlike Washington, they also have the beautiful grounds of the Veterans Memorial Center; this is a

very solemn, hair-raising event and they want the entire County to know they are welcome to attend all of these events; on Saturday, they will celebrate what they stand for and there will be plenty for the public to see and experience; and there will be music, entertainment, and food. He added he hopes to have Legislators at the U.S. level join them; he has invited Governor Desantis and Senator Scott; these are the levels of legislation that should see the national concern needs to be addressed; he invited the Commissioners, any other Legislators, and the public to attend; on Sunday, the official Ride for Freedom starts at 10 a.m. at the Veterans Memorial Center which will go down the Merritt Island Causeway to U.S. Highway 1, then to Pineda Causeway to Atlantic Avenue, then towards Port Canaveral and disperse towards Interstate 95; and that is the big picture of what could happen. He mentioned another idea, that does occur in Washington, D.C., is they visit monuments; unfortunately, they are not permitted to go the National Cemetery, which is a disappointment, but they recognize the rules of the administration; they were met by Senator Dole outside the World War II memorial, and they will have World War II veterans at this event; there will be a B-52 fly over before Sunday mornings launch; and they are trying everything to duplicate the events that are normally done in Washington, D.C. in a short amount of time. He also stated the first time he will have eyes on what is coming in will be at the Port; he told the riders if they wished to have a blessing of the bikes, like is done at the National Cathedral in Washington, D.C. before the candlelight vigil, that will be done at the Port near Fish Lips restaurant; and then they will ride into the Veterans Memorial Park.

Don Weaver stated it has been his honor to stand before the Board at least 10 times in the last five years, as the reason they can do this is because of the Board; without the Veterans Memorial Center, they do not get tapped to be this place; it is not a question of head in beds and tourist interests, it is a question of showing how much Brevard County supports Veterans and the Veteran causes; it is also from the Merritt Island Redevelopment Agency (MIRA) and the Board; the grand opening of the best Veterans Memorial Park in the state that the Board has helped to create with \$5 million is here; and this can be done because of the 82 acres.

Dr. Armstrong mentioned if there is anything the Board thinks they could use to help the veterans, please let them know; and the Sheriff's Department is going to be absolutely needed in a few areas on the ride on Sunday and possibly security, which would be appreciated.

Commissioner Lober stated he would also put out a request for any of the local media to cover this; and he will see if he can get some additional coverage online as well.

Dr. Armstrong expressed his thanks; and he stated the Washington, D.C. ride was cancelled and he is hoping the states in the northeast are ready to ride down here too.

Commissioner Lober stated maybe their loss is this County's gain.

Dr. Armstrong remarked it could be as much as half of that 1.7 million, but he hopes that is not the case.

#### **F.1. Appointment(s)/Reappointment(s)**

The Board appointed/reappointed Bob White to the Charter Review Commission, with said term to expire December 31, 2022.

**Result:** Approved

**Mover:** Bryan Lober

**Secunder:** Curt Smith

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

**Absent:** Pritchett

## **H. PUBLIC HEARINGS**

### **H.1. John & Terri Kroboth, and John Bradley Kroboth Request a CUP for a Private Boat Dock Adjacent to a Single-Family Residence in an RU-1-13 Zoning Classification (21PZ00004) (Tax Account 2953088)**

Vice Chair Zonka called for a Public Hearing for John and Terri Kroboth, and John Bradley Kroboth to request a Conditional Use Permit (CUP) for a private boat dock adjacent to a single-family residence in an RU-1-13 zoning classification.

John Kroboth stated he wanted a CUP for the piece of property that he purchased from someone about 3 years ago who never got one; it is just a row of boat docks; and he wants to have it legitimized like the rest.

There being no further comments or objections, the Board approved the request from John and Terri Kroboth, and John Bradley Kroboth for a CUP for a private boat dock adjacent to a single-family residence in a RU-1-13 zoning classification.

**Result:** Approved

**Mover:** John Tobia

**Secunder:** Bryan Lober

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

**Absent:** Pritchett

### **H.2. Michael J. and Annette Costello Request a Change of Zoning Classification from RR-1 to AU (21Z00005) (Tax Account 2700924)**

Vice Chair Zonka called for a Public Hearing for Michael J. and Annette Costello for a change of zoning classification from RR-1 to Agricultural Use (AU).

Jeffrey Ball, Planning and Zoning Manager, stated the Planning and Zoning Advisory Board approved the recommended approval of this application with a Binding Development Plan (BDP), with two conditions: limit the amount of horses to six, and limit to horse activities only.

Vice Chair Zonka asked what the owners wanted to do with the property.

Annette Costello stated last time she talked for a very long time and was told that all she had to do was to say that she wanted to go from RR-1 to AU; she does have a lengthy speech but she would rather keep her comments to exactly what is being asked; they have a five-acre property which meets all the criteria for an AU zoning; she thought they were zoned for AU when they bought the property 20 years ago; and she said she would have to bore them with her speech for a bit.

Vice Chair Zonka remarked they have 15 minutes but she could save it for after the opposition to clarify, correct, or explain.

Ms. Costello stated essentially, Wickham Park closed and people started calling and asking to board since there was no boarding in the area; she called the County and was told they are in AU zoning, so they continued to board until one of the neighbors complained; Code Enforcement came out and told them they were zoned RR-1; and that brings them to attempt to change from RR-1 to AU to allow horse boarding.

Vice Chair Zonka asked if they were doing lessons on the property.

Ms. Costello replied they do not do lessons, but there are trainers who come out to train riders; but she does not train, or ride, or earn anything from it.

Vice Chair Zonka asked if it was something she would ever want to do in the future.

Ms. Costello replied no.

Michael Costello stated five years ago they covered the arena because of the heat and allowed people to come in and use the arena; they do not charge for that; in December Ms. Costello brought eight young riders and an Olympic trainer who spent the weekend training the riders which cost them \$8,000; but they do not make any money off of this as it is more of a community thing.

Vice Chair Zonka stated assuming they could come to an agreement, would they be willing to limit the hours that are allowed for training at the arena.

Mr. Costello replied yes; he would think anything after 7 p.m., the trainer would need to use radios so they are not yelling; there are people who work all day and have kids and cannot get out there until 8 p.m.; and they would not be past the noise ordinance.

Ms. Costello remarked there was a lighting issue, as the arena lights that they had were too bright; they have been working closely with Code Enforcement; and they are now fully compliant.

Commissioner Lober mentioned he hopes to help her avoid the potential of having an unpleasant experience like he has had in his District; and he asked Tad Calkins, Planning and Development Director, if the applicant was willing to add to the Binding Development Plan (BDP) that there would be no agritourism, is there anything that they have stated to this point that would be impermissible.

Mr. Calkins replied he believes if they were willing to agree to that in the BDP, a condition could be drafted that would limit the use of the property to preclude agritourism type activities.

Ms. Costello asked Mr. Calkins to explain what agritourism is.

Commissioner Lober stated he will have Mr. Calkins give the textbook definition; he is trying to be careful not to malign someone in his District, but he has an individual who violates a number of rules and falls back on there being statutory protections at the State level for agritourism businesses and he drives his neighbors crazy; he has folks that may ride or pet animals, a wedding barn, and a venue with stadium speakers; and it is like a mini theme park.

Ms. Costello remarked they have a tractor.

Vice Chair Zonka stated they were selling goods, running retail, and doing lots of other stuff.

Commissioner Lober stated if the Costellos are willing to say no agritourism, notwithstanding the specific uses identified here; and that way they can still do what they have stated they are going to do, just in case there is some technical conflict.

Vice Chair Zonka stated they could discuss it after all the testimony is heard; and she mentioned Chair Pritchett would be listening from her phone.

Joseph Columbo, attorney for Jeff and Karen Shepherd, who lives immediately south of the subject property at 2890 Appaloosa Boulevard; stated what is important to mention is that he

does not believe a site visit was done by Planning and Zoning that fully depicts what is going on at this property; he showed a picture of the riding stable that he thinks would fit a B-52; it is the biggest private riding stable he has ever seen; and the fence shown is on his client's property and the stable is fully-lit at all hours, has loud speakers, and is about two-times the size of the applicant's home. He continued to show pictures of the property lit up at night, showing horse riders and spectators; he mentioned they have dressage shows on the weekends and bring in a carnival-sized tent and sometimes four porta-potties; he stated his client can testify to all of this under oath; he mentioned the pictures are taken from inside his client's home and the lights can be seen at 10:00 at night; and his client gets up at 3:30 in the morning after being interrupted all night with instruction from loud speakers. He went on to say the trainers come in and instruct the riders but it has to be loud in order for it to be heard; to mimic or duplicate what a real show would be like, they are blaring music on the loud speakers all night; Code Enforcement was called and they were violated; he showed an invitation to the dressage show with hours from 7 p.m. to 9 p.m., where dozens of people show up to watch; and an event then has to be broken down with activity going on until midnight. He added what happened here is the applicant was doing this for years, claiming she is not running a business; it is curious to him that Ms. Shepherd has two LLC's with regard to her horse riding activities; the first is Fawn Hollow LLC, formed in 2005, and the second is called Fawn Hollow Dressage LLC, which was formed in 2017; there is commercial activity going on at all hours, sometimes 24 hours a day, and every day of the week; and his client will testify to this. He stated his client is ill, her mother lives there, and they are home frequently; and there is activity there all day long.

Commissioner Lober made a motion to allow an additional 90 seconds for the speaker to finish up.

**Result:** Approved

**Mover:** Bryan Lober

**Secunder:** John Tobia

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

**Absent:** Pritchett

Mr. Columbo stated that farriers come out to do horseshoes at all hours; this is not just about boarding horses or horses for hire, as there are all these dressage activities which turns into like a fairground, with the loud music and the lights at all hours; this emanates the zoning change because they got caught and then Code Enforcement started to enforce that; the applicants are not asking for permission, they are asking to be excused for failing to abide by the zoning code; they would have the only house in the neighborhood to be zoned agricultural, which creates a precedent for these other lots; and they bought into a neighborhood zoned RR-1 and should abide by the rules like everyone else.

Commissioner Lober stated he is looking at a map and tends to agree that it looks like there is substantially a lot of RR-1 in every direction; there does appear to be a lot, immediately adjacent to it, that is AU and a lot north of that, that is AU, as well as some SEU to the west; and he asked Mr. Columbo if he was aware whether the AU or the SEU are in the same neighborhood or an adjacent neighborhood.

Mr. Columbo replied that every house on Appaloosa Boulevard is zoned RR-1, the entire subdivision called Lakewood Estates is RR-1; and he believes that is an accurate submission to the Board.

Commissioner Lober asked, in terms of the actual property there, is there a voluntary Home Owners Association (HOA), as there is probably not a mandatory HOA.

Mr. Columbo replied there is not a mandatory or voluntary; the developer called this place

Lakewood Estates; there is no other commercial activity, which is the heart of this matter; it is not contesting the rezoning, it is what is existing there now and what has been going on for years; and it looks like a Sam's Club without walls.

Commissioner Lober stated given that the Chair is appearing telephonically, and given the time, he does not know if she will be able to see the exhibits, he does not know that there will be a problem with her voting if she is inclined to vote against it; and he is concerned if she is inclined to vote for it, she cannot see the exhibits.

Vice Chair Zonka stated she got on the line late so she should not vote on this because she will not have the benefit of hearing everything; and that has been established.

Karen Shepherd stated in the picture, she is very, very close to the point of, if it was passed, right up to the property line where they could have it, legally; she imagines it would not pass if it was not, but with that said, her issue is not with boarding; when she moved there in 2013, that building was not there; she chose to move into an RR-1 neighborhood, and that was in the listing, so she does not know how the Costellos did not know that it was not zoned for that; they loved the pastoral setting with the horses; and the disagreement is with the activity, the commercial activity, that goes on there. She stated if the boarding is allowed, it has to be extremely tight on the description; she asked are they having their trainers, and their trainers' trainers, and are they allowed events and clinics on the weekend, which is already going on; if more horses are allowed, which they want, this is going to be a complete lifestyle change, which it is already with the lights coming in and hearing the trainers constantly; they have a lot of activity and she thinks they trailer in people and hire out the horses; and there are people there that do not know the facility and could change the lighting. She added that the lighting is on a dial that was corrected, but she does not know how it was corrected; anyone, like a visitor or a boarder, can go there and change the lights; the activity going on there is perpetual, 24/7; on the weekends she cannot keep the windows open as they would hear it, and the tractor goes around for about 20 minutes, one to three times a day to clear the 17,600 square foot arena; and it is like someone is cutting the grass all day long to get it clear. She inquired if they allow six horses as opposed to the three they have and one that she thinks they hire out, what would that do, allow them to have events; a nationally advertised event went on there in December and is projected again for this December; she wonders if the people that board there realize there are restrictions; anyone that has visited her, without her bringing it up, has asked what that is next to her property; and she does not know how that is allowed or what to say. She expressed that she feels that her and her husband's opinions do not seem to matter and she wants to know if they are going to be thought of during this; this has been going on for 20 years and they do not have a business tax license; she asks why, because it is not permitted; there is no other business in the area doing this; she thinks the other zoning code is in the Willows that she cannot access from their neighborhood; and she and her husband built their home as a forever home and it is not turning out to be the peaceful sanctuary they bought into. She stated she does not like feeling like she is doing something wrong by bringing it up; no one would want to put up with listening to the constant activity; she want the Board members to think about how they would feel if they lived next to that; she does not want to disagree with her neighbors; but she went to them first and she was told to move if she did not like it.

Vice Chair Zonka asked how long she has lived there.

Ms. Shepherd replied they bought in 2012 and moved in, in 2013.

Vice Chair Zonka asked how long the structure has been there.

Ms. Shepherd replied since December of 2017; and they had a dirt arena before that.  
Vice Chair Zonka asked if she complained then.

Ms. Shepherd replied yes, when the lights first started coming on and Ms. Costello offered to give them blinds, but that would not have been enough; the water runs off of the 17,600 square foot building right onto their property; she did not have a choice for that to be built, but they did; at the point that it was just dirt, they could have moved it to somewhere else on their property, not so close to the property line where it can be seen and heard; and if the Board does not give extreme parameters on this, she asked what the extent is going to be when the Costellos sell. She asked if it is going to be zoned so that the next people see a six or eight stall barn and an arena, they are out of luck on depreciation of their home.

Vice Chair Zonka asked if she was hearing activity after 10 p.m.

Ms. Shepherd replied yes, he attorney showed pictures.

Vice Chair Zonka remarked she was referring to noise, not the lights.

Ms. Shepherd replied no, just the tractor, but no people noise; but the tractor is annoying enough.

Commissioner Smith asked if there were any other houses in the area.

Ms. Shepherd replied yes; the one that is directly behind her boards there, so they do not have a problem with it, and there are houses across the street; it is bad when you put neighbors against neighbors, as she likes them, but cannot understand the inconsideration knowing it would be a problem; she does not like feeling like she is doing something wrong by bringing it up; but it is disrespectful and inconsiderate to change their lives and not being able to sit on her porch and read, have a cocktail, or have a party.

Vice Chair Zonka asked what they would be doing that would prevent that.

Ms. Shepherd replied the tractor going around, and the noise.

Vice Chair Zonka remarked that could happen anywhere, regardless of if they had horses.

Ms. Shepherd explained it is perpetual without a break; if somebody would have a tractor, it might be heard once a day; this is for 20 minutes solid; and it is not just the horses, it is the hay, the dumpster that comes in, the maintenance of painting and power-washing; this was done in 2017 and she did not have a choice at that time to say they did not want this; and instead she is here while she is not doing well, using her energy to point this out.

Mr. Costello replied to the lighting, stating it was brought to their attention in November; he has been working with the County to get it corrected and has gone to each light and put a potentiometer on it and turned it all the way down so that no one can adjust them unless they use a bucket lift and hit every light; that meets County Code and is not an issue; and if there is a noise ordinance that is being exceeded, someone just needs to tell them. He stated when they were building this, his wife spoke to Ms. Shepherd and was told it was fine, everything you do is beautiful, and she is sure it will be great; the fence has been there since they built 20 years ago, as well as the arena with lights on it; and the property line is five feet to the outside of the fence; and Ms. Shepherd built her house with the arena there, in a horse community.

Commissioner Zonka asked if the house was built with the arena in place, what about the structure.

Mr. Costello replied the structure was new but when we built the structure, we went to Ms.



Shepherd and told her what they wanted to do and she said that is fine and they always make it nice; they bring people in and do not make money on it; his wife does this to support the horse community with dressage; and none of the other neighbors have a problem with it; and there were neighbors at the Zoning meeting that approved it.

Ms. Costello remarked as to the LLCs, the attorney was wrong on just about everything; the Fawn Hollow LLC was formed on their attorney's recommendations because they own a commercial building that they rent to themselves for their business at 395 East Drive; the attorney set that up for them and it has nothing to do with this; the Fawn Hollow Dressage LLC was set-up to protect the rest of their entities from a very dangerous horse; there is no checking account connected with Fawn Hollow LLC, and she does not get paid for this operation; and the huge tent in the pictures was actually one of their finest moments as it was a dressage for kids program that they offered, which cost a lot to run it but there was no charge for it. She mentioned that an Olympic rider came to Brevard County to teach six lucky kids that were chosen to ride with him; they had to rent temporary stalls for the horses belonging to the kids; and she did not know if that was a professional operation, as she just donated her property for the weekend.

Mr. Costello mentioned it was the same thing for the dressage show at night; they had a professional trainer come in and people were invited to watch him train and give lessons; they are trying to help the community and the sport; it is no different than having a party at a house; they have farriers come take care of the horses like people have someone come and cut their grass; and he pressure washes the fence, which is about two miles worth, but it has to be done. He stated there is no loud speaker system at all, and nothing going on 24/7; he can restrict the tractor usage and not have it run after 6:00 p.m.; all they had to do was ask him; if they had something going on for Easter, a simple phone call to ask them not to do anything at the arena would have been no problem; and this is the same arena that has been there for 20 years, all they did was put a cover over it, which was permitted.

Ms. Costello stated she went to Ms. Shepherd first, before they did that; she does not know if any history is involved; and she asked if she should communicate any of that.

Vice Chair Zonka replied as long as it is evidence of what they are doing here.

Mr. Costello stated he has six stalls and will not have any more than six horses unless they have an event where riders bring their own horses and then he would put up a temporary tent for the weekend.

Vice Chair Zonka remarked she did not want to restrict them more than the rules already in place.

Ms. Costello stated there is one property that is zoned AU within 500 feet of their property; and the neighbor in front of that property testified at the meeting that the lighting and the operation is not a problem, and he has no problem with any of it.

Mr. Costello explained the water coming off of the building was something he was unaware of; he dug a swale all the way to the back; and there is now a 1.5 foot drop from the front to the back and water should drain off; water runs off Ms. Shepherd's house to the same spot because it is a low spot and has always been there; and there has always been run off problems in the area.

Vice Chair Zonka asked if they ran the tractor 24/7.

Mr. Costello replied no, maybe once a day for about 20 to 25 minutes.

Commissioner Smith inquired about the porta-potties.

Mr. Costello replied there were no porta-potties and has never been any.

Ms. Costello replied they have a bathroom off the back porch and everyone is welcome to use it; and she would have had to rent them and she guesses she could prove she never rented one.

Mr. Costello mentioned they have a manure dumpster and a guy comes and picks it up; he could spread that manure around the front yard if he wanted to but he does not want to stink up the whole place, so he spends \$500 a month to haul it off to the Cocoa dump.

Ms. Costello stated they are doing everything they can; they could have 20 horses on their property, as RR-1 allows for 4 horses per acre; she would not want to live on a property with 20 horses with the mud, flies, and manure; and she is glad the picture is there to show how beautiful it really is.

Commissioner Smith asked how many neighbors, or houses were in their neighborhood; and he noted, when looking at the map, he sees some RR-1 adjacent.

Mr. Costello replied the house to the north has three acres with four horses, and across the street there are four horses.

Ms. Costello showed Commissioner Smith on the map where the neighbors were and Vice Chair Zonka asked that it be put on the overhead projector.

Commissioner Smith asked how many neighbors have complained.

Vice Chair Zonka replied she never heard from anyone, and she never heard from the Costellos; she did not have any disclosures as she was never contacted, which is okay; and if she had an issue, she would have called them herself.

Mr. Costello stated other neighbors come and ride in the arena, which they are pretty open with because there is no other arena in the neighborhood; the County does not have a covered arena for people to ride; and it is hot in the summer.

Commissioner Lober made a motion to provide an additional three minutes for the speakers.

**Result:** Approved

**Mover:** Bryan Lober

**Secunder:** Curt Smith

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

**Absent:** Pritchett

Ms. Costello advised all the green properties are on Appaloosa Boulevard and they are all horse properties; this is clearly horse country; that is why they applied for a permit to put the cover on the arena so that everyone could use it; the trainers that come in have to have insurance to protect the property; but essentially it is open for people to come and use because that is what it is for.

Commissioner Lober mentioned the Costellos said the attorney allegedly had some things wrong; one of the LLCs that he referenced was called Fawn Hollow LLC and there was a specific place of business for that LLC other than this location; and he asked where the place of

business was for that LLC.

Ms. Costello replied Morse Communications, 395 East Drive, Melbourne.

Commissioner Lober asked if that has always been the case for that LLC.

Mr. Costello replied always.

Commissioner Lober asked if he were looking at the articles of incorporation under address, it should not say the street address of the principle place of business of the company is 2940 Appaloosa Boulevard.

Mr. Costello remarked that is where they live; and what it owns is that building.

Commissioner Lober stated it reads the street and mailing address of the principle place of business of the company is 2940 Appaloosa Boulevard.

Mr. Costello remarked that is where it is but the company, all it does is handle the rent that comes from the 395 East Drive building, as they pay themselves.

Commissioner Lober remarked that is not what it says; registered agent and management also has that address in the articles; and it may have been corrected.

Ms. Costello stated she does not think it has been corrected because they just keep renewing it every year.

Commissioner Lober asked if this is something that the Commission is inclined to approve, because he has had a bad experience with one particular entity in his district for as long as he has been in office, would they agree to limiting themselves, through a Binding Development Plan (BDP), to no more than six horses and not using the covered riding arena past 8 p.m.

Mr. Costello replied no, as they have two people that cannot get out till after 9 p.m.; and as long as they are meeting the code requirements for noise and the lighting requirements.

Commissioner Lober remarked they are asking for a change of zoning and he is looking at what the concerns are and if there is a way to mitigate it; and he asked if they would agree to not using it after 10 p.m.

Ms. Costello replied that is fair.

Commissioner Lober stated there may or may not be more stringent requirements in the code; but he does not know.

Vice Chair Zonka remarked just so they know, this is just one Commissioner's request; the Board has to discuss it; and this is not binding, just him trying to find out where his vote is.

Commissioner Lober stated in terms of the porta-potty thing, it does not sound like there is a need for them; and he asked if they would agree not to have any.

Mr. Costello replied they have never had any, so no problem with that.

Commissioner Lober stated no agritourism, meaning agritourism business where money is exchanged directly or indirectly.

Mr. Costello replied fine, as they do not charge or make any money off of that.

Ms. Costello remarked it got to the point that they either had to sell the property so someone else could enjoy it, or open it up so others could ride.

Commissioner Lober stated with those items termed, if Vice Chair Zonka wants to make a motion to approve with those conditions, he would vote for it.

Mr. Costello stated he would add no tractor after 8 p.m., and any training after 8 p.m. will use radios to communicate so they do not yell.

Ms. Costello stated the trainers tend to be loud so they have a radio system where the trainer speaks into a microphone and the rider has an earpiece.

Commissioner Smith wanted to know where Vice Chair Zonka is with this since it is her District.

Vice Chair Zonka stated she thinks the porta-potties is a non-issue, so including it in the BDP is unnecessary; as far as agritourism, she thinks if they agree that no agritourism activity, as defined by the Florida Statutes, except for the activities they do now, and it could be listed that there is a general understanding of what they are doing; and she asked Tad Calkins, Planning and Development Director, if that would be the easier route.

Mr. Calkins replied probably so; and he heard there is going to be boarding of horses, no more than six, training or riding lessons, and he is not clear if there are going to be dressage events that are not associated with training.

Mr. Costello responded there could be an evening of dressage on a Saturday night, where the trainer comes out, and 20 or 30 people come out and have wine and watch the training.

Vice Chair Zonka stated she is mostly concerned about the lighting and the noise, but she does not want to restrict even more than would be in a residential neighborhood by saying they have to stop all activities at 8 p.m., because they want to have horses on their property; she wants them to be able to do the dressage stuff if it does not interfere with activity; she thinks there are lots of things they could be doing on their property that neighbors would have to see; these are things a person is exposed to as a neighbor; and that is life. She mentioned the Costello's house and run was already there when the Shepherd's built; she has never heard any complaints or issues from anyone else, not even the Shepherds; and she would like the lighting included in the BDP.

Mr. Costello remarked the lighting has already been fixed; and Code Enforcement came out and it cleared it.

Mr. Calkins remarked there is an active case on the property for lighting so he is not sure if it needs to be included in the BDP, unless there is a certain time that the Board wanted no lights, then there would be that consideration.

Mr. Costello stated Steve Novak signed off on the lights a week or two ago.

Vice Chair Zonka stated if that was put on the BDP rather than say these are the things that can be done, if it were to say no agritourism, as they have had an issue in the past with somebody just going completely off the rails with what they are doing on their property; that is what the Board would like to avoid; and she asked if the activities they do now were included, would that be satisfactory.

Mr. Costello replied that would be more than enough; and that is all they will ever do.

Vice Chair Zonka asked Mr. Calkins if it would be redundant to include that they comply with the current sound Ordinance.

Mr. Calkins replied that is correct; the lighting Ordinance applies by zoning classification so it does not necessarily need to be part of the BDP.

Vice Chair Zonka asked if in a residential neighborhood they could have up to 20 horses.

Mr. Calkins replied once you get over four horses per acre, then it goes into a Conditional Use Permit (CUP) application; as long as they are under four horses, per acre, which they are; and they are only asking for six horses.

Vice Chair Zonka stated what she is saying is if the zoning on the property was not changed, how many horses could they have on their property.

Mr. Calkins replied the horses allowed on their property would be considered accessory use and it would be limited to just their horses and residential aspects; and they would not be able to have someone else come over and use their horses for the training.

Vice Chair Zonka replied yes, she knows.

Ms. Costello asked if it could be 20 horses, at four horses per acre.

Mr. Calkins replied under the current zoning, yes.

Vice Chair Zonka asked if they were okay with limiting it to six horses.

Ms. Costello replied yes.

Commissioner Lober remarked if a motion is going to be made, he wants to make sure which BDP conditions are and are not going to be included so that he is able to determine whether to support it or not.

Commissioner Tobia stated he thinks her idea was good concerning the things not listed in agritourism, but he looked up Florida Statute 570, and when looking at agritourism, it is very broad; he thinks it is a limiting factor by putting that there; and he asked the Costellos if they do historical, cultural, civic, or ceremonial, and would they ever want to, as civic could be hosting a flower club.

Mr. Costello replied that is probably what they did with those eight riders.

Commissioner Tobia remarked they may want to stay away from the definition of agritourism all together, because then there would be some sort of BDP issue; and to be less specific if the Board wanted to keep it open for these folks.

Mr. Costello asked if it can be made for just horse activities.

Vice Chair Zonka asked Eden Bentley, County Attorney, if using non-commercial would cover it.

Commissioner Tobia asked if they charged for boarding.

Ms. Costello replied they will be.

Commissioner Tobia remarked then it becomes a commercial activity and then it gets into agritourism; and then there is an issue.

Ms. Costello asked if they could be zoned AU and not charge for board.

Commissioner Tobia replied there would be a BDP on top of that which would limit them; he stated he did not want them to agree to this and then find out what they agreed to is not what they think; and the fact that she has not looked at the definition of agritourism, but agreeing to it.

Vice Chair Zonka stated she was going off of staff recommendations because if the Board was going to move in the direction of approving it, she thinks the concern was that it was going to have the nightmare that is had elsewhere.

Commissioner Tobia stated agritourism is a moving target, so this definition has been changed numerous times, which is another reason he would suggest they stay away from it.

Vice Chair Zonka mentioned maybe they should put together the permitted activities; and asked if that would be the safer route.

Attorney Bentley remarked she could simply list the permitted activities in the BDP, such as the boarding and training.

Commissioner Lober stated it could do that, or the alternative would be to modify where he left off before; no commercial agritourism, namely agritourism and business where money is exchanged directly or indirectly with the exception of boarding; and it could be another way to get to the same area to cover the concerns.

Ms. Costello stated she is a bit confused; she asked if they do not charge board, which they have no problem with, can they have clinicians come in and teach within the correct hours and noise restrictions; and they charge the riders.

Vice Chair Zonka remarked it is still occurring on their property; and she cannot say commercial then.

Mr. Calkins stated he thinks there are a lot of different options that the Board could look at for the agritourism piece; he thinks what Commissioner Tobia is suggesting is that if the definition is very broad and covers a lot of things, which makes it very difficult to enforce when it gets into situations such as in Commissioner Lober's District, where folks have taken it to the extreme; it is difficult to find that boundary in between; and if the Board wants to identify the particular uses that are allowed on the property, that would be one way to handle it.

Vice Chair Zonka stated rather than delay them, if they had a short break, a list could be created; and she guesses it could always be modified later, after advertisement, but a collective list of the activities that they do, and just have the BDP with these permissible activities.

Mr. Calkins replied yes, that can be done.

Mr. Costello stated it could be as simple as boarding and training, as that is what they do, that is it.

Vice Chair Zonka mentioned that they do shows.

Mr. Costello replied it is not really a show, it is more training.

Ms. Costello remarked a show would be more like awards, and entry fees, but they do not do any of that; and they have a single trainer come in and teach multiple people.

Attorney Bentley stated that is what a clinic is.

Mr. Calkins asked Attorney Bentley if since the BDP would come back within 120 days, given the Board's direction to limit the uses, would they be able to bring it back like they normally do with the uses identified, or would it require another public hearing.

Attorney Bentley replied as long as the Board is clear to us on what uses they want to allow and provide for; she does not think it could say decide whether it is going to include agritourism or not, and then come back; and she thinks it has to make that kind of decision whether it is going to prevent uses or allow uses.

Mr. Calkins stated the concern he has is he does not know that what they consider training to be is the same as the County understands training to be; he probably needs some more clarification so it would be better identified for the Board, the County, and the applicant, so in the future, staff is not looking at a condition in the BDP and trying to decide if they are in compliance or not.

Vice Chair Zonka asked if he had a list of things that they can do, rather than use the definition of agritourism.

Mr. Calkins replied he thinks that if there was a list of things that they could do, that would be one way to limit the use of the property; he is not sure that would prevent them from getting into the agritourism aspect, as the definition is very broad; and he is not sure if Attorney Bentley feels the same way.

Vice Chair Zonka asked instead of giving them permissible things they can do on their property, can the Board give them the AU with the exception of and then have a list of things they cannot do, rather than say the definition.

Mr. Calkins replied sure, he thinks that could be done.

Commissioner Tobia remarked the BDP is either going to be inclusive of things they can do or exclusive of things they cannot do; if her direction is to give them as many opportunities, then he will support it; but it needs to be an exclusive instead of inclusive.

Vice Chair Zonka stated that way the Board could address the items that are not wanted on the property, give more freedom, and it is less of the Board trying to interpret the definition of training; and she asked if it had to bring this back.

Attorney Bentley replied the BDP will come back; but she thinks it needs to understand that the training, if it is one trainer teaching multiple riders and horses in a day-long event, or whether it is individual owners having their personal trainers come in, it could end up with the same number of people; and if the Board does not care about the number of people being trained in a day, then it could just go with training.

Vice Chair Zonka asked what kind of motion is needed.

Attorney Bentley replied the BDP, if it is limited to six horses and commercial activities for boarding, and commercial training, if that is what is wanted to be allowed.

Vice Chair Zonka stated she was talking about something totally different; she was talking

about going with an exclusionary saying; the Board is going to grant the AU zoning with the BDP and exclude these six or eight things; it is probably a little bit longer; and she wants to list the things they cannot do rather than things they can do, because they will be permitted to do those things based on what the zoning would allow, if the Board were to approve it.

Attorney Bentley remarked it would need to say what they may not do, such as these activities are prohibited, and list them.

Vice Chair Zonka asked if that has to come back.

Attorney Bentley replied correct, it would, but direction would need to be given now because staff does not know what that is.

Vice Chair Zonka asked what the motion would be.

Attorney Bentley replied a motion to approve with a BDP that provides for (blank) and prohibiting these things, and list them.

Vice Chair Zonka asked if the list of things are needed now.

Attorney Bentley replied for the prohibitions, yes; and she noted the alternative would be to table it and have staff get with the applicant and come back with the defined terms.

Commissioner Lober stated he had a solution; to make this easier on everyone and to get it resolved one way or the other tonight, he asked Vice Chair Zonka to recall this after the Board addresses a couple of other Items; that would give Mr. Calkins or staff a chance to print out all permissible uses within the AU zoning class; then the items can be gone through; and then recall it and make the motion to be voted on.

Mr. Calkins replied he could do that and make a copy for the Board.

Vice Chair Zonka stated the BDP still has to come back.

Commissioner Lober remarked at least what is in the BDP will be known, and it is not ambiguous for staff.

Vice Chair Zonka informed the Costellos that staff will get with them.

### **H.3. The Suntree Business Center, LLC, Requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Dog Park, in a BU-2 Zoning Classification. (21PZ00012) (Tax Account 2602736)**

Vice Chair Zonka called for a public hearing on a request from The Suntree Business Center, LLC for a Conditional Use Permit (CUP) for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a dog park, in a BU-2 zoning classification.

There being no further comments or objections, the Board approved the request from The Suntree Business Center, LLC for a CUP for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a dog park, in a BU-2 zoning classification.

**Result:** Approved

**Mover:** Curt Smith

**Second:** Bryan Lober



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

**Absent:** Pritchett

### **J.1. Financial Incentive for Constituent Reporting of Waste Management Missed Pickups**

Commissioner Lober stated the Board has been here before; he spoke with Waste Management this past Friday and he does not doubt that they have taken steps to try to avoid being in the situation again; he does not maintain that this is at the same level that it was this past summer, but the complaints lately have been substantial; he wanted to revisit the same pitch that he had before since months have gone by and there is a similar, but not quite as bad, situation; and he hopes it is unnecessary, but if the Board is inclined to support it, he is happy to have more discussion.

Commissioner Tobia remarked to Commissioner Lober he wished he asked the same question he had because he thinks his introduction would have been quite a bit different; he is concerned as to why this is coming back, as it failed in a 3:2 vote previously; he did ask some questions to see if Waste Management had improved, as suggested, and he found out the opposite is true; the last time this came up in October 2020, there were 248 reported instances; and he asked Euripides Rodriguez, Solid Waste Management Director, if that was correct.

Mr. Rodriguez replied yes.

Commissioner Tobia stated Commissioner Lober had expected that 248 would decrease, but had not expected it to increase by 10 percent.

Commissioner Lober replied he did not expect that.

Commissioner Tobia stated it did not increase by 10 percent, it increased by 98 percent; in April 2021 there were 491 complaints; and he takes offense to Commissioner Lober stating it was similar and not quite as bad, as it is twice as bad.

Commissioner Lober remarked he stands corrected.

Commissioner Tobia stated he supported it last time and he will support it again; and he thinks this issue is not getting better, but is getting quite a bit worse.

Commissioner Lober made a motion to approve the requested action in the agenda report.

Commissioner Smith stated he is not inclined to do that and explained why; the Country is in a position where employers have a difficult time getting employees for a multitude of reasons; he asked, what does one do to fix that problem; he does not think it is in their capability of fixing it; they try to do what they can to make it; the Board still has the ability to fine them; and there are things in place to fine them and punish them. He added for right now, he is willing to stay that route; if this continues going forward for another three to five months, he would be with them; he thinks they need to be given time because he talks to a lot of business people and they all have the same problems; they have people that do not show up; they advertise bonuses; and people do not show up for applications and interviews. He added it is difficult to be a business person right now; he empathizes with the restaurants, waste management, and barber shops; the Board can do what it wants, but he will not support it; and he does not agree.

Commissioner Lober stated a company cannot be fined or be imposed liquidated damages if the Board does not know the violations have occurred; people have contacted his office and have no idea who to call; they call Waste Management but not the County or call the County

but not Waste Management; there is no consistency; and his hope with implementing this is not geared toward punishing anyone, it is toward incentivizing better service. He further stated with the number of constituents in the County, collectively amongst the five Commissioners, there is no way it is going to be perfect; he does not expect perfection, as he thinks that is unrealistic and unfair to them; he thinks the level of service that was had in April was substantially below what is needed to be seen; not that he does not empathize with Waste Management's concerns and difficulties with respect to hiring, he thinks those are genuine concerns, but there are ways to make it less of a problem; and there are infrequent issues that happen from time to time, but that is not what is being talked about. He added there is no consistency with who gets the reports of service failures, whether they go to Waste Management, Solid Waste Management department, or to the Commissioner's offices; and he thinks it could do a lot to track the 491 complaints, which may be exaggerated or a lower number, since it is only comparing from one source, Solid Waste Management department.

Chair Pritchett's presence is noted at 6:25 p.m.

Chair Pritchett advised she is not supporting this tonight, not that the Board does not need to continue looking at it; she mentioned everyone is having this problem right now of getting employees hired; it seems to be something in the State of Florida having a hard time getting employees; she does not know what needs to be done to fix it; Waste Management has been offering higher rates to their drivers so she thinks this is an ongoing situation; and she is not ready to do this tonight.

Commissioner Zonka stated she thinks she made her position clear last time; this is hard to say publicly, but until the government stops incentivizing people to not go back to work, which is the sad truth, she does not know, aside from paying them a ridiculous amount of money; they have offered to train their own employees and get their Commercial Driver's License (CDL), and \$2,000 sign-on bonuses; Commissioner Pritchett is right, other waste companies are dealing with the same thing; and sadly, this is the result of COVID-19. She added she has several friends with small businesses, like restaurant industry and similar fields, that cannot even get people to work because they are making more money on unemployment than they are working; she is hoping that changes soon; she appreciates that the issue is handled quickly when a constituent contacts her office, as she knows they are working hard to handle that; she is happy to look at this again in a few months if the situation is not better; and when the economy gets better and the free checks stop coming, maybe a change will be seen. She advised she is not supporting this right now because she thinks incentivizing people to complain is always a bad idea.

Commissioner Lober stated he understood where she was coming from, but to him, it is not so much incentivizing to complain as it is informing the County of the service failure so it can keep track of it, as they are doing a service enabling the County to collect those liquidated damages that it otherwise would not be able to collect; and he asked Commissioner Tobia if he should make the motion or withdraw it.

Commissioner Tobia replied that he did not think that was needed; he mentioned Waste Management has a gross income of \$1.94 billion last year; this is not like Bob's barbershop that is being handed \$20,000; it is a multi-state, multi-national corporation that makes billions of dollars a year; they employ lobbyists that he is sure has called the Commissioner's offices; and they cannot pick up trash, but they can hire lobbyists to call and ask for things. He is really ticked-off because they came to the Board and ended a contract, then hit the County with a 25-30 percent rate increase; he did the math and if each of the complaints was legitimate and the County paid \$25 each, then they would be hit with a \$144,000 hit because of this program; if the Board does not want to do this now, that is fine, but draw a line in the sand and let them know at a point, the County will no longer take it; and Commissioner Lober will not have to

continue to get shot down like he does over and over again. He asked the Board to say when it gets to a certain number per month to take action; but to blame it on COVID-19, when this is a billion dollar company is just ridiculous; he bets there are complaints when Amazon does not deliver on time, and when they found the United States Postal Service did not cut it, they found a way around it and delivered their own packages; Waste Management is not at that level but they made \$2 billion in revenue last year; and he is ticked-off, not because they are a multi-billion company, but because they hit the County with a double-digit increase. He added that is very disappointing for all of the constituents that are not billionaires and do not have those resources; he did not feel the vote was necessary, as it would probably be the same; and he would like to hear from the other Commissioners what the number would be to say maybe \$25 is acceptable because from October to April has been almost twice as bad.

Chair Pritchett asked Frank Abbate, County Manager, if June 1 was the date that the extra unemployment goes away.

Mr. Abbate replied he is not certain what the impact is on the unemployment; he knows that they recently, through an order from the Governor, a change was made relating to how many times the applicant must apply for a job; and he thinks it is a minimum of five searches to continue unemployment.

Chair Pritchett remarked she is going to need to look at that to see when that additional stipend ends; and when someone gets unemployment, they can also apply for free rent; she stated she might not want to go pick up garbage either if she had that option; she does not mind looking at it, but looking at the market right now, and the ability to hire or not hire, employers will have to get competitive with these rates; she thinks this should be an ongoing discussion moving forward; and she stated there will be a lot of contact and she will be paying attention.

Commissioner Lober withdrew the motion.

Commissioner Zonka mentioned that a \$144,000 hit to a billion-dollar company is not going to change the level of service or complaints; the complaints may go up if it is incentivized; but they cannot pull drivers out of their butts.

Commissioner Lober stated he does not think that \$144,000 holds a candle to anything that they look at in terms of revenue, even with just the County contract; but if they could put that \$144,000 toward paying to get more drivers or increase the compensation they offer, it may actually do something.

Commissioner Zonka stated she understands they have increased the compensation, vacation, and the sign-on bonus, as well as paying relocation costs; and unless they lied to her, she does not know that \$144,000 is going to change the lady that puts yard waste in bags and wonders why it is not picked up; that is the type of calls she gets, sometimes if they are just four hours late; some complaints are not warranted, some are; and they get taken care of as quickly as possible. She added that so many things have changed in the last year and one-half; she is not being sympathetic, and giving them everything they want; she did not like the double-digit increase either, but they were the cheapest company that bid; and those are facts.

The Board recessed at 6:38 p.m. and reconvened at 6:52 p.m.

The Board discussed the authorization for staff to create and implement a program, with formalized procedures, incentivizing reporting of future solid waste collection issues and delays with payment to parties reporting legitimate complaints, but took no action.

## **J.2. Discussion Re: Microplastics in the Indian River Lagoon**

Commissioner Lober stated people often hear about molecules that contain nitrogen or phosphorus, things like ammonia, nitrite, nitrate, and phosphate; there is a secondary concern that is worth looking at, namely, these microplastics that get into the Lagoon and end up going to all of the multi-cellular sea life, which ends up getting eaten by people; it has the potential of ending up in people's bodies based on what is done or not done to preclude those microplastics from getting into the Lagoon in the first place; he asked Elizabeth Baker to come out to recap some thoughts she has in respect to this; and commented he thinks she would take no longer than five minutes to go over some of her concerns; and at the end of the discussion and public comments, this issue can be referred to Natural Resources Management and the Citizens Oversight Committee (COC) to determine if it is worth looking at whether to use Save Our Indian River Lagoon (SOIRL) funds to preclude this from happening, and if so, how to factor that into projects that are based on a dollar per pound of nutrient removed. He noted he thinks it is a discussion worth having and there are some interesting questions; and he made a motion for Ms. Baker to have five minutes.

Motion failed for lack of a second.

Elizabeth Baker stated this is a very important issue; microplastics get into the water in a number of different ways which, along with the sewage spills and the fertilizer, it contributes to nutrient pollution; microplastic pollution is not a separate issue than nutrient pollution; biofilm forms on plastics, which is being found in the bottle cap research that is being done; other contaminants attach themselves to the biofilm, which acts as a magnet for chemicals and other microplastics, down to nanoplastics; and one of the things she noticed is the County, State, and commercial mowers throughout the County mowing over garbage on the sides of the roads. She showed pictures of examples of garbage on the side of a road including a bucket, water bottles, aluminum cans, et cetera; she mentioned this is a common practice, not just in this County, but it seems to be the standard among many mowing crews all over the place; another issue is a lack of trash cans in the area; she showed pictures of the same bus stop two years apart, with much litter on the ground; she worries about the condition of the drainage ditches covered in vegetation, which is a common occurrence; there are also businesses throughout the County that heavily contribute to the litter; and she showed a picture of a Walmart in Merritt Island with the lot butted-up against a wildlife sanctuary, with plastic all the way around the lot.

Commissioner Lober asked Ms. Baker to tell him what she wanted to discuss.

Ms. Baker stated she wanted to discuss solutions and what she has come up with is that there is a need for more garbage cans and dumpsters; every bus stop needs to have a garbage can; the County needs to invest in a proper recycling facility; that would be an incentive of its own for the citizens to recycle; she would like to see help for some of the impoverished areas and homeless populations so they do not become a major litter haven; and she would strongly involve environmental education including polyfluoroalkyl substances (PFAS) and microplastics for all workers in ground maintenance, which would stop them from making bad choices when mowing or spraying.

Chair Pritchett asked Commissioner Lober if he had any more questions, as this is almost like the extra time that no one wanted.

Commissioner Lober stated it was alright, and to go ahead with the public comments.

Commissioner Tobia stated Commissioner does this and he just wanted to provide that same courtesy; on numerous occasions he has qualified folks as experts; he stated Ms. Baker stated she was from Merritt Island; he looked at microplastics and they are highly complicated the way they are assessed and how they impact certain aquatic life; and he asked Ms. Baker what

qualifies her as an expert in any of these fields.

Ms. Baker replied she has been picking up trash, commercially, on commercial properties for about three years; getting into microplastics was a byproduct of that; it does not necessarily make her an expert on microplastics, but it does make her an expert on litter; and she has really dug into the litter problems, picking up thousands of pounds of litter in this County in the past three years.

Commissioner Tobia stated he thinks everyone deserves three minutes, do not get him wrong; he hopes in the future it can stick to three minutes for everyone because Sandra Sullivan is going to come up and the Board limits her to three minutes; he is sure she has picked up quite a bit of trash as well, but it does not want to extend the same two minutes to her; and he thinks it should be fair unless someone establishes themselves as an expert.

Commissioner Lober stated he thinks there is a little bit of a difference with Ms. Baker as opposed to other folks; he did not attempt to qualify her as an expert in microplastics, but she had put together a very, very large litter pick-up that went a substantial portion of his district, which is very rare for an individual citizen and constituent to do; she came to his attention in light of her efforts with respect to that, as they made a substantial difference to improve the center of District 2; things like placing dumpsters at homeless camps can be agreed or disagreed upon, but based on the fact that she has seen more litter than the whole Board has with respect to litter, when she suggests that these are the areas that it accumulates, he does not expect her to tell the Board the chemical breakdown and how the Ultraviolet (UV) affects the plastic, but she can tell where the actual issues are; from a common sense perspective on matters that do not require expertise, she can tell the Board what some potential solution might be; and that is all and where he is coming from with this.

Chair Pritchett stated the Board members know how she runs the meeting, with three minutes for public comment; if somebody feels the need to do more, there will be a vote; the way she does it is run through the comment cards and then the Board communicates; she thinks that is why there is this thing now; and if the Board sticks with her routine, that is how she gets through the meeting.

## **K. PUBLIC COMMENTS**

Sandra Sullivan stated she was very happy to see this on the Agenda and she wanted to remind the citizens of Brevard County that they voted for the half-cent sales tax to restore the Indian River Lagoon through financing, planning, constructing, maintaining and operating, capital improvements, capital maintenance projects and programs, designed to improve water quality, fish, wildlife, marine habitat, remove muck, and reduce pollution; there was an article last week in Florida TODAY about eating oysters and likely eating lots of plastic; it stated a new study by the University of Central Florida (UCF) has found an estimated 1.4 trillion microscopic plastic fibers clogging the oysters in the Indian River Lagoon; Linda Walters, a UCF biologist, said she and her students typically find one or two pieces of litter of Lagoon water, sometimes up to 25 pieces; and metals, toxins, and harmful additives associated with plastics, build up on the tiny plastic bits and when consumed on oysters and other food and water, these toxins can build up in people. She added apparently, about 35 percent of these originate from synthetic textiles, so they are urging that the septic tanks and aging sewage infrastructure along the Lagoon and look at the wastewater facilities for processing this; on the subject of pollutants, she mentioned the manatee mortality event, and there was a green sea turtle event; the green sea turtles live in the Lagoon and one of the primary causes they are dying is microplastics; these are a threatened and endangered species; and she found out about this issue when she went to a science fair here in Brevard County and mentioned the County's high schools have a phenomenal, one of the best in the State, in science research. She added that the level of the

work that the high school students are doing is truly impressive; it may be an idea to incentivize some of the research; the County could do contaminant testing; it is being found that glyphosate and the mosquito spray is building up in the Lagoon, and is being found in manatees; and there is definitely a link to herbicides killing the sea grass.

Matt Lawrence showed pictures of road debris, stating this is DBI's tractor, and the last thing this tractor did was run over a monument of someone's death; someone came out and put the stump and some flowers and this guy ran it over; he also ran over a cushion, which he showed a picture of; the tractor operator had been sent out to clean up after running over trash; this is what the contractors are running over; and the County pays them \$17 million per year to pick up trash and mow from U.S. Highway 1 to A1A. He added that Keep Brevard Beautiful (KBB) teams up with them for additional help; it is like they are in competition with each other; they are mowing over trash to make work for KBB and KBB is leaving trash for DBI; they are pointing fingers both way; they are running over the trash and it is getting into the Lagoon; they do it constantly, so he is on the phone two or three times a week pointing out things like this, that is going to be floating away in the river; and not cigarette butts or cans, but a real legitimate couch cushion. He stated Code Enforcement needs to pull their weight on the businesses; all of the businesses are full of trash; Jersey Mike's, Lowe's, Home Depot, there is trash as far as one can see; and he mentioned Chair Pritchett just sat on Interstate 95 looking at trash.

Chair Pritchett remarked she was looking at an accident.

Mr. Lawrence replied because she was not looking at the trash; if one looks at the trash, that is all they will be able to see; that is all he sees, not accidents, or other cars, just the trash; for the County to be inviting a bunch of bikers to Brevard County, where there are no trash barrels, no dumpsters, and nobody is picking up the trash; and the people that are hired to do the work do not care. He remarked he does not think the County should be inviting anyone here; he does not think the County should be paying anybody to mow; in their contract it says they are not allowed to run over trash larger than a soda can, meanwhile the whole team has been trained to run over the trash until it is small enough that it cannot be seen from the car; the County needs to hold these guys accountable, hold Florida Department of Transportation (FDOT) accountable, the County contractors, and Code Enforcement; and Code Enforcement picks on kids having a yard sale but the Home Depot fertilizer pile has been leaking into the storm drain for months. He asked where is Code Enforcement and why is it picking on kids and people building sheds.

Stel Bailey stated that Ms. Baker that brought this forward, has done such an incredible job; even she has gone out and done litter pick-up for four hours, and never realized the amount of trash that is on the side of the roads, clogging up drains directly next to the Indian River Lagoon; it is so incredibly important to go out and do one litter clean-up and see how much trash is there and how incredibly hard it is to pick up when it has been moved over; it is much easier to pick up a full cup than a billion different pieces of a cup; and after the experience of going out with her, Ms. Baker has completely and utterly inspired her to look into this issue because of how passionate she is about the issues with plastic pollution, microplastics, and the nanoplastics that get into the Indian River Lagoon. She stated there are studies that it is getting into oysters and bottom-feeders, going up the food chain and bio-accumulates; she wanted to bring forward some ideas, and solutions for the Board; one solution could be promoting water refill stations and reverse vending machines; if one has not heard of what these machines are, they accept bottles for recycling and give consumers a refund; and they are usually placed in cities with container deposit laws but these machines can be obtained, paid for, and maintained by beverage companies. She mentioned that could be something to look into and they could offer consumer discounts; it will just promote awareness on top of actually doing something about the problem and potentially identifying pollution hot spots by using technology to empower people to crowdsource a clean planet; an app could be created

for people to take images of the litter on their phones and upload it to a public map; that could bring a lot more awareness as well as awareness to the Indian River Lagoon issues; and that is something that is needed in this County. She continued to say the County needs people to care more about the water quality and what is going into the soil; that could be another way to fix that as a solution; to recognize businesses and leaders who are cutting plastic waste with an incentive or some way to recognize that they are doing good for the environment in Brevard County, and businesses on the opposite end of that to be accountable for their plastic pollution; and many retailers, like McDonald's and Burger King, refuse to take responsibility for litter created in their parking lots, so have the City require that all fast food operations have, for instance, a trash can at the exit of the drive through lanes, and they must empty them before they overflow.

Commissioner Lober stated this is something, as Commissioner Tobia had mentioned, where there is a question of the expertise of the people speaking here today; this is not a slight to them, as he is not an expert himself in this matter; he does not believe any of them are experts in microplastics and microplastics degradation; there are people that have a lot more knowledge such as the Resource Director and people on the COC that have the ability to access professionals locally that do have a higher level of knowledge; and he would ask that the Board send a request to Natural Resources Management and/or the COC that they look at these issues. He continued by saying he feels there may be some where they say it is just not cost effective to even bother with doing this particular Item, but there may be other Items that have been mentioned that are worth looking at and determining if there is an easy way to prioritize them; he thinks the question should be discussed as to the impact of having these bioplastics and whether bioaccumulation is really a horrible thing or just an unfortunate thing; he knows if given the option of eating a fish with microplastics or a fish without, he would pick the one without; and he asked that this is sent to Natural Resources Management and COC to have them look at it and determine if any of these concerns can be addressed in a cost-feasible way, and if so, to advise the Board whether or not it should be funded, at least in part, out of the SOIRL tax.

Chair Pritchett mentioned she may have missed something; and asked Commissioner Lober which one he was talking about and if he had a list.

Commissioner Lober replied the big one, for him, is the microplastics.

Chair Pritchett asked how he would like them to look at it.

Commissioner Lober replied he would like the COC to determine if it is a concern to them; if they are a concern, could they identify or suggest a way of integrating them into the priority scheme for the SOIRL tax; if they believe that this is a concern that warrants its inclusion, there will be a better ability to go from there; if they say it is not something that is a concern, it may have to go in a different direction or none at all; but it is beyond the Board's expertise.

Chair Pritchett stated it could be a concern and she guesses the COC could figure out what to do about it; she thinks it is a big problem; and she is not sure how much the Board can solve.

Commissioner Zonka suggested instead of directing the COC, SOIRL, or Natural Resources Management Director to do anything, she would say that Commissioner Smith, the SOIRL Representative, could bring it to the Board; she does not think anyone here would deny there is an issue with microplastics, but the people that spoke today also have the opportunity to address the Board; she hesitates to give direction and ask cautions anybody to move forward with asking to modify the plan because the Board does not have the information or the science; she believes if the Natural Resources Management Director, given her level of expertise, wants it on the priority list or if Commissioner Smith wants the Board to look at it, he can bring it to the

Board; and she has not seen anything so overwhelming that she feels compelled to direct them to re-prioritize the plan. She noted she would suggest either bringing it to that Board or Commissioner Smith could ask the question at the Board; she does not want it to look like the Commission is strong-arming anyone to do anything; and she does not want the wrong impression to be given based on the desire to remove the microplastics.

Commissioner Smith remarked he thinks it is worthwhile to look at; he sees the problem but does not see a solution; and it is a big deal, and he would defer to Duane Defreese, Indian River Lagoon Council and Virginia Barker, Natural Resources Management Director, which he will communicate with.

Commissioner Zonka stated she likes a lot of the ideas with trash and that it would be a positive.

Commissioner Smith remarked he agrees with her and the speakers; he walks his dog along U.S. Highway 1 and is constantly picking up trash; he carries a bag with him when he is walking his dogs and puts it in his recycle bin when he gets home; and it is only a mile in each direction, so he is not doing much.

Chair Pritchett stated the Board needs to work on a program maybe of signs and fines; the problem is pollution; and if there is a way to get them to stop polluting, that might be an idea, to control it at the source.

Commissioner Smith remarked that education is always the best thing, but asked how is that done.

Commissioner Lober stated he did not want to force anyone to do anything at this juncture; the Board does not know what the answers to the most fundamental questions are, which is why he suggested the approach to the COC or Natural Resources Management; if Commissioner Smith wants to speak with Mr. Defreese, as he trusts him; the first question is, is this a concern; when someone asks someone if this is a concern, they are not forcing them to do anything; and to him, it does not come across as heavy-handed. He added if they say no, then the question may stop there, but if they say yes, then it is seeking their expertise; it may simply be that they have never been approached with this request and, as a result, they feel confined to stay in the lines; he understands the focus has been on preventing nutrients from getting into the Lagoon and getting the nutrients out of the Lagoon; the non-organics that are being talked about are outside of the equation that they have been using up to this point; and he thinks it would a good discussion to have and he would be supportive of sending it to any of the directions mentioned.

Chair Pritchett stated she would let Commissioner Smith take care of that; four years ago the County had a similar conversation and it changed how the County dealt with, and got rid of, a lot of Styrofoam items; this is a conversation that the Board may be able to continue to work on; a lot of the third-world countries are loading up the waterways too; and it is a big problem. She mentioned anything the Board might be able to start working on, she would be in on; and she asked if Commissioner Lober was good with the resolve on this Item.

Commissioner Lober stated if Commissioner Smith could contact Mr. Defreese in the next several weeks, so that it can have some sort of an update in a month or so; and if so, he will leave it be until that point.

Commissioner Smith stated that works for him.

Chair Pritchett asked Eden Bentley, County Attorney, if it was going back to Item H.2.



Attorney Bentley replied that is where they are.

## **H.2. Michael J. and Annette Costello Request a Change of Zoning Classification from RR-1 to AU (21Z00005) (Tax Account 2700924)**

Chair Pritchett mentioned that she was watching the meeting on Facebook Live but could not respond, so she called and could not figure out how to push the buttons to talk; she did hear and see the presentation right after the pledge; and she heard Commissioner Zonka's recommendation and she will look to her to see that this is what she asked for, and go from there.

Commissioner Zonka stated she knows that staff had the opportunity to speak with the applicants; she remarked that she is not questioning their intelligence, but she knows the Code can be a little weird and the AU zoning classification can be tough to understand; she and Commissioner Tobia, maybe others, are concerned with just saying this is what you can do based on this classification; if they were to do something outside of the limits and have a disgruntled neighbor, not saying the folks today, she does not want Code Enforcement at their house constantly so, exclusionary, she would propose to the Board that it allows the change to the AU zoning with the exception of: packing, processing, sales of commodities raised on the premises provided in Chapter 86, Article IV, dude ranches with a minimum area of 40 acres, barns and stables shall be 200 feet from the property line, fowl raising and bee keeping, plant nurseries, private golf courses, private camps, foster homes, fish camps, group homes-level one-subject to the requirements set forth in section 62-1835.9, landscaping business, mobile home residential dwelling, power substations-telephone exchanges and transmission facilities, private parks and playgrounds, and resort dwellings; and the next group of items goes under conditional use, so that would be a separate issue altogether.

Commissioner Tobia stated he was just seeing this, and one of the conditional use permits here is boarding horses; his understanding is they would have come back to the Board to advertise for a CUP; and he asked if that is correct.

Tad Calkins, Planning and Development Director, replied that is correct but the conditional use for boarding horses is when it gets to the over four horses per acre limit, which would be 20 horses.

Commissioner Tobia remarked he did not want to limit the privileges that they already had.

Commissioner Lober asked if the pre-existing uses are also permissible, if they are doing it now, would it not be permissible regardless, even in the absence of a CUP.

Mr. Calkins replied the pre-existing use is defined in the Comprehensive Plan and the zoning code, so those are when the County starts looking at non-conforming uses and non-conforming lots of record; and he thinks, in this case, that would not necessarily apply because everything is asking to be in conformance.

Commissioner Zonka asked Attorney Bentley if that was close enough to a motion.

Attorney Bentley replied she's got it.

Chair Pritchett informed the Costellos that staff would be getting back with them; and staff would be getting back with the Commission.

There being no further comments or objections, the Board approved the request from Michael

J. and Annette Costello, changing zoning classification from RR-1 to AU, with a Binding Development Plan exclusionary of packing, processing, and sales of commodities raised on the premises provided in Chapter 86, Article IV; dude ranches with a minimum area of 40 acres, barns or stables shall be 200 feet from any property line; fowl-raising and beekeeping; plant nurseries; private golf courses; private camps; foster homes; fish camps; group homes, level one, subject to the requirement set forth in Section 62-1835.9; landscaping business; mobile home residential dwelling; power substations, telephone exchanges and transmission facilities; private parks and playgrounds; and resort dwellings.

**Result:** Approved

**Mover:** Kristine Zonka

**Seconder:** Curt Smith

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

**Nay:** Lober

**L.5. John Tobia, Commissioner District 3, Re: Board Report**

Commissioner Tobia stated this is one of the first times they do not have the International Association of Fire Fighters (IAFF) here complaining about things, but one of them is mandatory overtime; he asked the Board to take into consideration staff here that gets paid a salary, not overtime; there are folks out there bitching and complaining about getting time-and-a-half or double-time pay, yet the County is turning around, for folks that are getting paid a flat rate, and having them here until 7:30 p.m. for what amounted to, as Commissioner Smith said, three issues; this is nothing against the zoning folks, as it is their right, and he appreciates that; but, please, when Items are put on the Agenda, it is not only the Board's time, it is the office time going into this, but more specifically, it is staff that did not get a penny past 5:00 p.m. He added he wanted to thank the staff that constantly goes above and beyond at the whims of the Commission; and he apologized for the cursing and the time.

**L.6. Curt Smith, Commissioner District 4, Re: Board Report**

Commissioner Smith stated to Commissioner Tobia how it could fix that; the meetings could be at 9 a.m. and then these people are on their regular time; and he asked how is that for simple.

**L.7. Kristine Zonka, Commissioner District 5, Vice Chair, Re: Board Report**

Commissioner Zonka remarked she agreed with that but the Board wants the people that do actually like coming to be able to come; she would suggest that it stop talking longer than is needed and repeating things, and be respectful that it is using everyone's time; she agrees with Commissioner Tobia and always thanks staff; that is why she only brings one to the meeting, because their time is precious too; and she would be hard-pressed to say that a firefighter likes mandatory day after day after day, as she sees those mandatory numbers come in. She added she does not know how to fix that; she thinks they complain more because that is 24 hours that are mandatory, not eight or six; then they are off 24 hours and do it again; she knows some of the District Chiefs have actually worked in fire stations; and it is a multiple-issue problem that needs to be fixed, as she does appreciate staff.

**L.3. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report**

Chair Pritchett welcomed everyone back to the front again; it is wonderful that everyone is almost through this mess that everyone has been going through; she is thankful for the Governor; she gave a big thank you to Commissioner Zonka for chairing the meeting tonight, as she did a great job; she likes the women chairing; and she is praying for the people that were in the accidents on her way in to the meeting.

Upon Consensus of the Board, the meeting was adjourned at 7:33 p.m.

ATTEST:

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RACHEL M. SADOFF, CLERK

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