

**Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



**Minutes**

**Tuesday, November 9, 2021**

**5:00 PM**

**Regular**

**Commission Chambers**

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

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

**C. PLEDGE OF ALLEGIANCE**

Commissioner Tobia led the assembly in the Pledge of Allegiance.

**E.1. Resolution Acknowledging National Native American Heritage Month**

Commissioner Smith read aloud, and the Board adopted Resolution No. 21-156, recognizing November as National Native American Heritage month.

Martha Pessaro stated she is extremely honored to be present today to accept this proclamation, and to be live at Wickham Park again this year; it is a different time and they have been through many challenges, but being live for the entire community and for all of the visitors from throughout the United States, and possibly abroad; they have not seen if they have any travelers coming in from out of the county yet, but she is keeping her fingers crossed that some will make it this weekend; starting Friday, November 12 at 10:00 a.m. is the children's program; she is hopeful for anybody who can reach out to any classes by getting the word out that their educational program will take off this year; and there will be the added village by Jim Sawgrass who will demonstrate "East Meets West" and giving parallel comparisons between cultures here and west of Mississippi. She introduced Zeta Gibbs, Indian River Flute Circle, who will play Native American style flute music that will be heard from the stage at Wickham Park, with concerts going on from 9:00 a.m. to 10:00 p.m. on Friday and Saturday, and from 9:00 a.m. to 6:00 p.m. on Sunday.

Ms. Gibbs stated the flute is very, very flexible and they have a young man who will be playing this weekend, who warms up to AC/DC; he will play jazz, country, and spirituals; and she does not want her soft approach to mislead anyone.

Ms. Pessaro introduced Claire Ellis, who is instrumental in working with the community partnerships to make sure that their sponsors and supporters are recognized.

Ms. Ellis invited all to come out to the most beautiful cultural event that is free for the whole family, alcohol-free, a beautiful learning experience for children, and to bring lawn chairs and blankets; she stated whomever attends will certainly enjoy seeing everything and listening to the most beautiful music; Wickham Park will be a happy place all weekend; and it will be a learning experience to come to, so bring the neighbors, bring the families, and bring the children because they can all learn so much about the Native American culture.

Commissioner Tobia inquired if Ms. Ellis said alcohol-free or free alcohol.

Ms. Pessaro replied alcohol-free, drug-free, and politic-free.

**Result:** ADOPTED

**Mover:** Curt Smith

**Second:** Bryan Lober

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

## **E.2. Resolution proclaiming November as Family Court Awareness Month**

Commissioner Lober read aloud, and the Board adopted Resolution No. 21-157, proclaiming November as Family Court Awareness month.

Angie Martinez stated she is a 15-year resident of Brevard County, she loves living here, and she is very happy to be raising her children here; a few years ago she entered a world that she never knew existed, the world of family court; as a society it engages, encourages, and empowers victims of domestic violence to be brave and leave these relationships; it is known that children exposed to violence, whether physical, sexual, or emotional suffer from Adverse Childhood Experiences (ACE) which leads to future physical and mental health problems, as well as future victimization and perpetration; it is known that domestic violence is about power, control, and punishment for non-compliance; people would be naive to think that the power and control dynamic ends with the ending of the relationship; but what happens is the dynamic often shifts to post-separation abuse and when children are involved with the family court system they can become the platform, as both parents are labeled as high-conflict but it only takes one abusive parent in a courtroom to create what looks like a high-conflict situation. She went on to say parents demonstrated capacity to communicate with each other and co-parenting is codified in Florida Statute 61.13, as a significant factor to determine time sharing of children; this is drilled into survivor's heads when they enter the system; while it might be a good goal for most divorcing couples, it can be devastating in abuse cases; helpers such as Guardian Ad Litem, attorneys, and therapists will threaten survivors by saying they could lose their kids altogether if they cannot co-parent and communicate better with their abuser; and while this seems insane, people quickly learned that statistically this threat is actually true. She stated in the United States it is startling that empirical data shows when a protective parent asks for help with an abusive situation, the abusing parent often sees an increase in time sharing; in many cases the court places the child with the abusive parent full-time; the system perpetuates the myth that anything that happened in the family prior to the separation is no longer relevant; children are not looked at as humans with feelings, fears and emotions, but as property that parents have rights to; and the family court system holds children's emotional and physical lives in their hands. She continued to say according to the Center for Judicial Excellence since 2008, over 110 children in the United States have been murdered by a parent when going through a separation, divorce, or related matter; six months ago Grayson Kessler, a 4-year old boy was murdered by his father, just two hours away in south Florida; his mother pleaded with the judge days before the murder, not to force her child to go with the father, and she was denied this request; these situations have been happening for years and there is no learning from the mistakes; there is no avenue for honest and truthful discussions based on factual studies and what experts know about the dynamics of domestic violence, abuse, and trauma; but instead, the case number is filed and the system goes on to the next victim, and leaving a trail of emotional trauma in families and children. She mentioned being new to this advocacy, but she has learned that the first step towards change is awareness, and simply letting people know that these things are happening; as of today, over 200 states, cities, and counties throughout the country have declared November as Family Court Awareness Month; and 32 of these are in Florida. She concluded by saying hundreds of volunteers are actively pursuing Legislative change, which will come to Florida soon and is known as Grayson's Law; this is the mission of Family Court Awareness Month; and she is honored that Brevard County and the Commissioners are brave and willing to support this first step.

**Result:** ADOPTED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

## Consent Items Pulled

Chair Pritchett stated she is pulling Item F.17., Appointment(s)/Reappointment(s).

Commissioner Tobia advised he is voting no and he has no comment for Item F.16., Resolution to Consider an Ad Valorem Tax Abatement for National Service Source, Inc. d/b/a USSI Global.

### **F.1. Save Our Indian River Lagoon Contingency Funding Request for the City of Titusville Draa Field Vegetation Harvesting Project**

The Board authorized the Chair to execute Agreement SOIRL 20-111(B) with the City of Titusville for expansion of the Draa Field Harvesting Project; and confirmed signature authority of the County Manager for future allocations of the SOIRL Contingency Fund when the change in funding is less than \$100,000 and recommended by the Citizen Oversight Committee.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

### **F.2. Approval of Site Management Terms for the Tenant at Doc's Bait House (Bid B-2-21-57)**

The Board approved the Site Management Terms for Doc's Bait House, LLC, as tenant for Doc's Bait House (Bid B-2-21-57); and authorized the Chair to execute a Management Agreement (lease) between Doc's Bait House, LLC and Brevard County, upon final approval by the County Attorney's Office, Risk Management, Purchasing Services, and the State of Florida.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

### **F.3. Acceptance, Re: Binding Development Plan with 395 East, LLC**

The Board executed and approved the Binding Development Plan with 395 East, LLC, recorded in OR/BK 9324/583.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

### **F.4. Approval, Re: Dedication of Sidewalk Easement, Utility Easement and Warranty Deed for CRS Mims - US Highway 1 and Lionel Road from Concept Real Property Holdings, LLLP**

The Board approved and accepted the Sidewalk Easement, Utility Easement, and Warranty Deed from Concept Real Property Holdings, LLLP for CRS, Mims, US Highway 1 and Lionel Road.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.5. Permission to Surplus Re: Brevard County Detention Center Steam Kettles**

The Board authorized the surplus of two Steam Kettles at the Brevard County Detention Center.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.6. Approval, Re: Sidewalk Easement for Wrubel Contractor's Office from RGW Enterprise, LLC**

The Board approved and accepted the Sidewalk Easement for Wrubel Contractor's Office from RGW Enterprise, LLC.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.7. Approval, Re: Donation of Utility Easement from The School Board of Brevard County, Florida for the Benefit of Lift Station N-13, Mims**

The Board approved and accepted the donation of utility easement from the Brevard County School Board for the benefit of Lift Station N-13, Mims.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.8. Brevard County Detention Facility Security Control Upgrade**

The Board granted permission to develop and advertise a competitive solicitation to complete Brevard County Detention Facility Security Control Upgrade to jail cells, to include but not limited to locks, doors, and door frames to meet security standards; authorized the County Manager to execute all necessary contracts, contract amendments, and extensions, upon review and approval of the County Attorney's Office, Risk Management, and Purchasing Services; authorized the County Manager to execute all necessary Budget Change Requests; and authorized an inter-departmental loan from Insurance Reserves of up to \$2.5 million, with repayment from Public Works Department/Facilities amortized over up to four years with interest accruing on the outstanding balance at the County's consolidated interest rate.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.9. Approval to Purchase Seven Keith 48-Foot Walking Floor Trailers**

The Board authorized the development, advertisement, and award of a competitive solicitation to purchase seven Keith 48-foot walking floor trailers; authorized the County Manager to

approve any necessary Budget Change Requests; and authorized the County Manager to reject all responses received and utilize the existing Florida Sheriff's Association Cooperative Purchasing Program Vehicle and Equipment Contract, should the lowest bid price exceed the cost (for the same equipment) in the Florida Sheriff's Association Cooperative Purchasing Program Vehicle and Equipment Contract.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.10. Lease Agreement Amendment for Barefoot Bay Water and Sewer District Billing Office Space**

The Board approved and executed a five-year Lease Agreement Amendment with the Barefoot Bay Recreation District for office space used for billing and customer service for customers of the Barefoot Bay Water and Sewer District and the San Sebastian Woods water system, extending the term of the 2016 Agreement until September 20, 2026, and is retroactive to October 1, 2021.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.11. Adoption of FY 2021-2024 State Housing Initiatives Partnership (SHIP) Local Housing Assistance Plan (LHAP) and Approval of the Incentive Strategies Evaluation and Recommendations Report**

The Board adopted Resolution No. 21-158, approving SHIP Program LHAP for Fiscal Years 2021 through 2024; approved the Incentive Strategy Evaluation and Recommendation Report; authorized the Chair to sign the required State Certifications and any amendments that the Florida Housing Finance Corporation determines necessary to meet the requirements of State Statutes 420.907 - 420.9076; and authorized the County Manager to approve any related Budget Change Requests.

**Result:** ADOPTED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.12. Approval, Re: Interlocal Agreement with the City of Palm Bay for Sacrifice Park**

The Board executed and approved an Interlocal Agreement with the City of Palm Bay for the operation and maintenance of Sacrifice Park, located at 120 Malabar Road SE, Palm Bay, on the Franklin T. DeGroodt Library property.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.13. Approval, Re: Nominal Lease with Literacy for Adults in Brevard**

The Board executed and adopted Resolution No. 21-159, authorizing the non-competitive lease of work space within County property to Literacy for Adults in Brevard, Inc.; and approved and authorized the County Manager to execute renewals in accordance with the Lease of workspace inside the Catherine Schweinsburg Central Library, upon approval by the County Attorney's Office and Risk Management.

**Result:** ADOPTED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.14. Approval, Re: 2021 Grant Application and Execution of Follow-Up Master Agreement with the Federal Transit Administration, Section 5339(b) Bus and Bus Facility Competitive Grant**

The Board authorized submission and execution of the Federal Transit Administration Bus and Bus Facilities (5339b) 2021 grant application; authorized Terry Jordan, Transit Services Director, to execute and submit the grant electronically through Grants.gov, including the SF-424 Application Form; authorized Mr. Jordan to execute and submit the Grant Master Agreement electronically, contingent upon the County Attorney, Purchasing, and Risk Management approvals; authorized Mr. Jordan to execute any additional follow-up documentation, resolution, and amendments necessary to secure the funds; authorized the County Manager to execute necessary Budget Change Requests; and approved applying for use of Florida Department of Transportation Toll Revenue Credits for the local match requirements.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.15. Approval, Re: 2022 Board of County Commissioners' Meeting Schedule**

The Board approved the proposed 2022 Board meeting schedule.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.16. Resolution to Consider an Ad Valorem Tax Abatement - National Service Source, Inc. d/b/a USSI Global**

The Board adopted Resolution No. 21-160, qualifying National Service Source, Inc. d/b/a USSI Global as an eligible business under the County's Tax Abatement Program; and authorized the advertisement of a public hearing to consider adopting an Ad Valorem Tax Exemption ordinance.

**Result:** ADOPTED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**Nay:** Tobia

#### **F.17. Appointment(s) / Reappointment(s)**

Chair Pritchett stated she knows these are Commissioner Lober's appointments and she would vote for him to be on any board he wanted to be one, because he is completely qualified.

Commissioner Lober expressed his appreciation for saying that.

Chair Pritchett went on to say she is struggling with his Planning and Zoning Board appointee, she is not sure it is a good fit, and she did this to Commission Tobia in his first year; she thinks it is an important board and she does have a problem with the capability of this, and the fact that the person is running for office as well; and she is going to be voting no on this.

Commissioner Lober stated he understands and respects her opinion; he does not share it with respect to this particular Item; and he will go ahead and move to approve the Item.

Commissioner Zonka advised she will not be voting for approval of his Planning and Zoning appointee, partially because the person is running for office and did not really express an interest that she was aware of, of sitting on a board before this; she also takes issue with some of the things that are claimed during many of the public comments and the many different issues that this individual has spoken on, and the attacks on the Commission, staff, and not just of County, but of other municipalities; she thinks it is not a good fit because the Planning and Zoning Board is set based on facts and experience; she does not believe that the individual holds the qualifications; and she will be voting no.

Commissioner Tobia stated he understands Chair Pritchett's no vote many years ago, but he was unaware when he nominated that individual of the personal attacks on a Commissioner; had he known that, he certainly would not have supported the individual for that position; this individual has personally attacked a Commissioner and did not care about her beliefs or ideas, whether they are contrary to this individual; he does have an issue with attacking someone personally on the Board; and he does not think that is a good fit, even if ideas aligned 100 percent with the Commissioner, that is crossing a line; he thinks there are other ways to voice an opinion without attacking somebody on the dais; it is a lesson he learned and he thinks that is a lesson that this individual should learn, whether they want to participate in a advisory group, or whether they want to sit on the dais; it is a hard lesson to learn, but one that is extremely important coming from someone who had to go through that; and he cannot support this individual.

Commissioner Lober stated if the standard is whether an individual personally attacked the Commissioner or not then the Board should not have approved the last Planning and Zoning alternate; he is happy to set an Agenda Item for the next meeting or any other meeting that folks want to ensure there is parity to offset the impact that, that individual who has personally attacked a Commissioner, and has objectively lied about that Commissioner in writing and verbally; they can get into that if the Board needs to; but he recalls just having that discussion regarding the last Planning and Zoning alternate appointed. He added he voiced his feeling that that is not an individual he would have appointed, but out of deference to the individual Commissioner whose appointment it is, he would be willing to put that person on there; if the Board does not want to have parity and it wants to pick and choose, then the Board can go ahead and shoot this down; but if it wants parity, he thinks the Board needs to readdress that



other appointment as well. He advised he is going to be voting yes on this; if he does not have a second then there is no vote; and he intends to bring that other item up because he thinks the Board needs to be fair to everyone and treat everyone identically.

Chair Pritchett advised she does not know about that.

Commissioner Lober remarked he does.

Chair Pritchett stated she knows and does not disbelieve Commissioner Lober; she just does not think this is a good fit for that board; when she did it the other time she just did not think the man was a good fit either because it is the Planning and Zoning Board; it is a very important board; she just found out that Commissioner Tobia had brought up some great ideas at the last meeting that are going to be implemented; and it made her search the fellow she had that was not showing up, and she is replacing him with a better candidate as well.

Commissioner Tobia noted he was completely unaware of an individual personally attacking a Commissioner and wishes the evidence of that would have been brought forward before, because he does not do public record requests on communication with nominations; he thinks that is probably a worthwhile discussion, whether it is someone in the past or in the future which helps getting a point across better without attacking an individual; and he asked for Commissioner Lober to bring that forward because he thinks that causes a great problem, and is again, one that he was not aware of.

Commissioner Lober stated he appreciates that and he will absolutely do that.

Chair Pritchett asked if the Board could approve all of Commissioner Lober's other appointments first and make that real clean, and then do another motion.

Commissioner Lober responded sure, if she would like; and he stated he will withdraw his motion.

The Board acknowledged appointment/reappointment of Darleen Hunt to the Art in Public Places Advisory Committee, with term expiring December 31, 2023; Kevin McCann to the Board of Adjustment, with term expiring December 31, 2023; Steve Burdett to the Citizens Budget Review Committee, with term expiring December 31, 2023; Seeta D. Esmailbegui to the Community Action Board, with term expiring December 31, 2022; Kika Golan to the employee Benefits and Insurance Advisory Committee, with term expiring December 31, 2022; and Joe Denaro to the Personnel Council, with term expiring December 31, 2023.

**Result:** APPROVED

**Mover:** Bryan Lober

**Secunder:** Curt Smith

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

Motion by Commissioner Lober to approve the single, alternate appointee for the Planning and Zoning Board.

Motion died for the lack of a second.

## **G. PUBLIC COMMENTS**

Dennis Dyer stated he has a dog problem next door and it extends beyond barking for Code Section 14-57, paragraph a) that no animal shall be permitted or allowed to create a nuisance and it is a violation of this Article for the owner of an animal to permit or allow the animal to

create a nuisance; he thinks that is great and he likes that; paragraph b) takes it all away; he surmised that a dog can bark continuously for 30 minutes, it gets a 30-second break, and then it can bark 30 minutes more; that is one minute an hour, 24 hours a day, and it has to be quiet for 24 minutes; he went to Animal Control, who said sorry, they do not make the laws; he was before the Board seven or eight months ago; and the result was Joe Hildebrand did not get back to him.

Commissioner Smith advised that was changed and is no longer in existence.

Mr. Dyer expressed his apology for taking up the Board's time.

Commissioner Smith stated he is glad the Board fixed his problem that he did not know was fixed.

Mr. Dyer remarked he did not know.

Commissioner Smith stated he thinks it was done in July of this year.

**H.1. Approval, RE: The Traffic Impact Fee Credit/Reimbursement Agreement between Brevard County, the City of West Melbourne, and DHIC-Hammock Landing, LLC (First Hearing)**

Chair Pritchett called for a public hearing to consider the traffic impact fee credit/reimbursement agreement between Brevard County, the City of West Melbourne, and DHIC-Hammock Landing, LLC.

Tad Calkins, Planning and Development Director, stated this Item is a request for the Board to consider the approval of a traffic impact credit/reimbursement agreement between Brevard County, the City of West Melbourne, and DHIC-Hammock Landing, LLC, the developer; the agreement would entitle the developer to receive \$296,537 for impact fee credits, for intersection improvements on Minton Road and Hield Road, and at the project's driveway; if the Board has any questions he is happy to answer them; and this is the first of two public hearings for the Item.

Commissioner Tobia mentioned he is looking at how close this is between Districts 3 and 5, it is literally right on the border; he is supportive of this; and he would like to hear from District 5, whose backyard this would go into.

Commissioner Zonka advised she does not have any issue with that.

There being no objections heard, the Board conducted the public hearing and approved the Traffic Impact Fee Credit/Reimbursement Agreement with the City of West Melbourne and DHIC-Hammock Landing, LLC.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**I.1. Authorization to Permit the Rental of County-Owned Parks and Recreation Department Community Centers for Commercial Gun Shows**

Commissioner Lober stated there are a couple of different options listed on the Agenda Report that he thinks are livable; his biggest concern is if there are folks who are regularly using a

particular facility, that the Board not put them in a position where they cannot hold their event on a particular weekend; the option that would be the easiest for the folks who are partners with the County, is option three, where there are community centers throughout a large portion of the County, north, central, and south, and divided in that fashion that would identify having a physically separate building, in which a gun show could be held; and where it would not come into contact with any other program that is taking place. He added he thinks at minimum this is a good option; an option that he has a slight preference toward, but frankly, he could live without, if folks just are not pleased with it; it would have a notice requirement for recreation partners, if someone wished to make use of a particular facility that they ordinarily would use; he is not dead-set on 90 days, and 60 days was floated as a particular option; if the Board wants to keep it at 90 or 120 days that is fine; staff will do all it can to find an equivalent, or essentially identical option, during the same time or to reschedule if they would prefer; they would be given at least that 90 days notice, unless the Board wants to extend that; and he asked to have a motion for option two, with or without the 90 days, but have some number there, at least 60 days, or alternatively option three, and not go with option one.

Commissioner Tobia stated he is happy to hear the preference is option two or three because he has some issues with two; he thinks anytime a schedule is displaced takes preference; that takes away one of the three and maybe he can work with him on the other one; it was previously mentioned the purpose of this is to ensure content, neutrality, and not to discriminate against gun show proprietors, which he agrees, but this could go both ways; and someone who wants to sell bibles should not be treated any worse than someone wanting to put on a gun show.

Commissioner Lober agreed.

Commissioner Tobia asked that other non-dangerous activities be subject to the same policies, with the exception of those provisions specific to weapons, such as tagging them; as Commissioner Lober mentioned, he does not want to set up a policy that is strictly for guns; he thinks when the Board is making a decision on one and there are many other ones that could fall in there; and he has some questions for Jerry Visco, Human Resources Director.

Chair Pritchett stated while waiting on Mr. Visco to come up, she noted they set this up the night before the gun show; she is thinking the County has all these guns located in a single place all evening; and she inquired how are they guarded.

Commissioner Lober replied the way it is being addressed is if there are guns on the premises, they have to have a minimum one Law Enforcement Officer in addition to Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Officer.

Chair Pritchett inquired if that meant all night.

Commissioner Lober responded any time the guns are present; he stated if it is in unincorporated Brevard County, there is 99 percent chance it is going to be a gentleman wearing green; he does not know if this is something that is ever going to be in an incorporated area; if it is, more likely than not it would be Brevard County Sheriff's Office (BCSO), in addition to ATF; and it would be whatever the municipalities law enforcement agency would be.

Commissioner Tobia inquired if his Department reviewed this proposal.

Mr. Visco responded affirmatively.

Commissioner Tobia asked if Risk Management has certain procedures generally followed for all vendors.

Mr. Visco replied affirmatively.

Commissioner Tobia asked if the typical insurance requirements can be explained.

Mr. Visco explained primarily the basic insurance requirements for \$1 million is a basic business policy, and in some cases they will ask for additional coverage; and he thinks for this particular event they are looking for \$2 million minimum.

Commissioner Tobia inquired if the minimum is being required with this.

Mr. Visco responded yes.

Commissioner Tobia stated in researching best practices, he inquired if his Department reviewed similar policies in other jurisdictions.

Mr. Visco replied in the affirmative.

Commissioner Tobia inquired if any additional procedures were found typical in those, but not in the proposal the Board has before it.

Mr. Visco stated he is comfortable with the proposal as presented today.

Commissioner Tobia asked if indemnification is included in the proposal.

Mr. Visco advised a standard contract entered into with the County, for special events permits all carry indemnification language.

Commissioner Tobia stated he was unaware that the sponsor of this was willing to go with option three, as opposed to option two; his major issues were with that; the work has clearly been done dealing with County staff and Risk Management; if it is option three, he will be supportive of that; and he appreciates the sponsor's willingness to work through this and to come up with a good work product, that will not benefit everyone, if this is tailored towards everyone and not just guns.

Commissioner Smith pointed out the only thing gnawing at him is Commissioner Tobia's concern that was brought up last time about competing with private enterprise; and he inquired if Commissioner Tobia is satisfied that the Board is not competing now.

Commissioner Tobia remarked yes; he explained there are enough provisions in this where he is comfortable with folks having this as an option; he spoke with Peter Cranis, Tourism Development Director, about a large issue of his that the hotel and bed tax is addressed only on hotel nights and is not on convention space, which was something that made him feel a little bit more comfortable about this; taxpayers would not be out of one penny on this one, if overtime was needed; he mentioned speaking with Parks and Recreation and it is something that they could fill; it sounds like this is something that would not be seen on a constant basis; in his best guess this is not something that is a blip on the folks radar whom he spoke with; and for that reason and Commissioner Lober's willingness to work through some of the issues, he will be supporting him.

Commissioner Smith stated he is good with it.

Commissioner Lober stated he understands there may be unintended consequences, but the goal is not to try and lure anyone away from an existing facility; he has been to a number of different gun shows over a number of different years and he would be very surprised to see the

Melbourne Auditorium not continue to have its gun show; if they make their conditions infinitely more onerous, that may drive the folks out; but he thinks if the terms remain the same and given the attendance, they are probably going to continue having a show there for the foreseeable future. He mentioned the Moose Lodge used it this year; he would like to think that they are going to continue using the Moose Lodge; and this is just offering folks more options. He reiterated he is not looking to lure anyone or saying to come to Brevard County and do this, but if it is something that an individual is interested in doing, it is available.

The Board authorized permitting the rental of County-owned Parks and Recreation Department Community Centers for commercial gun shows; approved Option 3, for staff to identify Community Centers in the North, Central, and South area that have separate buildings for a gun show to be in a separate building, so as not to come in contact with programs, activities, and rentals; the organizer is required to rent the entire building with no concurrent building use, and the event organizer has sole possession of the building; and authorized for this to be used with any other non-dangerous activity where the sponsor/applicant is seeking to use a comparable facility.

**Result:** APPROVED

**Mover:** Bryan Lober

**Secunder:** John Tobia

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

**J.1. Permission to Advertise the Utility Services Rate Resolution for Barefoot Bay Encompassing the Barefoot Bay Water and Sewer District System**

Edward Fontanin, Utility Services Director, stated this Item is for permission to advertise the Utility Services rate resolution for Barefoot Bay, encompassing the Barefoot Bay Water and Sewer District System; the requested action has a few layers and the first is to receive permission to advertise for the public hearing of the rate resolution, in addition to that, per Florida Statute 153.11(3)(a) and Section 98-185 of the County Code of Ordinance, the County rate resolution must be advertised 10 days prior to hearing; the Barefoot Bay Ordinance also specified that the public hearing must be held at a meeting starting no earlier than 5:00 p.m.; he inquired if the Board wants to add this public hearing notification to the utility bills; and he asked if the Board wants to make this concurrent with the County advertisement and rate resolution public hearing, which is tied to Item J.2., Permission to Advertise the Utility Services Rate Resolution for County Encompassing South Beaches, Merritt Island, North Brevard, Port St. John, and the South Central Mainland service area. He advised in order to put it on the utility bills, Barefoot Bay billing is done by Brevard County, which has ability to do this in a quick fashion, and means it could have it on the December bills, come back in January for public hearing, and if approved, have those rate resolutions utilized in February. He added the County, however, relies on the cities of Melbourne and Cocoa, and they require 45 to 60 days notice to put any notifications on its bills; this means if he receives permission to advertise and the request to put that on the utility bills for the rates, which is where Chair Pritchett mentioned the crossover with the two Items, he will come back to the Board in February and in March for the Countywide, and utilize those bills in April; and he is asking for permission to advertise the Barefoot Bay rate resolution, to place these on the utility bills, and to have the public hearing for Barefoot Bay and the County which is Item J.2. on the same Commission meeting Agenda, with two separate public hearings, but on the same Agenda.

Commissioner Lober stated this falls within Commissioner Tobia's District and he is going to support whatever he wants to do on this; he asked that he give some consideration to adding an advertisement on the utility bills; that on the next Item, he is not going to support it if it does not have it on the utility bills, which is something that impacts his District; he strongly encouraged putting advertisement on the utility bills; he went on to say advertisement in the

newspaper of general circulation is absolutely meaningless in his book; he thinks there will be not a soul who sees that, and he wants if public comment or people to have the opportunity to make that comment, this is the cleanest way to do that; he will support it any which way; and he asked for him to consider that.

Abigail Jorandby, County Attorney, clarified Item J.1. on the Agenda is for Barefoot Bay; she stated technically the Board sits with that hat on for the Barefoot Bay District; Item J.2. is for the County and the Board has a different hat to wear; and she wants to keep the motions separate because the Board is sitting currently as the governing Board of the Barefoot Bay Water and Sewer District.

The Board granted permission to advertise for a public hearing of the rate resolution, under the requirements set forth in Florida Statutes 153.11(3)(a) and County Code of Ordinance Section 98-185, concurrent with any advertisement necessary for the advertisement of the rate resolution for Barefoot Bay encompassing the Barefoot Bay Water and Sewer District System.

**Result:** APPROVED

**Mover:** John Tobia

**Secunder:** Curt Smith

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

**J.2. Permission to Advertise the Utility Services Rate Resolution for the Following: (1) County Encompassing South Beaches, Merritt Island, North Brevard, Port St. John and the South-Central Mainland Service Area; and (2) San Sebastian Encompassing the San Sebastian Woods Water System**

Commissioner Lober advised he has a motion that he is ready to make; but he wants to make sure that nothing needs to be read into the record for clarity sake.

Abigail Jorandby, County Attorney, replied this is for the County system, so basically, it is whatever the motion would be; and she advised for a brief introduction to be given by Edward Fontanin, Utility Services Director.

Commissioner Tobia asked Commissioner Lober what the additional cost for advertisement is.

Commissioner Lober asked Edward Fontanin, Utility Services Director, to help him out with regard to the utility bills.

Mr. Fontanin stated he does not believe that the County is charged; and his understanding is he thinks it is provided as a courtesy for the billing to be done by the cities of Melbourne and Cocoa.

Chair Pritchett noted when advertising was done for a project she did, she just submitted the bill, and there was no cost for it; she mailed the notices out to everyone in the area if that helps; but she does not know about the other cities.

Mr. Fontanin advised he can confirm that, but that is his understanding, historically with billing.

Chair Pritchett advised there are speaker cards.

Commissioner Lober asked if it is for Item J.1., or Item J.2.

Chair Pritchett responded Item J.2.

Commissioner Zonka stated if it changes anything the Board can always recall the vote.

Chair Pritchett remarked it sure can.

Commissioner Lober stated if there is something that needs revisited.

Sandra Sullivan stated when looking at last year, in terms of costs that have gone up there was a 28 percent increase in garbage, 33 percent assessment on fire, and a solid waste increase; at the last meeting there was an Agenda Item as well, for transporting trash because of Sarno Landfill running out of space, and it is not known yet if that is going to come back to the taxpayers as well, because that question was not answered; she looked up the Consumer Price Index (CPI), it is between two and three percent, and it is from the United States CPI for Water, Sewer, and Trash Collection Services, by Moody's Analytics; and the average rate increase is 7.9 percent each year, over five years, and ranging from 6.5 percent increase to 8.5 percent on three of those years. She stated there was the American Rescue Plan Act of 2021 (ARPA) funds in the amount of \$58 million, which \$40 million of that is being used by the County for infrastructure, and she is wondering why the funds that came in are not being used to offset these costs; there are a lot of Veterans in Florida, particularly in Brevard County with 67,000 Veterans on fixed incomes, as well as retirees; and she suggested that this many increases in one year is going to be very difficult on the people, who are on fixed incomes.

Ronaldas Jurgutis mentioned it was stated earlier for the water and wastewater, that the CPI is going to be charged at a rounded number of eight percent; he stated there are a lot of seniors and military people here, who are getting a 5.62 percent increase, but everyone knows it is going to be eaten up by Medicare; he asked if he is seeing the Agenda Report right, how it is written, because every year these rates are going to be installed; he has worked in front of the Florida Public Service Commission and every year the County goes back for an index adjustment, based on the CPI for water and wastewater utilities; if he is not seeing things clearly, let him know; but he thinks to have eight percent for 2023, 2024, and 2025 is egregious. He pointed out the County should be adjusting it every year and every year it should be written on the Agenda Report; he reiterated hopefully he is reading it wrong and every year the Board should be looking at this; he noted the other issue he has dealt with is public utilities, that are not privately owned; he is just getting into the County stuff now and he is going to start looking at this; he has noticed in the past, where there are transfers from utilities, water, and wastewater to General Fund; he has not had the time to look at it and he would hope that the Board look at this going forward, since this is only a resolution; there should be reserve accounts to take care of this; if the County is back-pedaling because of short falls in the past, it should be done by private enterprise even though it has the take to do this, the County loses; every year it should be looked at, correct him if he is wrong; and he wants this looked at by everyone.

Commissioner Lober stated he is going to point out a couple of things the Board just heard; his understanding from the get-go, from the time he was elected to now has been that the County's sewer system is run essentially as an enterprise fund, it is not a for-profit venture; he is not saying that the statement made was incorrect, that transfers took place from utilities to the General Fund, but he would be shocked if there was not some extremely extenuating reason for that, or if the amount was minuscule and being returned based upon perhaps some error where it should not have ended up there in the first place; and he reiterated they are run as enterprise funds, not as for-profit ventures or as a means to pad the General Fund, by getting one over on the ratepayers. He mentioned being very interested in hearing more, with respect to that, if there is a specific transfer or transfers Mr. Jurgutis' is aware of, and to send it to his office; he will add an Agenda Item so that it can be addressed; as far as the specific percentage and whether talking to Utilities or Public Works with Road and Bridge, it is not the fault of COVID-19 because everyone is tired of hearing that, but the fact of the matter is, there

are supply chain issues which do not simply drag things on, which they do; they also increase the cost because supply has gone down, minimum wage slated to go up substantially in the near future, and inflation is going to be out of whack in very short order; but the bottom line is nothing is getting cheaper, certainly nothing with respect to utilities. He went on to say CPI, as it pertains to a utility specific index, is a great index to use but general CPI is meaningless when it comes to either roads, bridges, or wastewater; what the actual industry is facing, as far as their cost increases, is the question; it had been adjusted in the recent year from a general CPI to an index that was specific to the utility industry because they are running an enterprise fund; if they do not cover the costs, something else or someone else has to subsidize that; they would need potentially non-rate payers to subsidize rate payers, in order to keep a percentage artificially low just because it is an unpleasant number; the ARPA comment made whether dealing with Coronavirus, Aid, Relief, and Economic Security Act (CARES) or ARPA, whether it is something that is directly permitted or whether it is through revenue replacement, of course there could be funds that could go any which way, with adjustments made, and whether it is better to try to pad things and to a degree subsidize using those dollars of the rate payers or whether it has something that is better to go toward infrastructure that improves things for the entire County, not just rate payers; and it is a subjective question that he does not know if there is a right or wrong answer, it just depends on particular feelings with respect to it. He urged caution to folks and he advised there are reasons that costs sometimes have to go up, just as with Road and Bridge or Fire Rescue; he pays over \$10,000 a year in property tax and he hates writing a five-digit check for the privilege of living here; he does it because it is what it is at a certain point and he does not want that number to go up any higher; the bottom line is like in Fire Rescue, they were reserve spending for years and it is not being done anymore because that is a horrible practice to have done; and it is not sustainable wanting a status quo and to be happy with service levels, at a certain point, the pot runs dry. He indicated that he is not saying that is the case with this, but the bottom line is there are profound issues with the utility system; the County has lift stations that had a design life for 25 to 30 years; they are older than he is, they are older than when men stepped foot on the moon, and are time bombs waiting to go off; and unless someone there wants to be an issue like the City of Titusville had in the not too far recent past, where measuring in the millions of gallons of raw effluent is going right into the Indian River Lagoon (IRL) there is a cost to upgrading the system to a state where it is at least standard. He mentioned there are a lot of issues that are substandard where there are going be issues; frankly, one cannot complain that the IRL is not good and does not want to allow the Commission to do anything to fix it; and there are a lot of reasons that are behind the rate increases, it is not that it is being done just to be mean or just because they can, because the Commission does not profit personally from making anything more expensive for anyone.

Chair Pritchett noted they printed 33 percent more money and they are going to be seeing 33 percent more inflation before this is over, which is just financial common sense; and they will wait to see what happens and see what people can start tweaking here.

The Board granted permission to advertise for a public hearing on the Utility Services rate resolutions, authorizing advertisement 20 calendar days prior to the public hearing, per Section 258-33(c) of the County Code of Ordinances; authorized advertisement of the public hearing to be included on water and sewer bills for County encompassing South Beaches, Merritt Island, North Brevard, Port St. John, and the South Central Mainland Service Area; and San Sebastian encompassing the San Sebastian Woods Water System.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Curt Smith

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



**J.3. Approval, Adoption and Advertisement, Re: Recommendation of Redistricting Committee and Legal Description for the Commission District Boundaries**

Jim Liesenfelt, Assistant County Manager, stated what the Board has in front of it, the Redistricting Committee voted on October 18, to recommend the attached Commission District Map of the future Districts boundaries; for the Charter 2.2, the Board has to approve or disapprove the recommendation without amendment; if the Board approves this recommendation, the legal boundaries will be advertised per Florida Statute 124.02; the Board has the resolution, the legal boundaries, and the Committee recommendations in the attachment; and he is happy to answer any questions.

Chair Pritchett advised she has some cards, but she is going to let Commissioner Lober say a couple things, then she will call the cards up.

Commissioner Lober asked for a little bit of flexibility; he stated he has quite a bit he wants to go over; this is a process that is going to impact the County over the next 10 years; and he thinks it is something the Board needs to spend some time on it.

Chair Pritchett asked Commissioner Lober to get ready.

Commissioner Lober advised he is ready to go.

Chair Pritchett stated she does not want a lot of back and forth.

Commissioner Lober advised he has some questions that he would like to run by the County Attorney, Abigail Jorandby; and he asked for some flexibility.

Chair Pritchett responded affirmatively.

Commissioner Lober inquired if Attorney Jorandby has been an attorney for over 20 years.

Attorney Jorandby responded that is correct.

Commissioner Lober inquired if she has substantial local government experience.

Attorney Jorandby responded affirmatively.

Commissioner Lober stated that is part of the reason the County hired her was that she is Board-certified by the Florida Bar in City, County, and local government law; and he asked if that was correct.

Attorney Jorandby responded affirmatively.

Commissioner Lober congratulated Attorney Jorandby on her position as the new County Attorney.

Attorney Jorandby thanked him.

Commissioner Lober stated since the Redistricting Committee first convened for the 2021 redistricting session, Attorney Jorandby had the primary responsibility for representing that Committee on behalf of County legal; and he asked if that is correct.

Attorney Jorandby responded affirmatively.

Commissioner Lober advised he had indicated at an earlier Redistricting Committee meeting, during public comment, that even if Attorney Jorandby was strongly suspect that a particular proposal is likely to result in litigation, which would be an uphill battle for the County to defend, it would be incredibly unlikely that she would advise against that proposal, or to say that the County is likely to lose; and he asked if that is because he had suggested she does not want her own words essentially fed back to her should the County be sued.

Attorney Jorandby agreed to that statement.

Commissioner Lober stated she does not want to hear in a court proceeding in which the County is listed a defendant, even the County's own attorney advised them against doing this, however the committee and the Commission disregarded the legal advice from its own attorney, and selected the least defensible option; and he reiterated that the County Attorney does not want to hear that in a legal proceeding.

Attorney Jorandby responded that is correct.

Commissioner Lober stated it is tough to say with certainty, it is entirely possible that the County's own insurer may well refuse to cover the cost of defense should the County be sued on adopting the plan under consideration; and he asked if that is correct.

Attorney Jorandby agreed; and she stated it depends on what is filed.

Commissioner Lober noted he is not talking about a theoretical possibility, it is a real possibility.

Attorney Jorandby advised that is correct.

Commissioner Lober inquired if Attorney Jorandby is aware of anyone who is or may have been supportive of the plan either under consideration tonight or any other plan having offered to indemnify the County for its cost of defense.

Attorney Jorandby responded she is unaware of anyone doing that.

Commissioner Lober inquired if the County's insurer does not cover it and no one steps up to pay the County's cost of defense, and would those costs then be borne by the taxpayers.

Attorney Jorandby replied that is correct.

Commissioner Lober stated he understands and appreciates Attorney Jorandby's reluctance to verbalize an opinion against any particular proposal, unfortunately it is imperative that the Board understand the relative risk that it stands to assume; he wants to take a few minutes to discuss that risk with Attorney Jorandby; at the second to the last redistricting meeting the Redistricting Committee had called pretty efficiently, all but two of the more than a dozen, perhaps 15 or so proposals that were then under consideration, and at that meeting he believes Attorney Jorandby was tasked with providing a legal analysis of the two proposals which survived that gauntlet, or process of elimination; and he asked if that is correct.

Attorney Jorandby responded affirmatively.

Commissioner Lober stated he is going to refer to the two surviving plans, the ones that made it to the very last meeting, as the Weiler Plan and either the Pokrywa or the Hybrid Plan, despite it having been referred to the Fisher Plan by a lot of folks; the Weiler Plan, just for clarity sake, is simply the most recent proposal that was put forth by John Weiler; with respect to that plan, it remained unchanged for a number of meetings; and if anyone saw that Plan in the past several

meetings, that is the Plan he is talking about. He continued by saying the Pokrywa Plan or the Hybrid Plan essentially adopts land transfers from District Four to District Two which were contained in Mr. Weiler's Plan within two proposed change areas; not all of the D4 to D2, but some of the D4 to D2, leaving all of the other Districts and all of the other portions of the proposal totally untouched; and he asked if he is correct.

Attorney Jorandby replied that is correct; and she stated the Fisher Plan or the Hybrid Plan, yes.

Commissioner Lober stated he is assuming based on the fact, and he understands a memo went out, Attorney Jorandby has had a sufficient opportunity to perform all appropriate due diligence in reviewing those two plans.

Attorney Jorandby responded affirmatively.

Commissioner Lober commented while it would be improper for staff to formulate policy for either the Redistricting Committee, or frankly for this Board, as he alluded to a moment ago, when the Commission needs to rely on Attorney Jorandby's expertise regarding relative risk, unfortunately he has to get into that; and he inquired when the Redistricting Committee was first convened if she recalls staff having presented various foundational issues that ranged from Sunshine Law to the metrics of the Committee ought to use and ought to strive to achieve.

Attorney Jorandby replied yes they went over that.

Commissioner Lober asked if Attorney Jorandby recalls staff having articulated that a three percent spread between the most and the least populated district was the goal.

Attorney Jorandby replied that is correct, that is considered the ideal.

Commissioner Lober inquired if Attorney Jorandby recalls a District 4 redistricting appointee, former County Commissioner, Sue Schmitt, having suggested, and he believes that was during the September 14 Redistricting Committee meeting, which was well prior to the Hybrid Plan first having been proposed, that the spread could be as high as five percent.

Attorney Jorandby responded she does recall that.

Commissioner Lober asked if Attorney Jorandby recalls him having suggested, again at a public comment session during a redistricting, well prior to that Hybrid Plan first having been proposed, in so many words, that remaining within three percent was ideal in the goal, as staff had said remaining under five percent was essentially riskier and surpassing the 10 percent essentially amounts to a non-starter.

Attorney Jorandby explained that is correct, the courts have repeatedly looked at anything 10 percent or higher as being a red flag, that that is a prima facie case for an equal protection violation; therefore, 10 percent is the critical mass.

Chair Pritchett stated to Commissioner Lober she thinks he is doing this for the Board's behalf.

Commissioner Lober stated in part.

Chair Pritchett advised she watched every single meeting and she is guessing the rest of the Board watched a lot of them as well.

Commissioner Lober commented he appreciates that.

Chair Pritchett noted a lot of the things Commissioner Lober is reviewing, she is very aware of; she even heard the conversation on there that Attorney Jorandby was asked if there was a possibility, no matter what the Board brought, with it being challenged and she stated absolutely, yes.

Commissioner Lober noted then there is a question of likelihood, there are things that are theoretically possible.

Chair Pritchett agreed with that stating it is with anything the Board does; she commented when Commissioner Lober throws things out he brings out some of the most creative risky things that she thinks are wonderful and the Board usually ends up going with a few of them too; and she wanted to tell him that as he is going down this path, he is not helping her any.

Commissioner Lober stated part of this is for the folks up here who are soaking in perhaps something that did not occur to them previously.

Chair Pritchett inquired if this for the Board because the Board is voting.

Commissioner Lober reiterated it is for the Board, in part; but it is also in part for those who are going to come up and make public comment.

Chair Pritchett noted the Board will be voting.

Commissioner Zonka advised she watched all of those meetings as well.

Commissioner Lober mentioned he is not trying to imply anyone up here has not done their due diligence.

Chair Pritchett stated she is just letting Commissioner Lober know that a lot of things he is reviewing, the Board might have already watched it.

Commissioner Lober stated he appreciates that; this is one of those things that impacts the County for a decade; and he would like to ask for some leniency and flexibility to ask questions.

Commissioner Zonka stated she just does not know without any kind of imaging or any kind of description, Commissioner Lober is hammering questions at Attorney Jorandby, and maybe the public that was intimately involved or Mr. Weiler, who worked on Commissioner Lober's idea for a map, maybe he understands what is going on, but she would beg to say most people are not quite understanding the path because it is one question and one point after another; she gets it because she watched it and she knows where he is coming from, and which plan he wants; and she just thinks it is difficult for the rest of the people to follow.

Commissioner Lober mentioned he appreciates that; and he stated he is trying to build a foundation without building an excessive foundation.

Commissioner Pritchett commented he is being a lawyer.

Commissioner Lober stated in essence he can ask more questions to make it simpler but it is going to drag it on longer; if someone wants to ask something either during public comment or after that he would be happy to address that; but he thinks there are certain things that he really feels the Board ought to go over.

Chair Pritchett stated maybe if Commissioner Lober would state what he thinks it is and what his conclusions are it might help a little bit.

Commissioner Lober stated he thinks part of it is the Board selected a County Attorney, prior to having selected her, she was deemed absolutely capable by County legal to handle the redistricting; and he thinks it is more important rather than him stating it, to get the County Attorney's opinion so the Board has a basis to move forward understanding what the County Attorney's opinion is.

Chair Pritchett stated she does not think Attorney Jorandby is going to tell him she would not be able to defend either one.

Commissioner Lober asked that the Board bear with him, he thinks he could have gotten through a number of his comments at this point now, had he not had this back and forth with the rest of the Board, which he is happy to have.

Chair Pritchett commented he might be going down a little bit of a rabbit trail and she thinks it is going to be a very long discussion anyway; and she just wanted to tell Commissioner Lober that, because it is the Board he has to convince.

Commissioner Lober stated he has not to his knowledge ever tried to rush anyone on the Board when he was Chair and when he was not the Chair; he does not intend to ever rush anyone ever, especially when dealing with a meat and potatoes issue that is going to impact the County for decades; and he apologizes if this is a little longer than most would like.

Chair Pritchett inquired if Commissioner Lober is trying to figure out the legality of it because that seems to be the question.

Commissioner Lober asked if the Chair would just allow him a little bit of flexibility he thinks he can get through this without too much pain.

Commissioner Smith asked Commissioner Lober if he is under the impression that the Board is not familiar with the conversations that he had with Attorney Jorandby during these meetings.

Commissioner Lober stated no he is not under that impression at all.

Commissioner Smith went on to say from what he has heard so far is that Commissioner Lober is grilling Attorney Jorandby on things that she said and things that were said during the proceedings.

Commissioner Lober advised he does not agree with that characterization.

Commissioner Smith pointed out that is what he has been hearing and he has already heard her answers to Commissioner Lober's questions; and if Commissioner Lober wants to make this shorter, he can because the rest of the Board has pretty much already heard this.

Commissioner Lober noted as Commissioner Zonka mentioned, some of the people out there may not understand.

Commissioner Smith advised they are voting.

Commissioner Lober commented he thinks they have a right to public input to articulate what their concerns and thoughts are before the Board votes.

Commissioner Smith noted he does not disagree with that but he thinks if anyone had a real desire to know what has transpired since July, at all these meetings, they would have attended some of them.

Commissioner Lober stated he does not disagree with that.

Commissioner Smith continued by saying if they have not attended any of those, he would say their interest level is pretty low; he is just trying to speed things up, all this is doing is spending more time; and he advised that is his thoughts, but if Commissioner Lober wants to continue have had it.

Commissioner Lober asked the Chair if he may continue.

Chair Pritchett allowed Commissioner Lober to continue.

Commissioner Lober asked Attorney Jorandby if, as a matter of law, and he is going to be direct as it pertains to the defensibility of the proposals, she agrees or disagrees with his statements in regard to less than three percent being ideal or is staff put at the goal.

Attorney Jorandby noted she does not disagree.

Commissioner Lober stated though Attorney Jorandby has indicated anything exceeding 10 percent would be a red flag...

Chair Pritchett interjected asking Commissioner Lober to allow Mr. Liesenfelt to jump in.

Mr. Liesenfelt clarified there were no goals set; and there is talk about variants but staff did not set a three percent goal.

Commissioner Lober commented he can give Mr. Liesenfelt the specific minutes from Insite if he would like; and he asked the Chair if she would like for him to look that up because he has them.

Chair Pritchett replied no; and commented to just move forward.

Commissioner Lober advised he believes Attorney Jorandby already mentioned that during the foundational discussion that staff had identified three percent as one of the target metrics.

The Board recessed at 6:07 p.m. and reconvened at 6:14 p.m.

Commissioner Lober asked if he could defer with Attorney Jorandby for a moment and then take it back and continue, he thinks he has some clarification as to the last point of contention.

Chair Pritchett stated that is wonderful and it would help communication greatly.

Attorney Jorandby noted that last question regarding a goal that was set, they reviewed the minutes from the Redistricting Committee, specifically the August 25, minutes; it was asked of her by one of the Committee members, "And then a legal question on the variance, the total allowable variance is three percent" and her response was that the recommended variance, yes; and she mentioned the three percent was the recommended variance, and one typically does not want to go above that.

Commissioner Lober apologized if the term goal was not used; he stated he thinks it is essentially synonymous and if someone does not agree, he apologizes for that; he thinks it is a little picky but minutes are what they are; Attorney Jorandby has indicated that anything exceeding 10 percent would be a red flag, and best practice would essentially be to ensure that it remain within the three percent variance goal; and he asked if that is correct in recapping what she just said.

Attorney Jorandby commented the best practice is the recommended variance is three percent.

Commissioner Lober stated he is not picking the Weiler Plan because he is a good guy, although he is a good guy, he is doing that because that is what the Committee left to the end meeting, two options; it is not that he think it has to be the Weiler Plan if it is not the Hybrid Plan; and he asked if the spread in the Weiler Plan is not 2.18 percent.

Attorney Jorandby noted the overall range deviation is 2.18 percent.

Commissioner Lober noted that is within the three percent.

Attorney Jorandby remarked that is correct.

Commissioner Lober went on to say the spread in the Hybrid Plan to his understanding is 8.78 percent; and he inquired if that is correct.

Attorney Jorandby noted that is the overall range deviation.

Commissioner Lober asked if the 8.78 percent is neither within the three percent target, nor as was said, the recommended variance, nor within the five percent initially identified by Ms. Schmitt as an acceptable fallback.

Attorney Jorandby noted it is not, but keep in mind the 10 percent is the red flag, and it is below the 10 percent.

Commissioner Lober stated the Hybrid Plan, based on that math, has over four times the spread of the Weiler Plan; and he asked if that is correct.

Attorney Jorandby noted that is correct.

Commissioner Lober asked for some legitimate likely defensible reasons why a plan would or could exceed the three percent goal.

Attorney Jorandby explained just looking at the cases and keeping in mind the Supreme Court has set out this 10 percent as the red flag, the prima facie case for equal protection violation, the court has recognized that there is going to be some kind of variance and there is going to be a deviation between the District populations, there is not going to be a zero or equal percentage; the reasons they acknowledge is appropriate is if a District is under populated in a particular area due to future population growth, if there is an area that is thought to actually exceed growth in the next 10 years, that District can be under-populated; the other reasons for that is to preserve the integrity of the cities, as well as providing for compact districts of contiguous territory; and that means if one is trying to preserve the districts contiguous nature. She went on to say the courts have recognized that there can be a deviation, 10 percent being that red flag; and if an area hits that 10 percent, or goes over at any point in time, there is that prima facie case of a violation of equal protection.

Commissioner Lober stated while there are certainly countless court cases and laws, given Attorney Jorandby's experience and her obvious research into the legal issues that pertain to redistricting, he asked if she is presently aware of any Statute, case law, or binding precedent that might permit or sanction the adoption of a higher than ideal spread primarily or solely on account of wishing to maintain the status quo to the greatest degree possible, and not on account of any of those reasons that she previously mentioned.

Attorney Jorandby responded she is unaware of any.

Commissioner Lober continued on to ask if Attorney Jorandby recalls if any Hybrid Plan came into existence as a result of meshing the Weiler Plan, or at least two of the proposed change areas of the Weiler Plan with what was then the Fisher Plan, of leaving all Districts alone, and in essence doing nothing and not redistricting; and he asked if that is correct.

Attorney Jorandby asked him to repeat that.

Commissioner Lober advised he wants to get to how the Hybrid Plan came into existence, because he thinks it makes a huge difference; and he asked if it is Attorney Jorandby's understanding that it came into existence, based upon the minutes leading up to the point at which it was introduced, as a result of meshing the Weiler Plan along with what was then the Fisher Plan, being to essentially do nothing, leaving all the Districts as they are, and not changing the boundaries whatsoever.

Attorney Jorandby responded affirmatively and stated that was the discussion.

Commissioner Lober noted Attorney Jorandby may recall as well that the Committee was uncomfortable with the Fisher Plan at that time being one of doing nothing that resulted in a greater than 10 percent spread or deviation leaving those Districts as is; and he asked if she recalls that.

Attorney Jorandby responded affirmatively; and she stated there was a very high deviation at that point, if the County did nothing.

Commissioner Lober continued by saying given the chronology, he would image Attorney Jorandby would agree that it appears facially, pretty plain that the Hybrid Plan originated as a result of a desire to maintain as much of the status quo as possible while reducing that spread below 10 percent; and he inquired if she agrees.

Chair Pritchett remarked that is speculation.

Attorney Jorandby stated without really knowing exactly she cannot put herself in the position of the Committee members, but they were trying to work on bringing down that 10 percent.

Commissioner Lober stated that is fair and he thinks people can make their own conclusions from that; and he asked if Attorney Jorandby recalls it was the first and only time that the now Fisher Plan, where there was any attempt to argue a legitimate lawful basis for the nearly nine percent deviation in what is now referred to as the Fisher Plan, and recall that the only time that has ever taken place was after it was introduced at the final redistricting meeting, as far as addressing any of those three or four items that she mentioned were lawful bases of exceeding a three percent spread.

Attorney Jorandby stated it was at the final meeting and that was after she did a brief presentation to the Committee as to the 10 percent, the case law, the Statute, and the constitutional requirements that the County is supposed to follow as far as redistricting in general.

Commissioner Lober advised that is his understanding as well; he does not mean to speak ill of anyone on redistricting, frankly anyone willing to serve and dedicate their time deserve appreciation for that, so do not take it as a slight; he really does respect all the work that was put in; he thinks it is important to see the chronology of where things were and where it went; people can make whatever conclusions they wish based upon that information; during the October 4 Redistricting Committee meeting in discussing the Hybrid Plan and the Weiler Plan, he asked if Attorney Jorandby recalls a former State Representative, Jason Steele, having



stated, “the two maps they have are a toss-up, they are almost identical except for one big thing and that is the deviation on Todd’s is 8.4, the deviation on John’s is 2.4, significantly lower on John’s, so why would we go with an 8.4 deviation when we can go for a 2.4 deviation. It’s six of one and half dozen of another, so I think we could easily come to a decision tonight and either one of these proposals would be very good with the County Commission, and unfortunately, as much as I would like to go along with Robin’s idea, I think it’s probably smarter for us to do the deviation that is lower, and puts us in a better protective position.”; and he asked if she recalls that.

Attorney Jorandby stated it sounds familiar.

Commissioner Lober stated now he wants to talk about a different meeting; he asked if Attorney Jorandby recalls during the September 27, Redistricting Committee meeting Steve Crisafulli having pulled his own proposal in favor of, or in deference to one of Mr. Pokrywa’s proposals and also the Weiler proposal based on them being so substantially similar to his own.

Attorney Jorandby stated yes eventually it ended up with the two plans before the Committee.

Commissioner Lober asked Attorney Jorandby going back to that October 4 Redistricting Committee meeting, if she recalls Mr. Pokrywa having pulled his own proposal in favor of Mr. Weiler’s proposal.

Attorney Jorandby responded yes, they ended up with the two plans for review.

Commissioner Lober stated at that October 4 meeting and discussing the two plans, he believes Mr. Pokrywa’s words were, “they were very similar and they also incorporated a lot of other Committee members and comments from our meeting second to last. I did not need to review my plan because it mirrored Mr. Weiler’s because we took into consideration committee feedback during that discussion in that meeting before last, Chairman. He said something similar to my plan. I believe Mr. Weiler explained that he presented, as taking into account the feedback on many of the Committee members.” He continued by saying essentially again pulling his plan in favor of Mr. Weiler’s.

Attorney Jorandby responded affirmatively.

Commissioner Lober advised he is not asking Attorney Jorandby to opine if the County might lose a lawsuit, he just wants to talk about relative risk between those two plans the Committee itself arrived at for the final consideration; he does not think it needs to be the Weiler Plan if it is not the plan under consideration, he is just referring to the Committee selection with respect to that; and under the case law in which Attorney Jorandby is familiar, based on spread metrics, therefore the deviation between the most populated and the least populated districts, from a standpoint of risk tolerance, he asked if the County would assume an objectively greater risk of a potentially meritorious lawsuit were it to adopt the Hybrid Plan over the Weiler Plan.

Attorney Jorandby stated the recommendation is to keep the percentages as low as possible, try to get within that three percent; at that point in time, and she thinks the County can be sued for any of its plans; obviously she cannot stop someone from suing the County and she would defend anything the County has; and, however, when the percentage starts to tick up to a higher percentage that could raise more concern.

Commissioner Lober stated he is a little slow when it comes to this; he truly appreciates that and thinks it is good information to qualify the answer with; but when it comes from a standpoint of risk tolerance, the question was would the County assume an objectively greater risk of a potentially meritorious lawsuit were it to adopt the Hybrid Plan over the Weiler Plan.

Attorney Jorandby advised looking at the Weiler Plan with a 2.18 percent, obviously going into court with that percentage, it is an easier percentage to defend.

Commissioner Lober stated he wants to talk about the County Charter because he thinks that is absolutely critical moving forward; and he asked what the County Charter mandates when it comes to redistricting amongst the five districts and the balance that the County has to strive to achieve.

Attorney Jorandby responded specifically that is in Section 2.2 which provides that the Board shall cause the County to divide into County Commission districts of contiguous territory as nearly equal in population as practicable.

Commissioner Lober noted that is a big word; he wants to talk about practicability; and he asked Attorney Jorandby how she would define practicable as a working definition.

Attorney Jorandby replied as much as possible, when she had some training by the Florida Association of Counties, and that was by an expert who basically came in and explained it, the County is trying to get this percentage as low as possible; going back to the court cases, courts recognize it is no going to be a perfectly split evenly, there are reasons why one would under-populate or have different variations; and there is some recognition that there could be different percentages.

Commissioner Lober commented as far as the plan that is now under consideration, there was not even an attempt to argue that any of those applied until after it was introduced at the final meeting; and he asked if that was correct.

Attorney Jorandby replied it was at the final meeting when she gave her final thoughts to the committee as to what the County was trying to do as far as the Redistricting Committee was concerned.

Commissioner Lober asked while there are certainly differences in the defensibility between the Weiler Plan and the Hybrid Plan, if she would agree that the redistricting Committee absolutely could have voted for either plan at the final meeting.

Attorney Jorandby responded affirmatively; and she advised she had done a memorandum to the Committee specifically evaluating both plans before that final meeting, saying at that point in time, they were acceptable because they were below the 10 percent, there was an attempt to rebalance the population in the districts.

Commissioner Lober asked knowing the Committee could have gone with either, and since they are discussing practicability being something that can accomplished, and given that the Redistricting Committee could have gone with either, if in that sense, both plans were practical.

Attorney Jorandby responded affirmatively.

Commissioner Lober continued by saying going back to the Charter language, mandating that the County divide into districts as nearly equal in population as practicable; and he asked if the County arguably fails to that could that be the basis on which a potential plaintiff sues the County.

Attorney Jorandby advised there are a lot of factors; she responded it is possible, but obviously the courts look at why there may be districts that are under populated or have a variance; and she reiterated the courts will look at that.

Commissioner Lober inquired, as it pertains the Charter language that he just mentioned, is the Hybrid Plan or the Weiler Plan objectively more defensible.

Attorney Jorandby stated if looking solely at the deviation, obviously there is a lower deviation in one plan and that plan is not the one before the Board tonight, but it was one of the plans that was before the Committee at the last meeting that was the Weiler Plan with a lower deviation.

Commissioner Lober noted based on what he has seen and what Attorney Jorandby has told him about the Charter language, would he be correct in assuming that the Weiler Plan is objectively more defensible as it pertains to the Charter language.

Attorney Jorandby responded as to the Charter language, yes; if one is looking at that, the Weiler Plan that was presented to the Committee at the last meeting, it did impact all five Districts; it is shifting population; going back to those court cases, the court recognizes that sometimes it will not under-populate a district for a reason, if there is an expectation of a high population growth; there are reasons for doing that; clearly one Plan was impacting five Districts; and the other one had a higher deviation, but only impacted two Districts. She reiterated there are reasons for making those changes.

Chair Pritchett asked if Commissioner Lober is about there because she feels like he is repeating himself by asking the same questions four different ways.

Commissioner Lober stated he is going to move on to a different Item.

Chair Pritchett asked how much longer because she wants to get the public comments in and she knows he will come back at the end again.

Commissioner Lober stated he will bite his lip as much as he can and he promised he will keep this as short as he possibly can; but, however, he thinks this is absolutely critical to spend the time on this, this evening.

Chair Pritchett mentioned the thing is, the Board is going to be voting and there are things that the Board knows; she is guessing most of them are educated, they were there; as far as the public, she is not sure this is the time to educate them on the whole procedure; Commissioner Lober can use his discretion right now, but she is hearing the same questions being asked of Attorney Jorandby four different ways; and she is giving the same answers. She commented Commissioner Lober is going to have to help her with that.

Commissioner Lober stated he does not think in the three years that he has been on the Board that he has asked for any level of leniency when it comes to asking questions of this sort.

Chair Pritchett explained she is just trying to help get it moving along a little bit.

Commissioner Lober asked that Chair Pritchett be generous and allow him to continue.

Chair Pritchett asked if he needed 10 more minutes.

Commissioner Lober responded that is fine.

Commissioner Smith asked what Commissioner Lober's goal is; he noted he is just hearing things that he already knows; a lot of these questions Commissioner Lober has already asked during the meetings and Attorney Jorandby has already answered them; and he asked where Commissioner Lober is trying to get the Board to.

Commissioner Lober replied he would like to get everyone in the room, who desires to be on the same page, on the same page with respect to the legal requirements that the County is obligated to operate within; Commissioner Smith and himself may or may not be on the same page; and he does not know if everyone, who has taken the time out of their day or evening to be at this meeting, is necessarily as apprised as the Board Members, who are paid a full-time salary to do this job.

Chair Pritchett remarked she does not think this is place to do that.

Commissioner Smith stated he is curious and really impressed that Commissioner Lober is concerned about the audience and how much they know or do not know; and he would almost like to ask a show of hands how many.

Commissioner Lober interjected he does not think the Board is entitled to poll the audience.

Commissioner Smith commented he knows the Board is not, but he is almost inclined to do that because he does not share Commissioner Lober's desire to inform these people about things they do not really care about; and that is his point.

Commissioner Lober stated he apologizes if his transparency is distasteful sometimes; but, he thinks it is an admirable goal.

Commissioner Smith noted transparency is already, they have already done all of this.

Chair Pritchett advised she is going to give Commissioner Lober 10 more minutes.

Commissioner Lober stated each of the Commissioners have taken an oath to uphold not only the Federal Constitution, but also the Constitution of the State of Florida; and he asked if that is correct.

Attorney Jorandby responded affirmatively.

Commissioner Lober went on to say Article 8, Section 1, little e of the State's Constitution and in pertinent part, reads, "After each census, the Board of County Commissioners shall divide the County into districts of contiguous territory, as nearly as equal in population as practicable"; he noted that language is essentially identical to the requirements of the County Charter; and he asked if that is correct.

Attorney Jorandby responded affirmatively.

Commissioner Lober asked if that language is permissive, optional, or if the Board is obligated to follow it.

Attorney Jorandby stated it is mandated and that is what she told the Committee, that this is the mandate to do this population shift, they recognize that after the census that there is shift in population and now the County is supposed to make these changes.

Commissioner Lober stated as to the legal memorandum that Attorney Jorandby mentioned having sent to the Redistricting appointees, prior to their final meeting, after the second to the last, in that memorandum she clearly suggest that the Weiler Plan is the more defensible of the two, she made a statement that appears to conflict with a lot of other things contained in that memo, and he is going to quote that statement; he quoted, "Both proposals are acceptable"; and he asked if she stated that because both are below the 10 percent variance threshold and both, to a degree, attempt to balance population amongst the various districts, granted one of

them only does so between two of the five districts, a minority of them.

Attorney Jorandby noted that is correct; and she stated they both shift population in the Districts and are below that 10 percent red flag.

Commissioner Lober asked would it not be easier to defend a plan which has less than one quarter the deviation and balances the population amongst all five Districts, instead of merely two of the five.

Attorney Jorandby responded by saying qualifying that a little bit, depending on the challenge, obviously, if she can go into court and show that there is a really low deviation that would be a great place to be; that was the recommendation; but as long as the County is under that 10 percent, the red flag is not there.

Commissioner Lober as if Attorney Jorandby believes that the Weiler Plan clearly meets the legal requirements of the County's Charter, the Florida Constitution, and any other applicable law of which she is aware.

Attorney Jorandby responded by saying yes.

Commissioner Lober inquired, if focused solely upon the metrics that the Committee must consider, is it not true that one plan clearly fits within those metrics; and he mentioned he quoted her earlier from the August 27 meeting, in addressing that the goal is to stay within the three percent, while another essentially pushes the boundaries to a far greater degree.

Attorney Jorandby replied the recommended variance was three percent; there is one plan that is clearly under, and then there is one that is 8.7 percent; and she reiterated, they are both acceptable because they are both under that 10 percent.

Commissioner Lober questioned if that should not be taken to mean then that one proposal is not a far safer idea than the other from a liability standpoint, should it.

Attorney Jorandby advised it depends on the challenge at that point; they are very different plans and the County is only going to adopt one plan; and that is going to be the one, if there is a challenge, that will have to be addressed and what the issues are that court may see.

Commissioner Lober continued by saying in essence, to use the term acceptable in a similar fashion, it might be acceptable for someone who weighs 150 pounds to have four beers on an empty stomach and drive.

Attorney Jorandby replied it may, depends on the person.

Commissioner Lober asked simply in so far as she is most concerned, the term acceptable then, is he right to say that it essentially means a possible choice.

Attorney Jorandby commented they were both choices before the Committee and neither one hit that 10 percent that would make her concerned at that point; she saw the attempts by both plans to shift population and try to balance population; one addressed all five Districts and another addressed only two; but once again, going back to the court cases, the court will look at whether there were some articulable reasons why one district was under-populated versus another.

Commissioner Lober advised he will direct the rest of his comments to the Board; he stated he has talked about the oath that the Commissioners all swore to uphold; it means a lot to him as

a person licensed to practice law, and he is not saying that it does not mean the same to each of them, but it means a lot to him; he is not suggesting that it is realistic to presume that the Governor would remove the Board Members if they were to support a plan that is not in keeping with the Constitution, but they absolutely have an ethical and a legal obligation to follow the County Charter, to follow the State's Constitution, irrespective of whether it is popular or convenient; this Board is charged with redistricting amongst the five Districts, not two of the five; the Board does not have to guess what that means; and the history of the Redistricting Committee itself makes it real simple, one only has to look at the second to last meeting to know that there was at least one other plan that was absolutely lawful and which had less than one quarter of the deviation or spread from the Plan that is being looked at this evening. He went on to say Board members can be removed for malfeasance or misfeasance, malfeasance being intentional conduct that is wrong or unlawful and misfeasance being a lower standard that may not have that intent; he reiterated he is not saying the Governor is going to remove any of them and he is not saying there is any likelihood of that, but to violate the oath of office, which this would do if the Board supports this, knowing what the options are and knowing what the County Charter requires, it is unbelievable to him; and this is something where one does not need a law degree if one were to talk to the County Attorney, this is fairly simple, and conservatives and often time Republicans slam judges for even the perception that they are legislating from the bench, this Board has no right to disregard the County Charter, or the State Constitution because either are inconvenient. He noted maybe he cares more because he is an attorney, but he feels extremely strong about this; for those who question his motives, he would ask how his District stands to gain or lose regardless of which plan the Board goes with; in fact, the Weiler Plan is less convenient for him because South Patrick Shores is not in a municipality, and all their problems become his problems; he would essentially be mayor of South Patrick Shores, having to take care of everything from garbage collection to speed humps, and that is a hassle that adds to his workload; the point is there is a lawful option and an unlawful option; and he thinks this is a no-brainer solution, even if it not a pleasant solution.

Commissioner Tobia stated to be clear, while he will not be voting in the affirmative of this Plan, the issues he has are not solved by the Weiler Plan; he would like to thank dedicated staff, Mr. Liesenfelt and the County Attorney, who put up with a diverse group of individuals, some that had a great deal of ideas and some that had less ideas, but he appreciates them being there to help facilitate this; in all honesty he was not excited about the outcome, but the process was done above board and one that the Board can be proud of; and he is going to lay this out because he would throw this in his face if he was any one of them. He noted he had three appointees and he spoke with them at length before he appointed them, yet two of them voted for this plan; he is very happy with the one individual who was aligned with the issues he mentioned on March 5; it was clear to the Board, as well as his own appointees, that he had a certain moral and legal obligation when it came to this process, and that he would not vote for a proposal that did not ensure a minority candidate had an equitable shot at winning an election to this Board; and for those that do not believe racism is a problem in this County, one only needs to look at the action of one Brevard County's employees over Halloween who dressed in what is clearly a racist manner. He continued by saying those in the minority communities understand why this is a problem and he believes that they should have a realistic shot at sitting on the Board so issues like that can be addressed more effectively; it is not that current management does not take care of these issues seriously, as a group of white elected Policy makers, do not necessarily understand the issues facing minority communities; and while the Board does not have the ability to approve a plan that has not been presented to the Board, his motion foresees sending this back. He commented while the Fisher Plan was the one presented to the Board, he played around and came up with the Tobia Plan; so there is no confusion, he would have been very happy if any of his appointees would have presented this plan, but unfortunately they did not; and he will just go over the plan differences and the reasons. He stated the deviation Commissioner Lober was speaking of, the Fisher Plan, and the Plan that he has is lower, not greatly lower, but lower, not only that, the mean deviation; he

has broken it down by the target Districts; one can see that his plan certainly each and every one is lower; and this is where the Charter kicks in and is breaking up municipalities. He continued by saying the plan the Board has in front of it breaks up Cocoa, Melbourne, Palm Bay, Rockledge, and West Melbourne; the plan he dealt with staff on only has one, that being Melbourne; obviously Melbourne has some unique features where it has beach, as well as mainland and there was no way to get around that; also the plan he had presents a better shot for minority population, one that is seven or eight points higher than even the highest one, the Fisher Plan; his goal coming out of here, and he thinks most people know this and certainly everyone on the Board does, he does not have the opportunity even if he had wanted to run, so this will have no impact on his electoral future, but he honestly believes that the Board has an obligation to help a community that has been overlooked time after time; he asked everyone to look at the faces that line the walls of past Commissioners, one can notice that they overwhelmingly look like today's Board members, to provide an opportunity to people in growing populations, is something that this Board can do today; and his motion would reject the recommendation of the Redistricting Committee with the suggestion that they send a recommendation that does at least, as well as a proposed plan, that was able to keep every municipality together with the exception of Melbourne and included a District in which the minority population would exceed 41 percent; it is possible and he is not saying it cannot be done better; and he would certainly support one that met those guidelines and went above that. He noted he mentioned this at the beginning of the year, that he could not support a plan that did not provide that opportunity; he does not know if this plan is legally defensible or not; he thinks the larger issue, and he does not know who would sue the County but clearly Commissioner Lober has laid out some grounds for that to be said and unfortunately put the County Attorney in a really tough spot; it is his right to ask those questions and he appreciates the way that she answered those questions, and hopefully Commissioner Lober would agree that this Board made a unanimous and correct decision when it selected her as County Attorney; and that is his motion. He concluded by saying he would like to thank staff and the volunteer group who did this; and although he is not in favor of the current plan, he is 100 percent not in favor of the Weiler Plan because it does not perceive a District that is a minority majority, or at least an access District.

Commissioner Lober stated yes; and he inquired if the motion is to reject it, he just needs clarity as to what the motion is.

Commissioner Tobia replied the motion is to reject the recommendation of the Redistricting Committee with the suggestion that they send the Board a recommendation that does at least as good as his proposed plan, that was able to keep every municipality together with the exception of Melbourne, and include a District in which the minority population would exceed 41 percent; and he noted it is not to approve his plan, it is to approve a plan that is at least as good or potentially better than the plan that he laid out.

Commissioner Zonka stated she would like to hear the speaker cards first.

Chair Pritchett stated Commissioner Tobia said none of them on the walls look like the Board members, but she thinks her and Robin Fisher look a lot alike.

Rick Mariani stated as vice president of and in the name of the Board of South Patrick Residents Association (SPRA) he wishes to reaffirm their support and appreciation for the efforts and careful evaluation of at least 15 plans by the Brevard County Redistricting Commission that has resulted in the plan the Board will vote on today; he was not planning on speaking about this, but this is directed to Commissioner Lober; those in South Patrick Shores are not adjacent to District 2, they do not vote in District 2, their children do not go to school in District 2, and they do not wish to be a hassle or a nuisance to Commissioner Lober.

Lawrence Teitelbaum stated he is a member of the Tortoise Island Homeowners Association; his community is a 35-plus year old community comprised of 343 residences on the barrier island just south of Patrick Space Force Base and Pineda Causeway; he wanted to first thank the members of the Redistricting Committee for all their hard work in dealing with some very challenging issues in both providing a plan for the upcoming 10 years, taking Brevard County from where it is now with future growth to where it will be down the road; his community believes that the Fisher Plan, or whoever's name it has evolved to be at this point, is a superior plan that leaves Tortoise Island specifically as a singular community; otherwise, the competing plan at the last meeting would have divided them between about 50 homes in Satellite Beach and another 200-plus in unincorporated Brevard County, and that would be a major hardship to them because of having shared community services, et cetera. He continued by saying they are also a beachside community and they share a common interest with South Patrick Residents Association that the Board just heard from, as well as the City of Satellite Beach; over 50 of their residents and the Board of Tortoise Island have directly communicated with each Commissioner through email showing their support of the Fisher Plan; and they would urge the Board to approve the redistricting plan this evening. He expressed his appreciation to the Board for all their hard work and time.

Josiah Gattle stated he is a member of the Redistricting Committee that considered the over 15 maps; he thought it was important for a member that voted in the minority to speak with the Board today because there are a number of concerns that he has, that he believes going forward could cause significant issues; the first of which is the most obvious and was brought up by Commissioner Lober on the variance issue; the variance issue is that the County be within one percent of that red flag area; this means they could have to come back and do the whole process, reconvene the 15 members, within five years, if they just take the estimates that Todd Pokrywa and The Viera Company have laid out, or some of the empty lots that are just sitting in Palm Bay that are ready to be built; the County will be at the point where it will have to redistrict and hit 25 percent variance, potentially within five years; and they will be right back there having to make some hard decisions. He mentioned he appreciates that there are hard decisions that have to be made, municipalities will have to move; the Weiler Plan which was one of the final two, moved about 40,000 people around the County and it is not pleasant; he is one of those people who would end up on just one side of that line, where he would go to District 1 and be far away from the majority of the population of District 1, but it was the right decision to make to focus on what is really trying to be achieved, which is one person, one vote; and he noted a person's vote in District 1 should not be worth nine percent more or nine percent less than what another district or Commissioner would be. He went on to say the County Commission represents equally each of the Districts in each of the concerns; part of that is the Municipal Service Taxing Unit (MSTU) process; in the process of the discussions, the MSTUs came up and one of the other things that came up, and was brought up by some of the proponents of the Hybrid Plan, was the vast population that is in unincorporated over 490 square miles in District 1; one of the reasons why the County needs to redistrict is to bring the populations up to even, so that the road MSTUs and stormwater MSTUs have equivalent or equal amounts, or as close as possible, so that the County can address the needs of those citizens in each of the Districts for those MSTUs to be properly funneled; and he thanked the Board for its consideration of both plans. He noted he does not necessarily advocate for any one of the remaining plans; and he advised he has set aside all three of his proposed plans, including the one that created an island district that was able to maintain a more equal population distribution than this one in front of the Board today.

Chair Pritchett thanked him for his service.

Sandra Sullivan stated she attended most of these meetings and she understands that the purpose of redistricting is to have equal representation for voting purposes; with 8.78 percent she does not feel that does that; she took some pictures of slides and she wants to read one of



them; she read a slide from what she believes was the October 4 meeting, “as equal in population as possible or practical. Absolute population equality is impossible, minimize the deviation from the mean, less than three percent over, under ideal is good, population equals registered voters, two districts with population differences over 10 percent point raises red flag automatically”; she mentioned the point is as possible or practicable and definitely it is possible, and it is practicable that it could get a much closer variance than 8.78 percent; and she mentioned it is not to a certain plan, it is just that this plan does not meet that criteria, therefore, she thinks it should go back to the board. She went on to say she while Tortoise Island is an HOA, and they vote, and they pay into it, SPRA is like a Garden Club; SPRA is optional to join, they did not take a vote, and they represent only their paid-up members, which she would suggest are dwindling in recent years, with one newsletter out this year; Tortoise Island is very good and is acceptable to put forth an opinion; and as far as SPRA, they do not represent the community.

Phil Bennardo stated he is President of the North Merritt Island Homeowners Association and he really just wanted to thank the Redistricting Committee for listening to North Merritt Island’s (NMI) concerns and acting on them; and early on there was a proposal to separate NMI from the rest of Merritt Island and move them to District 1. He went on to say no hard feelings, but NMI had some serious concerns; they attended committee meetings, they spoke about it and the Committee listened and acted on it; and he just wanted to thank them for listening to NMI residents.

Chair Pritchett thanked Steve Crisafulli for doing an excellent job chairing the Redistricting Committee.

Commissioner Zonka stated she watched every one of those redistricting meetings and she thinks Mr. Crisafulli did a great job, especially when it got a little testy, he managed to keep everyone at bay and she thinks everyone appreciates his leadership; she asked that he forgive her for putting him on the spot; but she asked if he has ever sat on a redistricting committee for the County.

Steve Crisafulli replied not for the County.

Commissioner Zonka asked if he has done it for the State.

Mr. Crisafulli responded he has.

Commissioner Zonka advised Mr. Crisafulli if he does not want to answer her next question, she is fine with it; and she asked if he thinks it is appropriate for a County Commissioner to come and speak in favor or not in favor of a plan.

Mr. Crisafulli commented he will just say it is a much different process at the State level, and he thinks Commissioner Tobia would attest to it, than at the County level; at the State level everything is public record, everything is drawn into the public which is what it is supposed to be about, just like this process was; there is a difference in the process from which elected members would speak to redistricting at the State level versus at the local level; to be honest he believes across the 67 counties, 63 or 64 counties actually draw their own maps from the Commission level; therefore, it is just a totally different process. He responded at the County level it is acceptable for Commissioners to engage in the process.

Commissioner Zonka stated from her prospective, the Board had appointees to that board, therefore, Mr. Crisafulli being one of her appointees, she considered him to be her representation; she talked with him before and he had asked what her goals were; she is glad that ultimately that is the plan the County has; she apologized for placing him on the spot; and

she noted she knows the very first time she saw one of the Commissioners at one of those meetings she felt very uncomfortable because she thinks there is an intimidation factor there and that it make people uncomfortable because the Commission is the Board that votes. She went on to explain that maybe it is a question of what is appropriate but no one would have seen her at that meeting; one only has to watch those meetings to see how many different types of maps that Redistricting Committee went through; and she appreciates his time and patience with the process.

Mr. Crisafulli stated he was honored to do it.

Commissioner Tobia advised he does not mind putting the former Speaker of the Florida House of Representatives, on the spot; he stated the Charter Commission is changing, and Mr. Crisafulli brought that up saying 60 something of the 67 counties draw up themselves; and he asked Mr. Crisafulli what his suggestion is and if he likes the process he just went through.

Mr. Crisafulli stated it is an interesting question because comparing it to the State level, the Legislature redraws their own seats, and to say there is a right way or a wrong way, he does not think there is a right answer to that; he thinks the Committee works and it serves its purpose; is it different that the rest of the State, yes for the most part; he thinks from the understanding of the Committee members and the knowledge that they have about this County, the Board did a great job in selecting a group of people who understand the dynamics of this County, the future growth opportunities, the differences of what it is going to look like today versus what it is going to look like in 10 years; he reiterated he thinks the process works; obviously when there is redistricting with five people versus 160 people in the Legislature, it is a far different conversation because there is far more input from a multitude of angles in Tallahassee than there is if five or seven Commissioners in the State of Florida are drawing their own seat; and that was the difference between the local level and the State level, it was the engagement, from a standpoint of elected members. He continued by saying in Tallahassee people do not talk about themselves; in fact one is guaranteed to be deposed if one starts talking about their own interests in what one is doing; obviously at the County level, it happens in every County across the State; he noted they are two totally different processes; and he does not think they can even be compared to one another.

Commissioner Lober stated Commissioner Tobia and he himself were there and he asked Mr. Crisafulli if either of them tried to intimidate anyone or come across as aggressive.

Mr. Crisafulli noted the Commissioners spoke to their issues.

Commissioner Lober asked if he is aware, and he noted he is not and if Attorney Jorandby is aware he would invite her to answer as well, of whether there is any prohibition on any of the Board Members in reaching out individually to all 15 of the Redistricting appointees.

Mr. Crisafulli noted he does not know that there is.

Commissioner Lober stated personally he would rather have Commissioners having the conversations in the open, to the degree possible, at those meetings instead of reaching out in the dark and making the calls; and he asked, just out of curiosity, and if Mr. Crisafulli does not want to answer he does not have to, if he had Commissioners reach out to him regarding redistricting outside of the redistricting meetings.

Mr. Crisafulli responded affirmatively.

Commissioner Lober pointed out there is nothing wrong with that, but he would rather know what they are saying; he reiterated he has another question and if Mr. Crisafulli does not want

to answer he does not have to; he mentioned he has nothing but respect for Mr. Crisafulli and if he did not he would tell him; he thinks Mr. Crisafulli was put in a tough spot and he did a stellar job; and he asked, after the second to the last meeting, he calls it the gauntlet meeting, where he took an astronomical number of plans and called it down to two, which is stellar on the Committees part. He asked if he had the impression that between that meeting and the final meeting, that some outside factor, actor, or actors stirred up a large part of District 4 residents to get them to reach out to Redistricting appointees, and perhaps to the Commissioners as well.

Mr. Crisafulli replied based on the email traffic, he has to believe that was the case.

Commissioner Lober stated he will touch on that little more once the Board is through with public comment; he thanked Mr. Crisafulli for everything he did with respect to the process; and even though he is not a fan of the Plan that is under consideration, the process was as good as it could be.

Mr. Crisafulli noted he wants to say on the record thank you to staff; and he noted Mr. Liesenfelt and Attorney Jorandby did stellar work on their part.

Commissioner Zonka thanked staff as well; she stated interestingly enough, that is why she chose Mr. Crisafulli, former Speaker of the House; she chose Jason Steele and Rich Workman because they have all redistricted at the State level, but at least they have been through the process; she thinks the Redistricting Committee did their job; her instruction to them was to keep the Districts as least disrupted as possible; and she noted it can be called the Weiler Plan, but it is really Commissioner Lober's Plan, it was the plan he promoted and the plan he spoke to the Board on. She added she has real issue and she felt real uncomfortable watching those meetings and seeing Commissioner Lober address the Committee and pushing his plan; she knows he may have the purest of intent, he obviously wanted them to go for his plan, but this is why there is a Committee; this is why there are appointees and the Board Members tell their appointees, even to the degree of supplying them with maps, which appears to probably be what has happened, this is what each Commissioner wants and wants their appointee to push; she does not think as a Commission that it was appropriate to go to those meetings and speak at just about every meeting on what he or she wants; and whether one meant to intimidate or not is not the question, she knows for herself she would have felt uncomfortable if she were an appointee and her Commissioner came to the meetings. She noted she knows Commissioner Tobia went but he did not speak or address the Committee.

Commissioner Tobia advised his appointees did not vote the way he wanted them to.

Commissioner Zonka noted one of her appointees had some health issues so he could not always be there, but he did his best; she asked Attorney Jorandby if the Board votes for this plan if it is disregarding the Charter.

Attorney Jorandby stated she will go back to the fact that she felt like both plans were acceptable under the Charter; there were definitely differences between the two; there is one that balanced population in all five districts versus only two districts; but they are both acceptable.

Chair Pritchett asked for clarification that the Board is not disregarding the Charter.

Commissioner Zonka asked for clarification that the Board is not disregarding the law; and she asked if Attorney Jorandby thought the Board Members were at risk of being removed from office by the Governor.

Attorney Jorandby replied no, she does not believe that.

Commissioner Zonka asked, should the Board vote for this plan would it be defensible.

Attorney Jorandby responded yes, she would defend any plan that the Board adopts, obviously; she reiterated she thinks either plan is acceptable; and she advised that is what she told the Committee that night before they did their final vote.

Commissioner Zonka advised she like Commissioner Tobia's idea, she just wishes he would have brought it to their Committee sooner so they would have had a chance to vet it; she would have been more interested to see it a lot sooner; she obviously cannot support what he is bringing tonight because she thinks they have done their due diligence and their job the best that they could; and that is all she has.

Commissioner Smith stated he found all of this very interesting; he sees a lot of emotion involved; anybody that has spent any time around him realizes that he tries to take emotion out of the issues and he looks strictly at the facts; for him, and at this point the Board does not have a crystal ball and the Board does not know what the growth is going to look like in 10 years; therefore, for him the Pokrywa Fisher Plan, it disrupts the least amount of people and that is really what he is looking to do at this point in time. He added from his perspective, three percent is the ideal, but it is not etched in stone and Attorney Jorandby made it clear many times; he thinks the majority of the appointed people that represented this Board endured a lot of meetings, they said a lot of words, they pushed a lot of ideas, and quite simply the majority, 9:6 or 10:5, whatever the vote was, the majority agreed with the Fisher Pokrywa Plan; they heard every single sentence, phrase, and reason to support or not support it; they heard Attorney Jorandby's response that either plan is defensible; and they voted, hopefully based on facts and not what he wants. He noted he thinks if the Board waits 10 years it will know where the growth is and that Committee will have firm numbers they can look at unemotionally and come up with another plan; and that is his prospective and why he will be supporting this.

Commissioner Tobia stated since there has not been a second, he will pull his motion.

Chair Pritchett asked if he wants to discuss any of this right now.

Commissioner Tobia responded he thinks he was pretty clear with there he was on it.

Chair Pritchett stated she wants to throw out a couple of things; first of all when Commissioner Lober really likes something, he fights for it; what is interesting to her on this, as she has always told him in the past what she loves the most about him is how he will be very, very risky with things to help get the good done moving forward legally; she watched all the meetings and she has to say this because it was brought up with Robin Fisher, he threw it out kind of saying to the County Attorney that if it is in the 10 percent, the Committee could get away without changing this at all; Attorney Jorandby stated yes, and the Chair asked if that was motion, because they were getting a little lighthearted with it; they were talking about understanding that whatever the Committee did they had a little flexibility to play with in doing what was best for the County; and she noted there were plans that came out, Robert Jordan one of her appointees presented one with bringing part of Merritt Island up to District 1 and work across. She advised she listened to them all and what she saw with Mr. Weiler and Commissioner Lober's Plan, it was interesting and moving things around, but what she got out of that was he is land tied and has no other place to grow, so he is going to need to take over other populations; she thinks it was very appropriate to pull some out of District 4 because they were concerned about District 4 growing; however, in the midst of this, as far as the land mass, District 1 is managing so much land mass up there in the unincorporated, the sewer, the garbage, it is just a lot in the unincorporated population; she saw where someone said

Commissioner Smith has the most, and he does but he also has a Development of Regional Impact (DRI) in that so he does not have to give all the love that the others have to with the unincorporated; and looking at that, the Districts are not that far off. She mentioned it probably needed to move some of Commissioner Smith's District because he is in such a growth bloom, but District 1 is as well; she has 450 square miles of the entire County and in that area right now she has in permitting 6,900 houses which is a population of 11,732 which is going to put her up higher than all the other Districts by the end of this year; and when considering that and the growth still going on in there, this is not a perfect science, but she gets having to put more into District 2 because he does not have any place left for growth. She continued to say District 3 and District 5 are growing; District 4 has taken a lot of it lately; she thinks this is a good plan; she is very comfortable with it; if any of the Commissioners want to make any more tweaks to their own Districts she is good with that, but she really does not want any more population coming into District 1 right now because she has enough coming in; and she is going to support the plan that came along with the Hybrid, it is smart and a lot of focus went into it. She stated she spoke with her representatives often when they were telling her the reasons why they were doing things and what they were doing; she placed three brilliant people on the Committee in her opinion; she thinks it is a good board; there were a lot of conversations going on and not everybody got what they wanted, but that is government; and she will be voting to support this plan tonight.

Commissioner Lober stated he is not going to apologize for having gone to a public comment and having made public comment whereas he could have done it in the shadows where no one would know what direction or thoughts he had; he thinks any time one has an opportunity for transparency, especially when it costs nothing, people should strive to make use of that; and as far as hearing either plan is defensible, the exact words that Attorney Jorandby used were, "we would defend any plan". He asked if that is what was said.

Attorney Jorandby stated she would defend any plan the Board adopts.

Commissioner Lober stated he laid out ample foundation as to why he believes the particular plan under consideration is illegal; he does not think the Governor is going to remove anyone over this; what he is saying is it is a theoretical possibility, but if he were a betting man, he would bet it is not going to happen; that said, just because there may not be a consequence, does not mean that the Board should disregard its oath and do something that there is strong reason to believe or to know, is illegal; he has explained why and he is going to just have to agree to disagree with some others on the Board. He went on to say he thinks what he has to say is worth mentioning; he thinks some of these people who may be happy seeing the way this is going, do not have a reason to celebrate; at the second to the last meeting, the Redistricting Committee in a particular position at the last meeting...

Chair Pritchett stated she is going put him on a time if he will give her how much time he needs.

Commissioner Lober stated one hour and she can bargain him down.

Chair Pritchett and Commissioner Lober agreed on six minutes.

Commissioner Lober stated the bottom line is there were some folks interfering at the very end scaring people in essentially suggesting that the sky was going to fall; a lot of people beachside in District 4 and on the mainland in District 4; there were people making arguments that had no specificity whatsoever; to look at the emails, what they lacked in quality they made up for in quantity; what he means is there were people saying they do not want the beachside calling shots for the mainland or vice versa, not realizing that Indian Harbour Beach, South Patrick Shores, and Satellite Beach are already in District 4 and it stretches to this location; his District

has Cocoa Beach, Cape Canaveral, Patrick Space Force Base, he lives in Rockledge, and he has Cocoa, neither the beachside people nor the mainland people are interfering with the other in either District so it is irrelevant; where kids go to school, Brevard Public Schools (BPS) does their own redistricting; he lives in County Commission District 2 but he lives in District 4 for BPS purposes, it does not change where kids would be going to school; and the fact that it was heard that South Patrick Shores is incompatible with District 2 is ridiculous. He added the name South Patrick Shores tells people everything, it is not called North Satellite Beach and there is a reason for that; it was essentially where the base housing, or a portion of it was for years; there is not a reason in the world that one could say that an area where an entity put their own people who enlisted, that they could not be in the same district as the Air Force Base, now the Space Force Base, it just does not make sense; he heard the sky would fall, about the quality of representation, efficiency of County services, and he noted he talked with staff and they laughed when he asked if he was missing something obvious, with respect to that; and the people in Tortoise Island, he respects the desire to stay in one District, he in fact offered a modification to Mr. Weiler's Plan. He continued by saying he was supportive of the Weiler Plan, it was not the Lober Plan; he offered a modification that was not even considered, but would have kept Tortoise Island within one particular District; the bottom line is it is already split between a municipality and unincorporated Brevard; if there was ever anything that would impact services that would be it; he has not seen any specific example of what would be harmed with respect to any of it; the bottom line is he always tries to avoid giving the squeaky wheel the grease unless they just happen to be right; Brevard County has over 600,000 people and there were some people who stirred the pot and got some people to the point where they were going bonkers over non-issues; bottom line is he does not believe he can ethically support his plan; he understands it is going to pass, but he has taken the oath a number of times to defend the State's Constitution; and Attorney Jorandby has already said she will defend any plan, she cannot say anything but that. He went on to say as Commissioner Tobia rightly pointed out, he put Attorney Jorandby in an awkward spot in essentially pushing to get answers to very specific questions; there is a reason the Board has access to staff outside of Commission meetings it is so there can be blunt conversations where there is not a concern that there is going to be a transcript that is going to be fed back to someone down the road; he noted he thinks it is a mistake to go down this road; he does not know if anyone will sue the County, but just because the County may or may not get sued does not mean that County should do something that is illegal anyway; and that is where he is at.

Chair Pritchett asked Attorney Jorandby if this plan is voted through is it illegal.

Attorney Jorandby responded she would not say it is illegal; she advised it is a difficult question right now and she knows Commissioner Lober is not going to be pleased with that answer, but it is not illegal; either plan that the Committee looked at that night is acceptable; the Committee voted for this plan; it fits within the parameters and there were adjustments to the Districts; and there was some testimony by one Committee member as to why they were under-populating.

Chair Pritchett interjected and asked once again if the Board voted this plan it is not breaking the law.

Attorney Jorandby responded the Board is not breaking the law.

Chair Pritchett stated that Attorney Jorandby's job is to listen to what the County Commission is trying to do and to make sure it is defensible because the Board Members are representing their community the best they can; and some of it might be on the line and some may be different creatively, but her job is to listen to what the Board does and figure out a way, if it is defensible.

Attorney Jorandby remarked that is correct.

Chair Pritchett advised she is very comfortable with doing this; and she asked for a motion.

Commissioner Zonka stated she moves to approve the recommendation of the Brevard County Redistricting Committee and to adopt the Resolution approving the 2021 Redistricting Committee Redistricting Plan, setting forth an accurate description of the new County Commission District boundaries; directing the Clerk to enter the Resolution into the Board minutes; and directing the County Manager, or designee, to publish notice of the Resolution and the description of the approved County Commission District boundaries.

Commissioner Smith seconded the motion.

The Board of County Commissioners, in regular session on November 9, 2021, approved the recommendation of the Brevard County Redistricting Committee; adopted Resolution No. 21-161, approving the 2021 Redistricting Committee Redistricting Plan, setting forth an accurate description of the new County Commission District Boundaries; directed the Clerk to enter the Resolution in the Board Minutes; and directed the County Manager, or his designee, to publish a notice of the Resolution and the description of the approved County Commission District Boundaries.

**Result:** ADOPTED

**Mover:** Kristine Zonka

**Seconded:** Curt Smith

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

**Nay:** Lober, and Tobia

**J.4. Adopt Resolution Supporting Brevard County's Preference of Maintenance and Operation Policy of Mathers Bridge**

Frank Kingston stated Tropical Trail is adjacent to and required to use Mathers Bridge on a daily basis; he is the president and founder of ABS Structural Corporation, that has been in business since 1985, and he started in the bridge business in 1968, so that is 53 years and 3,000 bridges later; he is still working at it because he enjoys it; he did consult on the Mathers Bridge, but he did not do the fabrication drawings for it; his engineering services company provides the fabrication and erection drawings, he builds bridges and rebuilds bridges, but he does not design bridges; he does the fabrication drawings; and he tells people how to put it together. He added he did consult on Mathers Bridge for the camber issues because he was working with Florida Structural Steel and Construction, Inc. on numerous other projects at the time; they ran into a few issues that they just did not have the proper experience for, he did not do the job but he fully understands, and he has done many just like it; bascule bridges, vertical-lift bridges, and swing span bridges all fall under drawbridge because they are movable bridges; and about 25 years ago Florida Department of Transportation (FDOT) produced a campaign to say all the movable bridges have to be gotten rid of. He went on to say the reasons that they had to get rid of them is for the same reasons they are present tonight, they are very expensive, they break a lot, and they do not provide adequate pass-through for maritime traffic. He pointed out Mathers Bridge is wearing out with 1,400 cycles a month and in the Florida Intracoastal Waterway Guide, the package that he provided the Board with last night, the clearance being closed on Mathers Bridge is seven to eight feet, and that means that it has to be open for anything but a flats boat or a Jon boat; of the 45 bridges on the Intracoastal, 31 are on timed openings; but all others have clearances of 25 to 27 feet and might open three times a month.

Commissioner Smith reiterated 31 of the 45 open now; and he inquired if that is on the Intracoastal.

Mr. Kingston replied yes; and he advised it is from Mile Marker 777 to 1089, which basically is the whole Intracoastal from Daytona south.

Commissioner Smith inquired if those are boats from 20 feet to 120 feet, or bigger.

Mr. Kingston responded affirmatively.

Commissioner Smith advised that is important for the Board to know, because if those boats have to endure waiting for a bridge to go up when out in the open waters, which is tidal water probably and with winds and currents to deal with; and that is a lot more difficult than a small boat that has to sit in or around Mathers Bridge with no appreciable winds and no tidal at all.

Mr. Kingston remarked Mathers Bridge is too small for ocean traffic or maritime traffic, no barge will fit through Matters Bridge, and it is all recreational boating; he thinks from fiscal responsibility, the County is looking at \$20 million to replace this bridge, or more; and it is hard to put a handle on that right now because the price of raw structural steel has doubled in the last 12 months, which is what bridges are made of rebar, structural steel, and concrete. He mentioned the people who consult him are saying they will wait until the price goes down, but the price is not going down.

Commissioner Lober thanked Mr. Kingston for sending an excellent email over the past couple of days, that had a Portable Document Format (PDF) attached to it, and he is probably one of the most effective folks that he has seen in lobbying this Board; and he stated he cannot imagine that he was the only Commissioner who received it.

Mr. Kingston confirmed everyone received it.

Commissioner Lober went on to say that Mr. Kingston did an excellent job, without the emotion articulating what his specific concerns were and justifying them; he wished for more people to do what he did, because that is the kind of email where it has got real ability to convince folks; he had an opinion before reading his email; and it definitely shifted his opinion with it.

Vince Lamb stated he lives awfully close to Matters Bridge and when the trial period was experienced of half-hour openings in 2018, he thought they had found the perfect solution; like many other bridges in Florida, the boaters were present for the timed openings, and the vehicle operators learned to avoid those time; he was a bit shocked to learn that the recreational boaters had managed to convince the United States Coast Guard to return to on-demand openings; an explanation was offered that most of the drivers were retired people with plenty of time, but during the working hours, and on weekends, he is confident that the majority of the vehicle drivers crossing Mathers Bridge are either working, or commuting to and from work; and the residences on Merritt Island require maintenance services, as well as construction services, and a lot of them are spending time waiting for an open bridge. He added then there is the issue of the wear and tear on the bridge; on Dragon Point Drive, he has experienced two maintenance and repair shutdowns that lasted six months or longer; for most of these times the bridge was unable to accommodate boats or vehicles; he hopes to never experience a lengthy shutdown for that type of repair; a few issues the Commissioners face, is having a clear solution; and he asked the Board to pass this resolution and ask the United States Coast Guard to limit the openings to half-hours.

The Board executed and adopted Resolution No. 21-162, support the County's preference of maintenance and operation policy of Mathers Bridge; and directed staff to prepare a letter to the United States Coast Guard requesting modification of the deck opening schedule for Mathers Bridge.



**Result:** ADOPTED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

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

Commissioner Lober stated this pertains to the earlier vote on redistricting and he offers a word of caution moving forward with other issues that may involve County legal; just as everyone has their own opinions, he thinks it is important to bear in mind that the Board often times puts County legal in a spot where they are forced to defend things that may not be terribly defensible, and what he means by that is to look at Blue Origin; the folks that were here and voted for the Blue Origin Item, he is sure they thought it was perfectly legal but it was not so; the invocation lawsuit, a decision is made and they have to do the best they can with what they have; and in 1983, years before he came to the County there was jail overcrowding and it was an issue. He continued to say the bottom line is, and he is not trying to pat his back but he called the Blue Origin Item right, he called the Charter cap right, and on the other side of things is jail overcrowding and invocation; he is not saying he is infallible, with respect to his opinion, but the point is, he is going to give a blunt opinion; the County Attorney, is never going to say anything more than she has to that could put the County at a disadvantage; and his goals in asking her the questions was not to make her uncomfortable, but she is a trial attorney and he thinks she kind of gets it, and he promises her that they do not have any issue with respect to that. He continued to say the goal was to try to persuade and inform folks of where they were at, in the hopes to avoid potentially creating an unfortunate situation; he will tell all now that, that is done, legality aside, he is actually happy with the map; he knows that may come across as absolutely crazy or insincere, but the fact of the matter is he has a lot less unincorporated area that he has to devote a set number of hours to, so he can devote more time to Merritt Island, Cocoa, Rockledge, Cape Canaveral, and Cocoa Beach; it is great and he likes it, in terms of making his life easier; he does not want anyone to think that he has an issue, with respect to any particular area in the County; he thinks that each Commissioner has their areas that are more problematic than others, and whether it is five or 10 years from now he thinks a lot of the issues that are experienced now, assuming the County does not get sued in the interim, are going to be moot anyway; and when it gets redistricted, he does not think the options are even going to be there to leave it as it currently is.

**L.6. Curt Smith, Commissioner District 4, Report**

Commissioner Smith stated he wanted to remind everyone about No-Shave November; John Denninghoff, Assistant County Manager, Commissioner Tobia, Ian Golden, Housing and Human Services Director, Jerry Visco, Human Resources Director, and Don Walker, SCGTV/Communications Director, have a head start; and he mentioned that he has been doing this since he first took office in 2014 and who would have known that four years later, he would get prostate cancer.

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

Commissioner Zonka stated she wanted to thank everyone present tonight for their patience with this Board; and she thanked staff for all the time it put into redistricting.

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

Chair Pritchett mentioned when Blue Origin was brought up, the premise of what was done was not the issue; it was the question of whether to pay out the initiative all at once or if it was going to be in bonds; she stated it was the previous Clerk of Courts who was challenging it and the

legal issue, it is always based on law and which way the judge is going to side, because with law a judge can go one way or the other which is good, and why Commissioner Lober from time to time takes all these risks; as far as the invocation, that was the County Attorney's recommendation and the Board went with that recommendation, but lost that one; even with Abigail Jorandby, County Attorney, she expects her to make some mistakes; but she also expects Attorney Jorandby to stay as impartial as possible and to find ways to represent the Board, as it comes up with its majority of opinions in moving forward. She welcomed Attorney Jorandby aboard; and she stated she is going to do a great job.

Commissioner Smith pointed out they are not mistakes, they are opinions. He stated that same Clerk of Courts was fond of saying if 20 different opinions on a legal issue were wanted, ask 20 attorneys because they all have their own opinion; that is why it goes before a judge; and the judge gets to have the only opinion that matters.

Chair Pritchett remarked just ask five different Commissioners, because they will get different opinions, too.

Upon consensus of the Board, the meeting adjourned at 7:40 p.m.

ATTEST:

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RACHEL M. SADOFF, CLERK

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KRISTINE ZONKA, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA