

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Tuesday, February 8, 2022**

**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 Pritchett led the assembly in the Pledge of Allegiance.

**E.1. Resolution Recognizing Steven Darling**

Commissioner Tobia read aloud, and the Board adopted Resolution No. 22-005, recognizing Steven Darling.

Chair Zonka stated her first experience with Mr. Darling, maybe he knows where she is going to start with this, was in the Emergency Operations Center (EOC), they spent a couple of days in the EOC, and he was funny; she will not talk about how he encouraged her to take a selfie with a sleeping Commissioner, but that was fun; they had a great time, she appreciates his friendship, and she appreciates how he kept the team rallied; and she thanked him and stated it is a great loss for the County, but they wish him the best.

Commissioner Pritchett stated they all have gotten very attached to Mr. Darling; he has done a great job and the Board is really going to miss him; and she mentioned to Commissioner Tobia, if that would have been a newspaper reporter, that would have hit National headlines.

Commissioner Smith stated he will just chime in and say he is going to be missed, but the County's loss is their gain, and he is going to appreciate them, and they are going to appreciate him; and it is a great company to work for.

Steve Darling, Central Services Director, acknowledged the Board for giving him the opportunity; it is a much different perspective being at the podium, as opposed to in the box; he thanked the Board for its confidence and he thanked the County Manager for challenging and giving him the opportunities; and he thanked his 27 employees in Central Services, who he thinks are some of the best the County has to offer, and he thanked everyone and he will certainly miss it there.

**Result:** Approved

**Mover:** John Tobia

**Second:** Bryan Lober

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

**F. ITEMS TO BE PULLED FROM CONSENT AGENDA**

Commissioner Lober requested to pull Items F.2. and F.5. from the Consent Agenda.

**F.1. Adopt Resolution and Release Performance Bond for Island Chase Subdivision  
Developer: RJJAC Homes, LLC**

The Board adopted and executed Resolution No. 22-006, authorizing the Chair to sign the Resolution releasing the Contract and Surety Performance Bond dated December 10, 2019, for Island Chase Subdivision- Developer: RJJAC Homes, LLC.

**Result:** Approved  
**Mover:** Bryan Lober  
**Second:** Curt Smith  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Zonka

**F.3. Annual Request to Write-Off Uncollectible Ambulance Fees for FY 20/21**

The Board approved the FY 2020-2021 uncollectible Emergency Medical Services (EMS) receivables write-off in accordance with Ordinance No. 79-21.

**Result:** Approved  
**Mover:** Bryan Lober  
**Second:** Curt Smith  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Zonka

**F.4. Conveyance of Property Acquired by Tax Escheatment Deed to Municipalities; City of Melbourne**

The Board approved and adopted Resolution No. 2022-007, pursuant to Section 125.38, Florida Statutes, to convey property acquired by tax escheatment deed to the jurisdictional municipality as required by Section 197.592(3), Florida Statutes; and authorized the Chair to execute the County Deed to convey property acquired by tax escheatment deed to the jurisdictional municipality- City of Melbourne, as required by Section 197.592(3), Florida Statutes, upon review and approval by the County Attorney's Office.

**Result:** Approved  
**Mover:** Bryan Lober  
**Second:** Curt Smith  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Zonka

**F.6. Appointment(s) / Reappointment(s)**

The Board acknowledged appointment/reappointment of **Jacob J. Torres** to the Port St. John Public Library Advisory Board, with term expiring December 31, 2023; and **John Silvers** to the Citizens Budget Review Committee, with term expiring December 21, 2024; and **Alice Noblin** to the Brevard County Health Facilities Authority, with term expiring December 31, 2025.

**Result:** Approved  
**Mover:** Bryan Lober  
**Second:** Curt Smith  
**Ayes:** Pritchett, Lober, Tobia, Smith, and Zonka

**Consent Item Pulled**

**F.2. National Opioid Settlement - County Approval and Authorization to Sign Endo Health Solutions, Inc. and Endo Pharmaceuticals, Inc., Settlement Agreement and similar future Settlement Agreements Under Florida's Opioid Settlement Plan**

Commissioner Lober stated he is okay with two-thirds of what is being proposed by staff; he is not okay with a third of it, he would be a lot more comfortable going ahead with staff's recommendations of one and three, but as far as item two which authorizes Housing and Human Services (HHS) to accept on behalf of the Commission all future settlements, he really would like them to come back to the Commission in the future for the Boards consideration; and he will go ahead and make a motion to approve this Item less the second of the three requests

in there, so he would be approving one and three but not two.

Chair Zonka requested Ian Golden, Housing and Human Services Director, to see if he can explain the situation where item two would mainly be applicable.

Ian Golden, Housing and Human Services Director, stated they added that, or he should say, he added that to the Agenda Item, because they are not sure how many settlement agreements are going to be coming; they are trying to be efficient moving forward, the language is substantially the same between all of those items, they come to them from the State; they do not have much opportunity to change those, and they are looking at being able to approve those or having him sign those based on outside Counsel approval, County Attorney, Risk Management, and the County Manager, and, again, just trying to be more efficient; but obviously, whatever the Board decides, is what they will do.

Commissioner Smith stated he raised the same question in his briefing, he got the same answer, and it satisfied him; it just allows them to be more efficient; and if there is an issue they will still be aware of it, so he does not see any reason not to do it.

Chair Zonka inquired for any further input and if there is a second; she stated motion fails; and she will entertain another motion.

The Board accepted the settlement between the State of Florida and Endo Health Solutions, Inc., and Endo Pharmaceuticals, Inc. (hereinafter Endo); authorized Mr. Golden to execute all settlement documentations and to take all other necessary action required by this settlement upon approval of Outside Counsel, the County Attorney's Office, Risk Management, and the County Manager; authorized Mr. Golden to accept, on behalf of the County, all future settlements between the State of Florida and various defendants in the opioid litigation and to execute all required documentation, and take all other actions necessary to ensure the successful distribution of settlement funds to Brevard County upon approval of Outside Counsel, the County Attorney's Office, Risk Management, and the County Manager; and authorized the County Manager to execute necessary Budget Change Requests relating to all Opioid Settlement funds received by Brevard County.

**Result:** Approved

**Mover:** Curt Smith

**Secunder:** Rita Pritchett

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

**Nay:** Lober

#### **F.5. Confirmation of Katherine Wall as Central Service Director**

Commissioner Lober stated part of him wanted to pull this to make Kathy Wall nervous; he asked if she is in the room; he stated just as Commissioner Tobia finished his Resolution with Mr. Darling, he did not want to wait until other end of the career to say that, he thinks she has done a wonderful job thus far; he knows she is moving into a different role in the County, but he does not think that there is a better person they could have picked internally or externally; the only negative that comes along with this that would cause him to even question whether or not to vote in the affirmative is that this may break Frank Abbate, County Manager's heart, so his condolences will go out to Mr. Abbate; but this is an excellent Item, and he will go ahead with that and move to approve.

Chair Zonka congratulated Katherine Wall as Central Service Director; she stated she thinks it is amazing, it is the first time she has ever written a smiley face on her Agenda, and it is next to

her name; and Chair Zonka is really excited that she is probably going to stay with them for a while, so that excites her.

The Board confirmed the appointment of Katherine Wall as Central Services Director.

**Result:** Approved

**Mover:** Bryan Lober

**Seconded:** Curt Smith

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

## **G. PUBLIC COMMENTS**

Nathan Slusher stated he is present as the Chair of the Libertarian Party of Brevard County; as of February 4, 2022, they received notice of a SpaceX request to build a wastewater management facility in District 1; this permit request has been published by the Department of Environmental Protection (DEP), the proposed permit says the facility is planning to release 3,600 gallons per day, or 0.003 million gallons a day, of non-processed wastewater into Oyster Prong; Oyster Prong is a bay in a canal located just north of State Road 405 on Merritt Island; the bay connects directly to the north Indian River, directly across from the City of Titusville; the public notice informs that if the DEP does not receive sufficient requests for a public hearing, the permit will be given immediately; all requests must be made by March 5, 2022; whereas, one of the top three pillars of the Libertarian Party of Brevard is the protection and correction of the Indian River Lagoon; whereas, another one of the top three pillars of the Libertarian Party of Brevard is an increase in Government transparency within the boarder of the County, although the Indian River Lagoon is already in crisis and the Brevard County Government itself has expenditures prior to this facility being built; they hereby formally request Brevard County and the Board of County Commissioners just to send a letter, a formal request, to have a public hearing to establish the seriousness of this proposed situation, the after effects and to ensure that no harm comes to the Indian River Lagoon; and they would also like to ask the Board their request for the public hearing be held in Brevard County for the citizens, and with the presentation to the public about the construction and the scientific plans for this facility.

Commissioner Lober stated he is not going to make any motion at this point, because obviously he is one of five, but if someone else is interested in that then he is happy to go along in that direction and request the hearing.

Commissioner Pritchett stated this is the first time she has heard about it; she is going to start some research tomorrow and find out what it is first; and she will get back with Mr. Slusher.

Commissioner Lober stated it is scary, he normally does not agree with him.

Loretta Dozier stated she is present just to say thanks to the Board for its service to the County; she expressed her thanks for all of the meetings that they attend over 70-plus meetings, and Commissioner meetings; she just wanted to show gratitude and give them blessings; and may God give them wisdom and direction as they make decisions that will be best for the County.

Sandra Sullivan stated she would like to talk about the Indian River Lagoon; in the last meeting she expressed some concerns and she showed a picture to the Board, from last week; Florida Fish and Wildlife Conservation Commission (FWC) counted 127 manatees in a drainage ditch and in Berkeley Canal, that ditch is sprayed and that goes directly out to Lagoon; she showed another picture when FWC was there when they were counting the manatees; and she showed an article that came out in TCPalm this last week, where Ocean Research and Conservation Association (ORCA) did testing in St. Lucie. She added in the St. Lucie River they found

elevated levels of herbicides and copper; copper is a biocide that kills seagrass; in another report she read this week Florida Department of Environmental Protection (FDEP), had identified in 2009 that nutrient loading was resulting in the decline of seagrass, but they revised that in 2011, stating that there were other pollutants, that were resulting in the decline of seagrass; the Save Our Indian River Lagoon (SOIRL) Plan started in 2016, and is entirely based on the premise that nutrient loading is causing the decline of seagrass, so they need to adjust the plan, obviously; in the last year with 1,101 manatees dying, they have a problem in the Lagoon; the seagrass is the indicator species indicating the health of the Lagoon, so when they have lost nearly 80 percent of the seagrass in the Lagoon, and it continues to decline, they need to adjust the plan; there is a lot of science out there, that talks about the copper and the herbicides impacting the Lagoon, Photosystem II herbicides impact the decline of seagrass; and she would like some changes made to the SOIRL Plan before the Board approves it at the next meeting. She mention to say that brings her to last year when they approached the Board of County Commissioner (BOCC) meeting; she requested some changes last year, but were told they should have been given direction before it came to the BOCC meeting, hence, she has requested some Commissioners to do that; one of the responses she got back was they cannot do that, it has to come to the Board, and it has to be the Board making the decision; and she asked when it does come to the Board, they make some significant changes to save the SOIRL Plan while they still can turn it around.

Commissioner Smith stated regarding Mr. Slusher's request, he has no objection; he thinks it is a great idea, but he does want him to know that he spent time, and he is sure several other Commissioners probably spent time trying to find out the source of what is going on at the Cape this last week; what he was told that was dumped at Kennedy Space Center (KSC) was non-processed industrial wastewater from the cooling towers at KSC; at times contractors perform maintenance and are allowed to dump their closed loop system into the sanitary system, but before they do that they are required to take samples before the discharge; and they are looking into this, they have seen it, they have asked about it, they are on top of it, but that does not mean that the Board is not willing to do more.

Ron Jurgutis inquired if due to COVID, this microphone should be cleaned before somebody speaks, so he does not catch COVID.

Chair Zonka responded the same could be said about him not wearing a mask, and not social distancing as well; and she requested if the Board has something to clean it for the gentleman.

Mr. Jurgutis stated he will take his chances at the moment.

Chair Zonka stated he can put his mask on if he feels more comfortable.

Mr. Jurgutis inquired if the Board can hear him or not.

Chair Zonka stated yes, and even better if he gets closer to the microphone a little bit.

Mr. Jurgutis stated he is present tonight in the citizens comments, because he is concerned about all the dredging that took place in the Satellite Beach area, South of Pineda Crossings; it is known they have an issue there, that they have been working with the Patrick Space Force Base; and he knows the Board has been working with them diligently. He inquired since they had this issue of dredging and it is going out to a ranch has it been tested for the forever chemicals. He stated the reason he brings this up is because he is looking at land in Michigan and other areas, and they are discovering that cattle are having higher levels of the forever chemicals, including Maine, and then having an aquifer out there; he asked if the County is doing something to ensure that they are not going to dump forever chemicals into that cattle ranch area and who is going to be liable for it, over the long term; obviously they know that it

may not be addressed properly but they can take a proactive approach towards that; there is the St. Johns River over there, they have got other things there, and he asked do they really want to infect cattle that could end up in human consumption; he asked if it is tested along the way to ensure that those chemicals are not there because on that area where it was dredged, it is not far or even close to where all the dumping happened back in the day that nobody thought about; and he is asking the Commission to look into this and ensure that they are not going to infect people with this. He added he thinks it is a very important subject to tackle it now, in light of everything that is going on economically, because it may become unfeasible financially to even consider this based on the economy right now.

Commissioner Smith acknowledged Mr. Jurgutis for being present and for bringing that up; he has visited that site where they do the dredging, and he witnessed their testing, but he will double down, follow up, and make sure that the testing includes the Polyfluorinated Substances Factsheet (PFAS), and whatever else; he believes it was probably six or eight months ago since he was there the last time, and he has slept a few times since then, hence he may not remember everything that he said; but he will check into it.

Mr. Jurgutis expressed his thanks to Commissioner Smith; and he requested the rest of the Commission to look into this and to other areas that it is going on also.

#### **H.1. Utility Services Rate Resolution for Barefoot Bay Encompassing the Barefoot Bay Water and Sewer District System**

Chair Zonka called for the public hearing to consider Utility Services Rate Resolution for Barefoot Bay Encompassing the Barefoot Bay Water and Sewer District System.

Edward Fontanin, Utility Services Director, stated Item H.1. is the approval for the rate Resolution of the Barefoot Bay Water and Sewer District, just a briefing, the attachments included are the rate resolution, the memorandum of justification, along with additional support items as it relates to this item.

Commissioner Tobia stated Barefoot Bay falls squarely in the District that he represents; he spent a little bit of time with this one, the history of the District is unique by all accounts, and this was a failing utility when the County took it over 22 years ago, it was 40 years old at the time, hence they are talking about a utility that is somewhere in the neighborhood of 60 years old; they went into the minutes and they found that at the behest of the Barefoot Bay Water and Sewer Governing Board and Barefoot Bay residents, the County took out a loan to the tune of \$17 million to purchase an inadequately maintained and a deteriorating utility along with additional funding to actually rehabilitate it; those loans will continue until 2029, well after the life cycle of this system; the Commissioners at the time that by all accounts made this poor vote were Truman Scarborough, Randy O'Brien, Nancy Higgs, Sue Carlton, and Helen Voltz, it was a 5:0 vote, and by the way that bond has a prepayment penalty; they do not even have the ability to pay it off earlier; during the final vote transfer Vice Chairman O'Brien of the Barefoot Bay Water and Sewer Governing Board made it clear, the Board did not promise the citizens of Barefoot Bay a rollback rate, additionally, he said if rates were reduced back to their November rate in two years, the Board would have to hit Barefoot Bay again with higher increases than were anticipated, plus nothing was being put aside for maintenance of the system; and Vice Chairman O'Brien also stated that he wants to see a progressive rate schedule that would begin immediately, which it really did not. He added people of the District at the time understood their rates would be higher because of this situation; increases were anticipated and should have been projected for the meeting minutes in 1999; a thought would be that they roll the Barefoot Bay System into the County System and while it sounds good it is completely unfair to the rest of the residents of that system to fold a high rate into a much lower rate; so given the history of the failing water system, the crushing \$17 million bond which they cannot pay off before 2029,

and quite frankly past Boards, poor fiscal decisions; and he does not feel he has any responsible choice other than to approve the rate resolution as it is necessary under the unfortunate circumstances that they were handed.

There being no further comments heard, the Board executed and adopted Resolution No. 2022-01, amending rates, fees, and charges within the Barefoot Bay Utility System to be implemented March 2022.

**Result:** Approved

**Mover:** John Tobia

**Second:** Bryan Lober

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

**H.2. Utility Services Rate Resolution for the 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.**

Chair Zonka called for the public hearing for Utility Services Rate Resolutions for the County encompassing South Beaches, Merritt Island, North Brevard, Port St. John, and the South-Central Mianland Service Area; and San Sabastian encompassing the San Sabastian Woods Water System.

Edward Fontanin, Utility Services Director, stated Item H.2. is the approval of the rate resolution for the utility services Countywide system in the San Sebastian system again in the Agenda packet was the memorandum of rationale needed for the rates along with supporting documents.

Jim Glass stated he is a member of the Florida Fly Fishing Association; the Board should have received the letter from them about their support for this increase; he is a retired Civil Engineer and managed the design and construction of many water and wastewater projects in the Tampa Bay area, and in the Florida Keys; utility agencies have a difficult time funding repairs, upgrades, and adding capacity to their systems; when he was working, grants were available from Environmental Protection Agency (EPA) to fund 50 percent of the cost of certain wastewater projects, those grants are no longer available, so the cost of improving systems lies with the rates that they charge for the customers; he has attended many of the Save Our Indian River Lagoon meetings, at one of these meetings he asked Dr. John Windsor why projects are not included in the Plan to repair these old force main pump stations and sewer lines; he said that the Committee does not include these projects because they feel it is up to the utility system to pay for those costs or their existing customers should afford to pay that; the \$460 million that they are going to raise from the increased rates and the sales tax plan that has been approved is raising about \$480 million worth of improvements to the Lagoon; and he does not believe that, that is nearly enough to fund the improvements of the Lagoon, it needs to be in order of \$2 billion. He mentioned as an example the Florida Keys hooked up every septic tank, 20,000 of them to a central sewer system at a cost of over a billion dollars; and Brevard has 50,000 septic tanks in the Lagoon watershed that are eventually going to have to be hooked up to a collection system, or a better system needs to be provided for those. He encouraged Board to take that into consideration when they vote on this rate increase, it is really the necessary; they have a big problem with the Lagoon; and he hopes that this funding and the utility system will be able to make the repairs necessary to help the Lagoon.

Kathleen Short stated she lives in San Sebastian Subdivision; they pay their water bill to Barefoot Bay Utilities, they do not receive water from the Treatment Center there; she has no filtered water coming in; they pay the same rate yet they have no filtration; when they complained the only thing they can do is open up the fire hydrants and flush out the system;



she has been to the emergency room once, her niece has been to the emergency room once, they have two special need kids in their household that both have Gastrointestinal (GI) problems, and they cannot use their water; today they get a notice that they are going to be putting large amounts of chlorine in the water to kill off the bacteria; she thinks that is great, and maybe they will not end up in the hospital now, but they are suggesting that they run their water until it comes clear, while they are chlorinating the system to kill the bacteria; they cannot even go in their bathtub, fill the bathtub, and see their feet; and she has a softener system, she has done everything possible to make the water coming into her house so that it can be used, but it cannot be used. She added if she pays the same rate that others do up in Barefoot Bay for her water, why does not she have a filtration system; nobody in San Sebastian has it; and it is really causing health problems. She stated she feels bad for the workers when she calls and she asks them to do something about it, they come knocking at the door and say they are really sorry, but the only thing they can do is to open up the fire hydrants; now, with the chlorine going in, she has to run her water by the instructions they gave her, to run the water until it comes clear; she asked who is going to pay for that; she replied, herself; she stated she has to run her washing machine until it comes clear, then empty it before she put her clothes in; she already buys bottled water for cooking, they drink bottled water, and now she cannot even use water for cleaning; and she is a citizen of Brevard County, she pays her taxes, and she feels that she should have the same rights as everybody else. She added she is in Commissioner Tobia's area; she has called up to Titusville to the utility, she cannot remember his name up there, she gets no action, and this has been going on for several years as it is now in the area that she lives, if they had a well and it had to be cut, they are not going to be given a new well to drill for residential.

Colleen Lawley stated she as well lives in the Micco area and has been going through the same situation; the two children that Ms. Short just mentioned are her children; they did live in Barefoot Bay, receiving the same issues so they moved to Micco; it is not easy when she cannot even bath her own children, she has to take them to a different house just to get them treated, because as Ms. Short stated they are special needs; she cannot take the risk of them putting their head in the water, she is not going to put her kid's life on the line because of bad filtration; the last time the gentleman came out, his exact words were, he is sorry, but there is not enough people in this area on their waterline for them to be able to treat them properly; that is uncalled for, if she has to move out of her area to take better care of her kids, just for water, she will; it is not proper; she pays her taxes; she pay her bills just like everybody up there; and they should be treated the same.

Ronald Reed stated he is in the Florida Fly Fishing Association with Jim Glass, he was educated as a physicist, but he never practiced physics, he took advantage of his background, however, and was very successful as a businessman; now he would like to talk about this rate increase for the Brevard utilities; the amount of the increase is about 6.5 percent that is roughly the number they are seeing from the inflation boys in Washington, and he guarantees it is going to be around a while; this 6.5 percent is not an unreasonable amount of money; and he advised all to remember that the problems with the Indian River is the people, they cause the problems, they are the reason, they are the root cause the problems are there, it is their waste that causes the pollution that kills the fish, and it comes from their sewage; for example, the septic tanks which discharge untreated nutrients into groundwater that seeps into the Lagoon and it keeps going on. He mentioned living in an area once when he was growing up as a child where they had a similar problem worried about Polio, they passed a law and nobody could use a septic tank; cut them all off and they had to use a conventional system, and their old sewage infrastructure causes discharge of untreated nutrients and nutrient rich affluent into the Lagoon; the Lagoon is a very serious problem and they have seen this over and over again, actually he has gone to some of these meetings of the Lagoon Society, and he cannot stand them; he went and he got sick; but a person cannot get COVID from any solid surface that is a scientific fact, in case anybody worries about it.

Chair Zonka stated she was actually concerned about him touching the podium, with his hands on the podium, because that can be transferred.

Mr. Reed reiterated any solid surface cannot transfer COVID; and he stated he reads a lot of studies, the medical type.

Chair Zonka remarked it can.

Mr. Reed stated she is reading the wrong studies then. He went on to say the people caused the problem, they have to be the solution, and it is the only way to look at it.

Sandra Sullivan stated the concern she has with this Item is the number of increases that they are having; she attended the last Budget Review meeting and they had anticipated in this meeting an increase in Solid Waste; so she was looking for that and saw this instead, so she guesses it would not be good form to put two increases on the same Agenda; she wants to talk about this Item a little bit and it is obvious they need to address infrastructure; as the number one concern for the Lagoon as has been brought up, but she also wants to bring up about the American Rescue Plan Act (ARPA) funds; she is going to provide a handout in a couple of minutes of a screenshot from the ARPA designated uses for the ARPA funds, and it is very limited in what they can use it for; and (d) is for water sewage and broadband infrastructure, so it is intended for assistance to residents, housing assistance for workers impacted, and health emergency to investments in water sewage and broadband. She commented her question is with all of the inflationary increases that they are seeing 39 percent in garbage, with three percent thereafter, a 33 percent fire assessment, and this averages to be 7.9 percent each year for five years with a three percent thereafter, and another Solid Waste increase coming based on the anticipated plant costs increasing from \$25 million to \$40 million: She inquired why they cannot put the \$50 million or portion of the \$50 million ARPA funds towards the offset of this cost and limited to a Consumer Price Index (CPI) increase; she added she also wants to comment on the Perfluorooctane Sulfonic Acid (PFOS) and other contamination coming from the dredging at South Patrick Shores; she stated she personally met with the Director, Aaron Watkins from Department of Environmental Protection (DEP) in Representative Randy Fine's Office, and pleaded with him to test that DMAA material for PFOS; she was not successful in that regard, but she was successful in getting more interstellar cleanup of the dredge material water before going back into the Lagoon; a mountain of sand will be seen where they take the Arsenic which is twice the commercial cleanup target and mend it with sand to get it down to that cleanup target, Arsenic feeds algae; and it is costing more and more money to treat their drinking water because that ranch is south of their drinking water source.

Ron Jurgutis stated this reminds him of a movie, they got trouble in River Side, The Music Man movie; he added he is sure some people remember it, maybe some do not; the past is spilled milk, it is sour, in certain countries they treat the sour milk where it is drinkable and it is a delicacy, but they have got a problem there; he asked during the last 10 years how much money, this enterprise fund transferred or put back into the Utilities for wastewater, to or from the regular operations or to any other entity within the County; he thinks that should be answered based on the increase, not for him to do the research, even though he will, it should be done by staff; there are rate increases that are phenomenal; and he asked if anybody has done the research. He stated he knows they did use the consulting firm, but has anybody done the research with the Public Service Commission to see what the Consumer Price Index-Urban (CPI-U) they are using as far as rate increases; he asked if they all can agree; he mentioned that wastewater consumption and rates are based on water usage; if that is the case, then the comments he heard are some of the issues if they have got a drain and clean their pipes out, that goes against the rates; the amount of money that is going to be spent here, surely has a way to do this; and he knows they need to clean up the Lagoon, but he dealt with the Keys

during his profession, as far as turning it into and taking it out of how they did it the archaic way, and how they did it with these plunge pipes down there.

Commissioner Lober stated bear with him, there are quite a few things he wants to get across; first, as to what they just heard they are not in the Keys, the Keys among other things has tidal changes, Brevard has wind, it does not really have much of a tide to speak of, hence the reason that folks have proposed; he added he is not saying it is right or wrong, but so is the reason that folks have proposed essentially cutting in an inlet, what worked there may or may not work here to some degree; really there are some questions that he thinks that they ought to consider, one of which it is truly Apollo era infrastructure to release untreated effluent into the Lagoon; and he asked if that is wanted he means do they want human feces in the Lagoon, that is the question. He stated none of them sitting on the dais and none of the folks sitting in the box, that staff is sitting in over there, make anything on account of raising or lowering utility rates; as they have heard and it sounded like there may be some conspiracy theory floating around, utilities is run as an enterprise fund, just like waste collection is, it is an enterprise fund within the County, money does not go from Utilities to Public Works, money does not go from Utilities to Law Enforcement, money does not go from Utilities to Information Technology (I.T), or to the County Attorney's office, it stays in Utilities; the money that is raised through any rate change or the money that is lost through a rate reduction stays in that utility, the money that is raised is used to maintain the utility and to improve the utility, it is not horribly complicated; as Mr. Glass has stated, and he is familiar with Mr. Glass, the retired engineer that he thinks was the first or second up; the amount that is proposed even with this alone is not remotely enough to resolve the problem in its entirety but it is enough to at least lower the likelihood that they are going to have some spills in the very near term, and perhaps in the intermediate term, and to potentially address some of those most leaked and break prone portions of the sewer system, whether it be Lift Stations, Force Mains, or otherwise; the rate that is being proposed, and he has talked with staff about this, is the lowest potentially sustainable rate, that was proposed by the consultant; and to that end they have split up with Corona Virus Aid, Relief, and Economic Security Act (CARES ACT) and they split up with ARPA to a degree some of the money that has comes into the County. He added his plan with District 2 ARPA funds is to spend the lion's share, substantially all of it, perhaps fixing Lift Stations, and Force Mains within Merritt Island, simply because it is surrounded by water, it is essentially a peninsula, a Barrier Island; these are things that are decades beyond in many instances, their life expectancy if they are supposed to last 25 or 30 years, and they are 60-plus years old, they do not have to have Mr. Glasses engineering credentials, which he certainly respects and appreciates to realize that is not exactly a good situation to be in; they are sitting on a time bomb, in some senses; and if they do not have the money to maintain the system, if they fail at doing so, the County will have sewage leaks, it is an inevitability, it will happen, and they will end up at that point in time with Florida Department of Environmental Protection (FDEP) telling them that they are fined, and more than likely they will have a consent judgment where they are going to be forced to spend, perhaps an even larger fortune fixing a problem with the only difference being that they will have delayed fixing it, and they will have human feces, they will have urine, they will have pharmaceuticals, and whatever else people put down the toilet or down their sink, that is moronic. He stated if they think that Methicillin-resistant Staphylococcus Aureus (MRSA) is good, or if they want Fecal Coliform Bacteria in the toilet, if they want pharmaceuticals in the Lagoon because people flush their pharmaceuticals in the toilet, they do not always go to the trash or take them back to a pharmacy; a lot of pharmacies would not even take them back, and guess where it ends up; yesterday, he was at a North Merritt Island Homeowners Association (HOA) meeting, that was actually a little bit north of his office off a Tropical Trail, and they had a fellow named Ken who is with Marine Resource Council, and he was talking about an acquaintance, or a friend of his who had contracted MRSA, and by all evidence it appears he contracted it while swimming in the Lagoon; he does not necessarily disagree with that, he does not think it is necessarily wrong with that, but the fact that he even has to wonder whether that is where he got it from, because

it is known where sewage leaks end up; it makes this an easy decision for him; and in 2018 he ran on basically three things: Public Safety, Infrastructure, and Lagoon Restoration. He added if anyone wants to fact check him, go do a time limited search on Google; they have got Public Safety, based on God knows what kind of effluent is being put in the system making it out to the Lagoon; they have infrastructure for obvious reasons, they have the Lagoon for even more obvious reasons; and the last thing he will mention as to what Mr. Glass said, and he thinks it, and he apologized to Mr. Glass he does not mean to be negative towards anything Mr. Glass has said, but he thinks it came across a little too defeatist at least for his tolerance, or his taste about the Citizens Oversight Committee (COC) with Save Our Indian River Lagoon (SOIRL), not wanting to fund utility costs. He stated Mr. Glass is right, but that is atrocious; it is not his doing and it is not his fault, he does not think he has been on that side of the equation at all; voters that supported this particular half-cent sales tax, the SOIRL tax that was referenced by Mr. Glass do not want to see that every little municipality or every big municipality gets their piece of the pie, they want the money spent where the greatest Return on Investment (ROI) is, and to do otherwise is politicizing a process that has really no room for politics; the Board needs to focus that money when this comes up really on targeting where the ROI is; if someone in the Board wants to vote no on this, he encourages them to give him a reason why and to tell him what their alternative is; he would love to vote no, if there is a good alternative that would allow him to do that; do not just vote no because it is convenient without saying something, please tell him how they can avoid doing this, by avoiding the leaks and avoiding the crap going into the Lagoon; and he lives on the Lagoon and he will tell them, not just because he is a nice person and wants to do what is best for his constituents, but out of selfishness, he does not want it going down the toilet literally and figuratively any more than it has, so if someone has a better idea please let him know.

Commissioner Tobia thanked Commissioner Lober for throwing the gauntlet and he gets a pass on this one, when it comes to rationale; when he heard the way Commissioner Lober was going to vote, he was going to vote quietly no; however, he thinks it is very fair to go ahead and justify his no vote; his no vote came on December 7, 2021, where this Board made a determination that they were not concerned about the actions of future Boards; the Commission voted 3:2 to encumber future Boards with more than a million dollars a year in transportation costs for maintaining railroads which could have easily been funded by Brightline, a private railroad company; based on this, while he is clear on the implications, Commissioner Lober could have gone on about Florida Statute 403.086, particularly a Section dealing with civil penalties of \$500 for every 24-hour period of such failing compliance order by the State and enforced by Department of Environmental Protection (DEP), it does not apply till December 31, 2025; and as this Board made the decision that they do not care about the future Boards, he too, is going to make the same decision that this Board made less than a couple months ago and vote no on this.

Commissioner Pritchett stated she wished they could all have an opinion without trying to slam each other for what they voted on in the past; she has full confidence that everybody on the Board when they vote, they vote with their hearts and what they believe is correct, and that is why she likes serving with the other Board members; she would like it better if they always would agree with her, but it rarely happens and she just wants to throw that out there; she is going to support this, but she wants to mention a couple things from a couple comments, just so everybody does not think that there is some incorrect information, well they are going to think that if they are not told them, but out of the ARPA funds they have and were able to use, they used 75 percent of them; this Commission used 75 percent of them to try to work on some of these projects; the other percentage they use was other infrastructure things that they have problems with like bridges and roads, those types of items, and they have been very conscientious of these funds and they have been trying to use them; and because they applied that to it, the first year for this was going to be 9.5 percent increase, but because they applied some of these funds to help with some of these infrastructure problems, they felt like

they could not wait on them, and they needed to get moving on it. She went on to say that first year is now 6.5 and they all are trying on this, but she does want to remind everyone these are for user fees; this is really good, that when a product is used, they pay for the product; when they do this, it is not an overall tax of the whole County; she lives in the City of Titusville and the new bill after this in Brevard County is going to be \$79.24, she is paying \$89.94 in Titusville, and Cocoa is \$92.83, Brevard County is really low right now; and she thinks part of the problem is that they probably should have been doing some of these increases along the way, because they have got a little bit behind on some projects. She added they needed to move some funds that they had when she first got on the Commission, over to help some emergency items that they had to do; they have been trying to do this but if they do not do some user fee increases, who is going to pay for this; and the people using the product really need to be ones maintaining it. She advised Mr. Fontaine is doing a great job to keep the costs down and is being very responsible in these projects; she is very proud of the County Departments that are handling this, she has worked with them enough, she has great respect for them, and the State sent down a lot of new guidelines that they have to do now, they have no choice, and they are good things to do; this is making them have to come up to the table and do these things which are things that are problems they need to be dealing with, so they have to spend these Capital funds now, they have to get started on them; they are going to really have to do these items, but they have really been trying to do the best they can with keeping costs down; but again, if they are using the product and they have somebody very responsible trying to keep the cost down, and they have a good plan with how they are growing in this, she feels more comfortable with it; she is really glad they were able to put some of the ARPA funds towards it to help keep these rates a little lower; but Brevard County is still way under all of the municipalities on what they are charging because they are having to do the same thing. She acknowledged the gentleman for bringing up the inflation because they might even be a little bit behind on the inflation numbers, as they start building; she does not know; but she thanked everyone for their patience and advised the Board is really trying to deliver a good product to them.

Commissioner Smith stated there has been some people present tonight who have raised some issues about how and maybe even one at least one Commissioner that has raised questions about how they voted, they have five Commissioners, because it is important to have different opinions, that come together and discuss issues, and come to a rational decision; sometimes they are on the no side, sometimes they are on the yes side, but that is what the Board is charged with, they are responsible to the public, for the health, welfare, and safety of the constituents in this County, that is their job, that is their job description; and each and every one of them takes that issue very seriously, sometimes it will lead them down one road, and another Commissioner down another road, but their goal is all the same, it is the health, safety, and welfare of the people. He added his ARPA funds he spent were \$2.6 million or \$2.9 million of his ARPA funds in his District at the time, but it was soon to become District 2; he did that because they had monies that were going to expire in a few short months, and if he did not come up with that ARPA money all the money that they could have used, and it was well over a million dollars in some kind of a grant, it was going to be lost forever, so that project would not have occurred; the Board has tough decisions to make, it is not just one issue, it is not just one subject, they have a lot of things that come across their desks that they are responsible to the public for and they have to use their best judgement and sometimes it irritates folks, and sometimes it irritates some of his fellow Commissioners, but they are all doing their jobs and doing it the best they can; and he really appreciates all the folks being present, because it is nice to know they care.

Commissioner Lober stated he will just put out there real briefly with respect to the Brightline Item, he does agree with Commissioner Tobia 100 percent, in terms of what his rationale was for opposing that, but with that said prior Boards have put them here; he has spoken with staff and frankly, he does not think staff has any level of comfort throwing prior Boards under the bus in publicly noticed meetings, and he does not think that is something that they enjoy doing;

but the fact is they have caused them to be in the situation where by delaying there is a higher increase than they would have had, if they had the need met as they went along with time. He stated if they had not stopped the cycle of essentially looking the other way in addition to having leaks, and to having the things that he mentioned earlier end up in the Lagoon, and it is an inevitability what they are going to see is that if it fails, they are going to have an even higher rate increase at some point in the future; because when they compress the amount of time that they have to fix the issue, they are increasing the cost that they have to make up over that time; it is not that he wants to either make a subsequent Commission's job easier, their life easier or more difficult; he does not want to strap them into having to have an even higher percentage increase, they had people that frankly sat in seats in there, that had no spine at all, and they were so afraid of the repercussions perhaps; and he is assuming that is the reason that they did not do what was necessary to maintain the rates that are needed to maintain the system in a halfway reasonable fashion, and that is why they are at where they are at. He mentioned not wanting to continue that cycle of making the problem just kicked down the road; he is still going to support it, he understands where Commissioner Tobia is coming from; but at some point they have got to put that behind them and move forward for what is best for the community, and really what is sustainable for the utility.

Commissioner Pritchett stated she wants to say Robin Fisher and Jim Barfield would have done a little, in case they are listening; and she just wants to make a motion to approve it.

Chair Zonka stated she thinks the only thing she will add, because she thinks a lot of things have been said, it is never popular to vote for increases, and it is easy just to say no; it would be easier for her right now to say to give them a no vote as well, because the three votes probably are there; however, it would not be the right thing to do, unfortunately rates were not increased with the needs; for her it is really a simple reason, the State has put down mandates on them, if they start discharging into the Lagoon they are going to be fined; so they are going to pay those increases anyway because they are not going to be able to pull that money out of thin air; they are avoiding that, and she thinks they are being responsible; they have to keep up with the population growth and the capacity needs; and she is going to support it. She stated she thinks she heard Mr. Fontanin breathe for the first time after this; if people only understood and she thinks maybe some do, the amount of time, work, briefings, meetings, planning, and studies that goes into it; she appreciates what he is doing and she is excited for the Utility, she thinks it is about time they do what is right; and she acknowledged them for all their hard work.

Mr. Fontanin stated thanks for the support.

There being no further comments heard, the Board executed and adopted Resolution Nos. 2022-08 and 2022-09, increasing the schedule of rates, fees, and charges for water, sewer, and reclaimed water for the Countywide Utility System and increasing the rates, fees, and charges for the San Sabastian Woods Water System to be implemented March 2022.

**Result:** Approved

**Mover:** Rita Pritchett

**Second:** Curt Smith

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

**Nay:** Tobia

**H.3. Petition to Vacate, Re: Public Utility & Drainage Easement- 7215 Baronet Avenue - "Port St. John Unit 8" Plat Book 23, Pages 70-83 - Cocoa - Sheryl Marie LaShier**

Chair Zonka called for the public hearing to consider vacating a portion of Public Utility and Drainage Easement at 7215 Baronet Avenue – "Port St. John Unit 8" Plat Book 23, Pages 70-83, Cocoa, as petitioned by Sheryl Marie LaShier.

Marc Brenath, Public Works Director, stated H.3. is a Petition to Vacate 7215 Baronet Avenue, Ms. LaShier, District 1, property is located in Cocoa, North of Fay Boulevard and East of Grissom Parkway requesting vacating a portion of a 10-foot wide Public Utility and Drainage Easement for the construction of a proposed pool; and there are no issues.

There being no comments heard, the Board adopted Resolution No. 2022-10, vacating a portion of a public utility and drainage easement in plat "Port St. John Unit 8", Cocoa, as petitioned by Sheryl Marie LaShier. Said Resolution has been recorded in ORBK 9428, Pages 2615 through 2619.

**Result:** Approved

**Mover:** Rita Pritchett

**Second:** Bryan Lober

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

**H.4. Petition to Vacate, Re: Public Utility Easement- 410 Artemis Blvd - "Diana Shores Unit No 8" Plat Book 24, Pages 78 - Merritt Island - Kerei H. Stampfel**

Chair Zonka called for the public hearing to consider vacating a portion of Public Utility Easement at 410 Artemis Boulevard – "Diana Shores Unit No 8" Plat Book 24, Pages 78, Merritt Island – Kerei H. Stampfel.

Marc Brenath, Public Works Director, stated H.4. is a Petition to Vacate 410 Artemis Boulevard in Diana Shores by Ms. Stanfield, District 2; the property is located in Merritt Island, north of Highway 520 and east of State Road three requesting a five-foot wide Public Utility Easement to allow for an existing covered deck to remain; the covered deck was built without a building permit by the current homeowner; the issue would correct a current Code Enforcement issue; the building official has confirmed it was built to Code; the adjacent neighbor is okay with the action; and there is no issue with the Utilities or Drainage.

Commissioner Lober stated he is not going to rip into the applicant too much on this; he wants to point out a few things, this is kind of a double whammy in the sense that it was built with no permit, and it was built on a County easement, so in a sense this is two wrongs; he added he will tell them that he is going to approve it, but he wants to make it clear why he is approving it; their neighbor to the east of this structure that it abuts, he spoke with the gentlemen, he believes it was on Friday or thereabouts this past week, and he was okay with it; he had someone from Planning and Development, an inspector go out, and look at the structure to make sure that it was Code compliant and then he spoke with the lady that lives in that same structure house to the east, and they were both okay with it; he does not know what their choice of beverages is, but really they should probably buy them a case of whatever beverages they would like; and he will go ahead and make a motion to approve it.

Commissioner Smith inquired if there is any penalty involved for this person, he means sometimes these occur because 20 years ago somebody violated the Code.

Commissioner Lober stated there was a Code Enforcement case on this, but that was when anonymous complaints were still allowed prior to them being preempted by the State; he does not know what happened with the Code Enforcement case; but he responded separate from the Code Enforcement case, no.

Commissioner Smith stated he just finds it odd the Board has a policy, that he wants to do something, he knows he cannot get a permit for it so he just goes ahead and does it, and then if he gets caught, he gets what, permission to say it is okay.

Commissioner Lober stated if the applicant wants to speak, he could have her come up; as she is coming down he will mention again if the neighbor that was most directly affected by this had any issue, his vote would be no; but since they are okay with it, that really is the one and only reason, he is okay with it in this case.

Kerei Stampfel stated she took a picture off from Pinterest of what she was going to try to build; she showed them the pre-existing little grill, and the little thing she bought from Lowe's, that is on wheels; she showed them the little thing that she was going to build over the top of it, and asked if she needed a permit for this; the lady who she spoke to just walked in the door, she showed her the picture, she said oh, no, she did not need a permit; and that is the only reason why she did it without a permit, because she was there to pull one if she needed one.

Commissioner Smith stated he guesses that answers his questions; now his focus of displeasure goes to County, if somebody was to say something like that from the County; and he does not need any confrontation, he is just voicing his thoughts.

Chair Zonka stated maybe the initial structure had wheels, and the actual structure did not, because that would mean the difference between a permit, correct.

John Denninghoff, Assistant County Manager, stated the requirement for a permit, for a shed or other facilities like that sometimes they are exempt from permitting requirements, they are size dependent, and structurally depending on whether they have a poured foundation or plumbing or electrical; if it does not have those things then they frequently are exempt from permitting; however, they are never exempt from permitting if it is going to be inside of the easement, it is on along the property boundary and that is a function of where they put the structure; he suspects that she was told that she did not have to have a permit for it, was based on a premise that was not actually in existence on that site specific issue; and much of what Commissioner Smith was describing actually does take place.

Commissioner Tobia inquired if Mr. Denninghoff can make any of those determinations based on where it is in the easement based off a photograph from Pinterest.

Mr. Denninghoff replied not normally.

Commissioner Tobia stated he was just checking.

Chair Zonka stated she seems like a pretty honest lady, who just did not know she was in the easement; and she apologized for putting her on the spot.

There being no further comments heard, the Board adopted Resolution No. 2022-011, vacating a portion of a public utility easement in plat "Diana Shores Unit No. 8", Merritt Island, as petitioned by Kerei H. Stampfel. Said Resolution has been recorded in ORBK 9428, Pages 2620 through 2625.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

#### **H.5. Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County - Public Hearing**

Chair Zonka called for the public hearing for an extension of temporary moratorium on new



applications of biosolids to lands within Brevard County.

Amanda Elmore, Natural Resources Management Deputy Director, stated Item H.5. is the fifth extension of the temporary moratorium on new applications of biosolids to lands within Brevard County.

There being no comments heard, the Board conducted the public hearing and executed and adopted Ordinance No. 22-04, extending the 180-day moratorium on new applications of biosolids to lands within Brevard County. An Ordinance of the Board of County Commissioners of Brevard County, Florida authorizing and extension of temporary Countywide moratorium for 180 days from the effective date; prohibiting the Land application of class B Biosolids except existing permitted activities; providing for exhaustion of Administrative remedies; and providing for severability, repeal of conflicting provisions, Resolution of conflicting provisions; area encompassed and an effective date.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

**J.1. Approval, Re: Tourism Development Council (TDC) Recommendation to Develop a Competitive Solicitation to Hire a Consultant to Study the Need, Size and Location of a Convention Center in Brevard County**

Peter Cranis, Tourism Development Office Director, stated Item J.1. is from the Tourism Development Council (TDC) a recommendation to do a competitive solicitation for a consultation looking at the need size, the possible size, and possible location of a convention center in Brevard County.

Commissioner Tobia stated Commissioner Lober asked before voting no to give some reasons, so he is going to give four pretty clear reasons why he will be voting no, and he hopes at least two other people join him on this one; first a maximum of \$50,000 was allocated to this study; the Driftwood proposals came back at \$60,000, \$100,000, and \$200,000; why this is significant is because the Driftwood study was a much smaller scale study than this one would entail, that one had already determined the location, that had determined methods of financing and management, all questions that this proposal would need, and yet allocating less money; the fourth penny from Tourism and Development in task consists of roughly \$3.4 million of annual budget, about \$350,000 of that goes to United States Specialty Sports Association (USSSA) and the remainder of roughly \$3 million is dedicated to advertising; as a result, any of the money spent from this study would be at the cost of Tourist and Development advertising budget; the sheer amount of money for this convention center would force their hand and they would have to get somewhere in the neighborhood of, depending on the size and scope, a 20 to 30-year bond, a substantial financial burden on taxpayers; he spoke with the Director on this one and it is widely known that convention centers typically lose money, he cited Orange County covers part of its convention center deficit with funds that come out of the General Fund, that is a scary proposition if Orlando is losing then and most other convention centers are losing, he certainly does not want to put Brevard in that position; and it looks as though the outcome is not a positive one and if it is not a positive one then he does not see allocating \$50,000 to find out as such, so for those four reasons he is voting no.

Commissioner Pritchett stated she is not going to support this either and she wants explain why; she is on the TDC board now and they wanted to bring it forward; she wanted them to be able to hear it because she did not want to hinder something that the Commissioners might need to hear; the correlation with the Driftwood, they have not seen enough of that, but that one was

paying for itself; this one is kind of on their dime; North Brevard a while ago they had some funding, they were going to do one of these centers on a smaller scale with members going to do the children's athletics, it was a really good program by doing a public private partnership with the majority of the costs falling on Delaware North at the time; and they were going to completely try to program it. She added when they got the study back this was a good thing to have to stir up tourism, so it does provoke tourism if having the right programs coming in; the hard thing is finding someone that will program it, but it did show that in the first three years it does operate at a loss and this was a smaller scale one that she thinks was only \$75,000 at the time; to do it right in the County they would have to almost structure it like Orlando and would have to be between 100 and 200,000 square feet; she got a little cautious during COVID when they had to completely close down and try to cover the cost; she thinks that this would be a big expense on the County, as far as a study on it; and if the Board is wanting to do the study, she has got a little heartburn over it, just because on the smaller scale at what they look at up there, she would love to see someone come in and bring something like this without any risk to the County in the future, she would love to see the tourism come up, increase in numbers, but she is not going to support this.

Commissioner Lober inquired where did they come up with \$50,000 as far as being a reasonable number, because he has a degree of flexibility; convey to him it is a million dollars, they are not going to get it, but if they tell him it is \$60,000 or \$70,000 instead of \$50,000 and if it is still something that is worthwhile to do; it is still something that is worthwhile to do; and before he goes any further he was just hoping Mr. Cranis might give him a little bit of information on where their number was.

Mr. Cranis stated he believes that was recommended by one of the Commissioners on the TDC, so he does not know what the exact rationale was but he thinks there was the number of \$25,000 was thrown out and then \$50,000; but he did share the previous study has generated Request for Proposals (RFP) for a higher amount.

Commissioner Lober stated he just wants to be clear and he knows he has said this in prior meetings, he is adamantly opposed to using millage to build or to maintain a convention center; anything that goes into either of those categories building or maintenance, for him to have any intention or any even to consider supporting, it would have to come out of the Tourism Development Tax; he does not remember the exact number but it was something in the scheme and Mr. Cranis knows the number, to let him know, it was something like 98.7 or 99 percent of the Tourist Development Tax (TDT) comes from tourists which kind of makes sense if most of them do not pay to stay in short-term overnight accommodations in the County that they live in; it just does not really happen; the last time he did that, it was probably 10 years ago and his air conditioner broke; he thinks as far as what Commissioner Tobia mentioned with respect to convention centers being loss leaders, probably, it makes sense that they would lose money; but if they in operating lose money in so far as what is allocated to build, maintain, and operate them and if they still bring in more tourism dollars to the general area, and if they are funded out of the TDT and they increase the TDT by more than what they lose, it is a net positive for the Community. He added he is not bothered that they may lose money in a direct sense if they bring in that money to offset those losses such that the TDT is increased by virtue of their being there; the only concern that he really had prior to this meeting and now with the \$50,000, he will add that as a concern, was that the actual contemplation of the TDC in so far as what it was they wanted to study, that it would be reflected in whatever they look at passing today; he understands that they had looked at a facility of a certain size whether it is 150,000 square feet or whatever the magic number is, he would support it if there were enough votes up here spending \$75,000; he knows in the time that he has been there he has saved more than \$75,000 by questioning items that have been brought up here; he thinks that is a small amount to pay to have an answer as to a fundamental question that potentially involves tens or hundreds of millions of dollars over a period of many years; and he would support that if

someone wants to make a motion if they think \$75,000 is something that is perhaps safer, he does not want to spend north of \$100,000, but if that is a better number he would support that, again, conditioned on it reflecting the actual desire of the TDC to focus on that particular size facility, and he does not know where the others are at, but that is where he is at.

Commissioner Smith stated he has been a proponent for bringing or building a convention center here for probably as long as he has been in office, because he firmly believes that they are losing an awful lot of business because they do not have such, they are losing all that business to Orlando and they may be losing money on the convention center itself, but as a business person he looks at the Return on Investment (ROI); he thinks hundreds of thousands of people go through that convention center each and every year, all those families, and all those people represent an awful lot of money into that community, Orlando, Orange County; they stay there, they shop there, they go to stores there, they go to the mouse place, and they go to every other venue imagined; but that is the magnet that brings them there, Brevard does not have that magnet, whether it is 60,000 square feet or 100,000 square feet, and they would never compete with Orlando and that is not what he is proposing, and that is not what he is suggesting; but what they would get from Orlando is an awful lot of the smaller conventions like a basketball tournament, a cheerleading tournament, or gaming tournaments. He stated he understands those gaming tournaments are huge and he has talked to Mr. Cranis about them being a huge draw; if Brevard County had a convention center there are an awful lot of people around this country that would love to come to the space coast, as opposed to going to see Mickey again; the space coast is new to most people and it would be a natural draw for them, so he thinks it would behoove them to find out for \$50,000 what the credibility would be and what the advantages would be for them to have such a convention center, what conceivable size they could support, if they could even support one; he thinks it is worth the money to get the answers to those questions and if the answers are positive, he thinks they owe it to the public to bring that additional business in the County if they can; and if they could work it and figure out how to spend the money and come up with the money, but, again, as Commissioner Lober said the TDT, he has on occasion heard people saying, well, that is their tax money; it is not, unless they are spending an evening in a motel or hotel in this County it is none of their money, that money strictly comes from the people, the bed taxes in those buildings and those hotels, and those facilities; and he supports this, he thinks it is a good idea, he thinks it is something that they owe to themselves, they owe it to the public to find out what those answers are, and whether it would be to their advantage, so he will support it.

Chair Zonka stated right now she is not in support of this; it is not because she does not think they could benefit from a convention center; if they were such money makers someone would be asking them to build one now; what they saw before was a hotel that they wanted to build, what they called the convention center which was essentially just a large ballroom, so it was not a convention center at all, and that is how this discussion came about; she thinks in the future, possibly at the Port a convention center would be great, but especially now with COVID and the unknowns of right now, she thinks wasting that money for a study would not be a good idea because she does not think they would get accurate information; she is sure as heck not okay with General Fund money going to cover the shortfalls or committing this Commission or future Commissions, because they may not pay the bed tax directly but it is their families that come there, it is them that benefit, it is their restaurants that people eat at when they do come here, it is everything, and they are tied into this TDT as well and right now so she is not comfortable with it; and she thinks those studies probably have been done by private companies, by foreign investors, and by other people that have looked into doing it and she just does not see anybody banging down the door, other than the recent hotel that wanted to get money from them for the next 20 years, so she is not going to support this right now.

Commissioner Lober stated he just wants to make a very quick observation, he thinks this is the first time in recorded history that Commissioner Smith and he were together on an issue, where

everyone else was on the other side of it; but he just wanted to point it out because that is a rare occurrence, he thinks this is the only time thus far.

Chair Zonka stated congratulations.

Commissioner Pritchett stated she thinks Commissioner Smith does not need to think twice next time then; she just wants to throw out to the Board that she has that Revenue Per Available Room (RevPAR) one that they did a while ago on this study; she would be glad to give it to the Board; it was done by Delaware North, it is a great study on these types of things for basketball tournaments; that is what they were trying to do; Delaware North got a little hitch with the COVID, so they had to withdrawal with what they were doing; so she has that study, she would be glad to share it with them, and they can look through it; they will see the first three years they do not make money, even economically; the hard part is trying to program it, it is not cheap, it is really expensive, and if they had a Disney World or something where people would want to come for conventions, their other draw is pretty much beaches unless they have USSSA or somebody doing it; but if they ever do agree with this, she thinks it needs to go in District 1 and District 5 because they are the ones behind the eight ball in trying to stir up tourism in their Districts, and she is just going to throw that out as they move forward.

Chair Zonka stated she thinks honestly it is timing and she thinks they have an aquarium that they are trying to get built, and she thinks once that happens maybe they will see a little more activity in the North County, so she would agree with her on that.

Commissioner Lober stated can he ask if it is all right if someone does not have an objection up there to have Commissioner Pritchett go ahead and provide that file to the Clerk's Office to include in tonight's minutes.

Chair Zonka replied she could just email it to their offices.

Commissioner Lober asked if Abigail Jorandby, County Attorney, does not care either way.

Commissioner Pritchett stated it is already public record; and *Florida TODAY* has already asked for it, too.

Commissioner Lober stated okay, he just figured it would be easier for folks to get and it is clean, but whatever everyone wants, if that is their preference, he is fine with that; but he would like to see it.

Chair Zonka inquired if there is a motion or is it pointless.

Commissioner Lober replied no, he thinks it is pointless at this point.

The Board, discussed the TDC recommendation to develop and issue a competitive solicitation for a consultant to analyze the need, size and location of a convention center in Brevard County, but took no action.

The Board recessed at 6:24 pm and reconvened at 6:35 pm.

Chair Zonka realized Sandra Sullivan had a card for J.1. and she apologized; and she asked if Ms. Sullivan wanted to talk about it.

Ms. Sullivan replied it did not pass anyway, so it is okay.

Chair Zonka apologized again; and she stated she has so many cards up there and she just seen it; her name is familiar up there; and she just thought it was an old card, and she apologized for that.

**J.2. Resolution Declaring that Significant Legal Rights will be Impaired if Brevard County is required to Complete Intergovernmental Conflict Resolution Procedures with the Town of Malabar Prior to Court Proceedings**

Abigail Jorandby, County Attorney, stated this is the resolution that the Board directed her to prepare from the last meeting; this is essentially declaring that significant legal rights will be impaired if Brevard County is required to complete the intergovernmental Conflict Resolution procedures with the town of Malabar prior to court proceedings; and she is just looking for a motion to vote on this one.

Chair Zonka stated she has a bunch of cards and she thinks they are going to hear the cards first, if that is okay with the Commission.

Commissioner Lober stated he does not know how many cards they have but he knows in the past if they have had an absolute slew, they have sometimes reduced three minutes to two.

Chair Zonka stated she thinks they are okay, they do not have as many as the room looks like.

Matthew Stinnett, Town Manager of Town of Malabar, stated he will make this real quick, he just wants to reiterate the ask that he had of them at the last Commission meeting to kind of direct their staff to work with the Town; he thinks they can really get this done quickly if they could just work together and table this motion for resolution; he understands the attempt to push this forward and get it done quickly so the work can get started, but he does not think that is going to be the fastest way for the Board; and if there is another option that can save the taxpayers dollars and avoid the battle, he would appreciate it if the Commissions would consider that.

Chair Zonka stated Commissioner Pritchett has a question for him; and she usually does not do this, but he is the Town Manager so she is going to make an exception.

Commissioner Pritchett stated she would not do it either, except he is the Town Manager, and she would not do this for everybody else; she would like to reinstate if he will reinstate the other permit, then he can go back and talk about some other options or give their ideas; if they did that then the County is not having to pay \$40 for every tree with a new permit; she knows they had quit attending the meetings moving forward; but she would be open to having the meetings readjourn if he would reinstate the County's permit.

Mr. Stinnett stated let him clarify what Town Council's intent was; what he asked them was to allow him to not take a look at what is in their current code with the fees for permitting requirements; he knows one of the issues for Mike Knight, Environmentally Endangered Lands (EEL) Program Manager, was possibly the cost of a tree survey; all of that is completely on the table, they just need to have a discussion about it; and that is what he is asking the Board for.

Commissioner Pritchett inquired if he can just put the permit back in place then because they are trying to get the extension, because they got the funds, if he could just do that; she stated she does not know where Commissioner Tobia is on this, but it would be ready to start being worked on; she just feels like the County was really slapped at that time of not being able to do what they have been trying to do under the EELS for this; the State owns the property and they are just responsible paying for it; she reiterated she does not know where Commissioner Tobia

is on this, but they have closed all of the future meetings and she would reopen them if he would give them back that permit, and reinstate it because he did that himself personally as a Manager; and if he has the authority, to do that, she thinks they would be able to go back to doing what they were doing.

Mr. Stinnett stated he would say he is concerned about the precedent that sets for allowing an expired permit after several months to be reopened, but he is more than willing to entertain that if she is asking them to reopen the permit; that would be open for discussions for essentially the same thing that he is offering to her; but approving it as it is, he does not know that he can do that.

Commissioner Pritchett asked if he can explain when he said reopen.

Mr. Stinnett responded he would say that they could take a look at it; he stated the original permit was very vague and so it was signed off on, maybe not looked at as something that was a big deal, but there is very little information in there for him to work with; and there are a lot of concerns on it so if they can start talking about that, the fees they can certainly...

Commissioner Pritchett thanked Mr. Stinnett for being brave enough to come out again, but just so everybody knows the County had this permit with them for over a year, the County was out trying to find funding, they did not have the ability to do so in the time, and it came back with him writing denied on it while trying to extend the permit; and that is just what they are dealing with right now moving forward.

Commissioner Lober stated he is trying to be somewhat diplomatic, he does not mean this sarcastically or facetiously, but when he was there the last time, he thinks that they collectively, granted he may have said least of all, made it pretty clear that was the goal up there; he thinks if four or five of them would like to take the fences down, if they can just go forward with the work as was previously approved, but the issue is it does not sound like there was a conversation from what they are presenting this evening between then and now amongst either Town Council or between him and an individual Council member; it is just dumbfounding to him that they were as clear as he believes they were with respect to the request and now it is something where time has passed, it is a hot issue down there and here as well; he is just having a hard time understanding why there was not a conversation between then and now as to the specific request; and if he can tell him something to that end that would elucidate why that appears not to have taken place, he would love to hear it.

Mr. Stinnett stated he is not completely following what they are saying.

Commissioner Lober stated last time he was up there the Board essentially said the way to make it go away, if someone else took it differently let him know because his impression was the Board was pretty clear if he gave the County permit back, this is all moot, but between then and now it does not sound like he has approval from his Council to do that; so to say that he will take a look at it, if there was taking a look, that should have taken place it should have been prior to now after they requested it the last time; he means if it is inevitability that they are going one way or the other he would rather, just get to the end conclusion; and if he is going to do it great, if he is not going to do it great, but just let the Commission know.

Mr. Stinnett stated he will put it this way, Commissioner Lober is asking him to approve a permit that he does not believe should have been issued to begin with.

Commissioner Lober pointed out to at least of had the conversation amongst his Council members between the last time the County put that request in and now.

Mr. Stinnett stated right, so that permit because of its insufficiency is why he asked Council to allow him to have negotiations with the Board's staff on permitting requirements for a new permit; it is a process thing of extending a permit that he does not think should have ever been issued, he just cannot do that; but he is completely open to discussing and applying for a new permit.

Commissioner Lober advised this does not really get them to where they need to be, that is the problem.

Mr. Stinnett stated if Commissioner Lober is asking him to open up that old permit and work with County staff to make it sufficient, yes, he is open to that; but that has not happened from staff, all it was resubmitted exactly the way it was, and it is expired.

Commissioner Lober asked if he would be amenable if they submitted a new permit application, that had somewhere between 10 and 20,000 trees in it to granting that, or is the number of the trees a non-starter for him.

Mr. Stinnett responded he thinks there is a couple of things that he wants to look at, yes, but he does not know if the Board has taken a look at the alternative plans that have been submitted into the Selection and Management Committee (SMC) meeting and he sent it to their staff as well; Council has fully endorsed those plans and they are intended to work within the thousand or so trees that were intended to be left behind; he does not think it is really a matter of how many trees, at least on his end it is just details of the work that is going to be accomplished, and he has some concerns that he would love for their staff to address; and he was not early enough to get that before the lines of communication got shut down.

Commissioner Lober stated that is fair, he thinks the problem though...

Mr. Stinnett stated that is what he is asking for.

Commissioner Lober stated at least in part to him the problem is a lot of this and he is really not trying to fault him where he said he has concerns, he has just not gotten any specificity as to what those concerns are and there has been ample opportunity; and he thinks if they had a better understanding, at a minimum they would save him and the Board's staff time in going roundabout with this, and he is just not hearing it.

Mr. Stinnett stated as an example the work conditions of the site, which entrances are they going to be using to enter and exit the site, he needs to know that information; all that was ever provided to the Town was they are going to cut down whatever trees within the Management Plan, and that was handwritten on their application; he has got a lot of information from the Board and some of it was public records requests; and it was people getting information from staff but he just...

Chair Zonka asked if he was gone, and who issued that permit, was it the old Manager.

Mr. Stinnett replied affirmatively; and he stated that it was the Building Official that used to be under the old Managers purview, and now it has changed to under him.

Chair Zonka stated that was the Building Official; and she asked if the Building Official does not have the authority to issue permits now.

Mr. Stinnett responded not when it comes to land clearing and trees.

Chair Zonka stated because had they started the work before the permit expired then there would be no, he would not be there; she asked if in his professional and personal opinion he believes that this qualifies under his commercial permitting the clearing, under his development code.

Mr. Stinnett replied yes.

Commissioner Lober stated if he thought that the only issue was which entrances and exits they would be using, he would be happy to say go ahead and make a motion that staff give him that type written not handwritten, and they all can go home, and everyone's happy or at least content; the concern that he has is between the last time he was there and now, there has really been nothing that he has received in terms of that specificity and he will be honest with Mr. Stinnett, and he is not saying it is his doing, frankly it is probably more doing of his Council Members, a lot of this is coming across and it is not his District, but to him sitting over there where it really does not impact his constituents apart from having to pay into the EELS program, a lot of it is coming across as pretextual; he is not saying definitively that is the case, but it just seems like these minute elements are brought up and that now they are road blocked when they are not really the issue; and he will leave it alone but that is where he is at.

Commissioner Pritchett expressed thanks to Mr. Stinnett for being brave enough to come up there, because she knows he is at the point of the fire; but she does wants to reiterate that the County is good to the City, correct.

Mr. Stinnett remarked yes.

Commissioner Pritchett stated it has always been good to him and she just wanted to make this clear that this is the State of Florida's property and somehow through this EELS program the County got stuck with maintaining it; the County spent over \$1.6 million for maintaining this, for the Scrub-Jay's and so for what it is required to do through the State they have to do things for the EELS; she is not an expert on this but the National Aeronautics and Space Administration (NASA) scientists came back saying the County has got to take care of these things; she thinks the Town should have showed up to these EEL meetings and talked to them about this being possible to do, because they are the experts; it is wonderful to be able to enjoy it but the primary purpose of this property is that Scrub-Jay, that is what the primary purpose was, and that is why it was picked up and bought; she just wants to reiterate this before people come up to help make sure everybody understands this; Mr. Stinnett did not approve the permit, the building guy did, but Mr. Stinnett denied the permit when it came back; just for the relationship, he probably should have picked up the phone halfway into it and said he has got a little struggle with this, what can he do but instead, the County just got slapped with no; and that does not happen between governments because they are all working for the same purpose. She stated she does not think things were handled well by his Town and then honestly, with him, not that she would not be honest with him, but like Commissioner Lober stated they do respect the Commissioner of the District; Commissioner Tobia had some great points; and a Town staff member sent out that link, nothing bad happens, she could not help but listen and she was really shocked with the comments from the Town Council. She added she is struggling with that, trying not to make an emotional decision with this but he has got a big uphill thing to do because they are not building a hotel in there, they are trying to do maintenance on an EELS property; she is with Chair Zonka because she thinks, she was leading that way, she does not think it falls into the same category of some things that they are considering; that is her opinion and she is not on his board; but to be very honest with him, this is her struggle with this, and these are the hurdles that she is uncomfortable that the County is having to get through.

Commissioner Smith stated he would like to hear what Commissioner Tobia has to say.



Commissioner Tobia stated first of all he appreciates Mr. Stinnett for showing up again and he appreciates him for being honest about his personal opinion, whether it coincides with that of his Council or not; before actions were taken this Board spent, gave his Council a full month, and the reason it gave them a month is because he has some holidays coming up and they did not want him to have to call a special meeting; the County gave him the opportunity not to spend any extra resources; he showed up there, he did not say anything, the Town decided not to move forward; he completely, utterly, and totally respects that; that was a decision by duly elected individuals; the County has made a decision, too; and the State of Florida looks at intergovernmental conflicts, in fact, there is a whole chapter on that where a third party looks at this, where he has the opportunity to make his case, and the County has its opportunity to make its case that is all this is. He stated he wished this too, could have been handled and in all honesty, if Mr. Stinnett had come to the Board and said, the Town had extended the permit and they have some suggestions, that would have been great, but he did not; as such, the County is going to take, hopefully, he does not know, but he is going to make a motion unless something comes up otherwise to make a motion to send this to a third party to look at; this is not adversarial, in fact, this is conflict resolution; it is obviously not something that he would like to do, he wished Mr. Stinnett could of handled this sooner; he understands the concerns of many of the residents there, however, the Board has a responsibility to the taxpayers, and the same way Mr. Stinnett has a responsibility to his; and his are on both sides of this because he represents Malabar and he represents another hundred plus thousand people out there. He reiterated he does not want this to sound adversarial; this is conflict resolution and this is putting it with a third party; he greatly appreciates him standing up and saying, hey listen someone in his opinion made a mistake, however, have someone that is trained in this to make that determination; Mr. Stinnett will make his case, the Board will make its case, and they will see where the chips fall; he appreciates him being here; he does not mean ill will on anyone; but he just thinks it is best that they let an independent third party make the decision.

Mr. Stinnett acknowledged Commissioner Tobia for his consideration.

Chair Zonka asked if he has anything that he wants to add, since they kind of kept him up there for a bit.

Mr. Stinnett replied no; he stated January 3 was his first day back in the office after being gone for over a year; he apologized for being late to the game; he thinks that has made it slow on his end, in terms of coming to the Board sooner; that is why he is present now; and he is doing his best to try and work this out with the Board.

Commissioner Tobia stated, he has done great work; and he asked if Mr. Stinnett was serving the Country.

Mr. Stinnett responded yes.

Commissioner Tobia stated he really has a lot of respect, not only for him doing that, but for him not mentioning that as his excuse; and it is one of the reasons why he really thinks Malabar made a great decision, even though he may disagree with their opinion on this one, but he thinks they made a great decision when they selected Mr. Stinnett.

Mr. Stinnett expressed his thanks.

Andrew Thompson stated basically what he would like to address is really start off with a couple of misconceptions, he knows they are dealing with J.2., regarding intergovernmental Conflict Resolution, and as Commissioner Tobia just referenced his objective is to work for the

constituents and for the citizens of Brevard County; he knows he has got two and one-half minutes to basically say a whole lot; he appreciate that and he will try to stay in time; there is really a conflict of balance and misinformation, because even tonight there has been references to a one-year permit; the permit was issued May 21, 2021, and it ran out in November, and it ran out in January; there has been a tremendous number of meetings on this; if the Board looked at the research done by a whole lot of folks behind him and other folks not in this room, the information that Board looks at they will find that there is no word J-A-Y in the lease; the properties were purchased in 1993-1994; the Malabar Scrub, the referendum occurred in 2004, the referendum that they were talking about is what the voters thought they asked for when they okayed voting on the \$60 million bond referendum, it is not coming up until 2024 for renewal; those were the original thoughts that the voters thought they read on the ballot for passive recreation, protection of habitat, environmental education, essentially protection of what they thought were the forests, and what they counted as being environmentally endangered lands; and they are basically talking about 28 years having gone by since the purchases. He added the EEL program has had the property for 28 years and now they are in an emergency situation to try to get Scrub-Jays back there; in that 28 years what happened was a lot of vegetation growth, tree growth, and trails went in; Malabar is a trail Town in this County; they have got another one in Titusville; it has to do with ecotourism; it has to do with people enjoying the outdoors, they have a plan submitted to the Board, if the Board chooses not to read it, that is up to Board, but the plan was very carefully discerned; they went to the meetings as referenced and the signs went up to right before Thanksgiving; there was not a lot of talk, it is not like they were invited to a bunch of meetings about this was going down, and they did not know about it until it was almost too late; the Board has the plan in front of them, it is reasonable, it saves the trees on the periphery, they are not trying to save the trees in the middle; and still it goes down to two trees per acre, 1,000 trees, and the targeted 500 acres of 577.

Murray Hann stated he is on the Trails and Greenways Committee, the Bicycle Pedestrian Trails Advisory Committee, the EELS Recreation Education Advisory Committee, and the Board of Directors for the Brevard Mountain Bike Association (BMBA); he does not think they need to bypass the intergovernmental dispute process and he does not think they need to do the intergovernmental dispute process; he wants to aim this directly at Commissioner Tobia, as an engineer, they have tried to study and learn the rules and it is believed that they have Population Viability Analysis (PVA) and they are not quarreling with the science that was done by Cape Canaveral; what they are looking for is 70 percent strong habitat; when the definition is read at Florida Fish and Wildlife Conservation Commission (FWC) of habitat, it allows for certain things, they believe that they have come up with a modification to the plan that allows them to keep some of these heritage trees near the periphery of the trail, and allows them to keep a few trees that are in a wetland next to Country Cove that the EELS fire break goes inboard of that because it is too wet to have a fire break there; and they are 100 percent good with preserving the Scrub-Jay and they believe that this compromise is 100 percent compliant and stronger than what the PVA requires. He advised they do not blame the EEL program for trying to go for everything they could do given the situation they see they are in, but they believe these small modifications are worth exploring; speaking to Commissioner Lober, Malabar's error was issuing a bush-hogging permit for what was going to be removal of 20,000 trees; there is no access to Malabar west except on Malabar's right-of-way, and if Malabar Road is damaged in a logging operation they are going to come after Malabar, not the private contractor; Mr. Stinnett needs to know who is controlling the ingress and egress on his right-of-way onto Malabar Road; for instance that is not in the contract, what the contract says from the State of Florida to Badaka Lumber is that this property is completely turned over to the Board, Badaka Lumber for the duration, Malabar does not have access to their own right-of-way, and it says fix the road if they damage the right-of-way; it does not say anything about Malabar Road, it does not say anything about Brook Hollow which the other end exits onto, they need to know things like this, and those are some of Mr. Stinnett's concerns; and they really believe they have a great compromise and

the Board has done a great job this evening, and they are just looking for that same level of consideration.

Glenn Dunnam, President of the Brevard Mountain Bike Association, stated he would like to see this tabled tonight, he thinks that they can work this out in better means, less cost, and faster; he is there to speak on behalf of all trail users within Brevard County; he asked for a show of hands of everyone in this room that is there to support a compromise between Malabar Trail users, EELS, Town of Malabar, and Brevard County Council; those people behind him represent a small percentage of people that seek a better solution to the EELS plan for restoration; they have no desire to fight with their land managers and as a club are dedicated to doing good things; Malabar has put forth some reasonable modifications to the EELS plan that should be considered as they will meet or exceed their goals; and he is asking for them to work together.

Jason Strobel, Vice President of Brevard Mountain Bike Association, stated he is a husband, a father to two little girls, a senior scientist, and a senior engineer that uses his free time to maintain community access parks, and building community accessible trails; he is there to represent the thousands of users, not just mountain bikers that use Malabar Scrub Sanctuary for passive recreation; the trail users he is representing are concerned their trails are being destroyed, 10 to 20,000 trees that will be removed along the property affecting not just shade, but they also render their type of recreation unavailable on County property at all; according to the County's website the EELS Program Management Plan, the County manages 117 parks, 21 sanctuaries, with Malabar Scrub Sanctuary being one of four sanctuaries in the County supporting the highest level of passive recreation identified in the plan; to have broad public access for the development and management of education centers; of these parks and sanctuaries only one, Malabar Scrub Sanctuary provides the type of land necessary to engage in the type of passive recreation that the public does on the property today; there are also three categories of sanctuaries, category three is the primary conservation research; and for the record there is similar recreation at Wickham Park, but it is different. He pointed out that just because Scrub is in the name of the sanctuary that does not mean that the sanctuary was for only optimal habitat for the Scrub-Jay, it represents Scrub habitat; if Micco Scrub Sanctuary is looked at they will see a small portion as habitable by the Scrub-Jay; the work being done at Malabar Scrub Sanctuary is going to help save the Scrub-Jay population of South Brevard, there are other populations of Brevard County that will not go extinct with continued management; according to the PVA which this is what the actual research has done to save the Scrub-Jay from extinction, if the habitat is improved to 70 percent strong, and supplementation of a minimum of eight percent occurs it prevents extinction of the Scrub-Jay population of South Brevard; the plan they have before them is one-sided and overreaching; and EELS plan of action is to transform the habitat into optimal Scrub-Jay habitat and not just the 70 percent strong as the PVA suggests. He added up until now the EELS program has not considered passive recreation within their plans at Malabar Scrub Sanctuary and the SMC is clear of this; in closing, he is coming today to request that all stakeholders become involved in a restoration plan at Malabar Scrub, they desire a more balanced plan for the Scrub-Jay, of South Brevard and considers the unique recreation at Malabar Scrub Sanctuary; it may seem urgent to do this work before March, but according to the PVA the Scrub-Jay population of South Brevard declines to extinction in 40 to 70 years and with some similar management occurring, there is an urgency, but there is not an emergency; and they surely can take just a few months to come up with a balanced plan that works within the requirements of the PVA's findings to save the Scrub-Jay of South Brevard and considers the unique passive recreation that goes on at this category one Sanctuary.

Mark Britt stated there is nothing more that he could add except for his personal point of view on some of these; his property backs up to the Sanctuary, so he has a real personal interest to all this; this has been educational tonight and the Board has a tremendous job to do with some of

the issues it faces, wow, he means God bless them and may God guide them with all that it has to do; the Board talked to Mr. Stinnett about approving this permit and then they will take down the gates; and he thinks the Board has got it backwards by showing a good faith effort by taking those gates down tomorrow, and show that to the people. He apologized because this is a very emotional thing for him; he stated at the last meeting he gave a little presentation, maybe he rambled on because his wife says he does, but he left that meeting and drove back to the sanctuary and that gate was up already; he does not know how fast they can work that way but it was already a done process before the approval was done; and he thinks the idea of putting up those gates was to incite people, to get under their skin, it worked, and look at these people. He mentioned there is a beautiful lake there, it would really shows a good faith by both the Town of Malabar and the Commission to do this for the people, by putting some chairs out there and some benches, it is a wonderful place; there are a lot of people and this is probably one of the most beautiful parts of Brevard County, do this for people; put benches throughout and they could still do whatever they have to do, as far as Scrub-Jays; he would love to sit on the bench; he heard stories about Scrub-Jays approaching people, taking peanuts out of their hands; that is incredible and they have got to save these little critters but they do not have to destroy what is beauty now, what is just a fantastic place; and he thinks they have to work this out, he does not know anything about intergovernmental conflict, he does know from his prior career if they give it to the worker bees and let them work it out with Mr. Hann, Mr. Thompson, and the SMC, it will work out.

Jennifer Hubbard stated she and her husband moved to Malabar in large part because of the beautiful sanctuaries and nature trails that are within minutes of their front door; the County's decision to block public access to the Malabar Scrub Sanctuary has deeply impacted them and their Brevard County community; she understands that the Sanctuary will need to be closed when the County reapplies for and receives their permit to proceed with the EEL program plans, but she strongly disagrees with the County's decision to block access only because the Town of Malabar would not reinstate the original permit, that the County allowed to expire over two months ago; having personally pulled hundreds if not thousands of permits herself, she knows that the Town of Malabar followed and enforced rules and regulations with the County just as they would have with any other business or resident who had allowed the permit to expire; it appears that the Sanctuary is being held hostage by the County, yes there are other trails that they can seek refuge in, but this Sanctuary is part of an entire trail system; this Sanctuary allows one of her neighbors to safely ride her bike to visit her grandkids almost every single day and her grandkids take these trails to visit their grandparents on a weekly basis; and right now they cannot safely do that and there is absolutely no valid reason for it, there are countless stories like this. She stated according to Centers for Disease Control and Prevention (CDC) most recent data from 2019, 47,511 people died by suicide, and making it the tenth leading cause of death in the United States; she mentioned this Sanctuary is not just about riding bikes or walking, this sanctuary is a literal haven where healthcare workers, engineers, people from all professions and walks of life, the elderly, and children can get away from the stress, pain, and noise of their lives; this place is where people can unwind, decompress, and find peace and solace in nature; and arbitrarily blocking their access to the Sanctuary has taken an emotional, mental, and physical toll on so many of them. She added she has a petition with her signed by at least 199 residents who are opposed to the fences installed on January 25; 199 may not seem like a big number to the Board, but these are 199 human beings whose lives are impacted by the County's decision; she asked the Board to take a moment to imagine these people standing before them along with 1,549 people who signed the Change.Org petition, who are also concerned about the proposed EEL plans; this is not just about protecting the Scrub-Jay this is also about the lives who are impacted by the Board's actions and decisions; they want the County and the Town of Malabar to work together, to come to a sensible alternative that meets EEL Programs science and preserves one of Brevard's greatly valued natural treasures; and she asked the Commission to consider removing fences until they have a legitimate reason for their presence so that Brevard County's mission, vision, and core values are also upheld.

Barbara Cameron stated she is the widow of Richard Cameron and the Town of Malabar has a 100-acre track called Cameron Preserve and it is owned by the Town of Malabar, it is not owned by the State; after Mr. Cameron passed away it took her a couple of years to go back to the Trails and Greenway in Malabar and she has been totally impressed at the time, the effort, and the responsibilities that Mr. Hann and Mr. Thompson are doing for the Trails and Greenway; she asked the Commission to look at what they have presented to them because it is an alternative, it is not cut and dry; Mr. Cameron and she worked with the EELS Program right from the get-go, they started the trailhead on Marie Street in the year 2000, and they worked hard and they created the icon in Brevard County, with volunteers and all of Mr. Cameron's equipment and everything with no money from the Town or the County, and they did this because they love Malabar; and they want to be part of the program and they want the Board to just give the consideration of the program, the alternative that Mr. Thompson and Mr. Hann have presented to Board.

Commissioner Lober stated just a couple of things and with this Change.Org petition, he just pulled it up sitting there; there is a photo that has got nice black and white mug shots of all of them up there; it says Brevard County Commissioners want to destroy the Sanctuary and are unwilling to compromise; and they closed the Sanctuary because the citizens of Malabar refuse and there are bunch of all caps, to let them destroy the trees.

Chair Zonka stated wow.

Commissioner Lober stated that is the petition that was signed and the current count was 1,500 and some; granted he has no idea if any of them are in Singapore or maybe in Finland, or wherever, but if the people want him to support anything they are not going to get him to vote the other way right now by speaking over him; he shut up the whole time they all were up there; and he thinks he has a right to speak.

Chair Zonka stated that is enough out burst from the audience.

Commissioner Lober stated he had a compromise that he was going propose, but he will just shut up.

Chair Zonka stated all right, okay, they are not going to go back and forth, and she has to maintain order.

Commissioner Smith reiterated what the Chair has said, if they want the Board to respect them they have to respect the Board; if they do not want to respect them, they can leave right now; if they do not want to leave willingly, that is why they have police officers there; okay, so having said that, he has mixed feelings with regard to this issue, they are not going to get anywhere making demands, and the Board is not going to get anywhere making demands, it is pointless and it is like a hissing contest; he thinks they are really kind of at an impasse here; and he would like to suggest that they give the County and Mr. Stinnett 30 days to come up with a compromise that the Town Council and the Commission can approve, if that does not work then he would support an intergovernmental conflict resolution because the Board is done, and they are done. He stated they say there is a compromise that works, he is willing to hear it, and the Board is not going to hear it if they dig their heels in; and they are not going to hear the Board if they dig their heels in, he means it goes both ways. He added he is really kind of an innocent bystander because he has seen errors made on both sides; they can point fingers at the Board because it has done some dumb things and the Board can point fingers at them because they have done some dumb things; there is nobody that is blameless here; he suggested to his

fellow Commissioners and the Town that they all take a breath; give them until the first or second meeting, or whatever is decided for all to say their peace, and then there is an answer or not, and then they go to conflict resolution because he is ready to be done with this; it has gone on too long and they are at an impasse; and that is his suggestion.

Commissioner Tobia stated he misspoke that the third party is not the conflict resolution, the mediator would be a judge, still an impartial elected individual; the Board has given Malabar 30 days, it has done far more than that; they quite frankly, treated Board's staff absolutely horrifically; and it may not be some of the individuals present but they heard the recording.

Commissioner Smith stated they are past that.

Commissioner Lober remarked Commissioner Tobia has a standing second for whatever he wants.

Commissioner Tobia stated the 30 days are up, they voted as a Board to give Malabar an additional 30 days to come back with a permit that they had already agreed upon; they are seeing a bunch of aggravated citizens; he wonders if they were as aggravated with the Town when they approved the permit the first time; he does not know, he went to one meeting, and the anger seemed as though it was pointed at the Commission; Facebook does that and the Town's Council may have done that; he really appreciates them participating, but he is just not intimidated by emails or petitions because the science is on the County's side, not his science, he is in political science or social science, not in the hard science; and he could go over the numerous State and Federal agencies that has looked at the EELS Organization. He added had the Town sat down with the EELS folks, their Advisory Board, and looked at this it might have been a viable solution; however, the issue is they have got a nesting season coming up and they have got a bird population that is not doing very well; this is not something that they can sit on their hands and wait; what this resolution does it just hands it over, like he mentioned for the second time, to a third party being a judge; and he will tell, they can make their case. He suggested not calling the judge any names; he loves the passion, he loves the fire, and he just disagrees; he is looking at the EELS Land Acquisition manual that is as old as EELS and it says all Sanctuary activities will consider resource protection as the primary goal with public access and passive recreation as an important secondary consideration; his understanding of this project is the trails will be there, they are not altering any of the trails other than taking down some trees, 10 to 20,000 that are going to benefit a threatened species; there was one gentleman that spoke who he greatly respects and said, he lives up against it and it will impact him; he absolutely agrees; and he wished everyone would have said he or she loves mountain biking, but does not give a damn about birds, because he can respect that, he may disagree with it, but he absolutely respects that. He mentioned what he did not hear was any science and the abject lack of science; there were many opportunities with the EELS Advisory Committees to come up, present the science, listen to the experts that were up there, have the opinions aired out, but they are past that point; the more they wait, unfortunately the more the Scrub-Jay population decreases; and he is going to make a motion to accept the resolution declaring the significant legal rights will be impaired if Brevard County is required to complete the intergovernmental conflict resolution procedures with the Town of Malabar prior to a court proceeding.

Commissioner Pritchett stated she listened to Mike Knight, EEL Program Manager, at the meeting; she thought he did a very good job; and she inquired why the Board purchased this property for the State of Florida and what is the primary purpose of this property.

Mr. McKnight responded Scrub-Jay habitat protection.

Commissioner Pritchett stated the people have to understand, this is not the Board against the Town, the Board is not really trying to take the Town on, but it was given the responsibility to carry out the mission; she is not an expert on these things; they have an EELS board and they had the science come in with the studies and they came back and said look they have let these trees grow, the Scrub-Jays are getting eaten by the hawks, they have to get the trees down, they should of had fires, NASA Scientists can be asked about that, but these are the things that have to be done; what should have happened is probably the Town should have said is there a way to save a couple of these trees; this recreation is not going away, they are not going to do a thing to mess with that, but this is not what they were told by the EELS board, which everybody keeps referencing to and this is recommendations from the scientists coming in; and that is the part the people have to go take up their argument with because this is the data that the Board is getting. She added it is the Board's responsibility to the State of Florida to make sure this is a Scrub-Jay habitat and then other things can be done to enjoy it; but this is what they have to do as a Commission, it is their job, and with NASA coming along with this information and Mr. McKnight, they are not trying to do anything that is trying to harm anybody. She stated she had a little bit of heartburn from putting up the fence to stop the bikes but they needed to find a way to move forward, because this is a very endangered species and this is their job to try to take care of this; if the Town will reinstate this permit, they can start working towards whatever it is they are working towards; they can go meet with the County, they can meet with the EELS board, and see if those other ideas can be changed or implemented; they have to understand that the County did have this permit and by having this permit the County went out and ascertained funds to be able to do this; they have already spent \$1.6 million on this property; it is State property, it is belongs to the State of Florida which the County got stuck with the bill, with maintaining it for this purpose; that is what is being dealt with and the County is not trying to do anything with anybody; but this is what the Board has the legal responsibility to do. She recommended to get a hold of the County and to talk to the EELS board and ask if those other ideas are possible; the people need to go listen to what happened with the Town of Malabar's Council, she listened in on that, and the comments were to stick it to the County for everything they can get; Commissioner Tobia, played that tape, she listened to it, and she is like man these people are not wanting to work with anything; the County has a dire situation here and they are not going to help them with any of it; Mr. Stinnett has been wonderful for showing up about this; but this is a very difficult situation and the County really does need to make a statement that this is a very important situation that they need to work through. She recommended that they reach out to County staff, talk to them about the ideas, the EELS board may have something else that still can be worked with this, the County's purpose there is it must be responsible to the Scrub-Jays on this property and go with the information given with the scientists; she knows it is passionate and she knows they have a lot of strong opinions; and she really thinks it is wonderful that they have all that going in their heart for what they want to do and she appreciates it, but the Board has to do this on this side, and she just wanted to tell people.

Chair Zonka stated Mr. Knight has been awfully quiet, she is going to ask him to speak a little about this, as far as the new plan that was presented by some individuals; and how long would it take to go through a plan like that to see if it is even a viable one.

Mr. Knight responded they already have a draft response that it is just about ready for review.

Chair Zonka asked if he can give some insight to the Board; she stated just because they are voting on this issue now, they probably need to have at least his thoughts on it.

Mr. Knight replied the Selection Management Committee felt that two scenarios in that plan which involved the relocation of trails had merit, so that is what staff focused on; and staff is

prepared in that draft to make some recommendations for the record, for the relocation of trails essentially about a mile of trail into shaded areas so it would not leave the Scrub and go into the shaded area.

Chair Zonka remarked it would move the trail as opposed to changing the plan for the tree removal.

Mr. Knight stated correct.

Chair Zonka stated okay, so that would not change the plan that they have in place now.

Mr. Knight stated correct.

Chair Zonka stated that is her biggest concern, if they start modifying the plan; it is not a matter of counting trees per acre because it is a much more systemic plan, it is really not just a numbers game as much as it is a solid scientific plan; again, they go back to the meeting, she is over it because she knows politicians get impassioned but the Manager says that if the County will work with them on the permit, they will consider the permit, but what that sounds like to her and it is, again not coming from the Manager, as if the County does not agree to what this Council wants they are not going to issue the permit or they are going to make it as difficult, painful, and as expensive as possible to the County, she thinks is what words were used by their Council, and she cannot remember if those were the exact words; at least they know the intent of the Council, it may not be the intent of the Manager, obviously it makes his life a lot easier if they can cooperate; but she does not have a feeling that the Council is as eager to work with Board as it may be with them. She reiterated she wants to move forward with the project, she thinks the County is doing a disservice, not just to the property but to the plan, the plan that has been in place all along and no recreation is being denied; she knows everyone likes trees and the view and the shade is being denied; the fences are there now because they have to move forward, it is the Town of Malabar that will not issue the permit that they should issue; she is going to support the motion as it stands; she is encouraging Mr. Knight to continue to work with the Town of Malabar as much as possible, with their manager as much as possible, without a modification of the current plan; again, if he starts moving trails, she thinks they are going to have another room full of people because they may not like where they move the trails, and she thinks they are going to need 40 community meetings and some more butt kicking by the Council probably before he will get them to agree to a trail that everyone's happy with; and if they want to move forward with that she would support that, as long as the plan for the Scrub-Jay does not change. She inquired if there is any further discussion.

Commissioner Smith asked if that is what the Board is voting on.

Chair Zonka responded, what is that.

Commissioner Smith stated what Chair Zonka just said, that he is charged with working with them.

Chair Zonka stated no; she explained the plan for the Scrub-Jay's has not changed, Mr. Knight is going to have to bring that back anyway correct, if they start moving trails around and that sort of thing, and that has to go through the EELS board.

Mr. Knight stated that is correct.

Commissioner Lober stated Commissioner Smith, it is just the Agenda Item which has been moved and seconded.



Chair Zonka stated just to go to mediation.

Commissioner Tobia stated no.

Chair Zonka stated or just to go to...

Commissioner Smith stated no, he does not want to mediate.

Chair Zonka indicated but Commissioner Tobia wants to go to the judge.

Commissioner Tobia stated yes, as an impartial third party.

Chair Zonka stated to bypass the mediation.

Commissioner Tobia stated correct; he misspoke the first time; but it is still the premise there, a third party, their argument made, and the Board's argument made...

Chair Zonka stated and everybody gets a chance to present their case.

Commissioner Tobia stated absolutely correct.

Abigail Jorandby, County Attorney, stated just for clarification it is to bypass the Chapter 164 procedures, so they would be able to go file in litigation in court, as well as this particular motion; and under State Law this resolution would require three-fourths majority vote, just for reference.

Commissioner Smith stated to Ms. Jorandby so what she is suggesting him is at odds with what...

Chair Zonka remarked no, it is not, not at all.

Commissioner Smith stated okay.

Chair Zonka stated this is just saying that she is okay at least with him, personally.

Commissioner Smith stated he can tell the Board that he will be voting nay, because he thinks that their fastest and quickest way forward is to let Mr. Knight work with these folks, and come up with something within the next 30 days.

Commissioner Pritchett stated to Commissioner Smith that she just talked to Attorney Jorandby over here and she said, if the Board approves this there is still that amount of time for that to happen, and that way they can go ahead; and if that cannot get worked out the Board is still able to move forward.

Commissioner Smith stated he is okay with that.

Chair Zonka asked if this will take 30 days before it even sees a judge.

Commissioner Lober replied at least.

Chair Zonka stated especially now with COVID.

The Board adopted Resolution No. 22-012, declaring that significant legal rights will be

impaired if Brevard County is required to complete the intergovernmental conflict resolution procedures with the Town of Malabar, prior to court proceedings, and directing staff to initiate litigation, as appropriate, to resolve the County's conflict with the Town of Malabar.

**Result:** Approved

**Mover:** John Tobia

**Second:** Bryan Lober

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

**J.3. Request for Special Meeting for an Executive Session for Paul Bross, as Successor in Interest to (Eric and Amanda Obloy, Bambino Land Trust dated June 19, 2019) v. Brevard County, Case Number 05-2019-CA-035542-XXXX-XX**

The Board approved the cost of advertising for, and the scheduling of, an Executive Session on March 8, 2022, at 4:00 p.m., pursuant to Section 286.011(8), Florida Statute, for the purpose of discussing litigation strategy and settlement negotiations in the case of Paul Bross, as successor in interest to (Eric and Amanda Obloy, Bambino Land Trust dated June 19, 2019) v. Brevard County.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

Chair Zonka inquired if the Board has a date.

Abigail Jorandby, County Attorney responded yes, there is a date; and they are going to have this special meeting on March 8, at 4:00 P.M., before the 5:00 P.M. Board Meeting.

Chair Zonka inquired if the Board needs that as part of the motion, or no.

Attorney Jorandby replied it is a motion to approve the request to have the executive session; and she stated they will advertise the executive session.

**J.4. Advisory Board Review**

Commissioner Tobia stated first of all before he gets into this, he would like to point out there will be no motions for this, he is just providing some homework for their next meeting; the Board scheduled and canceled a May 16, 2019, meeting which was set to review Advisory Boards; during the last Commission meeting the topic of Advisory Boards came up under a different context, this was looking at term limits, but based on comments made it seemed that the Board was still interested in potentially reviewing a list of the County Advisory Boards to determine if any could be consolidated or altogether eliminated; for reference at this point the County has 69 Advisory Boards with more than 40 of those 69 not mandated by State Law; the County expends more than \$500,000 in operational costs for these boards which certainly is not a small amount; he wants the Board to think as it does its homework, if they do not recognize the name of the board, who is on it, and they have not advised the Board, which is their primary purpose, it may be time to look at either consolidating or doing away with it; and his office, along with staff has compiled a spreadsheet to organize the information when considering the issue. He stated the first spreadsheet he provided is a master list broken up into categories; it is the red one, if they look at that it is the first section of that one through 21 are the mandatory lists, and why they are mandatory whether it is State Statute, Interlocal Agreement, or voter referendum; on top of that are meetings and the annual cost; the point to this is these are untouchable and even if through potentially a 5:0 vote, they would have trouble

doing away with any of them; and the second group he provided is the non-mandatory this is number 22 through 25. He added the Board is required to receive substantial funding; the annual cost is \$13 or \$14,000 but looking at the numbers they bring in \$5 or \$6 million; he believes Commissioner Smith said Return on Investment (ROI); and there is no better ROI than 22 through 25. He added now they will get into the ones that the Board may want to look at, these are the non-mandatory boards; what he did is he broke up the non-mandatory boards into three parts, a group of them would be 26 through 51, and those are ones that need further consideration; however, it was easy to separate 52 through 55 and 56 through 69; these were the non-mandatory Parks and Recreation boards of which there are four, and the non-mandatory Library boards of which looks like there are 13 or 14 of them; what he has done is a little bit of work on the non-mandatory Parks and Recreation, as well as the Library boards; but before he gets there, he does not want to beat a dead horse dead, but on the second provided handout, there is a purple one, and it says non-mandatory boards that he has tried to eliminate each one of these six boards to no avail. He understands that the Board believes contrary to him that these are necessary and he respects the opinion of the Board; he certainly does not want anyone to show up and advocate why their board is important, if it is not going to be brought up; the Board has his word that he would not support bringing up the elimination of the Economic Development Commission of Florida's Space Coast, Environmentally Endangered Land Program, Merritt Island Redevelopment Agency, North Brevard Economic Development Zone, North Merritt Island Dependent Special District Board, and Port St. John Dependent District Advisory Board; it is important that he list those, because he has tried to get rid of those before, and he is not going to try to sneak one past the goalie on there and that is why he put them there separately; what he would like to talk about at the next meeting, but he wanted to give everyone the opportunity and with the information that his office as well as staff compiled was first with the Parks and Recreation; if the Board looks at that, there are four boards that very easily could be consolidated into one board; and he has the number of meetings there, the number of vacancies, and who appoints or who comprises each one of those boards. He mentioned the one that is slightly more fun and certainly would have a larger impact is the Library Boards, again of which there are 14; he is not going to go over the unique nature of some of these boards, but he will point out some very low-hanging fruit; as the Board can see, some of these libraries are city libraries composed of fully city appointed individuals, and yet the Board is somehow charged with having a cost as of 2018, of either being at those meetings, recording those meetings, though, again they have no appointees, and they have really very little jurisdiction over what is done there; this expense would probably be better handled by the city; if the Board looks there, it does not even know the number of vacancies because this is all kept by the city; how these were formed is located on the spreadsheet, as well as the annual cost; his suggestion and he will certainly go into detail, is how they not eliminate, but turn over some of these to the cities, as well as how they consolidate some of these others into a larger Library board; some of these are very unique; they have a Merritt Island one which has gubernatorial appointments, so there is nothing they can do about any of that stuff; however, there are quite a few that they can do, that would allow staff to focus more on their core functions; and he will be making some recommendations, even though he thinks it is pretty darn clear the direction of which he is going dealing with the non-mandatory Parks and Recreation boards, as well as the non-mandatory Library boards, he certainly has more research to do, and he encourages everyone to do the same. He advised his suggestions are listed below and he looks forward to bringing that up at the next meeting; this is a lot of information; he wants to acknowledge staff in his office for compiling that and he thinks it would be completely unfair for him to present this to the Board, and then ask them to make a decision; if at some point they need extra time for this, absolutely, he is more than willing to do this; he hopes this begins the conversations so they can move on to the list of other non-mandatory boards of which that is 26 through 51; and he thanked Chair Zonka for providing him with the time and he looks forward to everyone's feedback at the next meeting.

Commissioner Lober stated looking at the list that Commissioner Tobia provided, he thinks they

may have some low-hanging fruit that may be easier for them to address moving forward, where he is looking in particular are those boards, in which they have had no meetings during the entire calendar year, yet they have a cost; if they have not had any meetings and they have a cost with the exception of those that are associated with grant funding like the Community Action Board or the Community Development Block Grant (CDBG) Advisory board where they have gotten a seven digit number from each of them individually in a higher number collectively, he would not mind looking at whether or not they are really needed; he does know that they may have some special situations with some of them, for instance they have a committee or a board that deals with hospital bonding and if the hospitals do not request or seek to issue bonds, they may not meet at all for a particular year, yet they may meet 10 times if there is a hospital expansion, as they may well have in his District in the very near future; and he has no problem at least in concept at combining some of these Parks and Recreation boards if there really would be a significant cost savings, but he would ask if Mary Ellen Donner, Parks and Recreation Director, and staff can take a look just to see if combining them would really result in a huge savings; if it would, the only thing he would ask is that they try to be mindful of having a central area for them to meet, and he is not saying it has to be his District but if they are coming from Mims and coming from Malabar, as may be the case, he does not know that they should be meeting in either extreme portion of the County because it is going to put someone on the road for hours to get there; whether it is Viera, Merritt Island, or Cocoa something in the center of the County just makes sense; but he has no problem doing this and he thinks for future purposes, he would just like some clarity from Commissioner Tobia if he would like them to individually add items to particular boards that they think may be done away with, or if his intention is to bring forth something in aggregate that lists a number of boards in the future because he is happy to go through this to whatever extent he would like him to go through it, he just does not want to be repeating work that Commissioner Tobia is doing on his own.

Commissioner Tobia stated the issue with the special meeting that they are going to have, they had an Agenda, they did not really have an outline of which boards, and everyone had a different idea, is why he thought if they all were working off a master list, that Countywide staff helped a great deal with; if there are errors, he will take responsibility for those; but he thought it would be easier to take single bites at the apple and that is why he focused in on Libraries and Parks and Recreation, because there was so many of them and a few of them certainly did not make a whole hell of a lot of sense to him; with that being said, the parameters that are set forth, he is in agreeance with; he thought he would start with two categories, work those two categories, and then open it up; and there certainly are long meetings and he did not want to create hours and hours of work, so if they spent 30 minutes or 45 minutes on this for the next few meetings, he would be very happy with that.

Commissioner Lober stated if it saves them \$10,000 to combine the Parks and Recreation boards, he is happy to do it, and he will just put that out there.

Commissioner Pritchett mentioned to Commissioner Tobia she really likes this; what she thinks would be kind of neat to do as they come back next time, they go through these, and make a decision on whether to keep them or maybe knock them down; she is thinking some of these boards that meet 12 times a year, is have them start meeting every other month; that might be a good idea as well; they have the North Brevard Parks and Recreation, they would meet 10 times a year; she had a talk with the people who run that, by saying she thinks it is a little much, why not knock it down to four or five times, and they thought it would be fine; she thinks as far as the parks, she does not know how Cocoa would be with that, and North Brevard has got a lot of parks; she thinks just from the Board discussing this she would like to cut theirs in half; and that might be another thing to do, is go through these and cut some of them in half. She stated Commissioner Tobia is right on a couple of these, she does not know what they are; she has to go do a little more homework as well; and she remembers one time they had a

budget meeting and they went through every line and voted on them, so maybe they can be ready to do that, maybe they can get rid of some, and then cut back some expenses on others. She thanked Commissioner Tobia for bringing a good product and she certainly appreciates it.

Commissioner Smith stated while they are looking at these maybe they could look at some of these Parks with the idea that they could get some of the cities to take them over, that would streamline some things.

Commissioner Tobia stated all right.

Commissioner Lober stated it also frees up some money in the Municipal Service Taxing Unit (MSTU) to actually make the parks that are left over, that much better.

Commissioner Pritchett stated just as far as the ones that she has are the City of Titusville, they pay the County to maintain them so there is some income with that, and she actually ran a delta on it and they are pretty close to it; so some of that they have full responsibility to is a very good idea; but she actually looked at the one Commissioner Tobia brought that up a few years ago.

Commissioner Tobia stated he is willing to bring it up again, certainly anytime anyone wants to discuss turning parks over to cities, he is always willing to do so.

Commissioner Pritchett stated maybe they got some.

The Board discussed Advisory Board Review by combining or eliminating excess Advisory boards, but took no action.

#### **J.5. County Employee Fee Discount**

Commissioner Tobia stated it is common for private as well as public organizations to discount employees and their immediate family for services; this came to his attention due to his daughter who recently began attending Valencia College, receiving a family discount because of his position as a Professor; she gets six credits per term he found out with three terms per year, that is 18 credits at the current rate that is about \$1,800 a year; his suggestion is the County may want to look at providing discounted rates for its employees while setting appropriate limits and parameters; examples of applicable areas may include, but certainly are not limited to, pavilion rentals, campsites, youth activities, and County Recreational Programs; to be very clear any discount would exclude fines, he thinks that County employees who do not follow rules are probably worse than regular offenders; he also wants to be very clear this would not be available to Commissioners; and he made a motion to direct staff to issue a report on implementing a reasonable employee discount plan that excludes Commissioners, has necessary parameters and lays out financial impacts on March 8, but if later that would be great.

Chair Zonka asked if he is just bringing a report back to the Board.

Commissioner Tobia responded absolutely.

The Board directed staff to issue a report in March, or shortly thereafter on implementing a reasonable employee discount plan that excludes Commissioners, has necessary parameters, and lays out financial impacts.

**Result:** Approved

**Mover:** John Tobia

**Secunder:** Curt Smith

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

**Nay:** Pritchett

## **K. PUBLIC COMMENTS**

Commissioner Lober stated he has been dying to see what the Zonta Club is going to present on, they have been sitting there so patiently.

Suzanne Taylor stated she is a member of the Zonta Club of Melbourne, which is a local chapter of an International Organization that is been around for more than 100 years, it started in Buffalo, New York; their intention is to empower women; they are there today mostly to talk about the Equal Rights Amendment or hearing anything about the Equal Rights Amendment when they came in today; she thinks, her compatriots present agree, and the Zonta Club agrees that they do not do enough talking about issues; they do a lot of arguing with each other and a lot of yelling and pointing fingers, they do not do enough talking; they are doing their best to get people talking about this issue; she cannot tell how many people had said to her what is she talking about, that passed in the 70s, and it did not and so many people do not know it, and unfortunately so many women do not realize that they do not have equal constitutional rights with men; she can only speak personally; and she just noticed the Chair did not turn her time on. She mentioned being a lawyer and she can talk, she does not intend to but she promises she will lose track of time; she thinks it is important that they are talking about this because people do not understand what rights they have, and what rights they do not have; a lot of people will say women do have equal rights, they have all these laws, they have an equal pay law, they have this and that law, but at its very base they do not have the same constitutional rights that men do; and there is no reason for it, that she has heard, that she can think of, and trust her, she has thought about it a lot, and they have talked about it a lot. She stated she would love to hear good reasons or any reasons why anybody would oppose women having equal constitutional rights with men; in Florida, they have a constitution that includes women; it makes no sense to her that Florida does not support having equal rights in our Federal constitution; why should she lose her equal constitutional rights if she moves out of Florida; only about 24 or 25 states have equal rights for women with men in their constitutions; and Florida is one of them, it makes no sense why there is not a Federal constitutional amendment as well. She added quickly in a nutshell, this issue is in the news, she does not understand why more people are not talking about it; very recently it made a little bit more news; all that has to happen right now is the Senate; she takes that back as a lawyer, she does know there are a lot of the lawsuits that are pending, and whatever happens in the near future and the distant future there will be more lawsuits probably, and those that will have to be gone through; right now at a base, what needs to happens is the Federal Senate needs to pass a bill, there are already 51 co-sponsors of this bill to extend the ratification date for the Equal Rights Amendment, and put it in the constitution, it has already passed the House of Representatives a year ago; and she does not understand why it is not being brought up, she cannot find an answer to that, and that is her plea that they talk about this issue more.

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

Commissioner Tobia stated this is one more thing coming up at the next meeting, first of all he wants to thank Commissioner Smith for taking a deep dive into the issue of towing rates, especially since he is looking out for rate payers; one of the major concerns being raised is one of enforcing penalties as determined against tow companies when they are violating the law; there are Florida Statutes out there; he is going to ask for a couple things, hopefully this Board will get together and provide a letter, or a memo letting the State Attorney and the Sheriff know that they take this stuff extremely seriously; there is the second part to this and he is glad Commissioner Smith brought this issue up, but it has also been brought to his attention about unique fees; and what he did was spent some time looking at towing rates, as well as all of the fees that are tacked onto that by the neighboring counties. He stated he looked at Seminole,

Volusia, Orange, and Polk Counties and he provided a handout; then he looked at the unique fees that were only in Brevard County and it got him thinking why do they charge these fees in Brevard County, but not the neighboring Counties; he will be bringing forth a new resolution that does away with the unique fees that are only charged in Brevard County; those would be the fuel surcharge to facility per mile, the non-tow service call fee, the non-tow service call per mile, and those are all Class A; Class B, fuel service charge to facility, non-service call fee, and the non-service call per mile; Class C is the same three; Class D is just the fuel charge to facility; again, it is outlined, he has all of the resolutions for the counties which he would be more than willing to give the County Attorney's Office, they were very helpful in putting these things together; but he just wants the Board to be aware of the resolution and where it came from, there were a couple of Counties that had those charges, if the Board would like him to look at even more counties he certainly would do that, but he just does not understand why they have line item fees that other counties do not.

Commissioner Smith inquired what are these non-tow service call fees, and how would a person get charged that.

Commissioner Lober replied if they ended up not towing; and they show up but the car is not there to tow or there is some reason not to tow.

Commissioner Tobia stated he is not familiar with that and then on top of that, it looks like they tack on a per mile fee; he encourages everyone to go out there and speak with the industry, with citizens, and it sounds like Commissioner Smith has spoken with lots of his constituents on this one; and be aware that the pink items that are unique and are only in Brevard County, those are the ones he will be not touching the rates anyway, just limiting the ones that are itemized, and that resolution will be coming at the next meeting.

Commissioner Pritchett asked Commissioner Tobia if he made this spreadsheet; and she stated it is really good.

Commissioner Tobia responded he could not find a spreadsheet on his computer to save his life.

Commissioner Pritchett inquired if someone on his staff did.

Commissioner Tobia replied Bethany Iliff, Chief of Staff, did.

Commissioner Pritchett asked if Ms. Iliff wants to come up the District 1.

Commissioner Tobia responded she made all the other ones as well.

Commissioner Pritchett stated this is really good; she likes this; she asked if they did this because they have not really put it into a motion yet, with what they are going to agree to; maybe they can just make their rates more competitive and absorb those, so they are not doing a per mile fee; she thinks this is a really good spreadsheet; she inquired if Ms. Iliff is present, and she acknowledge Ms. Iliff's great work; and she stated to give her a call tomorrow if she is getting tired of Commissioner Tobia.

Commissioner Lober stated just a couple things first, for Commissioner Tobia and he is not trying to put him on spot, if he does not know that is totally fine, he can find out the same way as he can; and he inquired if he knows when these rates were adopted for the other counties and whether or not they are indexed.

Commissioner Tobia stated he looked at how pretty this spreadsheet was and that is what is

very impressive to him; his Legislative Aide, as well as the County Attorney's Office are the ones who help with probably the numbers; but as a male, he is more intrigued at looks, unfortunately.

Commissioner Lober stated that is little sexist.

Commissioner Tobia stated it is true; he apologized to his fellow Commissioners; either way he is not looking at indexing anything because he is looking at taking a number down to zero; so indexing was the resolution that Commissioner Smith brought forward; he is certainly willing to look at that; but, however, his takes a number and puts it down to zero.

Commissioner Lober stated there may be instances of which he could agree with him on this but he is more curious, and he apologizes if he was at all in articulate in how he phrased the question; for Seminole, Volusia, Orange, and Polk that are included on the columns on the far right most portion of this chart, does he know if those rates have been in place for a years or 20 years, and whether or not they are tied to some scale; and that is what he is trying to get at, whether or not it is something where they are in the same position Brevard is where they have not touched it in a number of years, and they may be considering rate increases themselves or maybe they automatically go up, because they are indexed.

Commissioner Smith stated his staff has done that, but he has no answer for Commissioner Lober.

Commissioner Lober asked if Commissioner Tobia can send this PDF, he would certainly appreciate it because he may want to work on that too; with respect to the fees that they have, he may be entirely right that some are inappropriate, but there may be some that are appropriate; he can tell him, for instance, water recovery is one that he spoke with one of the folks in the industry about and they have a lot more water, certainly within Brevard County than some of the nearby localities do; such that it may make sense to have something allowed for with respect to that here, and it is simply not frequent enough in an adjacent locality where they would even has a concern about it; he is happy to look at all this to determine what they can agree on, to strike, but he thinks there may be some wiggle room to remove some things that are inappropriate and then adjust the rate to make it appropriate; and he thinks it may be something of a horse trading session coming up on this one.

Commissioner Tobia stated he is not familiar with water recovery, the resolution he will bring forward would not mention water recovery, and he is more than welcome to add whatever he wants to it; obviously, once it gets up here for Sunshine reasons, but the only ones that he will be bringing forward are the ones that are in pink; and he asked when considering the resolution that he will bring forward, it will only be with these that are listed.

Commissioner Lober stated and he will just put it out there Commissioner Tobia, if they are going to look at striking some of these he would also want to address the other items that are not in pink at the same time, because he does not want to hammer these people where it may be appropriate to make adjustments, but meanwhile it would be appropriate to make adjustments in the other direction on some of the other rows in particular, not the columns; he really wants to address this all at once; but he does not necessarily disagree that some of these could be adjusted off if they are reflected correctly in the other rates.

Commissioner Pritchett remarked at least a little bit.

Chair Zonka stated she agrees; she would rather do it all at once so there is no confusion and they do not get people riled up twice; she thinks it is fair to address and she is very uncomfortable with what was brought as part of the Agenda Report before, the nickel and



dimming of all these crazy things; she means that they have to incorporate, the different profit margins for different jobs; she means some are going to actually make more profit than other things and she does not want residents to get hit with all that stuff because she has heard horror stories about people not being able to afford to get their car out of storage, because they cannot pay the towing fee due to having all these extra fees, and she does not want to see that happen; she likes the idea of making it easier and simpler and more in line with the other counties; she is good; but she would like for the Board address the entire item.

Commissioner Tobia stated if she wants to do it all together, this is all that he had prepared; he asked if there is a measure; and he mentioned Commissioner Smith initially brought it up.

Commissioner Smith stated it is a work in progress and he will just tell the Board what he is doing; this opened up a can of worms for him because he worked with some of these folks and he saw some things that did not work so well, and he saw some things that he was not comfortable with; he is addressing them as much as he can; an Ordinance in Brevard County, that if a person is towed from a parking lot for parking some place he or she should not have, and they are towed they have the right to get that car back within an hour if they are notified; his office has fielded some calls where people were told they had to wait till the next day; a person is very inconvenienced when their car disappears and they are not sure why, they do not know if it was stolen, they do not know if it was towed, there was no note left behind, and they are in panic mode; then when they find out it has been towed and now they got to come up with \$2 or \$300, or whatever the case may be; and then they are told they are not going to get it today, they are going to get it tomorrow, or how about if it is Friday night and they are not going to get it till Monday. He reiterated there is an Ordinance to prevent that, but the people do not know that, he does not know how to fix that, but at the same time it is important that the Board knows about this so that it can do something about that; there are also some tow companies that have a rotation list, which is a bugaboo of his because when he was in the body shop business one of the things that he considered was buying a tow truck, because if a car is towed, 99.9 percent of the time they are going to get to fix that car; it is good for business, not to mention the fact that they get the tow as well; but it is impossible to get on the rotation list because of being the new person and being at the bottom of the list, so if there is a list of 20 now they are number 21. He went on to say if they typically only call six to 10 a month, the rotation goes back to one, and he would never get called so there was no point in him investing that money; one suggestion that he is going to bring to the people is that the rotation would change every month; if they were called then it would go to the next month and so the people that did not get called, they would be first up, but they may eliminate that altogether because in looking at these different counties it was discovered that Volusia County actually puts their rotation out to bid; in other words, all these things they are talking about here the companies would bid what they would charge; Volusia County gets a fee every time that tow company shows up so that if the fee is like \$300 Volusia County would get a \$100, but that is up to the tow company in their bid, they can say for this tow they would give them \$50, so they restrict it to four tow companies per district; and Brevard is a long County and it already has something in place like that so they could limit it to four or five tow trucks per area. He stated he thinks that would put some order to it and create some competition and benefit the County as well; there is a lot of things that they are working on; he fully intends to bring that to the Board and it can have all these discussions at the same time; one of the problems he sees is that some of the things the municipality, police force, or the deputy at the scene is responsible for, he can tell that they are not interested in cleanup for example, which is one of his bugaboos because he constantly sees accident scenes that are not cleaned up properly; and, in fact, two weeks ago they had one right at the corner of his street at US1 and his street, the tow truck and the police officer left, and there is a bumper sitting there, a headlight there, the bumper at least was on the side of the road, the headlight was in the travel lane, there was part of a mirror in the travel lane, and he is thinking what is this person doing; but he is an hourly employee and if nobody is holding him responsible he is going to be as diligent as he wants to be or not as diligent. He went on to say

the Sheriff and these other chiefs do not want to enforce this; he has come up with an idea that he thinks would work to be self-enforcing, for example if they see a scene that is not cleaned up and report that to the County and it can verify it to be fact, they could take that company off the rotation for three months which would be self-enforcing; that person that owns that company is going to make sure his hourly employees are cleaning that thing up to be spotless, because he does not want to be off the rotation for three months and the County does not have to worry about it; and the fact is there might be 20 scenes that are never cleaned up, but nobody reports it, but when somebody does if they do not know the penalty there will not be 20 scenes. He advised those are just some of the ideas and it will all be put together for the Board to make a decision of how it wants to do it.

Commissioner Pritchett stated on the spreadsheet Commissioner Tobia provided what she would like to get rid of is the charges they do not have and then doing kind of a modified lower cost or market; she thinks if they took the next lowest county and changed Brevard County's rates to those, they would be the lowest county of what other counties are charging; and they would be able to adjust the rates and get rid of those ones that fluctuate that are a little bit more variable, she thinks that would be fair, so she is in for that.

Commissioner Smith advised if they put them out for bid these numbers do not have any bearing.

Commissioner Pritchett stated that is true, too; and whatever they want to do.

Commissioner Smith stated the Board just gives them the classifications it wants to bids on.

Commissioner Pritchett stated they are all pretty close in their numbers; she imagines the bids are going to come in not too far off; whatever they want to do with that, she is good; but she thinks they should get rid of the charges that nobody else does and then change Brevard County's to the lower of the other counties.

Chair Zonka mentioned they can keep going in circles and this is not directed at Commissioner Lober; but they should probably save most of this discussion for when they actually have the item and proposal.

Commissioner Lober added he would just offer a word of caution, in terms of relying entirely on the bid process; he does not know this to be the case, but it is possible that other entities rely on the County adopting a resolution that sets rates in order to set their own rates; if that is the case, if they do not have a resolution that addresses that they may actually cause some unintended consequences; and even if they want to put it out to bid they may want to do this anyway.

Commissioner Smith stated they incorporate it.

Commissioner Lober stated it is just something he would suggest people to be mindful of when they move forward.

Upon consensus of the Board, the meeting was adjourned at 8:16 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