

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

3:30 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on May 30, 2019 at 3:33 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Rita Pritchett	Commissioner District 1	Present	
Bryan Lober	Vice Chair Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Kristine Isnardi	Chair Commissioner District 5	Present	

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezonings and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness testimony showing that the request meets the Zoning Code and the Comprehensive Plan criteria. Opponents must also testify as to facts, or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board, takes action on the request. Likewise, if a Commissioner has made a site visit, inspections, or investigation, the Commissioner must disclose that fact before the Board, takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes of rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

MOMENT OF SILENCE

Chair Isnardi called for a moment of silence.

PLEDGE OF ALLEGIANCE

Chair Isnardi led the assembly in the Pledge of Allegiance.

MINUTES FOR APPROVAL

The Board approved the April 4 and May 2, 2019 Zoning meeting minutes, and May 16, 2019 Special meeting minutes.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM E.1., BREVARD WORLD ELDER ABUSE AWARENESS DAY

Chair Isnardi read aloud, and the Board adopted Resolution No. 19-093, proclaiming June 17, 2019, as Brevard World Elder Abuse Awareness Day.

Theresa Russell, Department of Children and Families, stated she has been the Chairperson for the World Elder Abuse Senior Expo Day, which will be held June 14, at the Melbourne Auditorium; it is where they bring together all of the agencies to provide education and information to the seniors so they can live in their homes, happy and healthy; it is about coordinating with Law Enforcement and the Fire Departments; Brevard County Triad does the Project Life Saver, which is the necklace or bracelet for those who have Alzheimer's, Dementia, or children with Autism who cannot speak for themselves; and she thanked the Board for allowing the Commission on Aging which is the conduit that allows all these agencies to work together, bring resources, and provide education to the community.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.1., COST-SHARE FUNDING CONTRACT EAST COAST ZOOLOGICAL SOCIETY, INC. CENTRAL INDIAN RIVER LAGOON OYSTER RESTORATION

The Board authorized the Chair to execute the Cost-Share Funding Contract with East Coast Zoological Society for \$161,160, to provide cost-share from the Save Our Indian River Lagoon Trust Fund for the Central Indian River Lagoon Oyster Project approved in the Save Our Indian River Lagoon Project Plan by the Board on April 9, 2019; authorized the Chair to execute all associated change orders; and authorized associated budget change requests.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.2., COST-SHARE FUNDING CONTRACT TEMPLATE WITH NON-GOVERNMENTAL ENTITIES FOR SAVE OUR INDIAN RIVER LAGOON PROJECT COST SHARE FUNDING

The Board authorized the Chair to execute any further Cost-Share Funding Contracts with non-governmental entities to provide cost-share from the Save Our Indian River Lagoon Trust Fund for projects approved in the Save Our Indian River Lagoon Project Plan, and approved in the yearly budget, subject to County Attorney and staff agreement that Attachments A and E of

each Cost-Share Funding Contract demonstrate consistency with the intent of the guidance criteria recommended by the Citizen Oversight Committee on February 17, 2017, and approved by the Board on March 7, 2017; authorized the Chair to execute all associated amendments, consistent with annual plan revisions or other Board-approved guidance; and authorized associated budget change requests.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.3., ACCEPTANCE, RE: BINDING DEVELOPMENT PLAN - JOHN L. JACKSON, TRUSTEE (18PZ00161)

The Board executed Binding Development Plan Agreement with John L. Jackson, Jr., Trustee for property located in Section 13, Township 21 South, Range 34 East, Brevard County, Florida.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.4., APPROVAL, RE: BCC-54 SOLICITATION, PICKETING, PETITIONING ON COUNTY PROPERTY

The Board continued Policy BCC-54 Solicitation, Picketing, Petitioning on County Property, with no changes.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.5., RESOLUTION AND RELEASE OF PERFORMANCE BOND, RE: STONECREST AT ADDISON VILLAGE SUBDIVISION, PHASE 2 - THE VIERA COMPANY

The Board adopted Resolution No. 19-094, releasing the Contract and Surety Performance Bond dated July 24, 2018 for Stonecrest at Addison Village, Phase 2 - The Viera Company.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.6., APPROVAL, RE: ACCEPTANCE OF WARRANTY DEED FROM PALM GARDENS DEVELOPMENT, LLC FOR TRACT D RIGHT-OF-WAY AS DEDICATED ON PLAT RECORDED IN PLAT BOOK 66, PAGE 63

The Board accepted Warranty Deed from Palm Gardens Development, LLC, for Tract D Right-of-Way in Palm Garden Lakes Subdivision.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Rita Pritchett, Commissioner District 1
SECONDER: Bryan Lober, Vice Chair Commissioner District 2
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.7., APPROVAL, RE: ASSOCIATE MEDICAL EXAMINER TEMPORARY STAFFING CONTRACT CHANGE ORDER

The Board approved the continuation of Temporary Medical Examiner Staffing Contract with Barton and Associates, Inc.; and authorized the County Manager, or his designee, to execute all related contract documents, budget change requests, or any other documents as needed to continue medical examiner capability.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.9., JOSEPH AND NIKKI THOMAS REZONING REQUEST FINDINGS OF FACT

The Board adopted Resolution No. 19-096, upholding denial of the request for rezoning 19.75 acres from AU to RR-1, as requested by Joseph Brandon and Nikki Thomas.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Bryan Lober, Vice Chair Commissioner District 2
SECONDER: Rita Pritchett, Commissioner District 1
AYES: Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.11., AUDITED FINANCIAL STATEMENTS OF THE ECONOMIC DEVELOPMENT COMMISSION OF FLORIDA'S SPACE COAST, INC.

The Board acknowledged receipt of the audited financial statements of the EDC for years ended September 31, 2018 and 2017; and the EDC's Bi-Annual Report for the period of October 1, 2018 through March 31, 2019.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.12., GRANT AGREEMENT BETWEEN BREVARD COUNTY AND THE ECONOMIC DEVELOPMENT COMMISSION

The Board executed the Grant Agreement between the Brevard County and the Economic Development Commission of Florida's Space Coast, Inc.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.8., JOINT CONFLICT WAIVER RESOLUTION

Commissioner Tobia stated he is not necessarily opposed to a limited waiver to the County Attorney's Office to represent Merritt Island Redevelopment Agency (MIRA), but he is uncomfortable that MIRA seems to be acting more like a proxy for a city; while the area is getting the benefit of Home Rule via MIRA, it is not taking on all the responsibilities that go with it; they are getting extremely experienced management such as the County Manager and the Assistant County Manager at little or no costs; this is an invaluable resource that any rational municipality would be ecstatic to have; and similarly they are receiving the services of the County Attorney's Office which is second to none for close to nothing, that amount being about \$2,400 per year. He continued the County Attorney's Office has at times worked in excess of 40 hours per month specifically in representation of MIRA at a minimum of eight to 12 hours per month; clearly the services of the County Attorney's Office are worth far more than the \$10 to \$20 per hour that they are reimbursed for; while he believes it makes some sense for the County Attorney's Office to represent MIRA, given its structure, Statute also treats Community Redevelopment Agencies (CRAs) as distinctive legal entities; therefore, he believes the CRA should pay its fair share to an intergovernmental transfer to the County Attorney's Offices for services rendered at a rate of actual costs. He went on to say he is not looking to make a profit off professional services, but he also does not believe it is right for the rest of the County taxpayers to take a loss and more importantly suffer reduction in services; and he motioned to direct staff to charge MIRA for professional services of the County Attorney's Office at a rate that reflects the actual value of services rendered.

Commissioner Lober stated what is being done here is not seeking to expand the resources that they are being allocated, this is simply seeking to codify this; this is in part based upon discussions both with MIRA and the County Attorney's Office; there was some concern from MIRA that this might somehow restrict them in the other direction; it is interesting to see the opposite of what exists on this Board; the crux of it is he thinks anytime there is an ambiguity or lack of a specific Code Section that would be helpful in codifying and laying out the situation in so far as MIRA is concerned, he thinks it is a good first step in getting down what is already in practice into the Code; and if there is some need to adjust that down the road the Board can do that very easily. He went on to say in terms of charging MIRA over and above the rate they have agreed to pay the County Attorney for services, he did not know that was going to come up until

May 30, 2019

the motion was just made; he does not have an opinion at this point because he has not had time to consider that; he is not going to support it today and he does not know if he will support it in the future; however, his initial thought with respect to that is it would amount to potentially punishing MIRA or treating MIRA differently than other CRAs which is concerning to him. He continued he does not know why they in the unincorporated area ought to be punished when the County is leaving the other CRAs intact; if the Board were to do something like that he does not know if he would ever single out any particular CRA to that, it would either apply to all of them or none of them; and he advised either way he is not prepared, without having some time to think it over, to support it this evening.

Commissioner Tobia inquired if the County Attorney's Office serves as the legal representation for the CRAs in other municipalities.

Eden Bentley, County Attorney, responded they do not.

Commissioner Tobia advised that it is not singling anyone out, he is asking for the County Attorney's Office to receive more than \$10 to \$20 an hour for the services they have provided solely to the residents of MIRA at the detriment of every other Commission District; they are being singled out because they are unique in the fact that they are the only one that uses the services of the County Attorney Office; and this is nothing more than a fair or parody issue it is not singling out in any way.

Commissioner Lober commented he stands corrected as to that; it is something he did not know would be coming up, but none-the-less he would still like to have an opportunity to consider this before supporting it. He noted if that is the direction he ends up going then he certainly does want to have a conversation with the County Attorney's Office separate and apart from an on-the-spot conversation in the middle of a meeting; therefore, he cannot support it tonight but that does not mean he would not support it after he has spoken with staff and received their input of what their thoughts are.

Commissioner Pritchett stated she thinks she needs some time to think through this as well; any entity that is piggybacking resources, a lot of times there is interfund transfers; and she thinks she would need some time to look at this if Commissioner Tobia would give the Board a little more time.

Commissioner Tobia asked if he could change his motion to request the County Attorney to provide the Board with as much detailed analysis of the amount of hours that they have worked solely for MIRA and the amount that they have charged; he asked this of the County Attorney's Office at the last moment and he understands the Board does not have the benefit of that; therefore, he would direct the County Attorney to provide that information.

Chair Isnardi stated she agrees with Commissioner Tobia because the Board has to be careful with the interdepartmental transfers that often occur when the Board utilizes the services of another Department, especially the County's Attorney's Office; she has always said, and it has never been a favorable opinion, that MIRA should be incorporated because of what they do and the monies they are already taking from the County; and she thinks they would probably be better managed if they were their own city. She noted that would probably be a discussion for another day because it would take the willingness of many to make that happen, however, she is interested in seeing that information as well.

The Board directed the County Attorney's Office to provide the Board with as much detailed analysis of the amount of hours that it has solely worked for the Merritt Island Redevelopment Agency; and provide the amount they have charged.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

The Board adopted Resolution No. 19-095, approving Joint Conflict Waiver in connection with various legal matters of interest to both the Board of County Commissioners and Merritt Island Redevelopment Agency (MIRA), including initiatives by the District 2 Commissioner, to amend the Agency's ordinance and to create a County code section for the Agency.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM F.10., LETTER - PROPOSAL - LEWIS, LONGMAN, AND WALKER

Eden Bentley, County Attorney, advised this Item is the letter from the representative of the former Children's Services Council (CSC); they provided an offer of settlement to the Board of County Commissioners in April; her office tried to verbally work with them to come back with something she thought she could recommend to the Board; they declined to negotiate as they wanted the Board to see their offer as it was in a Board setting; and that is what the Board has before it today.

Commissioner Lober stated there was an email he received from one of the officers of the CSC yesterday in which he replied; right before this Item was called up he had provided all of the Board a hard copy of the email received from the CSC and his response to it; the Clerk also has a copy that will be added to the minutes as well; and with that said, he believes everyone is on the same page.

Kim Rezanka stated she is representing the CSC on a pro bono basis; she is also there to ask that the Board except the settlement offer that was sent to it to review and to discuss in the public; it was not sent to the County Attorney's Office to make a unilateral decision to reject it which the recommendation was; and regarding email, she spoke with Commissioner Lober because she was concerned why it had been three weeks since it was brought to the Board. She went on to say there was a lot in that email and she does not recall all that but she did recall him saying he could not support it; and the Board now knows he cannot support it because he has provided the Board with the email and his position on the matter. She commented offers in the real world are given to the corporate body to make a decision on and that is what she is asking for the Board to do; this offer was made after much consideration from each board member of the CSC; the board members, their attorneys, and five other law firms in the State of Florida believe that the CSC was not dissolved properly without a referendum of the voters; and as the Board knows there is legal authority to support the CSCs position and there is absolutely no guarantee the County would prevail in a lawsuit. She advised if the County loses the lawsuit over the dissolution, they have to pay the attorney's fees from taxpayer's money because the County refused to engage in mediation; she asked the Board to look at this as a compromise that does not cost the County a penny; the County never had possession or control of the \$22,726.40, it was from private donations for the CSC; and by the Board's own motion in March, that money was transferred before the dissolution resolution was effective. She

May 30, 2019

went on to state the money was transferred properly based upon prior motions of the CSC board; there is no bad behavior on the part of any members of the CSC board's agents; and they followed the law as they understood it and were advised by legal counsel. She noted if the offer is not accepted the attorneys for the CSC will have no option but to place the CSC funds in the court registry and ask the court who owns the money with the resolution effective without a good of the electors and if the County Commission has the authority to deny the request to put the ad valorem tax issue on the ballot, since there is no other way to do it and the County Charter does not allow it; and she asked if the fight over \$22,726.40 that was never in the possession of the County worth the battle to the Board of County Commissioners and if winning the argument is more important than letting the matter conclude and letting those involved move forward. She stated the CSC respectfully requests the Board accept this settlement offer.

Bart Gaetjens stated he served the Board and Brevard County as the Secretary and the Treasurer for the CSC; prior to the vote to disband the CSC, the CSC board voted to transfer the remaining grant funds, not taxpayer dollars, to the Space Coast Health Foundation for safe keeping; he urged the Board to accept the proposed settlement submitted; and he commented he would like to go on the record to say it is an honor to serve this Commission and Brevard County. He noted the CSC was not a scam and he would like to set the record straight; he was honored to work with a great council whose mission was to provide a voice for children who did not have a voice; he has heard during the Commission meetings, people stating that the private sector should fill the gap of the children's needs within the County; it has been proven there is a gap because there is not enough current funding nor is there a mechanism in place to meet the needs in this County for the children; now that there is one less advocate group for the children in this County, he respectfully asked the Board to please consider the next step and to address the gap in the children's needs; and he stated he is hoping the Board can continue to make this County a better place for everyone including children. He added that means investing in the children at an early age.

Rob Rains stated he is a longtime supporter of the CSC; the organization he works for used to be an administrative entity for the council but now the administrative entity for the council is the Space Coast Health Foundation who took over in January of this year; on the day the CSC was dissolved the people on the council were Judge Kelly McKibben, Commissioner Pritchett was dually appointed by the Commission and had not resigned, and he mentioned the others that were on the CSC board when it was dissolved; and he talked about how wonderful these people are. He continued the reality here is in the communication they have; the County is calling these people thieves and threatening to file civil suit against some of these individuals; Bunny Finney had to call an attorney and use her own money because she is an advocate of the children; he is in attendance because these are his friends; and he thinks what is happening is wrong. He explained at the time, on Martin Luther King day, they were moving along and not anticipating this; on January 7 at 10:30 p.m. there was a motion on the Agenda to dissolve the CSC and two weeks later the CSC asked for more time and to allow the judge to be there; and there was no time given. He reiterated on Martin Luther King Day, January 21, aware that the Commission might resolve the CSC, they voted to transfer all remaining funds to the Space Coast Health Foundation; it gave the Space Coast Health Foundation specific instructions for use of the funds; the CSC, with recommendation of Kim Rezanka, agreed to engage a law firm to challenge the Board's right to dissolve the CSC; on January 22, the Board voted to dissolve the CSC; and on the same day the funds were transferred to the Space Coast Health Foundation executing the decision that the CSC had made the day before, a day in which the banks were all closed. He stated it appears the Board's position is that as soon as the County Commission voted the funds belonged to the County; the CSC's position is that they had made a lawful vote while their position was not in question and their dually, legally made decision was executed the following day; and the County did not engage in mediation when it was requested to do so. He noted he has been disappointed about how this has been handled and how it was noticed; and he hopes the Board will except this recommendation and let everyone move on.

May 30, 2019

Commissioner Lober stated he is struggling with how much he really wants to debate because there is so much he has heard that is missing so much context that he feels compelled to respond to some of the items the Board just heard; as far as what Ms. Rezanka mentioned about whether this is worth winning the argument, the same could be said for the CSC; he asked if this is not a question of who has the last word, then why is everyone here; he stated he has made it clear from his perspective that he does not have any issue with the County taking County funds back and spending 100 percent of them as the donors intended, mainly for the Children's Services; the concern here is that when those County funds were taken, regardless of who happened to have custody of them at any point in time, they were County funds upon dissolution; and a portion of those funds were used to sue the County. He added he does not think the individuals who donated those funds for Children's Services wanted the money to be used to sue the County; and he mentioned he would certainly be pretty infuriated if he gave money to a 501(c) or some other nonprofit to find out that is what the funds were used for. He went on to say everyone is hearing bits and pieces of the story here; in terms of what Mr. Rains had mentioned about someone being sued and having to seek legal advice because she was a child advocate, but he has been advocate for children and animals and he has never been sued, so he asked what the difference is; he answered the difference is he has not done something that violated the law, put himself in a position where joint and several liability would be an issue where he could be sued; therefore, he noted it is not because someone is being sued, the cause of action is not child advocating, and how dare she and as for the other argument of being disappointed in the County not participating in mediation, if the County went to mediation, the County would obviously be paying for the County if the County Attorney took that position. He added they did not participate because the Board did not want to pay both the County's costs along with the other entity to pay someone to come after the County using County funds. He commented the Board has not acted in bad faith; to say that no one has done a bad thing or that no one has done something illegal, that is what one or more attorneys have said, the Board is not represented by those attorneys; and this Board is represented by the County Attorney, he does not question her advice, and there is nothing he has heard that stands out that is problematic from a legal basis or a Commission basis. He stated for the folks who have not had a chance to read through the set of emails he passed out, it pretty well sums up what he has conveyed to the CSC; they obviously understand that he signed solely on the capacity of the District 2 County Commissioner and he is not speaking for the entire Board; the fact that a Resolution had been passed addressing exactly why the Board did what it did, and why it directed the County Attorney to act as she is acting, he does not understand why it is all of the sudden a surprise and somehow unexpected to anyone with the CSC that the Board is doing what it said it was going to do; he respects people's enthusiasm, and their passion, but he thinks there is more to this than what has been heard; and he thinks the Board has already addressed that.

Attorney Bentley inquired if that would include directing the County Attorney's Office to continue negotiations.

Commissioner Lober replied that would be the County Attorney's option.

Attorney Bentley stated she would like that authorization.

Commissioner Pritchett stated she agrees with the County Attorney on this also; she would be willing, if the Commission could come to a consensus of where the \$22,726 should go as far as aiding the children because she believes that money was given with that designation; and she thinks that would be some kind of ground as the Board works through this, knowing it is all about helping the kids too.

Commissioner Smith said \$22,000 is not going to make anyone rich; he thinks it would be foolish on both parties if it just gets into a real hissing match because that is going to cost a lot

May 30, 2019

more than the \$22,000; he would like to see some type of middle ground reached; if the Board could give \$22,000 to some worthy children's organization that someone would recommend, and the Board could agree on, that would work for him; and he just thinks this has gone too far as it is.

Chair Isnardi stated she just wants it clear for the record, this has been a very long process, so she wants to be careful about what is said here because of the potential for exposure of future litigation; and she inquired if Attorney Bentley believes the Board had the authority to dissolve the CSC.

Attorney Bentley advised she does believe that; and she stated lawsuits are made up of disagreements so this is pretty standard to have a dispute.

Chair Isnardi inquired if Attorney Bentley stands by her legal opinion.

Attorney Bentley responded affirmatively. She noted her office would like to continue talking with them because she thinks there are routes that could reach some of the goals that could be discussed, as she was not seeking an impasse here, she was just trying to move to the next step.

Chair Isnardi stated she thinks Attorney Bentley probably wanted to put it on the record that the County was not agreeing to the current offer; and she inquired if that was a correct statement.

Attorney Bentley advised that is correct.

Chair Isnardi stated Attorney Bentley did say something that troubled her a little bit at the beginning when she introduced the Item, she stated the CSC did not want to negotiate.

Attorney Bentley explained it is a very confusing situation; there is a different attorney who sent the letter in the Agenda packet, Andrew Bowman; he is not in attendance today, so she is not able to get a discussion going with him; she is not sure the discussions have been translated among the parties the same as her office heard them; they heard that they really did not want to negotiate unless this offer came to the Board, so she was unable to make any headway to move to the second step; therefore, it was brought to the Board so it could discuss what it wants to do as a collegiate body.

Chair Isnardi noted she agrees with Commissioner Pritchett; the goal of this Board unanimously was to shut down the organization possibly because it did not see a way forward with this going on the ballot; she believes the Board was in its legal authority to do so; and she wants to support an effort to get towards the end goal. She continued she thinks anyone who dares to say the Commissioners would call board members thieves that is really pathetic to bring that emotion and try to insight that anyone would dare call any of these wonderful people thieves; and she refutes that strongly and believes anyone else on the Board would as well. She mentioned the Board gave more than a day's notice for public notification; the Board waived legislative intent which was the extra two weeks, but it did give a weeks' notice before it appeared on the Agenda; whether it gave enough time for people to organize and come out maybe to the degree the CSC would have liked, maybe not, however, it was legal and legally advertised; and it was discussed in great length when it came to the meeting. She went on to say that was another piece of misinformation that was expressed here; she thinks where it parked its money is actually a great place to start; maybe that money could be designated, just as a suggestion, towards children's services or otherwise; unlike Commissioner Smith, she thinks \$22,000 is a lot of money that can impact a few dozen children; and she would be okay with those monies going towards those services.

May 30, 2019

The Board rejected proposal from Lewis, Longman & Walker representing the Children's Services Council; and directed the County Attorney to continue discussions with the representatives of the former Children's Services Council.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM G., PUBLIC COMMENT

Anthony Pesce stated he owns and operates a small golf shop; it has recently been brought to his attention there may be an issue with his tax certificate; he is not sure if it is a zoning or tax certificate issue so that is where the confusion is; he is being told he is operating illegally right now; it may take some time to straighten it out, he realizes the Board is on break for a month or so; and he is wondering how he can operate legally until the Board returns. He mentioned he was told he may have to create a new category for golf shops, he does not know; he does need to continue his business until it can be resolved; and he noted he tried to handle it at lower levels, but this is where he was led to.

Commissioner Pritchett mentioned she thinks this gentleman called her office yesterday and they started working on it; her legislative aid put in some calls and she called the Planning and Development Director, Tad Calkins, so she thinks her office actually knows about the situation; and she advised she thought Marcia had called him back to let him know they were making inquiries.

Mr. Pesce advised it was a few days ago he called and he made a few follow up calls but no one ever called him back and that is why he called Commissioner Lober's Office.

Commissioner Pritchett mentioned she knows her office called him back because they had been talking about it; she thinks they talked to Mr. Calkins trying to get some information for him; she thinks it is a zoning conflict if he is trying to expand; they are trying creatively to think about what can be done; however, right now they need to get him in compliance.

Tad Calkins, Planning and Development Director, stated they just started looking into this matter; he apologized to Mr. Pesce for not getting back with him; he commented since he is here today he can take a few minutes and talk with him to see what can be done to get him set in the right direction; and he noted he believes there is some confusion with what Mr. Pesce is trying to do as it relates to what the Code allows for. He added he has to navigate through that and he would be happy to help him with that.

Mr. Pesce inquired if he can operate for now until this is taken care of; he noted he has been there for three years providing services and he does not want to do anything different; and the expansion of the building was going to be the same exact services.

Commissioner Pritchett inquired if he was trying to do industrial and try to make golf clubs.

Mr. Pesce advised he services golf gear like other golf shops, he replaces grip shafts, and such.

Commissioner Pritchett noted it may just be a communication problem and they will try to work through it with him.

May 30, 2019

Chair Isnardi inquired if the Board can allow for that until they get it figured out.

Mr. Calkins responded he does not know if there is an issue with the zoning if there is a mechanism that allows them to waive that, however, if he has been there for three years and there have not been any complaints, then he does not see it being a necessary issue of immediate resolution; he thinks what he is trying to do is expand a service; and he inquired if Mr. Pesce received a new tax receipt.

Mr. Pesce advised he originally approached Planning and Zoning; he physically wants to expand the building because business has been decent; he approached with some drawings of the building, not fully engineered, but enough to see if that piece of land could handle it; they told him set backs were good so there were no issues there, but he would not be able to fix the golf clubs there; and there is no point in expanding the building if he is not going to be able to do what he does. He reiterated he was told he could not service golf gear and at that point it was back and forth with the people in zoning; he does not know if it is a zoning issue or something else; however, he needs to make decisions for his business whether to expand it or not.

Commissioner Pritchett asked him to give the Board a little time; it may take a few weeks; and they will get back with him.

Mr. Pesce inquired if he can operate the way he is right now.

Commissioner Pritchett advised if he keeps doing what he has always been doing he should be fine.

Commissioner Lober inquired if Mr. Pesce should follow up with Commissioner Pritchett's office or with the Planning and Development Department.

Commissioner Pritchett advised her office has been working on it.

Mr. Pesce explained he was told this could be an Agenda issue so he inquired if he needs to get on some list for the Agenda in July.

Chair Isnardi advised that is if the Board has to modify the zoning or if it has to do some changes, then the Item will come to an Agenda; right now they just want to figure out if he is in compliance, make sure they have some place to make a zoning category possibly, and to make sure everything is correct.

Mr. Pesce stated he can fix motorcycles, cars, and all kinds of things because it is zoned for that.

Chair Isnardi explained she does not think he is getting a lot of resistance, there just needs to be something figured out.

Anita Unrath stated she wanted to thank Commissioner Smith and John Denninghoff, Assistant County Manager; she noted she and her husband went to Mr. Denninghoff's Office about four or five years ago and asked about a terrible intersection at Holiday Springs and Viera Boulevard; they said it is supposed to be four lanes and questioned when it was going to happen; she believes Mr. Denninghoff told them the interchange was going to come for I-95 in 2019 and the road will be widened in 2020; well her and her husband could not believe they were going to do the interchange then work on the road that is already awful; and she wanted to know if anything could be done about that. She continued she believes the Viera Company is working on it as well as the County as a joint project; she just wanted to thank them because the interchange is almost done and it is four lanes, two in each direction; there is a big stop light there, and they

have been working on it simultaneously with I-95; therefore, she wanted to thank Public Works, and whoever is over Public Works now. She noted one of the fixes along the way was a big stop sign, like that was going to help after that building went in at the corner and the road was a curvy dangerous intersection; she knows there may be some people out there who were watching and had something to do with this, so she wanted to thank them as well; and she believes that the project was done right and at the same time, before I-95 is officially opened. She mentioned someone blew through a red light at the diverging diamond today and it scared her; she does not know if that is a State thing; and she suggested maybe some cameras could take pictures of the license plates.

Commissioner Lober thanked Ms. Unrath for coming up and speaking about something positive because that does not usually happen in Public Comment.

Commissioner Smith stated before he took office, even before he was elected, the diverging diamond was introduced to Brevard County; people were very upset about it because they did not know what to expect which is pretty common; when he took office the plan was to start the diverging diamond and get it under construction; as Ms. Unrath mentioned, The Viera Company had until 2020 to do the expansion on the road; and he lobbied Tod Pokrywva and he agreed it was silly to do the road after the bridge. He added the whole thing was to do it all at the same time so everyone has to endure all the construction at once instead of finishing one project and starting another; and The Viera Company did that so they are the ones who should be receiving the thanks.

ITEM I.1., FEDERAL LOBBYIST SERVICES

Leslie Rothering, Interim Central Services Director, stated this is requesting the Board to approve the final recommendation from the Selection Negotiating Committee for a contract for federal lobbying services with Becker & Poliakoff; the Request for Proposal (RFP) went out, the Committee reviewed, and evaluated the responses; and they negotiated a contract for \$50,000 from the proposed \$72,000.

Commissioner Tobia stated he will be supporting this, however, he just wanted to mention the vote was 3:1 and he lost on that one; he noted even on the non-Commission votes he still loses but that shows objectivity and the political nature that the County Manager has put out there for staff; and he thinks this is certainly a learning process for himself and it shows what a wonderful staff the Board has.

The Board approved the final recommendation of the selection committee to award a three-year term contract to Becker & Poliakoff, P.A., for \$50,000 per year to provide Federal Lobbyist Services to Brevard County Board of County Commissioners; authorized the Chair to execute the resulting contract upon review and approval by the County Attorney's Office and Risk Management; and authorized the County Manager or his designee to execute all contract renewals.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM I.2., STATE LOBBYIST SERVICES

Leslie Rothering, Interim Central Services Director, stated this is State lobbyist services for the negotiated contract that Steven Darling worked on; it is with Ronald L. Book and based on Board direction; the contract remains at the existing contract price with a three year term and two one year options; and there is an option to increase annually at the CPI or three percent cap.

The Board approved contracting with Ronald L. Book, P.A., for an initial term of three years, with two single year renewal options for an annual fee of \$60,000, billed to the County monthly at \$5,000 per month; authorized the Chair to execute the Contract, which has been reviewed by the County Attorney's Office and Risk Management; and authorized the County Manager or his designee to execute all contract renewals.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	John Tobia, Commissioner District 3
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM J.1., DISCUSSION, RE: COUNTY STORMWATER RETENTION POND PROPERTY AT WICKHAM ROAD AND NASA BOULEVARD

Scott Knox, Widerman Malek, P.L., stated he wants to talk about an option staff has provided about exchange of property involving his client which is an offshoot of Matthew Developments, it is NASA Investment Partners; what he is going to recommend is Option 2, a private exchange agreement with that company and he will provide reasons for that; they have met with the entire Board about this issue and one thing that has not been discussed in great detail is the history of what went on behind the scenes before this ever came before the Board; sometime back in early 2015, the folks at NASA Investments made a proposal to Florida Department of Transportation (FDOT) to do the same exchange agreement that is before the Board today; and FDOT had done several months of preparation for that proposal and they seemed interested so they went ahead and did their due diligence. He continued in 2018 they actually proposed an agreement with FDOT for the exchange, unfortunately FDOT discovered at that point in time that they had an obligation to give this property to Brevard County, and that is what they did; now they are required to come to the County to do this exchange deal; that proposal was made to staff back in 2018; they have prepared agreements that went to staff and staff brought it before the Board; and he is in attendance today to discuss it. He went on to say obviously they feel like it is the best deal the County is going to get is going to be the exchange with this particular group because they have a piece of property under contract which is adjacent to this piece and it is probably the only feasible way to make this thing work because that is the only property that is going to be able to be used as an alternate stormwater pond. He noted there are others behind him that will come up and say something about the benefits that it is going to have for the County; it is going to cost this group about \$1.5 to \$1.7 million if they do it; he does not think the property they are trying to exchange for, on the corner of Wickham and NASA which already has a dry retention pond there, is worth very much with that retention pond because it is going to have to be basically reconfigured, they will have to take out all the structures that are there now, they will have to fill it, and they will have to find a piece of property to put a stormwater retention pond on if somebody other than this group is going to do it because that is the plan this group has; therefore, he is recommending Option 2 to go through with the private exchange with this group, NASA Investment Partners, and they would even make it a contingency of that offer that if they do not close on the property that is adjacent to this

May 30, 2019

in order to pull this deal off, then within six months it should go out for Request for Proposal (RFP).

Chair Isnardi explained just for the record she added more time because this is an Agenda Item, so rather than giving three minutes, the Board typically gives five to 10 minutes depending on the Item.

Matt Williams stated he is one of the partners in the development company that has pursued this project for the past year or so; he wanted to elaborate on some of the benefits the County will receive in this; one of the five items he wanted to highlight is the maintenance of the pond; they have submitted to the Board a proposal that they will maintain the pond, the new pond they build in perpetuity which he believes will save the County about \$14,000 per year; there is under drains with the current pond that is County-owned now; those under drains should be serviced and potentially replaced every 10 years at a cost of \$30,000 to \$50,000; and something else that was discovered in their four years of due diligence is there are two stormwater pipes under old NASA that are undersized and that elevation is about two feet higher than pipes that are upstream and downstream. He noted this is almost causing a damning effect and pending further into it there are neighborhoods in the southeast quadrant of Sarno and Wickham surrounding the elementary school that have seen flooding issues as well as the Melbourne Public Works Facility that said them fixing those pipes would help alleviate their flooding; they chose to do that at their own cost for around \$150,000; and the next one is the tax basis, if they take over this property and development, they believe the tax base will increase from \$0 to over \$38,000 per year. He added lastly the construction project typically for this corner would be about \$4 to \$5 million with temporary jobs in construction and estimate about 20 to 25 permit jobs for the County. He went on to say over the next 30 years they think the maintenance cost would be \$500,000 savings to the County so they would not have to replace the \$150,000 storm pond and it could generate over \$1.1 million in taxes; as a taxpayer himself he thinks this is a very positive transaction, it is truly a win, win; and he noted he would appreciate the Board's support.

Commissioner Lober stated he respects what everyone is trying to do as far as the folks seeking to have this go through; if he were sitting in that seat he would probably be doing the exact same thing so he does not want anyone to think what he says is being incompatible to that; with that said, he is in a position where he is not sitting there and when he looks at this piece of property, normally when it come to an Item that affects disproportionately one particular District he tends to refer to that Commissioner's office, there are some times, however, when there is a real compelling concern that causes him to deviate from that; and his thoughts with this is they are talking about a major intersection where there is going to be a major increase in value, not a decrease, and if the Board was advised by County staff that this is something it should pursue for the benefits that were mentioned, he is not saying the benefits do not exist, but if it was a compelling need or something that the benefits were such that this was truly something the County should look at pursuing, he has confidence that staff would have approached the Board at some point discussing if they could get with Melbourne and work something out. He mentioned it concerns him to a degree because the Board was approached about this, not the other way around; there are things in life and situations that are either unforeseen or unforeseeable and he does not know what he does not know; quite frankly if the Board agrees to this and it finds out there is major expenses for the County that no one anticipated, it is not that it will be indemnified in somewhere as a result of it, so if the County is in a situation that is not perfectly ideal, but at least it is safe and the Board knows there is not some pitfall waiting, so unless there is some compelling reason to switch whether it is financial or otherwise he is hesitant with that; he did not want to go around anyone's back and have staff discuss this with Melbourne to try to work something out even though there is nothing prohibiting the Board from doing that; he is concerned that there is no cushion for the County at all; and he noted he has not opposed this he has just been concerned that if there is no money brought to the table and

May 30, 2019

the County has a problem, it is going to get burnt for trying to do a good thing for everyone. He stated he is not vehemently opposed to this, he is just concerned there really ought to be something above nothing to cushion the County if there is a problem down the road; he recalls from this having come up before that another Commissioner may have also asked for some money to be brought in this direction; he does not know if the request was higher or lower or if he is mistaking this item as being the one where that came up, but he is concerned about it; and he does not know if the County should be marching both feet forward when it does not know exactly what it is marching into.

Commissioner Tobia stated his concern is slightly different; he believes what Matthew's Development or the subsidiary of Matthew Development proposed is a good deal, was made with good faith, and provides overall benefit to the taxpayer; however, there is no way to know if this is the best deal without an RFP; if Matthew Development is correct and there is no other developer who is willing or able to accomplish this, then they will truly be the only one to submit a responsive RFP and the County would be certain it was not only getting a good deal, but getting the best deal; and as Commissioner Lober mentioned this land is expected to increase in value due to a new interchange so there is no reason to rush into this. He added as Matthew Development has said, they have been working on this for numerous years; simply put, this is a no bid contract, and he is certainly not comfortable with providing a land swap without opening it up to other developers; and he made a motion for Option 1.

Commissioner Pritchett stated she likes the project and she likes the idea, then she started asking a lot of questions; she inquired if this is really a land swap and not a use swap because when the County is done with this, they are going to retain ownership of both pieces of property with the deal that they have to maintain the stormwater on the other piece; and she inquired if she is correct.

John Denninghoff, Assistant County Manager, responded affirmatively.

Commissioner Pritchett stated the County is really just giving up the ownership of the property with the deal they are going to maintain stormwater on there, so she started thinking through this a little more; she knows that needs to be done because the stormwater situation is going to be costly; she is not in disagreement with Commissioner Tobia on this because she thinks if different types of technology comes through and the County does not own this piece of property any longer, she does not know if it would cost taxpayer funds; and that has caught her attention.

Mr. Knox responded they would be exchanging property; they would get title to one property and the County would get title to the other property; and if they build it, they would be maintaining it.

Commissioner Pritchett inquired if that would be Brevard County property.

Mr. Knox agreed.

Mr. Denninghoff stated certainly an agreement could be worked out that way; one of the ways staff considered it was they would receive an easement over the new retention area location and they would retain the fee to that area; and he mentioned it could be done the other way as well.

Commissioner Pritchett stated she thinks the County should maintain some type of property; she did not know they did not already own the property, so that gave her some hesitation as well; and as she is thinking through this she would love to hear from the rest of the Board.

Commissioner Smith stated he comes to this proposition by Matthew Development from the

May 30, 2019

perspective that currently there is a retention pond there which does not have any value to the County taxpayers, so the damage to the taxpayers is zero; these folks have offered to allow the County to have a net increase in a lot of tax money; and he inquired if they know how much tax money this might generate.

Commissioner Pritchett advised they said \$38,000 per year.

Commissioner Smith noted that is a plus, the County goes from \$0 to \$38,000 the first year and the County does not know what the value is going to increase to as time goes by; he thinks that is a huge benefit to the County; the retention pond that they are going to create they have stepped up and offered to maintain it in perpetuity; and from what they have told the Board, that is going to save the County taxpayers \$14,000 per year and that will go up in value as well because that is what happens. He added something he was not aware of before was evidently there were some pipes underground and they are willing to move and correct drainage problems at their expense which would be roughly \$100,000 savings to the County; the County's flooding problem would be eliminated as well; therefore, he does not see any downside on this. He mentioned Commissioner Tobia said this is a good deal but he does not know if the County can get a better deal, this is America and that property has been sitting there for a long time; no one else has come up with an idea that these folks have come up with; because this is America, he thinks they should be rewarded with the fact that they are the ones who thought of it, not someone else; and he noted he is totally in favor of this.

Commissioner Lober stated no one has ever come to him and said they would like to give him a certain amount of dollars for his house, but if someone did, even if it was a good deal, he thinks the point stands, there might be a better deal out there; he understands where Commissioner Smith is coming from, he is not looking to punish anyone for coming up with a project that may be a benefit to everyone; his second will stand regardless; and he asked if Commissioner Tobia would be willing to consider instead of having all of the conditions associated with Option 1 to just have a straight RFP without those conditions because quite frankly if the value offered is high enough it will offset the cost to put in the pipe system. He commented he thinks it will dissuade people from bidding if they do not want to have the liability of messing with the pipes and having the maintenance and all that; he knows the Board has talked about, with other projects, that there is a concern often times, not with these folks, that is some other entity or individual is obligated to maintain part of the stormwater infrastructure and they fail to do that it will come back to the County to do anyways; and his concern is if the Board wants to see what the best value is, he would rather it be a straight RFP without all the additional conditions. He reiterated his second will stand either way.

Commissioner Tobia stated he has a couple questions for Mr. Denninghoff. He thanked Mr. Denninghoff for the time and effort that went into this and he cannot imagine the hours his office has put in to this. He inquired while he was negotiating this if he added the pipe conditions and things like that when he noticed there was a need.

Mr. Denninghoff responded affirmatively.

Commissioner Tobia commented so in other words the initial offer made by Matthew Development was not as good as the one that currently sits here today; and he inquired if that is a fair assessment.

Mr. Denninghoff responded there was certainly some give and take; the majority of what the County wanted was in their initial offer; and there were a few things the County did not like, but they came around to staff's satisfaction very quickly.

May 30, 2019

Commissioner Tobia stated he greatly appreciates all the effort and time that went into this one; he thinks Commissioner Lober has brought up a good point but without an engineering background he would hand that over to Mr. Denninghoff; he inquired in his perspective if the Board were interested in receiving as many viable RFP responses as possible and interested in meeting the conditions to make sure there was no flooding, does he think it would be in the best interest for the County because his goal is to get the highest or best value for this while providing a benefit of stormwater runoff; and he inquired what Mr. Denninghoff feels would be the best option to take with the RFP, either keep it clean or to keep the conditions.

Mr. Denninghoff stated he thinks at the minimum they should keep the conditions of the stormwater treatment capacity that currently exists and has to be maintained as an absolute requirement; the County would not be able to comply with St. Johns River Water Management District (SJRWMD) permits and the agreements with FDOT; and quite frankly the County's obligations about keeping the Lagoon clean as well as other things of that nature, so that is just something they have to have. He added a developer might think they can get away with just putting in the stormwater treatment for their new development that they would place there, they need to understand they have to duplicate that; the maintenance aspect of it is something that is valuable to the public in terms of an ongoing perpetual value that is compared to what the County has now, a reduction; and in staff's view they saw that as a benefit to the public that would be perpetual and available in this deal. He commented that is not a requirement in the sense that staff had the ability to require that; staff felt very strongly about that in order to be able to present this to the Board, a deal it thought would have appeal in the long term; and in any event that certainly would not be a requirement. He continued he told the developers that but he also advised he would not support it without it; to be clear it is something he feels strongly about; he is certainly not the policy maker though; and that would be up to the Board.

Commissioner Pritchett inquired if they went out for RFP how long would it take to get the bids back in.

Mr. Denninghoff stated he thinks they would probably have to put together an RFP package and bring it back to the Board to get the final approval on it, then publish, advertise, and give a reasonable time frame to respond; the only experience he has had with doing something such as this in the recent past was for the 114 acres that is in Suntree that the County went out for RFP on that; and in the end they wound up not agreeing to sell the property. He noted that was a very difficult situation.

Commissioner Pritchett inquired how long.

Mr. Denninghoff stated the better part of a year to bring it to the Board with a final decision.

Commissioner Pritchett stated yesterday he almost talked her out of it and today he has almost talked her into it because of the complexity of what would have to be done on that property, with Commissioner Tobia's conditions on his motion; doing the math with what Commissioner Smith brought up along with the tax base is \$52,000 more per year; and the sense that Brevard County will maintain ownership of that other piece of property with them doing the stormwater on it made it a plus too. She mentioned her only other thought on that is when Mr. Denninghoff said he had upped negotiation terms on this so he got it to a place where he thought the County was in a better position. She noted she may be at a place where she thinks this might be a good idea; if the County took a year on the RFP there is an opportunity that they might lose interest and the County will be a few hundred thousand out trying to fix a retention pond on a piece of property that might do good business; she cannot see anyone else being able to do anything on this unless they came along with the same idea; and they would have to get through the Board to do it.

May 30, 2019

Commissioner Lober inquired if there is any way to shave off the time for an RFP; and he noted he does not know if it is obligatory that it comes back to the Board for approval.

Frank Abbate, County Manager, stated yes staff could get it down to under six months.

Commissioner Lober stated he is happy to delegate to the County Manager, at his discretion if he is satisfied with the RFP, because he believes there has been enough discussion on this.

Chair Isnardi stated she tried to let the Board hash it out first and then give hers; she is going to put Mr. Denninghoff on the spot a little bit; a lot of people do not see the makings that go on behind the scenes and how much time that everyone puts into this in research, meetings, and multiple discussions; and she inquired if the decision was up to him does he think the County Commission, if this were to be approved today, was getting a fair and good deal for this exchange with the inclusion of the maintenance, stormwater improvements, and the pipe improvements because she understood it, especially because they do not own the property, to go out to RFP would be almost like an exercise if the Board were to require all of these things in it. She added it is unique, kind of like putting out a job description catered to one person; she inquired if that is going to take six month of staff time or better, when they could have already had this stormwater issue improved and the flooding improved in the area; and she asked if he believes this is a fair deal to bring to the Board.

Mr. Denninghoff stated his opinion about it was that with the correct conditions built into that it was; staff was going in that direction, so he was very happy with it from that standpoint; but when he has been asked this question by others, he does not know that it is the best deal the County can get, but he does believe it is highly unlikely that there is going to be someone out there who can come up with a deal that is similar to or as favorable as this one is, simply because of the difficulty associated with it; and he would also say the developer who put in a lot more work than County staff, it helped solve some problems that the County would have to pay for if the County were to replace those pipes and it eliminates the County's needs to have to maintain the retention pond. He added the only risk he sees is that the developer or the subsequent owners of the property somehow default and do not perform the maintenance necessary, the County would probably have to take that over; and he believes the property is going to be of such value that it is hard to imagine that would be the case.

Chair Isnardi stated that would be true of anyone who has an agreement with the County it would be in the same boat under any circumstance.

Mr. Denninghoff explained it would difficult to figure out a way around that problem because he tried.

Chair Isnardi stated the thing that appealed to her about this was the immediate improvement of the property; that is what she liked the most about it; there would be immediate improvement of the flooding, and the immediate improvement to a piece of property that would not be able to collect back tax base, as opposed to another six months or better of staff and RFP time; it is so unique what they will be doing there, she thinks it is just a unique situation and it is not a piece of surplus property that is being given away; and the fact that no one else has ever approached the Board about the property and there being a flooding issue there, she thinks if the County is to see a quicker and obvious benefit it would almost be silly not to move forward with it if they can come up with an amicable agreement.

Chair Isnardi called for a vote on the motion.

Motion was defeated 2:3 with Commissioners Smith, Pritchett, and Isnardi voting Nay.

RESULT:	DEFEATED [2 TO 3]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Bryan Lober, John Tobia
NAYS:	Rita Pritchett, Curt Smith, Kristine Isnardi

Commissioner Smith made a motion to accept Option 2.

Commissioner Tobia stated Mr. Denninghoff brought up the issue that if Matthew Development of NASA Partners goes defunct one way or another, that the County could be on the hook for maintenance in perpetuity; and he inquired if he understood that correctly.

Mr. Denninghoff responded that is correct. He mentioned in the world of development people always have to think about the extreme outcomes; the ideal outcome here is the County will always have an entity at that intersection that is viable and performing the way staff expects it will; staff has no reason to believe any different because the history of these types of development are very good in that aspect; however, the County has bonds and other things for subdivisions when they are developed to protect the public in that regard, and in this situation the County would not have that. He continued if they did begin to default in some sort of way, the County would have to maintain that retention pond at some level; he cannot speculate as to what the cost would be, but someone it will have to step up and take care of that pond in the future.

Commissioner Tobia inquired in his opinion what would be the amount of performance bond length, so when the County votes for a no bid contract, he certainly wants to make sure taxpayers are at least covered on one end of it instead of the other.

Mr. Denninghoff advised the way staff had envisioned this with the County Attorney's Office was to place provisions within the contract that would protect the County during the development phase and provide assurances that everything would be done properly up until it was all completed and they received a Certificate of Occupancy (CO) for whatever the project is that they would build; and at that point they are moving in and have all their financial obligations in place and would be in a good position to move on into a maintenance capacity in the future. He noted what staff was having difficulty coming up with was some sort of indemnification going into the future that would be long term and perpetual, because people do not post bonds that are perpetual, at least he has never heard of one.

Commissioner Tobia stated so in other words all the Board can guarantee is a development process, after that the \$14,000 would be taken at their word.

Eden Bentley, County Attorney, stated there are no bond in perpetuity for perpetual maintenance; the County might be able to devise some language that would run with the land and require them to maintain it and if they failed to maintain it, create a procedure to charge them for the cost of doing the maintenance; of course that would be looking at the viability of the entity at the time someone tries to collect; and staff will not know that but it can protect as much as it can with that approach.

Commissioner Tobia inquired if there was some sort of mechanism the County would have an ability to.

Attorney Bentley advised they could put a lien on the property.

May 30, 2019

Mr. Knox noted he had talked to staff about the possibility of putting special assessments on those situations so if they were unable to maintain it, the rate that there is a special benefit on this property is unique because of the situation which allows the County to impose special assessment to collect whatever monies will be required to maintain the pond; and that goes on forever and ever or becomes a lien if they do not pay it. He noted and the County has a nice corner property on Wickham Road and NASA.

Commissioner Smith inquired who is paying for the maintenance of the current retention pond.

Mr. Denninghoff advised Brevard County is paying for it.

Commissioner Smith inquired if these people fail to pay five, 10, or 20 years down the road, the same entity that is paying for it now and will in perpetuity if it is not developed, is going to be Brevard County, so why is the Board spending all this time dancing around this issue.

Commissioner Lober stated if the Board adds that language he will support it.

Chair Isnardi stated she finds it interesting that the Board pounds its fist that this is a no bid contract when it just approved a contract that did not go out to bid for the State lobbyists, when the Board agreed to go into negotiations with them because they recognized a good deal when it saw it; Ron Book is an excellent lobbyists and has been for Brevard County, so it did not go out to bid, it was a no bid contract; and this Board directed staff to handle negotiation of this contract.

The Board approved Option 2, private exchange with Matthew Development (a local development company), regarding the existing retention pond located at the southeast corner of Wickham Road and NASA Boulevard.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Curt Smith, Kristine Isnardi
NAYS:	Bryan Lober, John Tobia

*The Board recessed at 5:01 p.m. and reconvened at 5:12 p.m.

ITEM H.1., CLARK A. AND PATRICIA A. SIMMS REQUEST A CHANGE OF ZONING CLASSIFICATION FROM RU-1-9 AND EU TO ALL RU-1-9 (18PZ00130)

Chair Isnardi called for public hearing on a request by Clark A. and Patricia A. Simms for a change of Zoning classification from RU-1-9 and EU to all RU-1-9 on 2.92 acres, located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Clark and Patricia Simms for a change in Zoning classification from RU-1-9 and EU to all RU-1-9; it is on a property that is 2.92 acres in size located on the west side of North Tropical Trail; this Item came before the Board before as a multi-family proposal; it has been re-advertised and re-noticed to the current single family zoning classification; and there is a Binding Development Plan (BDP) in the Board's package as well.

May 30, 2019

Commissioner Lober stated he is not going to discourage anyone from speaking if they wish to come up and say their peace; with that being said, he just wants to make sure everyone here is on the same page as he is with this; he was far less than thrilled when this first came up but he is much more comfortable than he was a month or two ago; at first there was a proposal that involved putting multi-family Zoning in an area that had no multi-family; and there was some ambiguity as to whether or not there would be sewer or septic. He went on to say at this point he thinks they are in a much better position and the concerns that were first brought to him and his office have been by and large totally resolved through the BDP; as he understands it, the BDP obligates the applicant to use sewer, so that is no longer a concern about septic being used right on top of the canal; it is now going to be Zoned single-family; and he believes at some point there may be a request to subdivide the property; and he inquired if that is what is being contemplated by staff.

Ms. Sterk advised that is correct, in order to build the second single-family residence it must be subdivided.

Commissioner Lober stated he thinks everyone understands that; there is also, he thinks it was added, a provision that they will use one driveway for the additional structures that will go up at whatever point in time that they are approved.

Ms. Sterk advised once they are subdivided they will have to come through with cross-access easements; and they have a commitment in the BDP for that.

Commissioner Lober explained there will not be any multi-family, it is all single-family; there will not be more than one primary residential structure per acre; obviously guesthouses are separate and apart from that; he understands there is no lawful means by which guesthouses can be rented and that they are not entitled to have their own power meters on them or water meters; and he inquired if that is correct.

Ms. Sterk agreed with him that there would be no separate utilities.

Commissioner Lober stated all he can tell folks is if they are still concerned about the rental prospect they can look up Vacation Rentals by Owner (VRBO) or Airbnb to see if it shows up there; people can feel free to check that if there is a concern; however, he feels satisfied that the concerns that were brought to his attention were addressed. He noted from what was brought up at the onset of this do not seem to be an issue to him any longer; he is surprised that staff got as much as they did; and everyone who was for and against this said Ms. Sterk was great to work with to ensure everyone's concerns were addressed.

Commissioner Pritchett stated she agrees with Commissioner Lober; she was wondering if the applicant would be willing to place a couple extra words in the BDP for clarification; Item three when it says, any new single family residence will be connected to sewer, she would like to add 'at the owner's expense'; and on number two, one house and one guesthouse per lot would provide a little more clarity.

Commissioner Lober noted he thinks they are all on the same page with that; once it is subdivided, for each subdivided piece it is then dealing with a separate lot; and if and when that happens, it will factor in how many structures are actually permitted.

Commissioner Pritchett advised she just asked staff about that and she was told the way to fix that would be to stipulate one house and one guesthouse per lot; and they advised her it would just make it a little cleaner.

Commissioner Lober stated he would defer to the applicant, but he is fine either way.

May 30, 2019

Commissioner Pritchett reiterated to connect to sewer at the owner's expense, as well.

Commissioner Lober stated for the record he received a nod or something in the affirmative.

Commissioner Lober disclosed on March 20, 2019, he met with Susan Johnson and her husband; on May 12, 2019, he received an email from Ron Bartcher supporting the request; on May 14, 2019, he met with John Mason who was concerned about it; on May 23, 2019, Fritz VanVolkenbrough spoke with Bill Heink who was concerned about it at the time; on May 23, 2019, he was at the Viera Government Center with Patricia Simms, Tad Calkins, Planning and Development Director, and Erin Sterk to discuss the rezoning request; and on May 28, 2019, he met with Bill Heink who was originally concerned but seemed to be far less concerned during that meeting.

There being no further comments or objections, the Board approved the request by Clark A. and Patricia Simms to change the Zoning classification from RU-1-9 and EU to all RU-1-9 on 2.92 acres, located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road, with a BDP limiting development to two lots, each developed with one single-family dwelling and one guesthouse with kitchen facilities.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.2., ROBERT BAILEY REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 1 TO RESIDENTIAL 4 (19PZ00028)

Chair Isnardi called for public hearing on a request by Robert Bailey for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 1 to Residential 4 on .35 acre located on the south side of Craig Road, approximately 495 feet west of Friday Road.

Erin Sterk, Planning and Zoning Manager, stated this is a request by Robert Bailey for a Small Scale Comprehensive Plan Amendment to change Future Land Use designation from Residential 1 to Residential 4 on a property that is 0.35 acres located on the south side of Craig Road, approximately 495 feet west of Friday; and Item H.2 is a companion rezoning application at the same location proposing to change the Zoning from GU to RU-1-13.

Robert Bailey stated he purchased the land from his dad to build on sometime down the road; he is trying to get it rezoned so it can have something built on it; he no longer wishes to live there now that his father has passed on; he is seeking to be able to rezone the property so a single-family home can be built on there; right now it is of no use; therefore, he just wants to move forward with the property rezoning.

Cathy Carpenter stated her mom lives at 5040 Craig Road; they are opposing the rezoning because her mother has been there since the mid 50's; right now it is zoned that it has to be a minimum of an acre other than the homes that were already existing there; she thinks there may be two on .18 acre; they do not want to change the appearance because it is rural; and if it is rezoned it can bring on more traffic out there. She noted she has a petition by the existing owners who live on Craig Road and they are also opposed to it, but she does not know if any of

them are in attendance. She continued she does have a petition where five or six of the homeowners had signed. She noted she does not know what Mr. Bailey is planning to do but there has been someone interested in buying as long as three or four years ago.

Commissioner Lober advised she has some time left and asked if she would provide the Board with a brief summary.

Ms. Carpenter stated the first meeting was misleading because there is a pending sale on Mr. Bailey's property; there is someone who is interested in buying it as is; with the pending sale, if he gets it rezoned it could increase the sale price; it is not taking into consideration the homeowners who are already there; and from all the information she has gathered, it appears to her, that he is trying to get the maximum amount of money for the property and not to build on it himself. She noted the sale has been pending since July 2018.

Commissioner Pritchett stated this piece of property was subdivided a while ago and when it was it was known this property would not be able to be built on; she thinks he picked it up for a good deal at that time but it was always known that it cannot be built on; the problem with this is it is so small that there cannot really be a septic system out there because it is not allowed; and the bigger problem is all of the residence around there, this would be a totally new fit for it other than the ones built back in 1960. She has a feeling if the Board did this, the Board would get bombarded with this change; she does not think it is a good personality in this area; and she will not be voting in favor of it. She mentioned if down the road there ends up being sewer out there it may be a different scenario, but not right now.

There being no further comments or objections, the Board denied the request by Robert Bailey for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 1 to Residential 4 on .35 acre, located on the south side of Craig Road, approximately 495 feet west of Friday Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.3., ROBERT BAILEY REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO RU-1-13 (19PZ00029)

Chair Isnardi called for public hearing on a request by Robert Bailey for a change of Zoning classification from GU to RU-1-13 on 0.35 acre, located on the south side of Craig Road, approximately 495 feet west of Friday Road.

There being no further comments or objections, the Board denied a request for a change of Zoning classification from GU to RU-1-13 on 0.35 acre, located on the South side of Craig Road, approximately 495 feet west of Friday Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.2., ROBERT BAILEY REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO RU-1-13 (19PZ00029) (CONTINUED)

Eden Bentley, County Attorney, stated she was told Mr. Bailey raised his hand and asked to speak before the vote, so she believes he should have an opportunity to speak.

Mr. Bailey advised Ms. Carpenter mentioned there was a pending sale on the property, and he advised there is not a pending sale on the property; someone wanted to buy it but because it was not zoned to build on, they would not purchase it; and he reiterated the property was owned by his dad and that is why he got the deal on it. He noted he is paying \$31 per year for taxes which is nothing; if he can never use the property then he will sell it to them or whoever wants to buy it because it will never do him any good; and if it is not going to do him any good what would be the use to hold on to property with no value. He stated it was said that he knew the property could not be built on, but he never knew that, if his dad knew that and that is why he sold it to him, he still did not know; if he knew this property was not able to be built on then he would have never purchased it; and now he is stuck with property that was passed on to him through heritage that is not going to do him any good; he asked what people do with property that is of no value to them; and he inquired if anyone wants to buy it he would sell it to them.

Commissioner Lober inquired if the County Attorney thinks the Board should re-vote those items, or if it is okay.

Attorney Bentley stated that would probably be a good idea now that the Board has new information.

Commissioner Lober moved to reconsider the Small Scale Comprehensive Plan Amendment.

There being no further comments or objections, the Board reconsidered the request by Robert Bailey for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 1 to Residential 4 on .35 acre, located on the south side of Craig Road, approximately 495 feet west of Friday Road.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

ITEM H.2., ROBERT BAILEY REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO RU-1-13 (19PZ00029) (CONTINUED)

There being no further comments or objections, the Board denied the request by Robert Bailey for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 1 to Residential 4 on .35 acre, located on the south side of Craig Road, approximately 495 feet west of Friday Road.

RESULT: ADOPTED [4 TO 1]
MOVER: Rita Pritchett, Commissioner District 1
SECONDER: Bryan Lober, Vice Chair Commissioner District 2
AYES: Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS: John Tobia

ITEM H.3., ROBERT BAILEY REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO RU-1-13 (19PZ00029) (CONTINUED)

There being no further comments or objections, the Board reconsidered a request by Robert Bailey for a change of Zoning classification from GU to RU-1-13 on 0.35 acres, located on the South side of Craig Road, approximately 495 feet west of Friday Road.

RESULT: ADOPTED [4 TO 1]
MOVER: Rita Pritchett, Commissioner District 1
SECONDER: Bryan Lober, Vice Chair Commissioner District 2
AYES: Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS: John Tobia

ITEM H.3., ROBERT BAILEY REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO RU-1-13 (19PZ00029) (CONTINUED)

There being no further comments or objections, the Board denied a request for a change of Zoning classification from GU to RU-1-13 on 0.35 acres, located on the South side of Craig Road, approximately 495 feet west of Friday Road.

RESULT: ADOPTED [4 TO 1]
MOVER: Rita Pritchett, Commissioner District 1
SECONDER: Bryan Lober, Vice Chair Commissioner District 2
AYES: Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS: John Tobia

ITEM H.4., XIAOLU YIN AND ROBERT MCBRIDE (OSCAR BUSO) REQUEST A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE FUTURE LAND USE DESIGNATION FROM NC TO CC (19PZ00034)

Chair Isnardi called for public hearing on a request by Xiaolu Yin and Robert McBride for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC on 3.57 acres, located on the northeast corner of Waelti Drive and Freeman Lane.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Xiaolu Yin and Robert McBride, represented by Oscar Busso, requesting a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC on a property 3.57 acres in size, located on the northeast corner of Waelti Drive and Freeman Lane; and the companion rezoning request is a proposal to change the Zoning classification at the same location from GU to BU-2.

Anne Brucker-Busso stated basically they are trying to purchase the property from the first two names mentioned; she believes it is now zoned as residential; it is an undeveloped property right now; and she would like it rezoned to place a small business on it.

Maggie Schultz stated she is the President of the Homeowners Association; Waelti backs up to a number of the homes in the area; the only thing she wanted to verify is when the property is rezoned, there was a myriad of different pieces of information that was sent in about limiting the number of things that can be done to face the houses such as multiple stories of storage units, bright lights, no big signs, because they are literally across the street from the homes; and she advised the main concern would be the noise, the lights, and the effect of another business directly across from the homes.

Ms. Brucker-Busso stated during the other hearing she did receive a copy of that; she did read it into what the plans were for the property and what the limitations were; they are in agreement with that as they are homeowners as well; she noted she would not want a business placed behind her house that would distract from or lower the cost of her property; and she noted she is in agreement with it.

Ms. Sterk advised she does not have a draft Binding Development Plan yet but she does have the P&Z recommendation elaborating on those conditions and that they agreed to it.

Eden Bentley, County Attorney, advised this is two part Item as well, and this is the Comp Plan Amendment first.

There being no further comments or objections, the Board approved Ordinance 19-12, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the first Small Scale Plan Amendment of 2019, 19S.09, to the Future Land Use map of the Comprehensive Plan; amending Section 62-501 entitled contents of the plan; specifically amending Section 62-501, Part XVI(E), entitled the Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.5., XIAOLU YIN AND ROBERT MCBRIDE (OSCAR BUSO) REQUEST A CHANGE OF ZONING CLASSIFICATION FROM GU TO BU-2 (19PZ00035)

Chair Isnardi called for public hearing on a request by Xiaolu Yin and Robert McBride for a change of Zoning classification from GU to BU-2 on 3.57 acres, located on the northeast corner of Waelti Drive and Freeman Lane.

There being no further comments or objections, the Board approved a request by Xiaolu Yin and Robert McBride for a change of Zoning classification from GU to BU-2 on 3.57 acres, located on the northeast corner of Waelti Drive and Freeman Lane as recommended with a Binding Development Plan (BDP) limited to no auditoriums; automobile hire; automobile paint and body repair; automobile repairs; automobile sales; automobile tire and muffler sales and service; automobile washing - mechanized; boat service; building materials and supplies;

cabinet making and carpentry; commercial entertainment and amusement enterprises; contractor's outdoor storage yards; engine service; farm machinery sales and service; feed and hay for animals and stock; fertilizer stores; flea markets; gasoline service stations; hotels; lumber sales; motels; motorcycle sales and service; outside sale of mobile homes; pet kennels; plant nurseries; recovered materials processing facility; restaurant outdoor seating; seafood processing plants; service station for automotive vehicles and UHaul service; sharpening and grinding shops; theatres; towers and antennas; trailer and truck service; treatment and recovery facility; welding repairs and metal fabrication; outdoor storage or display of large items or material which may require a forklift, front loader, tractor, or similar machinery to move shall be prohibited. Outdoor intercoms and public address systems shall be prohibited. Digital or electronic signs and billboards, whether static, animated, or intermittent, shall be prohibited. Freestanding signs shall be limited to the Sign Code.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM J.1., DISCUSSION, RE: COUNTY STORMWATER RETENTION POND PROPERTY AT WICKHAM ROAD AND NASA BOULEVARD (CONTINUED)

Commissioner Lober moved to reconsider Item J.1., to add the language mentioned by the County Attorney, Eden Bentley, in her discussion with Commissioner Tobia. He advised it was the Wickham Road and NASA Boulevard intersection; and he stated this is the Item he would have supported had the motion had the additional language, but he did not believe it was included in the motion as it was phrased.

Commissioner Pritchett stated Attorney Bentley said she was going to bring that back as part of the package.

Eden Bentley, County Attorney, advised it will have to come to the Board as an exchange agreement with all the details drawn up; and it can be included at that time if the Board wishes to do so. She noted or they Board can go with this reconsideration route.

Commissioner Lober announced just to keep it clean so they are on notice as well, since they have already left, that he will keep the motion on table. The short of it is there was some language discussed by the County Attorney in her discussion with Commissioner Tobia essentially to give the Board a fail-safe fallback.

Attorney Bentley stated the Board wants some clauses for maintenance to be done by the future owner and builder of the pond; the County would have the opportunity to impose the lien on the property if they fail to maintain the pond in the future; and in perpetuity, he wants it to run with the land.

Commissioner Lober stated precisely.

Commissioner Tobia stated he knows this was his suggestion but he feels a little awkward with Mr. Knox not being here nor the developer to get their input on where they stand on this so although it was his suggestion he will be voting against this.

May 30, 2019

Frank Abbate, County Manager, stated he believes Mr. Knox actually proposed that, so he thinks he is in agreement with it.

Attorney Bentley stated she believes he was in agreement.

Chair Isnardi advised it is something that if the Board desires and it is included, it can always be removed.

Attorney Bentley agreed.

The Board approved to reconsider the previous motion for approval of Option 2, private exchange with Matthew Development (a local development company), regarding the existing retention pond located at the southeast corner of Wickham Road and NASA Boulevard.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Bryan Lober, Kristine Isnardi
NAYS:	John Tobia, Curt Smith

The Board approved Option 2, private exchange with Matthew Development (a local development company), regarding the existing retention pond located at the southeast corner of Wickham Road and NASA Boulevard, to include clauses for maintenance to be done by the future owner and builder of the pond or the County would have the opportunity to impose liens on the property if they fail to maintain the pond in the future; and in perpetuity it will run with the land.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Bryan Lober, Kristine Isnardi
NAYS:	John Tobia, Curt Smith

ITEM H.6., PALM BAY REH, LLC (HITESH PATEL) REQUESTS A CUP FOR ALCOHOLIC BEVERAGES (FULL LIQUOR) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT, IN TU-1 (19PZ00051)

Chair Isnardi called for public hearing on a request by Palm Bay REH, LLC for a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption in conjunction with a restaurant in General Tourist Commercial (TU-1).

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Palm Bay REH, LLC, represented by Hitesh Patel, requesting a Conditional Use Permit (CUP) for alcoholic beverages for full liquor, for on-premises consumption in conjunction with a restaurant in General Tourist Commercial (TU-1).

Hitesh Patel stated this restaurant used to sell alcohol and he is reapplying for the alcohol license.

May 30, 2019

Commissioner Pritchett thanked Mr. Patel for taking on this building which had caught on fire and he fixed it back up.

There being no further comments or objections, the Board approved the request by Palm Bay REH, LLC for a CUP for alcoholic beverages for full liquor, for on-premises consumption in conjunction with a restaurant in TU-1.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.7., MARK D. HANSSON REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 4 TO CC (19PZ00032)

Chair Isnardi called for public hearing on a request by Mark D. Hansson for a Small Scale Comprehensive Plan Amendment to change Future Land Use designation from Residential 4 to CC on 3.01 acres, located on the east and west sides of East Railroad Avenue, approximately 150 feet north of Moore Road.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Mark. D. Hansson requesting a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 4 to CC on property 3.01 acres in size, located on the east and west side of East Railroad Avenue, just north of Moore Road; and the companion rezoning request is a proposal to change the Zoning classification from RRMH-2.5 to BU-2.

Mark Hansson stated he currently owns a piece of property that is 3.01 acres; it is RRMH-2.5 with a Future Land Use of RES 4; he wants to change it to BU-2 with a Future Land Use of CC; it is a unique piece of property on an isolated, unimproved road in Commissioner Pritchett's District; there is no other residential address on this road; and he wants to use it for a storage yard for mostly RV's, boat trailers, and maybe lawn equipment. He noted there is no intent to build any infrastructure, and there is no sewage on this road, just a septic tank and a single-family residence, which is allowed on BU-2; and they intend to use about 1.5 acres for the storage. He mentioned it is mostly cleared; Natural Resources Management has been out there and he has worked with the Planning and Zoning Department. He noted he has been a resident of the County since 1963; with an unimproved road he does not foresee to be able to build four residences per acre on this property with no sewage or paved roads. He mentioned they will work to keep it in compliance; there will be a Binding Development Plan (BDP) which does not allow fast food restaurants, drive-thrus, or etcetera; one of the zoning board members did add a few other items to that BDP that he would comply with if necessary but he kind of thinks, it was a long list of five or six pages, but he does not know if any of those other BDPs matter as one was a welding shop, and a crematorium; but he reiterated he will comply with whatever the zoning board came up with. He stated he does not think it is an important part of the change but he reiterated he would comply with the Code and permitting; he thinks they just went by the traffic flow, but to look at the list BU-2 allowed businesses he could have an ice cream parlor but not a crematorium, and he does not know what the difference is; he could see noise because he has a Planned Unit Development (PUD) next to him with a 40 foot barrier along his property and he thinks this would be a good fit for the County because there is a lot of people who have boats and things that live in the smaller homes that are close together and they are not allowed to have those things in front of their homes; and he believes they would be able to fit in there and

he would charge a very minimal rate. He mentioned they would only have lights, cameras, and security features, but no major infrastructure.

Commissioner Pritchett stated she thinks this is a good fit; she does not believe the recommendations were really necessary on this because it was something they thought there was a BDP on areas around it, but there really was not; and she inquired if that is correct.

Ms. Sterk responded these were crafted from scratch by the Planning and Zoning board members so she would hate to say they are not really relevant they felt like a select few of the uses in the BU-2 zoning classification could be perceived to be onerous next to a residential subdivision which is why she expects they conditioned them that way; what staff found in its analysis were just a couple uses like the fast food restaurant and the drive thru that would trip the level of service on the surrounding roadways.

Commissioner Pritchett stated that could be added very easily and she is comfortable with that.

Ms. Sterk confirmed that and stated he has already agreed to those in advance.

Commissioner Pritchett inquired that it has already been discussed that it would be on the east part of the parcel.

Mr. Hansson stated the west side is in the wetlands and it is unable to be developed so whatever the County wishes to rezone that portion for future use.

Ms. Sterk stated Commissioner Pritchett would have to condition her motion on it being just east of the roadway, it that is what she wants to apply.

Commissioner Pritchett inquired if that needs to be done on both items.

There being no further comments or objections, the Board approved a request by Mark D. Hansson for a Small Scale Comprehensive Plan Amendment to change Future Land Use designation from Residential 4 to CC on 3.01 acres, located on the east side of the railroad tracks.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.8., MARK D. HANSSON REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RRMH-2.5 TO BU-2 (19PZ00033)

Chair Isnardi called for public hearing on a request by Mark D. Hansson for a change in Zoning classification from RRMH-2.5 to BU-2 on 3.01 acres, located on the east and west sides of East Railroad Avenue, approximately 150 feet north of Moore Road.

Mark Hansson inquired if in regards to the BDP if it is going to just the main three.

There being no further comments or objections, the Board approved the change in Zoning Classification from RRMH-2.5 to BU-2 on 3.01 acres with a Binding Development Plan (BDP)

May 30, 2019

limiting it to the operation being on the east side of the railroad tracks, no fast food restaurants, and no convenience stores with or without gas pumps.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.9., DOUGLAS AND CINDY ROBERTSON (BRUCE MOIA) REQUEST ADOPTION OF THE 2019-1.1 LARGE SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 1:2.5 TO RESIDENTIAL 1 (18PZ00166)

Chair Isnardi called for public hearing on a request by Douglas and Cindy Robertson for adoption of the 2019-1.1 Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 1:2.5 to Residential 1 on 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Douglas and Cindy Robertson, represented by Bruce Moia, requesting adoption of the 2019-1.1 Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 1:2.5 to Residential 1; the property is 20.39 acres in size, and located on the southwest corner of Fleming Grant Road and Seabird Lane; and the companion zoning request is they already have the RU-1.13 Zoning classification and they propose a Binding Development Plan (BDP) for consistency with the Future Land Use designation of Residential 1. She continued the Large Scale Comprehensive Plan Amendment has been heard by the Board once already and it was approved for transmittal; there are State agency comments in the packets with feedback from several agencies; the companion zoning request, there is a BDP in the Board package; staff, since the Planning and Zoning meeting, worked with the applicant on a few more conditions to meet the intent of the Comprehensive Plan; and there is a revised BDP for the Board. She went on to say the applicant was very concerned about the timing of adding conditions late in the game but it was at staff's direction to work on additional language to clarify the density and coastal high hazard area proposed; the second half of condition four is new and condition five is new; and she can read those into the record if that is preferred. She noted these are things that were discussed at the P&Z board but she will clarify the language that was added; in addition to the conditions that the P&Z recommended, Mr. Moia added the second half of condition four which states that Federal Emergency Management Association (FEMA) determined the base flooding elevation will be revised in late 2019 early 2020; the base flood elevation is anticipated to increase from 4.5 feet NEVD to 5.3 feet NEVD; the owner/developer agrees to have all base flood elevation within the property comply with the updated FEMA elevation of 5.3 NEVD or the minimum required by FEMA at the time of development, or whichever is more restrictive; basically he is saying this change is underway and they have a draft of the flood elevations rising in this area with FEMA and he is willing to comply with that even if he is ahead of when that change is made; and condition five language says no more than one principle structure shall be constructed in the coastal high hazard area of the property. She noted that was intended to meet objective seven of the Comprehensive Plan which says, that the County should not promote density or intensity increases in the coastal high hazard area; that area is four acres and one unit per 2.5 acres is the density allowed by the Comprehensive Plan; today it would allow just 1 unit; and he has clarified that in condition five.

May 30, 2019

Commissioner Lober disclosed all of these are in opposition unless mentioned otherwise; on April 30 he received communication from Barbara Reisert; all of the following are on May 1, Carolyn Green, Anne Briggs, and James Linder; the following on May 2 are Linda McLain and Ted Beck; on May 3, Jodi Lamaster, Carol Decker, Georgia Combs, and Mark Locayano; on May 4 there was Linda McLain and Ralph Jones; on May 2 it was an anonymous one with email address provided to the Clerk; and on May 7 there was Stephen Calhoun, Robin Carroll, and Diane Acker. He continued on May 8 it was Connie Blair, Jeffrey Davis, Susan Courtney, Diane Cathey, and Richard and Susan Currier; on May 9, there was Lew Kotnik, and Vicki and John Romano; on May 13, Chelle Woods; on May 14, Jane Schnee and Richard and Linda Morris; on May 15, Tim Glover, Mary Sphar, and Chris Davis; on May 19, Richard and Catherine Mozzetta; and on May 21 there was Leesa Souto. He went on to say May 24 Patricia Shelton, Jeff Eble, Sylvana Strawn, Carl and Claudia Sullivan Jr., and Ted Moorehead; on May 26, Ronald Bartcher; on May 27, Catherine Johnson and Ryan Dadds; on May 28, Steve and Gwen Heake, Mitzie and Gene Plunkett, Debi Raymond, Dennis Porter, Robert Anderson, and Lisa Sitek; on May 29, Liz Neapolitan and Helen Stamatacos; and on May 30 Elfrieda Tullar and Terry Casto.

Commissioner Tobia disclosed he has submitted some to the Clerk but there are some additions; on May 23 his staff sent a follow up email to Ms. Woods providing information regarding the Comprehensive Plan Amendment; on May 28 he received an email from Dennis Porter and Debbie Raymond requesting denial of the Zoning; on May 28, staff received phone calls from Sandra Cullen, Ken Tworoger and Lew Kotnik requesting denial of rezoning; on May 28 and May 29 he received an email from Mitzie and Gene Plunkett requesting denial of the Comprehensive Plan Amendment; and on May 29, he received email from Helen Stamatacos, Veronica Isaksen and Janice Zynko objecting to the rezoning.

Chair Isnardi noted she received 49 emails in opposition and almost all except a few that were mentioned, were the same ones she received and the Board Members were all copied on the same emails in opposition; she believes she received one in support; and she also believes they received two phone calls which they also received emails from as well.

Commissioner Pritchett advised she turned all of hers in.

Bruce Moia stated he is going to do a brief summary of what he is proposing; it is 20.39 acres and a vacant tract between the railroad tracks along that stretch of road that is left; it has RU-1-13 Zoning which is unusual, it is zoning that is prevalent throughout that area, but it also has a land use of RES 1-2.5 so they have incompatible zoning with the Land Use; that Zoning allows for a 7,500 square foot lot minimum with a 1,300 square foot minimum living area, structure to be built on for a primary resident; and at one unit to 2.5 acres it would currently support eight lots. He noted what they are requesting is RES 1 and 20 lots maximum; existing site conditions is that fronts main street; Main Street is an urban major collector that only operates at 12.2 percent capacity currently; it is wooded and there are 15 specimen trees that are larger than 18 inches so they had them surveyed so they could see what they could preserve; and he will get into that later. He went on to say it has .57 acre of wetlands, one isolated wetland in the middle of the site towards the south and some shoreline wetlands for the mangroves; it has some Gopher Tortoises on the property but no Scrub Jays; it is about 1,600 feet deep from the roadway to the river and the south 400 feet is in the flood zone; it has no water sewer, so in order to do this they would have to have well and septic which is similar to all the other existing developments in the area; and there are no public stormwater conveyance systems abutting or within the property. He continued with all the discussion they have had with public hearings and all the comments they have heard from the public they are proposing to only request 16 units maximum on the property and require a minimum floor area of 2,000 square feet so it will still be an upscale neighborhood; they will have a minimum plot acreage of .5 acres not the 1,500 that the Zoning allows; anything north of lot 10, south to the river will be one acre minimum; they will retain all existing specimen trees, Oak trees, on the property which there are 14 that will be

preserved; and if for some reason because it is low and there was not a requirement that the fill was so extreme and they could not save them, they will make every attempt to save those trees. He added they will comply with the future FEMA base which is over and above what the existing structures in that area are doing, or more than what they can do currently. He noted there was a small fix that John Denninghoff, Assistant County Manager, pointed out in the wording of the BDP and that is that if the Base Flood Elevation (BFE) is set, the finished floor elevation is above that, and whatever else above that to meet with the County requirements for building on a flood plain; they will only allow for one principle structure in the coastal high hazard area to meet the density requirements for that; they will be providing a stormwater management system that would comply with all St. Johns River Water management District (SJRWMD) and County requirements; they will provide advanced septic systems for all 16 lots regardless of their setback from the river; they will limit themselves from .37 impacts across the site and no impacts to the wetlands along the river; and they would provide a 15 foot perimeter vegetative buffer tract. He went on to say they will create a Homeowner's Association with a potential review board; they will limit to one vehicular access to Main Street and keep it a private road so there will be no County Maintenance responsibilities; that is what they are proposing; and they think that meets the intent of concerns the Board is going to hear.

Commissioner Lober stated there are so many people here, he would never someone they cannot speak, certainly everyone is free to speak for their three minutes; however, for everyone's sake it is not necessary to be redundant, so if someone wants to come up and just say they agree with the last two, three, or seven speakers or that they support or oppose it. He commented he tends to get a feeling there is a disproportionate atmosphere here that may feel strongly one way; and he is just trying to save everyone some time.

Ted Beck provided a three minute video.

Commissioner Lober stated he saw there were no exceptions with regard to this area in the past 31 years; and he inquired how many, if any, have requested exceptions.

Ms. Sterk advised she does not believe anyone has requested a change like this.

Ronald Bartcher stated he sent the Commissioners a detailed objection and he would like to quickly summarize what he had in those emails; because the Land Use designation and the Zoning classification are inconsistent, the only development rights this developer has come from the original plat that was done 1894 which was two lots, 10 acres each, which means the development rights are two houses and two septic tanks, just conditional septic tanks; he wants to put on 16 houses with 16 high performance septic tanks; the high performance septic tanks, as everyone knows, they are twice as good as a conventional septic tank; and he wants to, in terms of septic pollution, he wants to increase it by a factor of four from what he can do. He continued the property has about five acres of land that is on his own survey labeled as swampy, he would classify that as wetlands; he has property in the high coastal hazard area and there are also four to five acres of aquifer recharge soils; and when taking into account about 25 percent of the property for developing roads and water retention it is unlikely that he is going to be able to have more than .5 acre for these 16 houses. He noted staff research has already shown them a third of the houses in that area are 2.5 acres or more; another third are one acre or more, so two-thirds are already twice as large as what he wants to place on there. He stated to look at the actual records for platting of those small remaining lots, 21 were platted back in 1956, which is 30 years before the County even considered Comprehensive Planning; he does not think that 60-year old justification should be used to put in the development; and he urged the Board to deny this change.

Laurilee Thompson stated this Comprehensive Plan change is really not that much different than the one the Board denied a couple of months ago up in Scottsmeer, it is very similar; there

May 30, 2019

are neighbors on large lots whose quality of life and property values will be impacted if the Board approves these smaller lots; it is also the impact to the Lagoon; there is enough density along the Lagoon; and she would hope the Board would dent this Comprehensive Plan change.

Mark Loyacano stated he is opposed to this amendment. He thanked the Board for the recent \$28.1 million septic to sewer unanimous vote; and he noted it adds traction to genuine efforts being made to improve the water quality. He asked the Board to please limit development requiring septic systems being installed anywhere close to fragile aquatic areas, at least until additional treatment plants are operational. He continued while volunteering for the Marine Resource Council as a water quality monitor, and through that program submitting weekly water samples to Florida's Fish and Wildlife Research Institute in St. Petersburg for harmful algae bloom research and logging where it occurs and when; and analyzing local area water samples for micro-plastics through the University of Florida, Florida Micro-plastic Awareness Program, and as a former Environmental Learning Center (ELC) nature guide through the mangroves, folks would often ask him how is the water. He commented he does not like to depress people but there is good news and there is bad news; the good news is people are not going to completely destroy the St. Sebastian River or the Indian River Lagoon; in the grand scheme of the natural world, this just is not that significant; however, toxic brews of the peoples own makings have been and are still causing themselves and the natural world significant harm; and this really is pertinent to this amendment. He went on to say he paddles that river every week to collect samples and he ships them to St. Petersburg; the bad news is the estuaries current state is adversely affecting the people too; eventually it will be better suited for algae blooms, jellyfish, muck, plastic, and trash; and he asked what profit there is in that, who benefits from it, and where will the people fit into that picture. He stated these are the tough decisions and he asked how the people can help the Board because decisions made about today's challenges will affect so many tomorrows for everyone.

Anne Briggs stated she lives on four acres not far from the property in question; her and husband have lived there for eight years and have loved this area, enjoying the quiet, amazing wildlife and their proximity to the St. Sebastian River; the Board has heard the people's objections to this proposed amendment, have seen the petition, and the many letters; they live in one of those communities where everyone goes about their own business and everyone mostly keeps to themselves; however, looking around this room it should be seen that the people have rallied to protest how they feel about this amendment. She noted they are vehemently opposed, environmental groups are opposed, and the Board should be opposed; this proposed amendment is not compatible with the rural nature of this neighborhood; the three roads with the smaller lot sizes that were developed before 1988 are not cause to say there is density compatibility as justification to allow for this ever-development, they are the exception; over 85 properties along Fleming Grant Road are 2.5 acres or more; and this Comprehensive Land Use Plan of 1988 which designated the river side properties on Fleming Grant Road at 2.5 acres per house protects the river and the complex ecology which is connected. She went on to say the developer was well aware of the allowed lot sizes when he purchased this vacant property; at the Planning and Zoning hearing, Mr. Moia said that the unregulated development of the past is the culprit of the rivers ecological problems; that may well be the case; and following that reasoning it makes no sense to ignore the 1988 Comprehensive Plan which acts as a counter measure to river-side over development that damages the waterways. She stated the County can cram 20 more houses on this land, but it would not be consistent with the Comprehensive Plan which is to have no more than one house on 2.5 acres; since 1988 no exceptions have been granted to the Comprehensive Plan and acreage requirement in this area; and there is absolutely no valid reason to change the Comprehensive Plan especially now that the waterways are in peril; and local government is tasked to follow and enforce the Comprehensive Plan. She advised at the Planning and Zoning hearing many attended to plead their case to the board members; they received the distinct impression that their words and objections were quickly dismissed and that the environmentalists speaking on their behalf were

also disregarded; that the technical assistance comment from the State were down-played; Mr. Moia's words were carefully considered and a deal in his favor was worked out; and the Planning and Zoning Members quickly approved changing the 1988 Comprehensive Plan and allowed for up to 16 homes to be built on this property. She went on to say three of the Planning and Zoning members did listen and understood the negative consequences of setting this precedent and cast dissenting votes; she knows the Board Members who are the caretakers of this land are also listening; and she requested the Board enforce the 1988 Comprehensive Plan and deny this amendment.

Anita Unrath stated since people are going through some history, it was 32 years ago in 1987 that the five people who were in the Board Member's five seats approved a replat of Magnolia Springs in the Springs of Suntree; it did not really seem to be a big change in the neighborhood; what they did was left one vacant lot and a little road named Blue Springs Road to go into the 114 acres; the 1981 plat had no houses along Hundred Acres Hollows, as it is now called, on that one side; the original plat had a very long road called Turtle Mound Road which is now Holiday Springs Road that cut right through their potentially and going all the way onto Interlocking and all the way down to what is Turtle Mound Road in Melbourne. She continued those five people sitting there thought they could change the plat and that it was not a big deal; in 2015 the five Commissioners sitting up there, only one of whom is still there, stated the County needed to get rid of all the surplus County Lands and they placed it out for bid; it costs a lot of money to get that bid on that property; and ultimately the County has as many people or more who are here today against this, while the Commissioners capitulated and decided they should not ruin four neighborhoods by placing 200 houses there when 200 houses were never a good idea. She went on to say the Gopher Tortoises, the Bobcats, the deer, all the 360 commensal species that live with Gopher Tortoises are very happy as they have been rehabilitating the land; their mission is to protect the wildlife, restore the habitat, and engage the public; Hundred Acres Hollows is being saved in Brevard County and people are using and enjoying it; they just planted another native garden because they are trying to improve the land; and she noted she was not going to say all of that today but she feels it fits in. She stated it was 31 years that the Comprehensive Plan was set in place; she thinks it is a great Comprehensive Plan; she does not think the community needs more houses there; and personally she does not think Brevard County needs any more septic tanks, as she thinks it should work the infrastructure and get sewers for everybody. She added she thinks that would help to clean up the Lagoon. She commented her husband said the highest and best use may not only be about money, when a septic system, no matter how advanced, poop is poop; as high as the water table is in that area just add some heavy rain and we all know what is going to hit the river; she is totally against; and she mentioned taxpayers taxed themselves so that they could help clean up the Lagoon and instead it seems as though this is taking two steps backwards to try and add more houses; she wishes there would be no more development at all along the Lagoon; she thinks this is something that 20 years from now people are going to look back and wonder what happened in 2019; and she stated what the Board does here really affects people in Brevard County not just tomorrow but 20 years from now.

Chelle Woods stated she is the president of the Micco Homeowners Association and she was charged with representing everyone in Micco that is not in attendance tonight to voice their opposition to this amendment change; they want it to stay at one unit per 2.5 acres; they do not want any changes to that as they believe that is where it needs to be; that would mean only eight homes on this property; and since she has so much to say she is just going to read what she wrote. She read, "This property has direct access to the St. Sebastian River which flows directly into the Indian River Lagoon (IRL). We taxpayers, as you well know, have spent and are spending millions of dollars to undo all the damage that development has already done to the IRL and to the St. Sebastian River. Development increases stormwater runoff, pesticides, and fertilizer contamination which find their way into the river and ultimately the IRL. This area floods frequently and you can see from the map and you already know from your packets this

May 30, 2019

increases the contamination hazards; the East Central Regional Planning Council states it is not advisable to subject double the number of residences to future flooding as is currently allowed. The Fleming Grant neighborhood has no sewers. The Department of Economic Opportunities (DEO) stated the soils on the amendment property are of the type that has severe limitations to septic systems. The density proposal is not compatible with the rural character of this neighborhood, most homes are on two and a half acres or more, and the DEO recommends maintaining existing lower density and land uses in the at risk coastal area which is there." She stated the people can see from this map that there are some dense streets, but they were built in 1955 and 1986; once they had the Comprehensive Plan in 1988, they seemed to have held very well to the one unit per two and a half acres which is what she hopes the Board will do today; there is only one St. Sebastian River, there is only one IRL, and the County really needs to protect those; and she asked the Board to please keep this at one unit per two and a half acres.

*The Board recessed at 6:28 p.m. and reconvened at 6:38 p.m.

Chair Isnardi stated she had a request from a Commissioner, not to stop public comment but to bring it back to Commission because she gathers if anyone who has not spoken is for this Zoning just to get an idea of where they are because the Board is hearing a lot of the same things; usually with a quasi-judicial hearing, and this is not to discourage anyone from speaking, it is required to give evidence; a lot of times if something has been said or it is a believe that something is a certain way it is fine to say that, but repetitive is not necessary because the Board hears what the people are saying; and she noted she is just trying to save the people's time as well. She noted she does not want anyone to leave because they did not get a chance to have their Item heard because they could not stay awake or they had to go home to tend to their children or loved ones.

Commissioner Tobia thanked everyone for showing up even though this was clearly one-sided; Micco is a rural community the same way Scottsmeer is a rural community; residents in Micco want to maintain their lifestyle and increasing density would not allow that; like North Merritt Island, the area is extremely prone to flooding, this is not just anecdotal but the State has commented that it was in their report; he will not go over the quotes that have been mentioned before; although he will not be voting for this proposal, he does appreciate Mr. Moia's work to address many of the concerns such as the advanced septic tanks; he is going to disagree with the idea that Commissioner's should side with the District in which the Zoning occurred; and he certainly hopes his fellow Commissioners will look at the facts and not weigh his opinion any more than any of the individual speakers.

Commissioner Smith advised he is supporting Commissioner Tobia, not because he is his fellow Commissioner but because he has the same opinion as the speakers; he is very concerned about the condition of the IRL and the St. Sebastian River; everyone knows increased density increases the problems of those bodies of water; there are Comprehensive Plans and Zoning in place for reasons; and obviously the reason for the Zoning in Scottsmeer and Micco area is because increased density does not fit. He continued there are low-lying areas and areas prone to flooding and with increased density there are people polluting the water; the other thing in his mind is the Board is responsible for the growth in this County, for managing the taxpayers money, and for an awful lot of other things and one thing that he takes very seriously is looking into the future to see what he would like Brevard County to look like in 20, 30, or 50 years; just from his perspective he does not want Brevard County to look like Broward County in 30 or 40 years; therefore he will not be supporting this effort.

Commissioner Pritchett stated she thinks she is with Commissioners Tobia and Smith on this; right now they can only build two houses and if this was one unit per 2.5 acres it would be eight houses; and she would like to know the Commissioners thoughts on that. She noted she is

May 30, 2019

thinking maybe the one to 2.5 might be appropriate; and they are trying to get 16, but that would be eight.

Chair Isnardi inquired if that is the current Zoning.

Ms. Sterk advised the current Zoning is inconsistent with the Comprehensive Plan; even if they were not proposing to change the Comprehensive Plan or if the Board were to deny that, in the Zoning action if the applicant were to wish to consider a condition limiting the density or the total units to eight units then that would make the current Zoning classification consistent with the Comprehensive Plan; and that would allow them to build the eight units versus the two that they can build today on the lots that are out there.

Commissioner Lober stated if he were to hear nothing else to this point he would certainly be in favor of Commissioner Tobia's position with this; with that said he would like to hear from anyone else for or against it who would like to speak; and he would like to give Mr. Moia the opportunity to rebut.

Chair Isnardi stated that Commissioner Pritchett would like to know what Commissioner Tobia's thoughts are on the 2.5 acres to one unit.

Commissioner Tobia stated he thinks the inconsistency probably needs to be rectified; he thinks there were a couple speakers who said they would be much more comfortable with eight; there were also some who said they would like none; obviously none is not a feasible action here; he thinks eight is an inconsistency in the Zoning; and he would be in favor of fixing it as such.

Ken Chapin stated he lives in Micco and he loves where he lives; he brought before the Board 20 years ago, two parcels, one right next door to this property; he developed it at 2.5 acres; another one very close by and when he approached staff, staff said he had to go for 2.5 acres because that was all that would be approved, so that is what he did; and that is the way it has been since 1988; he does not want to deny people from building on this land; and he thinks eight is fair.

Robin Carroll stated her home is within 500 feet of the subject property; when she and her husband and their best friends were looking for property to get out of Palm Beach County, and when they drove down Main Street in Micco for the first time and saw the tree lined street, the marina, made the corner, went through little Hollywood, went across the railroad tracks on Fleming Grant Road and what opened up was amazing with the green space, wildlife, and lots of property; she knew that was home; they found two side by side acre lots and bought them; they searched for a builder in 2002 to find one that would give them architectural changes so they could build a home that would fit in the country not in the city with the arches and all that fancy stuff; and it took a while but they found one. She noted she has siding, a front porch, rectangle windows, and she is really happy; they have been there for 17 years and they are ecstatic with where they live; the open space, the horses, the chickens, turkeys, peacocks, hens, and many other animals; and there are also large homes and tranquility which all works together to make it a great place to live. She went on to say Mr. Moia said his 16 septic tanks were going to make the environment better than doing nothing at all; that is what he told planning and zoning but she does not believe that; eight septic tanks certainly better than 16, even the advanced treatment units, those things require permits, inspections, and the owners are going to have to do that; her area is beautiful, it is not Palm Bay, and they do not want Palm Bay development with Emerald Lakes going in and the new exchange on I-95; between 512 and Malabar Road growth is coming and everyone knows it; she asked the Board to be smart about this; and until there is municipal water and sewer, it is irresponsible to change the Comprehensive Plan because they need the space, it is rural, and the people love it. She asked the Board to please not change it.

Mary Sphar stated she understands legal rights and she respect them; with that in mind, what needs to be evaluated is the proper number of houses for this area; in addition, the Board needs to take into consideration the Comprehensive Plan, conservation element, Policies, and the Ordinances; when she was growing up her mother always told her haste makes waste; now she sees a situation where haste may make waste; she has looked at the tree survey drawing that is in the BDP, she sees where the FEMA flood zone AE is, she has seen the map of the coastal high hazard area, and she really thinks this Board should not, not make an instant decision that it is going to go with the eight homes; if the Board wants to do that at a later time then it can consider it; however she thinks the Board should receive a concept plan from the applicant. She noted she thinks the Board needs to find out more about what the applicant's plan is for dealing with the coastal high hazard area which overlaps the FEMA flood zone AE; the Board needs to find out how much flow in that very environmentally sensitive zone is going to be brought in, how much fill is going in to build these houses, if it is really appropriate to make this decision after careful consideration to put fill in the coastal high hazard area, and to put one structure which may involve more lots than that; and she thinks in the concept plan there should be stormwater plans shown and how the applicant intends to handle that. She asked the Board to make its decision on the Comprehensive Plan Amendment and then table or come back for discussion of whether the Board agrees with a maximum of eight homes. She added to be honest she has looked at it and she is really not sure how he plans to do this in an environmentally sensitive way that protects the IRL; and the Lagoon needs to be thought about first.

Tim Glover stated the St. Sebastian River is listed by the State and the federal government as impaired; most people know the issues with the IRL and the ailments that it is suffering from; there have been some things published over the years of research on rare and endemic fish species that are in the St. Sebastian River and they use the river to require the river habitat over the various cycles of life; the consequences of this decision is greater than just making a quick buck; it implies affecting some of those fish species as well; and this was observed by all the State agencies that reviewed the proposal. He asked the Board to consider the State agencies' comments and deny the change.

Linda Brennan stated she lives right across from the proposed development; she is on three acres, her one neighbor is on four acres, and her neighbor on the side is on five, and the neighbor across the street is on 2.5 acres; she did submit a paper to the County which shows all of the properties in yellow or with dots on them are 2.5 acres or more; this is mostly just a rural community with large properties; people are not opposed to this man developing this land in some way, but development in a rural area really does not fit; and she noted the Board has the petitions, all the letters, and she noted the people in her neighborhood have invested their lives, their savings, and their futures to be a part of this rural community. She asked that whatever decision the Board makes today to honor that and keep the area rural. She added she did see LPA comments when this application was presented where they said, "The Comprehensive Plan Future Land Use designation is there to control the future. There was an understanding that although the surrounding development is there on lots less than 2.5 acres in size that in the future the intent was to change that path and develop more sensibly." She asked the Board to honor the people's commitment and the commitment that was made back then.

Steve Kramer stated his family moved here 40 years ago from Fort Lauderdale because they did not like it there; his father spent a lot of time going to meetings and implementing this plan that they have all spent a lot of time developing to protect their neighborhood; and he thinks the Board needs to stick with it. He asked the Board to deny any changes.

Mary Hillberg stated this is such a long County but a lot of places are the same around the water and the watershed areas and around the Lagoon affects the whole area; when talking about the advanced septic tanks being 65 percent more efficient, that is great but it does not

May 30, 2019

mean the community wants the other 35 percent pollution; two of those and it adds up to another full tank, so this County needs to think about the infrastructure because it is the backbone of this County; and her second point is the property values for the entire County are tied to the Lagoon, so when the Lagoon is impaired and not protected the entire County suffers.

David Botto stated he serves as a volunteer on the board of the Marine Resources Council; he hopes what the Board is about to do is maintain the current zoning and Comprehensive Plan restriction on this land; there was one just like this in the north County and now this one in the south, and there will be more to come; and he can almost guarantee these people will be here each time one of them comes up, so it might be a good idea for the Board to stop and take a look at what the impact of development in these areas in Zoning and density changes are Countywide. He went on to say maybe a study should be done and in the meantime the Board may want to shelf any request of this nature until that time so it can get the whole thing under management control; there is an important balance between pervious and impervious land for a body of water like the IRL; and it is important to maintain that balance between water that is running off and water that is being stored, percolated, and evaporated. He added he does not think anyone knows what that balance is, but it should be found out; and he reiterated he recommends a study and that the County shelve any such major requests for zoning changes.

Dr. Leesa Souto stated she just wanted to thank the Board in advance for what she thinks it is about to do, which is deny this change in the Comprehensive Plan; to answer Commissioner Pritchett's questions, she would support the one unit per 2.5 acres zoning which is what is recommended in the current Comprehensive Plan, if that is the way the Board chooses to go; and she commended and thanked the community for coming out to articulate their voice and participate in the democratic process because it is important that they are all here. She noted she thinks everything has been said and the video was awesome.

Tim Deratany commented he owns the first piece of property when turning onto Main Street; he agrees with what everyone else has said; and he asked all the people from the Lagoon if they will just stay around because the Lagoon is coming up next.

Mr. Moia stated while he cannot say he does not disagree with a lot of what was said, he thought the video was awesome, he thought some of the testimony was good, however, he did not hear any facts, so he will present some facts; he stated heard a lot of emotion but no facts; the first fact is regarding compatibility; this request is very compatible, everything across the street is RES 1; everybody who owns property across the street that has more than one to 2.5 acres can split their property right now and have a second lot and double the density on that side of the road; 30 lots within a half mile of this property are less than half an acre; and they are not even asking for less than half an acre, they are asking for a minimum of half an acre. He mentioned 53 lots are between half an acre and one acre; that is almost half the lots within half a mile and exactly what they are requesting; and he asked how that can be incompatible. He went on to say he does not think there is anyone in this room who loves the IRL more than him; he has lived here his entire life; he has embraced anyone who has ever moved into his area of the County; he has never rejected anyone who wanted to move to this area; he noted this is not about just one person, it is about 16 potential families being able to enjoy living on or near the river so they can enjoy the same things that these people are enjoying, but want to deny future families of that privilege; and when he offered the 16 lots he also provided a litany of things they will comply with to make this request less intrusive on the environment, that is why they are proposing the septic tanks. He stated right now to take all the property from the railroad tracks, the front of the St. Sebastian River, it is about 128 acres; the total Phosphorus loading of those existing septic systems that are not the advanced kind and are within a certain distance of the river, have a total nitrogen loading of 740 pounds per year, with a total nitrogen removal cost of \$1.5 million per year to the County; that is what sits there right now; and if they did eight lots and can get compatibility, which he thinks they can, they could do four lots, they could no drainage

stormwater system, they could put the old septic systems right on the line, and they could continue to put the river at a rate way higher than what they are proposing. He continued if they did eight lots and conventional septic tanks, and they could do that if they receive the compatible Zoning, and he thinks they should be able to get because they have the Land Use, that is 26 pounds per year; if they do all 16 septic systems they will be 14 pounds which will be less by 20 something percent less; that would be less impact to the river; and if this is really about pollution, his proposal should be in favor by everyone here because if they do not have stormwater systems and can create four lots where they will mow down the property, they will have no drainage treatment system whatsoever, and they will get rid of the trees, the treatment of the stormwater, they will sod everything, and they could fill the wetlands in too because they would be in a different set of criteria. He added this would pollute the river more. He commented it is irresponsible to not go with his request; they are going to be better than they could be; they could do something that is really not in the best interest of the property; these are the facts which he did not hear any other facts; with the restrictions they are putting on here, they believe whole heartedly that they will reduce pollution to the river, which is what this is all about; and that is why they are here. He mentioned that is why they went down to 16 lots, why they are going to do the stormwater treatment system, why they are going to do the event, they are not going to get water and sewer down at this end of the County for, he does not know how long, but longer than any of them are going to be around, and to him that is not realistic; the Comprehensive Plan has been around since 1988; it has been changed 100 times; density used to be the only way they could control anything; it has come a long way in 30 years; and this is nothing like the request in Mims whatsoever. He stated density is not the overall and that thought process does not make a whole lot of sense; they can do things with the engineering they have learned, and the technology they have, make a better subdivision and keep the river as clean as possible, or they could not do this, bring in conventional systems and make it worse, but he does not think that is what the people or the Board want, and it is not what he wants; and he believes they have proven that this request makes total sense. He commented if they are trying to reduce the pollution, the Board has the numbers and can run it by staff, but those are the numbers that come from the County's study.

Chair Isnardi asked the audience to please not interrupt the speaker because it is disrupting the meeting.

Mr. Moia pointed out those are the facts from the County's septic pollution presentation that was made to the Board and to the public. He went on to say those are the facts; knowing those facts and all the conditions they are going to put on this, they still believe this is the best possible solution for this piece of property; he hopes that this has persuaded the Board, it is hard to overcome all the emotion, but he does not believe it heard any facts other than what he has provided; and he thinks if the Board loves the river as much as he does, he thinks it should vote to approve this.

Commissioner Lober stated he is still where he was during the Board's discussion; he will say regardless with the respect to one to 2.5 he would be happy with, whether the Board does it now or in the future; he thinks it is reasonable and that folks have a right to do with their property what they like up to the point where it starts causing problems with their neighbors property values or infringing on their rights; and he is looking for a motion from Commissioner Tobia and he would be happy to second it.

Commissioner Pritchett stated after Mr. Moia spoke it almost made her want to stick with just two parcels on that property when he said he was going to mow everything down and pollute the river; just from knowing and seeing Erin, she knows he would have to place the high-end septic tanks that close to the water anyway; and he is not allowed to just mow everything down, so she is going to forget he said that; and she thinks she hears where Commissioner Tobia is going to go with this and she is probably very comfortable with that.

May 30, 2019

Commissioner Tobia stated just a point of fact here for those folks who are new to this, the first part of this is a Comprehensive Plan amendment and it is not in fact quasi-judicial; everyone's opinion and the heartfelt stuff whether it is based on empirical data or whether it is feel, it is 100 percent legitimate on the Board; he thinks everyone heard that; and he made a motion to reject the Large Scale Comprehensive Plan amendment.

There being no further comments or objections, the Board denied the request by Douglas and Cindy Robertson to adopt the 2019-1.1 Large Scale Comprehensive Plan amendment to change the Future Land Use designation from Residential 1:2.5 to Residential 1 on 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.10., DOUGLAS AND CINDY ROBERTSON REQUEST A BDP FOR CONSISTENCY WITH THE FUTURE LAND USE DESIGNATION OF RESIDENTIAL 1 (18PZ00167)

Chair Isnardi called for public hearing on a request by Douglas and Cindy Robertson for a Binding Development Plan (BDP) for consistency with the Future Land Use designation of Residential 1 on 20.39 acres, located on the southwest corner of Fleming Grant and Seabird Lane.

Erin Sterk, Planning and Zoning Manager, stated she read H.10. into the record early, however, since the Board talked about that potential condition to make the Zoning classification consistent with the existing Land Use designation, she would like Mr. Moia to address whether he would be willing to agree to those conditions.

Chair Isnardi advised that is why she brought up the quasi-judicial nature because the two items were combined.

Mr. Moia inquired what they would receive.

Ms. Sterk responded some of the conditions may need to be word-smithed to be more appropriate to eight units; she is not sure if Mr. Moia has had time to consider that; certainly a denial would take starting over and re-proposing something from scratch; however, if he needs some opportunity to look at the existing Zoning classification and making it consistent with the Comprehensive Plan he could either serve up some proposal to change the BDP cap from 20 units to eight units and evaluate those conditions now, request more time to do so, or the Board could act.

Mr. Moia stated they will reapply.

Eden Bentley, County Attorney, inquired if Mr. Moia is withdrawing his request.

Mr. Moia responded affirmatively.

The applicant withdrew his request for a BDP for consistency with the Future Land Use designation of Residential 1 on 20.39 acres, located on the southwest corner of Fleming Grant and Seabird Lane.

May 30, 2019

Tad Calkins, Planning and Development Director, advised if they were to develop the property they would have to comply with all of the County requirements; the County does have requirements that look at the removal of trees, what kind of fill that can be placed there through the permitting process; there are codes in place; he thinks what Mr. Moia was saying was to emphasize that he was proposing a development that was much more environmentally friendly than what he felt he could do without that emphasis; and he does not know that he necessarily agrees that the property could absolutely be clear cut and filled.

Chair Isnardi stated she understands what he meant about creating a storm system because he could create ditches and pull water off; she had an issue herself with the number of septic added to that area; and that was her reason for the negative vote for that Item. She advised right now he can only build two structures.

The Board recessed at 7:21 p.m. and reconvened at 7:24 p.m.

ITEM H.11., APPROVAL, RE: CHANGES TO TOURIST DEVELOPMENT TAX BUDGET PLAN, SECTION 102-119

Chair Isnardi called for public hearing on changes to Tourist Development Tax Budget Plan, Section 102-119.

Peter Cranis, Tourism Development Director, stated these are changes to the Tourist Development Tax Budget Plan as was defined several weeks ago related to tax funding of up to \$1 million which can be allocated for the Lagoon and estuary projects; right now the current Ordinance states that projects over \$50,000 have to have a 3:1 match; the Tourist Development Council (TDC) voted they would recommend that the grant guidelines be changed to 2:1 match; and to drop the requirement that the matching funds be from a non-County source. He mentioned there are some additional changes which is really cleaning up the wording in the Ordinance relating to dollar amounts of the tax that basically dates make a number of years ago and is no longer accurate, therefore the recommendation to clean up that wording.

Commissioner Lober stated he is going to move to approve this pending discussion and public comment; he thinks the important thing to keep in mind is not that the County is handing money away or allowing people to somehow take greater advantage of the County, but they are increasing the opportunities for entities who otherwise would not be able to participate in the cost sharing plan because they simply cannot raise the 3:1; that was the goal discussed at the TDC; it was actually proposed to be lowered 1:1 from 3:1; however, the compromise was the 2:1. He noted he thinks the County will be able to get more municipalities involved with the 2:1 level than they would if it was left at 3:1 and he believes overall it is a good idea and the TDC's recommendation.

Commissioner Smith stated he is going to go against what Commissioner Lober just stated; he has talked to numerous city representatives and 2:1 is still out of their reach; and he suggested to modify the motion to reduce funding match from 2:1 to half to one or even consider 0:1 that way there would be a lot of cities that would be comfortable and able to get that money from the TDC that is available and put it to use to clean up the Indian River Lagoon.

Commissioner Lober stated he will modify his motion; he cannot go quite that far but he would modify it to 1:1; he does not know that he is comfortable with 0:1; however, if the Board thinks differently he will be out voted.

Chair Isnardi inquired if Commissioner Lober wants to make that motion now or take some public comment.

Commissioner Lober advised he will make the motion pending public comment.

Vince Lamb stated he is a recently appointed member of the Beach Committee; when he joined the Committee he was enthusiastic that the TDC has committed this million dollar funding to grants to improve the Lagoon; then he looked back at the current year and basically there was not a single qualified grant application received that had a 3:1 match; he spoke up at the Committee meeting and stated he thought they should get rid of the matching requirement; he has actually talked to some of the people with the municipalities, particularly Courtney Barker, and the municipalities basically do not have the ability for the 3:1, maybe 1:1; and what he would recommend would be no match but if someone has a match it would give them preference on the scale. He added that would give them some points to let that happen. He noted he really wants this to be successful; he thinks this year \$325,000 in grants were issued up for this potential \$1 million funding because there were not enough qualified grant applicants; he would look for the year ahead to remove the match requirement or make it 1:1, whatever the Board thinks; he really wants to see the good projects, things that would help the Lagoon and positively affect tourism, which is a healthy Lagoon; and he reiterated he thinks the most attractive would be to not have a requirement and give some points if there are some matching or go 1:1 if the Board cannot go that far.

Tim Deratany stated he is chairman of the TDC; this was discussed at length; when it was originally proposed the 3:1 was put in by a group in the TDC who was not really interested in supporting the Lagoon but felt they had to; Representative Randy Fine put this language in and he did a wonderful job, it is one of the things that he really supports that he did; it was to encourage the TDC to spend some of its money for the Lagoon; however, 3:1 is ridiculous. He mentioned last year they took \$5.65 million out of the Beach fund and gave it to Lori Wilson Park, which he loves, but they did it without a match; for this \$300,000 to \$400,000 per year, they said for that amount they wanted 3:1 because basically they really did not want to give money for the Lagoon; he likes what Commissioner Smith has proposed and what Mr. Lamb has proposed; that is what he was trying to do at the TDC; and unfortunately politics got involved and there was a lot of animosity so they compromised on 2:1. He reiterated if the Board would go with what Mr. Lamb stated with no match just like they did with Lori Wilson Park, and prioritize so if there are people who are willing to put money in to match then they go to the top of the list; he thinks there will be a lot of cities who will come in and try to improve their systems, so he thinks it would be good for the Lagoon; and he asked the Board to help the Lagoon.

Laurilee Thompson stated she objects to the people who were trying to keep the match in place with Beach funding being represented as not caring for the Lagoon; she takes offense to that; the 3:1 match was placed to try to get the same kind of match that they get, this is for beach restoration, and she does not think that will even go to Lori Wilson Park; and she inquired if that is a done deal.

Mr. Cranis stated right now that is where the money is designated; it was voted on by the Board, so it would have to come back before the Board to be reallocated in some other way; and as of right now that is the intent of the use of those funds.

Ms. Thompson stated there is an entity that is interested in possibly taking over maintenance and fixing up Lori Wilson Park; when they do a beach renourishment project, they usually get a three or four to one match for every dollar they spend on the beach; the beach is the number one thing that brings people to Brevard County; they do not want to have a hurricane and not have the money in place to be able to work on the beach because it is bad for tourism; and that is why the 3:1 match was put into place. She mentioned they only had a nine month time span on the grants last year; they hurried so there was not a whole lot of time for cities to plan and find matches; however, the intent was to protect the beach money and to ensure they got back

May 30, 2019

the same amount of match on the Lagoon grants as what they do for beach restoration. She advised it was not done maliciously to try to keep money from being spent on the Lagoon it was done to try to preserve the beach renourishment funding.

Commissioner Pritchett commented she was thinking about this; she lives at the north end and there are no beaches up there; it would be smart for her to say to just dump it all into the Lagoon because beach tourism does not really affect her District; she is smart enough to know that if a family in Missouri says they want to go on vacation to Cocoa Beach, they do not say they want to go to the IRL; her thought is the County does need to protect the beach as far as renourishment; there was extra money this time so moving it over might be a good thing; and she thinks it might be okay this time to do it, but she is not sure she will support keeping taking the beach funds and moving them over to the Lagoon because the beach has got to be more important, otherwise, people are going to head to Clearwater to go on vacation. She continued she thinks this is something that needs to be revisited; she thinks this is a strong concept and the other Commissioners all have beaches, so it should be important to each of them; there are beach funds, Lagoon funds, and advertising so maybe some of those other things need to be shifted for these other projects; she likes some of the other projects but the Board needs to be aware of that balance moving forward; and she will probably support this tonight but she thinks she wants to throw caution to the TDC that she just thinks it is smart to protect the beaches as far as tourism because this is tourism tax dollars.

Commissioner Lober stated if he does not get a second he will probably be supporting Commissioner Smith's initiative to either have it half to one or zero to one; he does think 1:1 is a safer bet; Ms. Thompson's comments are well received and he is concerned that they try to see where the palatability is with the municipalities before that; and he thinks the 1:1 will give them the opportunity, but if it turns out there are far too many or far less applications it can be adjusted down the road.

Commissioner Smith inquired how much money is available for the matching funds for beach renourishment.

Mr. Cranis responded he is looking at the proposed budget for FY 19/20, which is yet to be approved; it looks like there will be a TDT allocation of \$4.15 million next year; there is a balance forward of \$13.75 million; then there is plus up with interest, they have to pay the collector then reduce from administration and statutory reduction, and the net revenue is \$17.2 million; the recommendation will be for next year \$7 million for beach renourishment, \$5.5 for Lori Wilson, and \$3.5 to go into restricted reserves which was a big issue with the TDC recently; and they only had \$1 million in the fund if there was a storm event or something that would be a major impact they would not have any kind of reserves to really do much with. He added putting another \$2.5 million in reserves was something they really wanted to do at the advisement of Mike McGarry, who everyone knows from Natural Resources is the beach expert and the person who oversees all the beach renourishment program; and that gets pretty close to that the \$17 million he mentioned.

Commissioner Smith stated roughly \$7 million is targeted for beach renourishment.

Mr. Cranis confirmed that statement.

Commissioner Smith if they get a 3:1 match there would be \$21 million.

Mr. Cranis agreed.

Commissioner Smith inquired how much is set aside for the IRL.

Mr. Cranis advised \$1 million.

Commissioner Smith explained so there is \$7 million versus \$1 million; Lori Wilson Park is a great place and he is excited to see what could happen there; but to Commissioner Pritchett's point, there is no one in Topeka, Kansas or the other side of Florida who is going to say let's go to Lori Wilson Park; it just is not going to happen, there are going to go to Cocoa Beach and the IRL; and that is only \$1 million for the Lagoon. He continued last year the cities had nine months to come up with some ideas for funding; they could not come up with the matching funding; he reiterated he had talked to the cities and they really want zero or a half percent matching funds because they can do that; his point is there is \$1 million set aside for the Lagoon and \$1 million set aside last year; and he asked how much qualified.

Mr. Cranis stated there were no applications that could qualify over the \$50,000 mark, so all of the grants were for \$50,000 or less and he believes there was \$365,000 in grant money for that; and as a follow up, there was some funding that was opened up at the County level that could match the TDC funds so they put another \$12,500 into a matching program to renew derelict vessels out of the Lagoon. He noted that was a really good project and outside of the grant program.

Commissioner Smith commented it still benefits the Lagoon; that brings it up to almost half a million dollars; and that brings it up to about half a million dollars. He pointed out there is a half a million dollars left on the table; if they make the funds available and they cannot be used then it really does not do anyone any good; if they make it easy for these cities to use it with zero or half percent; and then moving forward to next year if they see they have an awful lot, maybe then it could raise it. He noted he would like to compromise with .5:1, between zero and 1:1.

Commissioner Pritchett stated she is not agreeing with Commissioner Smith's information; she is probably going to support the 1:1; however on the beaches, they are putting money into all the beaches down the coast and across the other side of the coast. She added she has been to Brevard's beaches and they are okay but if the County does not pay attention to them, tourism will come here once and then they will go elsewhere the next time; the beaches are important; and she is going to support whatever the Board needs to do with its beaches.

Commissioner Smith advised the Board is not taking anything away from the beaches.

Commissioner Pritchett explained if the beach renourishment fund keeps being moved over to do other things with those grants, so if \$1 million is being removed from beach nourishment that is \$3 million because there is a match on them; and she does not know what is coming up with those things, but she thinks someone needs to be a little more creative in finding ways to promote the beaches. She added she does not know, she just thinks those beaches are very important; and she would encourage the Board to put a little more into it because Brevard County has so much beach along its coast. She noted not that the Lagoon is not important, but there are a lot more funds coming in on the Lagoon than the County thought would be coming in; every penny cannot be dumped into the Lagoon; and there are other things that need attention too.

Commissioner Lober stated as far as Lori Wilson Park is concerned, given where it is located, as a kid he grew up in Seminole County, his family came to either New Smyrna or Cocoa Beach, and if Lori Wilson Park looked back then like it does now, they probably would not have come back to Brevard as often; he is not saying Commissioner Pritchett is incorrect in saying other items are important to tourism, but he would be cautious to discount the value of cleaning up that piece of property; it is unique in quite a few different ways; there is nothing else like it up or down that entire portion of the coast; and he is concerned about de-allocating or changing the funding towards that park. He mentioned when he was looking at this he was thinking it would

May 30, 2019

be 2:1 and he would be happy to support it; then it was .5 or 0:1 and his compromise was 1:1, he cannot go down to half to one; and he is going to go all in at 1:1, if it is anything lower he cannot support it. He commented he would be happy to revisit in six months to a year after seeing what comes in, if they do not get what they are looking for he would be happy to adjust it then either way; however, right now he cannot go lower than 1:1 right now.

Commissioner Smith stated he did not minimize Lori Wilson Park he just used it as a comparison because there is no match money be asked for Lori Wilson Park; his point was not about money not worth spending; and with the Board requiring a match on these other things and just throwing the money to Lori Wilson was his point.

Chair Isnardi stated anything being down for the Lagoon is good; she does want to make the cities more eligible for those projects; her fear is that because they awarded several grants under \$50,000 is that a lot of these municipalities that cannot afford the match were shrinking their projects because they could not afford to come up with 3:1 match; she wants to do whatever she can to make these funds available; and she thinks it ups the projects that their bring forward. She continued she imagines there is some criteria for the beach renourishment; half a million dollars does not go up just because they collect more in TDC TIF; she likes the idea of it; and she thinks the more accessible the better. She advised she is okay with the half percent or no match at all because they will receive good quality projects if they are going to be ranked; there will be projects that come forward that are a little more exciting than the small scale stuff that are sometimes seen and well intentioned, but do not have a larger impact; and what she does not like, no offense to the County, but she does not like the County getting their hands on this money, she would rather see the municipalities because the County collects the largest amount of the Lagoon tax and she does not want the County to be an applicant of the TDC tax. She noted different municipalities contribute to the TDC tax.

Commissioner Smith stated he likes the idea of the half percent with the ranking, so if one comes in with a higher match they will go up in the ranking.

Chair Isnardi stated that or they could have a better project; that is probably a TDC issue as far as the rankings go; and she just wants more people to be eligible for those funds. She noted it was an ongoing joke last year that it was made 3:1 on purpose and that is a fact; it was not anybody on the dais that said it; it was just well known that it made it difficult for people to pull the money because the tone of the TDC at the time was they did not want the County to take any money for the Lagoon purposes because they wanted it for the beach, and that is just not fair; and she thinks it is all important.

Eden Bentley, County Attorney, reminded the Board that this Item requires a super-majority.

Chair Isnardi commented that is interesting.

Commissioner Lober stated in a couple meetings prior to this, the Board had what was forming up to become a motion to direct him to make a motion that the TDC regarding Natural Resources Management involvement with respect to the ranking process, he did look at that after that meeting and there was nothing binding on Natural Resources Management, but in an abundance of caution and out of respect for the people in attendance he still went ahead to essentially moved to rescind any portion that would compel Natural Resources Management to be obligated to participate in that; and he stated it is abundantly clear at this point that there is no obligation on Natural Resources Management.

Commissioner Pritchett asked if Laurilee Thompson could come back up.

Chair Isnardi stated she does not think that is fair.

May 30, 2019

Commissioner Pritchett stated if someone wanted to ask a question it would be fine, and she inquired if they were going to do the 3:1 match on the beach grants.

Chair Isnardi asked Mr. Cranis to answer. She stated there seems to be some concern about the Board changing the way the grant process is going to work for the \$1 million.

Mr. Cranis stated depending on the preference of the Board they would have to change the wording in the grant guidelines but he thinks they can figure that out; they just need to understand what it is that they are solving for; if they go to 1:1 or .5:1 and he heard Chair Isnardi say she did not want the County to be eligible so he just needs to understand all of those parameters so they can fix the guidelines based on what the Board wants.

Commissioner Tobia thinks the Board is all over the place for a super majority vote; he has one Commissioner at 0:1, there are a couple at 1:1, and he did not even see this coming; he thinks what everyone agrees upon is 3:1 is inappropriate; and if the Board keeps voting this down the status quo will probably stand; he does not care, he just wants to make sure they are not at 3:1; and he does not know where Chair Isnardi is at.

Commissioner Lober stated he will split it $\frac{3}{4}$:1.

Chair Isnardi asked if there is any interest at all in the County applying for those funds.

Commissioner Lober stated his constituents would skin him alive, so he is not okay with that. He advised she could make a separate motion for that if she would like.

Commissioner Pritchett stated she is struggling with this because she almost would have liked the 2:1; when he went to 1:1 she thought maybe she could handle that; if people are wanting to do this, these municipalities can come up with some funds because it is helping their cities; and she does not know if that is not fair for a 1:1 match for a grant.

Commissioner Smith stated the money does not get used.

Commissioner Pritchett spoke up the money did not get used for 3:1 but 1:1 is quite a significant difference; and the TDC came with a recommendation of 2:1.

Chair Isnardi advised 3:1 makes it unattainable.

Commissioner Pritchett agreed. She stated she does not know if 1:1 would not be appropriate moving forward; and she noted she does not know if she can vote for .75.

Frank Abbate, County Manager, stated he knows there is concern about the County's participation and he listened very intently when Chair Isnardi stated the County taking the majority share of the IRL money; he had the internal auditors look at that over the last three years because he has heard that discussion; that is not accurate information, the County is not getting a proportionate share of those funds; and if the County is excluded from the TDC portion, if they applied with everything with everyone else, that proportionate share is not heavily skewed towards the County.

Chair Isnardi stated she was not implying it was heavily skewed, what she was saying is the County collects a tax.

Mr. Abbate explained the distribution of the projects is more to the cities than it is to the unincorporated.

May 30, 2019

There being no further comments or objections, the Board approved changing the County's Tourist Development Tax Budget Plan, Section 102-119, Brevard County Code by a Super Majority Vote, changing the Code's authorizations for grants to Lagoon or estuary projects, if projects are over \$50,000 to only require a ³/₄:1, 75 percent match prior to receiving tourist development tax revenue.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Bryan Lober, John Tobia, Curt Smith, Kristine Isnardi
NAYS:	Rita Pritchett

Chair Isnardi inquired if everyone is okay with the County applying for grants.

Mr. Abbate stated that is not a continuation because last year the County was not able to apply.

Jim Leisenfelt, Assistant County Manager, stated the County did apply last year, Natural Resources Management received a grant or two, and Parks got rejected.

Mr. Abbate advised those were \$50,000 or below and 3:1.

Commissioner Lober noted they are now .75:1.

There being no further comments or objections, the Board removed the limitation that the match comes from non-County sources.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Bryan Lober, John Tobia, Curt Smith
NAYS:	Kristine Isnardi

There being no further comments or objections, the Board adopted Ordinance No. 19-14 Amending Chapter 102, Article III, Section 102-119, Code of Ordinances of Brevard County, Florida, Amending the required match for Lagoon and Estuary Projects and removing 24 month anticipated net revenue language; providing a severability clause; providing for the repeal of conflicts; providing for an effective date; providing for area encompassed; and providing for inclusion in the Code of Ordinances of Brevard County, Florida.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.12., CHANGES TO BREVARD COUNTY CODE UNIFORM ADVISORY BOARD PROVISIONS

Chair Isnardi called for public hearing on changes to the Brevard County Code Uniform Advisory Board Provisions.

Commissioner Lober advised the Board has already gone over this; if anyone has questions he would be happy to answer them; and he moved to approve the Item.

Chair Isnardi advised she has six cards on this Item.

William Perdue stated he understands the Board wants to change and do away with the North Merritt Island Advisory Board that was put into effect about 20 years ago because North Merritt Island is very low so they were trying to keep housing developments from coming in and flooding the place; the County has already put millions of dollars in the pumps there and made changes to hold the water down; and they got the County Commission to go along with them about 20 years ago to put this advisory board in. He continued he hears the people want to make changes on North Merritt Island that come before them first before they come to the County Commission so they can try to give the Board information ahead of time; when he moved to Merritt Island it was 2.5 acres, basically that is what people had to have; they held to that for quite a few years until someone broke it because it was not a hard-fast rule; just like the group that just left here, they are trying to hold it to 2.5 acres; and if the County wants to keep putting subdivisions there, it better start looking to get a few million dollar pumps to put up there to pump the water down. He went on to say the last big rainstorm in North Merritt Island there were a half a dozen houses that he knew of that the rain got to the front door or got in the garage; and if the Board wants to keep putting houses up there then the County needs to go buy more pumps, that is just a fact. He added if the Board does not believe him the gentleman he rode on the bus with a week ago showed him how bad North Merritt Island is. He stated it would not hurt to get the gentleman who works for the County that is in charge up that way to take each of the Board Members around North Merritt Island real quickly and show how much drainage there is between the houses up there; and that drainage gets so high it starts running into people's driveways, and houses.

Chair Isnardi stated the reason there was some discussion with the Board is because it was not sure if you knew what Item you were talking on because this one is not related to drainage.

Mr. Perdue advised he cannot hear her.

Commissioner Lober stated the reason for the back and forth when he first came up was because he did not believe that the comments Mr. Perdue was starting with applied to this particular Item right now; this Item does not do anything with respect to drainage in North Merritt Island; Commissioner Tobia and himself separately went on the drainage tour with John Denninghoff, Assistant County Manager; however, this particular Item being proposed addresses how appointed members of an advisory board can be removed, it is not disbanding any board or changing any special district, so there is no risk with respect to this Item that harms the North Merritt Island board or any of the concerns that he had mentioned.

Mr. Perdue advised he got the idea that the Board may do away with the North Merritt Island advisory board.

Commissioner Lober explained that was previously proposed but when it came up the last time it did not go forward, and he certainly is not in favor of doing away with that advisory board.

Mr. Perdue thanked Commissioner Lober for the explanation.

May 30, 2019

Ronald Bartcher stated in reviewing this proposed section, he is looking at paragraph three, the first sentence really does not make sense to him; it states three unexcused absences plus two excused absences shall be deemed resignation; that is fine for that one case; and he asked what about the other 65 possible cases of combinations of absences that this is not addressing. He added for example he would consider the worst case is the guy who misses all 10 meetings for P&Z and has no excuse for an ailment, but the wording does not address his situation. He noted when modifying this section he would suggest it be cleaned up and make it meaningful so it does what it is supposed to do. He explained the previous year was, this was a 1996 modification, in 1995 the wording was three unexcused absences, so that was very clear and covers all the cases; and he thinks when this changed it was messed up and he would like for the Board to fix it.

Commissioner Lober inquired if the Board were to change something with that would they have to re-advertise it.

Eden Bentley, County Attorney, replied in the affirmative.

Commissioner Lober stated that is his concern; he does not mind doing it, but if they have to re-advertise it may push this back even further.

Commissioner Pritchett stated she was thinking about that also; she thinks this whole thing needs a little bit of work; Commissioner Tobia put in a couple little notations, too; she thinks maybe if the Board would want to wait on this, it can start making a lot of changes, or it can be passed with the removal portion; and she noted either way she is okay, but the County is not even abiding by this, so it probably needs to do some work on it later.

Jane Perdue stated she was under the understanding that the North Merritt Island advisory board would be done away with; and she inquired if that was a misunderstanding.

Commissioner Lober advised it is not up for consideration tonight.

Commissioner Tobia admitted he was the one who proposed it and he believes it died for lack of a second; therefore, he does not plan on bringing it back up any time in the future; and if there is a time in the future, that is not one he would even bring up. Commissioner Tobia stated it sounds like there was a first and a second; he just has an amendment to the ordinance; there are changes by Commissioner Lober in yellow and his are the green changes on the yellow changes; and he will explain that. He thanked Commissioner Lober for bringing up this gap in the Board's Code because it is important that all advisory board members have the opportunity, understand the procedures, and cleaning up the Code accomplishes that; as it is written he is worried these amendments would be subject to abuse by potential future boards; this will allow simple majority of the board to remove appointees of another Commissioner without cause; if the Board is worried about situations in which misconduct may have occurred as Commissioner Lober may have indicated, there is a solution to this problem that addresses the donut in the Code while at the same time providing some protection against abuse; and the amendment he has passed out address this one by making it an extraordinary act by making it a supermajority vote. He continued in the event of a vacancy a simple majority would suffice to fill that seat; his only change is making it three votes to remove to four votes to remove; while there is a motion and a second on the floor, if that should not pass he will bring up another motion to make it a supermajority vote.

Commissioner Lober commented he thinks it is important to go back and look at what has been in place up to this point, what the Board is doing, and whether or not there is actually legitimate change from the process that currently exists; all that is being done that has been advertised thus far is codifying what is already in place; and he believes the Board heard from Attorney

Bentley that is her opinion as well. He inquired if that is a correct statement. He went on to say he is not looking and certainly at this point he is not in favor of changing something, on behalf of sunshine, not knowing that it was coming; he does not know if there has been any problems in the past of politics driving a simple majority of the Board to play a political game of kicking other Commissioner's appointees off the board; he does agree it may become a problem in the future, however, it worked thus far; and he does not know that he wants to impose a different, either more or less, onerous requirement on a system that seems to be working pretty well. He mentioned he went ahead and waived the first hearing on this Item when he brought it up before because he was concerned about the glaring omission as he believes the Board recognizes it exists there; he does not have any problems with the proposed changes in public comment as to the third Item; however, given that this was fast-tracked in the first place, if has to be re-advertised, then he would rather it be pushed through tonight what is codifying the existing structure and codifying the existing procedure. He noted if someone wants to re-advertise over and above that, the third Item or any other Item above that, he does not know if he would be opposed to that, he would just like to get something productive done with respect to this Item tonight. He advised he does not know if he is in favor of the super majority because that would be a requirement over and above what is now required; and he does not know that there has been a specific concern identified as to a time that has happened with exactly this procedure in place.

Commissioner Pritchett stated to Commissioner Tobia that she thinks she is going to get a t-shirt; she likes it; if the Board Member has an appointee she thinks it would be difficult to get them removed without having a supermajority; and she will agree with his motion.

Chair Isnardi stated she agrees as well, she believes it should be a supermajority only because this Commission may not do it, but it could be abused; another thing she noticed was not in there, she would like to make sure that if it is the Commissioner's appointee that the Commissioner is one of those voting to remove their person; again there could be a minority and if a Commissioner runs the risk of others ditching their appointee, she does not think that is fair; therefore the Commissioner should be in favor of having their appointee removed. She noted otherwise if everyone on the Board disliked her, they could remove everyone she has appointed to a board.

Commissioner Tobia commented that is a very valid point and one he did not see coming; and should the Board get to his motion he would gladly adopt that provision.

Chair Isnardi stated that would probably be cause for re-advertisement. She was advised it would not.

Commissioner Lober stated due to where the Board is at, he thinks a potential compromise that he could get behind is if it is either a supermajority vote or a simple majority if the individual Commissioner who appointed that member is in favor of removal; that makes more sense, because if a Commissioner essentially does not want their own appointee then he or she should not have to have a supermajority to get rid of them; and the political gamesmanship would not apply in that situation.

Commissioner Smith inquired what if the appointed Commissioner is no longer on the Commission, would it then have to be a supermajority.

Commissioner Lober advised it could say the specific District whose Commissioner appointed, so whoever fills that spot, or if it is a Chair appointee which is another concern then whoever is Chair at that time. He stated his proposal was simple so the Board could just go with that.

May 30, 2019

Chair Isnardi stated she does not like people having the power to remove a Commissioner's appointee; it makes her nervous, it is risky, and she thinks especially with the simple majority, because she has seen this Commission with one or two out-liers getting pummeled; and she would not want to see that again.

Commissioner Lober stated he would modify his motion and get with Attorney Bentley on how to wordsmith this because he is operating on fewer cylinders this late; what he is trying to accomplish is, God-willing without readvertising, either by a supermajority or by simple majority if the District whose Commissioner appointed the member is in favor of removal; and he inquired if Attorney Bentley thinks that is sufficiently clear.

Attorney Bentley replied affirmatively, and she stated it does not require readvertisement.

Commissioner Lober inquired if the Board should do anything in respect to the Chair appointees so that whoever is currently serving as Chair would for all intents and purposes be able to check that same box and require only a simple majority.

Commissioner Pritchett stated she thinks it would have to be whoever appointed the member would have to be a part of the simple majority.

Commissioner Lober explained because if someone is a different Chair or the Board Members rotate off and that person is not even on the Commission.

Commissioner Pritchett commented it is privilege of Chair though and there would be a supermajority to remove them.

Commissioner Lober stated he is fine either way. He asked Attorney Bentley her thoughts on this.

Attorney Bentley stated this is getting really complicated because the Chair is going to rotate.

Commissioner Lober stated then it needs to be addressed.

Attorney Bentley stated it can be addressed later.

Chair Isnardi stated the Chair has very few appointees any way.

Commissioner Pritchett stated what if they did appoint them they have a list of appointees.

Attorney Bentley stated it could have a supermajority for Chair appointees as well, and have the same language.

Commissioner Pritchett noted as long as the appointed Chair is in the simple majority.

Attorney Bentley agreed. She stated the Chair would have to be in the majority as they are the appointing authority.

Commissioner Lober responded the then Chair.

Commissioner Pritchett stated no, she thinks it should be the Chair who appointed then would have to be in that vote, if it is a different Chair.

Commissioner Lober commented that is different.

May 30, 2019

Commissioner Pritchett stated if Commissioner Isnardi appointed someone now and this is brought up next time, that was her appointee privilege of Chair and she would have to be in the simple majority to remove them, at least that is what she thinks, privilege is Chair.

Attorney Bentley advised that would be up to the Board's discretion how they would want that to work.

Commissioner Pritchett inquired what if the Board is writing it in right now.

Attorney Bentley inquired if the Board wants it to run with the person who was the Chair at the time.

Commissioner Pritchett stated the person who appointed them.

Attorney Bentley continued whether they are the Chair or not.

Commissioner Pritchett noted the appointee.

Attorney Bentley went on to say the current Chair who would have the new authority to appoint would not have to be in the majority; and she inquired if that is correct.

Commissioner Pritchett stated it would be the person who appointed him or her.

Commissioner Lober stated he is not super opposed to that but he is kind of in the other boat but if for other Board Members that is a huge sticking point and they feel differently he will support it; however, he prefers whoever is serving as Chair.

Commissioner Pritchett stated privilege of Chair is the appointee; and she reiterated whoever appointed them at the time is who she thinks is privilege of Chair.

Attorney Bentley added as long as they are still on the Board, if they are not on the Board then it is the current Chair.

Commissioner Pritchett commented then there is the supermajority to remove them.

Attorney Bentley agreed.

Commissioner Lober stated if they are not on the Board and they are terrible.

Chair Isnardi commented if they are not on the Board, it would not need the vote because they are no longer there; and she thinks that is moot.

Attorney Bentley advised the Board does not want a gap in the ordinance.

Commissioner Lober noted that is what he is concerned about.

Commissioner Pritchett stated she thinks Commissioner Tobia's version is a lot easier.

Commissioner Lober stated he feels real strongly that the Board should not have to have supermajority to remove a Commissioner's own appointee, it seems a bit onerous and above and beyond anything that is required right now.

May 30, 2019

Chair Isnardi stated she feels a compromise to that would be a person making the appointment would be, if it is a simple majority, would require the person who made the appointment to be on the agreeing side.

Commissioner Lober added if they are still on the Board.

Chair Isnardi stated to prevent the punitiveness of it, which seems to be the concern.

Attorney Bentley and Commissioner Lober agreed.

Chair Isnardi stated if she wants to remove somebody on a board, this may have been in place before but she was told differently when she had a board member that was not communicating with her at all who was appointed by the previous Commissioner, and she could not remove that person, is what she was told.

Commissioner Lober stated if that is the will of the Board he will support it. He inquired if that is where the Board is at because if that is the case he will modify the motion accordingly.

Attorney Bentley advised as she understands it, the Board wants a simple majority vote with the Commissioner of the District who nominated the appointee in the majority for removal; that same simple majority rule would apply for the person who was Chair and appointed someone or the current appointing authority.

Chair Isnardi stated yes.

Attorney Bentley continued if the Chair who appointed is no longer on the Board.

Chair Isnardi noted that is perfect.

Commissioner Lober added if the original appointer. He modified his motion to that.

Commissioner Tobia inquired if that is a simple majority not a supermajority.

Chair Isnardi and Attorney Bentley agreed.

Commissioner Lober added alternatively it will be a supermajority.

Chair Isnardi commented technically it could be a supermajority if the person that appointed the person does not agree it would not matter how the vote went because that person has to be in the affirmative.

Attorney Bentley inquired just for confirmation, the supermajority language is out and it is simple majority with the appointing authority in the majority.

Chair Isnardi responded yes and that it protects the Commissioner and the appointee.

Attorney Bentley inquired if the Board has removed supermajority to simple majority with the appointing authority in the majority.

Chair Isnardi agreed.

Commissioner Lober advised or alternatively by supermajority is what he thought the Board was going for, but he is happy with what Attorney Bentley just stated.

May 30, 2019

Commissioner Pritchett commented if there is a Commissioner down the road and they appointed someone who is whacking out the boards, she does not know if a supermajority should not be able to remove somebody.

Commissioner Lober noted that is where he is at as well.

Commissioner Pritchett commented she likes the first part of this and then make it the simple majority if the Commissioner that appointed is leading it.

Chair Isnardi commented that makes sense because then it would take care of both. She asked for clarification that it is supermajority or a simple majority with the appointing Commissioner voting in favor to remove.

Commissioner Lober and Attorney Bentley are in agreement with Chair Isnardi.

Commissioner Tobia commented that does not protect the individuals that are currently on boards right now that were appointed by previous Board Members.

Chair Isnardi inquired why Commissioner Tobia would want to protect them if the majority of the Board and they appointed in his District; she explained if there was someone on the TDC and he immensely philosophically or disliked them and asked the Board to replace them, with a simple majority vote he could do that; however, if she does not like the person but he does, then that person could not be removed unless the other four force him to remove them.

Commissioner Tobia stated assuming someone is sitting on the TDC right now who was placed there by a previous Board Member then it would only need three votes to remove.

Chair Isnardi stated she thought it would go to the appointing authority.

Commissioner Pritchett inquired if someone from Chair Isnardi's District would then give Chair Isnardi primary appointing authority.

Commissioner Tobia commented there was many times he ended up with appointees who he would not have selected, so there is a crossover.

Chair Isnardi noted he could remove them as long as he is the one who wants to do it.

Commissioner Tobia stated had the Board gone through with the Workshop it would know that statutorily some board members cannot be removed.

Chair Isnardi stated she thought the Board could, and asked Attorney Bentley about it.

Attorney Bentley explained the TDC has staggered terms, so the Board runs into some issues with that; the Board would have to look at each appointment to see; there could not be a whole removal of all members of the TDC because of the way Chapter 125 is written; and that is just the easiest example, sometimes the other boards do not have those restrictions.

There being no further comments or objections, the Board adopted Ordinance No. 19-15, amending Chapter Two, Article VI, Division Four, Section 2-213 of the Code of Ordinances of Brevard County, Florida, adding provisions for removal of advisory board appointees; providing for term of replacement appointees and addressing impacts on term limits in the event of removal; providing for conflicting provisions; providing for severability; providing for area encompassed; providing for an effective date; and providing for inclusion in the Code of Ordinances of Brevard County.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

*The Board recessed at 8:26 p.m. and reconvened at 8:35 p.m.

ITEM J.2., STAFF DIRECTION, RE: BREVARD CULTURAL ALLIANCE CONTRACT, FY 18-19

Commissioner Lober stated he apologizes to the folks who are here for this particular Item; he thinks it is important that people keep in mind it is only for the current Fiscal Year, not any subsequent Fiscal Year; that will come up past the break in July or August; given that this is talking about Fiscal Year 18/19, he has some very strong feelings about this and it may surprise people given how he voted at the Tourist Development Council (TDC) this last go around; but there are individuals working at the Brevard Cultural Alliance (BCA) office who have families to feed and he does not think it is fair, regardless of the circumstances, and he does not feel there has been anything extenuating that justifies in his mind pulling the rug out from under those folks as to the current year's fiscal funding; and he sees the options, but given that the Board is dealing with human beings at the end of the day, he thinks they should be paid what they were told they could reasonably rely on and ensure they are able to meet their expenses. He continued he understands the argument has been made that they have some reserves, but that to him is irrelevant; whether they have \$200,000 or \$300,000 in reserves he does not care, to him it is a separate issue whether the County is obligated to pay them what they were promised; he has spoken with some who he thought would be for this and some whom he thought would be against it, he is not talking about the Commission Members, and interestingly enough there may actually be palatability on both sides; and he made a motion to allocate without conditions the \$105,000 to the BCA because he thinks it is a good move and the fair thing to do. He went on to say if the Board is unhappy with the future years, he asked that it not punish them this year for what the concerns are for how they may be structured in the future; he does not think it is fair to them, or anyone who acted in reliance of the grant programs they have; and he does not think the Board should do something to punish them when they did not have any notice that this was a potential issue until very recently.

Commissioner Tobia inquired if that motion is without a contract.

Commissioner Lober advised as to this year yes, but as to subsequent years he is not addressing that tonight.

Jim Ridenour waived his time in favor of the motion.

Shane Burgman waived his time in favor of the motion.

Hassan Patterson stated he hears the Board may be heading in his direction and he appreciates that; to drive the point home he added he has been a professional artist his entire life and has been working with the BCA for five or six years now; for him art is a little more than what he thinks affects other people; and he interprets it a different way because for him art saved his life. He mentioned he grew up in Boston and it is a very beautiful but cruel city; his father was murdered when he was two and his mother worked full time so he got into trouble; at 15 he started running with the wrong type of people but he always had his art to fall back on; it

filled the void when his father was not there; and when he says art saved his life, it has power because one faithful night his so called friends wanted him to go steal a car or something and he said no because he had something art wise he needed to finish up. He noted that night they all got caught, it was his wake up call, and it was then that he started taking art a lot more serious. He went on to say his opportunity to work with the BCA was life changing; he wished everyone here would visit one of these kids at risk sites because he was one of those kids and if it was not for art he would either be dead or in jail right now; he has seen some horror stories; when he teaches these kids he can see the despair in their eyes because no one believes in them or will give them a second chance; and to take away this art it is just another nail in their coffin for them. He continued they are going to say Brevard County does not care about kids that make mistakes, they do not get a second chance; it makes him a little angry because he feels like people can be cavalier and say they do not need this funding, but these are kids at stake; when he hears the kids say I did not know I could do that it changes him and his life; and he knows this year is pretty wrapped up but he hopes in the following years the Board will keep the funding going and keep the BCA going because he thinks it is a wonderful program.

Kavin Albright stated he has been a public school teacher in Brevard County for 22 years, twice having been selected as his school's Teacher of the Year; he also served on the board for the Florida Music Education Association and the Florida Vocal Association with a combined 16 years of service; he currently teaches at Viera High School and has also taught at Melbourne and Heritage High School; and he is speaking on behalf of the BCA and to share his unique perspective as a highly qualified teacher from the front lines of the classroom. He went on to say as a director of a program receiving an artist through the BCA grant this program provides an enrichment not possible through the budgetary means; with first person experience, he can say that this enrichment has the power to change lives and keep kids involved in school artistically as well as academically across the County; his predecessor's speaking speaks to that as well; expending on their budget, the music programs do not receive enough money through Brevard Public Schools (BPS) to cover costs of the required assessments much less any other enrichments; to fill the gap they go to the community to sell cheese cakes, discount booklets, discount cards, gift wrap, they perform for community centers, and etcetera; they are grateful for all their support; however, some of those efforts merely pay for transportation, equipment, materials, but not for the most critical area of Human Resources. He added in their case any available volunteer just will not do but the BCA has demonstrated their availability to foster contacts and partnerships to bring the highly skilled professionals in to the classrooms helping professional educators like himself in their skills and building upon their most precious resources, their students. He advised he is probably the only teacher who has not gone home on this last day of school just to deliver this message; he hopes the Board will consider releasing withholding the funds to BCA and continue to support their vision and funding into the future; and in doing so the Board would be ensuring high quality arts and enrichment will continue to make a critical difference in hundreds of students lives each year.

Julie Kinsey stated she took this as future funding would be cut as well so she asked the Board to take that in consideration while she speaks; she works with the BCA as a resident artist for the past two years; during this time she had the opportunity to go into two schools in Brevard County to provide supplemental enrichment to the public Junior and Senior High Schools as well as professional development for music teachers; she has also worked as a substitute teacher for the past four years focusing on music classes; and she added she holds a Masters of Music from the Eastman School of Rochester New York and a Bachelor of Music from Westminster Choir College in Princeton, New Jersey. She continued she was very concerned when she heard that funding to BCA was not only being withheld but also cut and possibly eliminated; BCA is the reason they have the artist residency program in the public schools, as without it there is no one to secure funding, find qualified artist, and manage the application and implementation of the program for this County; as resident artists they work closely with teachers to enhance their students' knowledge and skills taking a significant pay cut in the

May 30, 2019

process; the artists along with the BCA are doing their part; and it is imperative that this Board do its part. She went on to say she believes it was suggested sometime that these projects could be supported by volunteers, but as a resident artist with this program over the past two years she can tell the Board that she already volunteers and then takes an almost 50 percent pay cut in order to serve this community through her residency; it is grossly unfair to expect a professional should do this for the love of their art; as a resident artist she works directly with students in the music classroom in support of their development as artists; and this program that BCA supports is a win, win as it support students and their social and emotional growth as well as providing a vehicle in which professional artist can provide a living by sharing their craft and educating future generations. She stated she does not think anyone on the Board would deny that the arts play a critical role in the enrichment and development of the children but also in the development of communities at large; she would proffer from the extent to which people prioritize the arts is the extent to which they value the very members of their community; and she asked the Board to provide the funding that BCA needs to continue to operate so that at a minimum they can implement the programs that are already in place for this year. She read a quote by Paul Allen, "I've seen the critical role that the arts play in stimulating creativity and development in developing vital communities they have a crucial impact on our economy and are important catalyst for learning, discovery, and achievement."

Laurilee Thompson waives her time in favor of the motion.

Tom Powers stated he is an artist and has been in Brevard County since 1950; he is on the TDC's cultural committee and he is in support of the \$105,000 to the BCA; he has no problem with them receiving the money that was already intended to go to them; his issue is with the future contracts and how the future funds are handled; and he reiterated he is in favor of this.

Tim Deratany stated he is an artist and has been all of his life; he is also the Chairman of the TDC and he supports giving the BCA the \$105,000 from this year; they did not want to sign a contract and the County Manager said without a contract unless the Board agrees to it, he could not go above \$100,000; and he believes they should receive the money. He went on to say for them to bring up people who think the BCA is going to go away because they are not being funded is not true; the money is there and the TDC money was not involved with the school projects, it is a totally separate issue; he reiterated he supports giving the \$105,000 for this year; and he is happy with the motion presented.

Commissioner Smith stated Mr. Deratany is not kidding he is an artist and people should see some of the stuff he has done.

Commissioner Tobia stated he is shock here for numerous reasons; he will be the bad guy; he inquired if the Board is handing over \$105,000 to an organization without a contract.

Commissioner Lober advised that is correct.

Commissioner Tobia asked if the BCA could use that money for purposes that have nothing to do with Brevard cultural activities and the Board would have no enforcement mechanism in order to get the money back.

Commissioner Lober stated in short they have a Board of Directors that is going to control how they spend that money; knowing they are up to be axed in the future he would be very disinclined to believe that they are going to play any sort of games with it; however, it is a theoretical possibility, but it will not keep him up at night.

Commissioner Tobia inquired if he were to retain Commissioner Lober as an attorney would he advise him as a client to enter into an agreement to hand over more than a \$100,000 and

May 30, 2019

receive nothing; and he stated there is nothing preventing BCA from spending this money on booze and parties.

Commissioner Lober stated he would, as an attorney, advise that it is a conflict and he could not give him advice on this, however, were he to have a gun to his head and be asked for advice, he would bring up the concept of promissory estoppel, whereby by his actions if he essentially promises someone something of value, namely \$105,000, and they reasonable rely upon that as a detriment, the Board may be on the hook in the absence of a contract; and he added there are certainly a couple sides to this.

Commissioner Tobia noted, while he is not an attorney, he did read the Agenda Report and it clearly states that the County Manager spoke with BCA months ago and warned them should there not be a contract the money would not be dispersed without Board action; and to him that would most likely take the estoppel act off of the table because they received that as fair warning.

Commissioner Lober stated he does not know the specifics of when that happened but when the Board is talking about a full fiscal year, he does not know if they have brought on new staff or offered more in grant opportunities; that would require more information than he has presently available to him; and going back to the initial point, if Commissioner Tobia's concern is of the money being misspent, he would point out, that the BCA is up to be axed very significantly and he thinks that is the absolute last thing on the planet they would be inclined to do. He noted if the BCA asked him for legal advice he would tell them the same thing, that it is a conflict, but were he to have a gun to his head, he would tell him to be really careful with that money because the BCA will absolutely be gutted when it comes before the Board again if there is any hint that the money is being misspent; and he stated he is satisfied with it.

Commissioner Tobia inquired if the BCA was being altruistic as he claims their intent would be, why they would not sign the contract that the County Attorney's Office presented them with. He stated he saw their counter to it which was an absolute and total joke as far he is concerned; to him it was almost an insult; and he sees contempt here not compilation.

Commissioner Lober advised Commissioner Tobia raises a valid point, but the one item that stands out to him is that initial contract was something BCA had grave concerns that they could not meet and they did not want to enter into a contract they knew they could immediately be in breach of; so given that they did not want to violate terms that they did not believe they could actually put into place and to see out, he would never advise someone to sign a contract they knew they would breach immediately or in the future; he believes one of the issues was the initial contract, this is not a verbatim, it required room nights to be accounted for; and the new contract measures it, as he understands it, was an increase in event attendance, which to him is a reasonable measure. He went to say he does not agree, as Commissioner Tobia had said or alluded to with some of the other changes, with what BCA proposed in its entirety but he thinks there have been reasonable steps by BCA from the time the initial contract was presented to them and now; should they have done it faster, yes it would have been nice, but the point is they are at this point now and his question is what, in all fairness, should the Board do; and he thinks the fairest solution that is even acceptable to the folks that initiated this whole process at the TDC, the subcommittee level, they are even okay with this. He continued in fact one of the concerns that was brought up was if the Board has the BCA execute a contract with this, it is potentially going to form the basis of any future contract, if they rush into doing something, this may not be the way to do it because the County could end up in a worse situation than a better one; and he is of the mind set this is easier and fair to give the BCA what they were told they could reasonably rely upon.

May 30, 2019

Commissioner Tobia inquired if the County Manager is aware of any time that the County handed over \$100,000 without a contract.

Frank Abbate, County Manager, stated during the last several years, this money was done without a contract.

Commissioner Tobia stated other than handing over hundreds of thousands of dollars to the BCA, does the County offer money to that amount without receiving anything in return.

Mr. Abbate stated he is not aware of it; when he found this out, actually the Assistant County Manager, Jim Leisenfelt found this out, that is when it became an issue that they tried to address; and he reiterated he is not aware of it happening.

Commissioner Tobia noted he is looking at the whereas clause from the BCA, and this is how much of a joke this is, the BCA will use tourism development tax funds to promote cultural tourism in Brevard County in various ways through out-of-County marketing, including but not limited to; and he inquired if not limited to allows the BCA to use those funds in any way they deem fit.

Eden Bentley, County Attorney, advised generally it gives them broader discretion than of the listed items, but it does not give them Carte Blanche to use it for non-cultural items.

Commissioner Tobia inquired if the BCA could throw a roof-top party on Fifth Avenue and claim it is a cultural event to bring people to Brevard County with the 'but not limited to'.

Attorney Bentley stated it would be a question of whether or not it is a cultural event, which is what would be litigated.

Commissioner Tobia stated art is all a question of whether or not it is art; and he questioned now without a contract would they be able to go out and do that.

Attorney Bentley stated the County would have to come up with a creative way to sue them to recover the funds.

Commissioner Tobia stated he will be voting against this; he thinks the actions of the BCA have been deplorable in this; it is wonderful that the TDC now supports this; but he does not care, he cares about the taxpayers that he represents, more than 100,000 people that he thinks would be disappointed at the least to know this Board was handing over \$100,000 and not receiving anything; he thinks they are going to want money in the future so they will act on their best behalf; and he reiterated he will absolutely be voting against this one because this is a horrible, terrible idea.

Chair Isnardi stated people do not have to like what BCA does and they may be upset with how they have handled things thus far, and she wants them to correct some things or the TDC is not going to recommend funding in the future; she thinks some of the things the BCA does is wonderful; she thinks there are some personality issues there and she gets that; and she advised the BCA needs to get that corrected or it will not be receiving funding next year. She mentioned the Board cannot go against what the TDC is going to bring to it for a recommendation; the Board is just now trying to get a contract in place, so to act like the Board is appalled that there is no contract, there has not been a contract and most of the Board has been there since 2016; it was not required and she does not know if that was a smart idea, but to act like this is a brand new thing, it is not; it did not happen overnight; and this Board should have fixed it back in 2016 if it was this much money or if BCA was allegedly spending it not the way the TDC wanted them too. She reiterated she thinks what the BCA does is awesome, she

thinks they should be accountable for how they spend the money, and she thinks they need to make sure enough organizations are getting that funding, however, she does see the impact in the reach that BCA does have and the benefit of having an organization; she is the last person who wants to bring another arm of anything back in house; she thinks the Board needs to farm out as much as possible and if there is an organization that is willing to do it and do it properly then that is the perfect scenario; and she hopes the TDC and BCA can work that out. She added this was an approved amount of money and she supports making sure the Board does not pull the rug out from under them because the County should have demanded a contract years ago.

Commissioner Pritchett stated she agrees completely with Chair Isnardi; the TDC is an advisory board and she appreciates all that; she thinks the Board is going to have to have the discussion before getting rid of an entity because she is not there; she thinks people know what they are doing, they are handling the culture, and it is working; however, she does agree the County needs a contract for those types of items. She continued as much as she likes these organizations, she would not take Natural Resources Management and allow them to divvy up the money for that either, because they are not the qualified entity to make that decision. She noted she hopes the TDC hears that; she is not going to vote into agreement for them to take on all the decisions where the BCA spends all the cultural money; she is not going to give the TDC that authority; she is looking for another entity to do it; but she wanted everyone to know that is the direction she will be looking into moving forward. She advised this is an advisory board and the Board makes the decision, so she thinks the TDC needs to hear the Board's thoughts on that.

Chair Isnardi reiterated any time the Board can pull something out of government and give it to the private sector it is a good thing for multiple reasons.

The Board allocated \$105,000 to Brevard Cultural Alliance without conditions for the remainder of this Fiscal Year.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

ITEM J.3., REQUEST FOR APPROVAL OF FORMS 4A - LAURILEE THOMPSON

Commissioner Pritchett stated this is Laurilee Thompson putting through her waiver as the Board requested.

Jim Leisenfelt, Assistant County Manager, stated this Item is from District One.

Commissioner Lober moved to approve and Commissioner Pritchett provided a second.

Commissioner Tobia stated he read through the Agenda Report and he was all on board until he read the second to the last sentence, where Dixie Crossroads provides 50 percent discounts to the Tourist Development Office (TDO) in paying their travel writers meals; there is a huge conflict inherent in that; it is glaring and the first time this Board had seen it; at first glance it may seem this is nothing more than a discount but this restaurant could potentially be receiving significant benefits from their relationship; he looked through travel writing and people would not

May 30, 2019

believe the number of travel writers, big ones, writing about this restaurant; and if it is not a direct conflict providing a discount in order to lure travel writers in because of the relationship on the TDO he does not know what is one. He went on to say he would be willing to agree with this if Laurilee Thompson would stop offering the discount and let the market play to where the travel writers want to go; when a discount is offered he thinks it creates all sorts of issues; and he would like to ask, because the last person looking for a waiver was willing to withdraw from direct business relationships with the Office of Tourism, and he would ask the same from Ms. Thompson.

Laurilee Thompson stated for 15 years they did not charge the TDO when they brought travel writers to the restaurant; Commissioner Tobia is correct it is a good thing when travel writers come to the restaurant; at 50 percent she still loses money; however, she would be happy not to have the travel writers come to the restaurant while she is on the TDO or on the TDC. She stated Commissioner Tobia does not have to worry about it.

Commissioner Tobia stated he is not worried, he hopes they do come to her restaurant, he just would not be interested in incentivizing them to come, for the other wonderful restaurants he is sure are in the Titusville or north region of Brevard County; when she offers that incentive to lure them in, while she may be losing money on the food, the amount of positive advertising more than makes up for half the price of the meal that she is paying; and he would vote for this is she would pull that discount.

Ms. Thompson said she takes offense to that saying she is trying to incentivize the travel writers to come to her restaurant; she never asked ever for the travel writers to come to her restaurant; the TDC staff would call and ask saying they had travel writers from Germany can they bring them to the restaurant; for years she fed them for free; she thinks 50 percent is fair and she still loses money at that; but, to accuse her of trying to incentivize is offensive.

Commissioner Tobia stated that is what a discount is; and he inquired if he is incorrect.

Ms. Thompson stated her partner felt like it was not a good business decision to continue to feed 20 travel writers at a time with \$1,000 bill and she would just eat it; and he thought 50 percent would be better.

Commissioner Tobia stated he would go get a new business partner; what is the value of being right at the top of a lonely planet and saying how great it is; he would argue that is well worth \$1,000 or multiples of that; and he has pulled up blogs from all over the place by various travel writers.

Ms. Thompson asked how many of those does Commissioner Tobia think came on their own; the lonely planet people just bounce in; she does not call these people up and ask them to come to her restaurant; they come incognito; and yes some of those articles Commissioner Tobia saw were from the TDC bringing travel writers, but the TDC does not bring every travel writer that comes to her restaurant, they come on their own. She noted she would be glad to instruct the TDC or the Office of Tourism not to bring any travel writers to her restaurant as long as she is still on the TDC.

Commissioner Tobia advised that is further than what he was asking for.

Ms. Thompson inquired what he is asking for.

Commissioner Tobia explained he is asking that there not be a discount, the discount is the incentive.

May 30, 2019

Ms. Thompson stated she did that to help out the Office of Tourism.

Commissioner Tobia asked if she does not see ancillary benefit that she receives by the positive press she got from her restaurant.

Ms. Thompson pointed out she is not understanding his question, because it sounds like he still wants the TDC to send travel writers to her restaurant in the rotation, but he wants her to charge the TDC the full price when they bring the travel writers to her restaurant; the travel writers do not pay, the County pays for them to come to her restaurant; and she explained she is not giving travel writers a discount, she is giving the County a discount.

Commissioner Tobia stated she just hit the nail on the head; maybe the issue is larger than he thought; he asked what about the restaurants out there that do not have a representative this is not on the rotation, because obviously there are many more restaurants in the Titusville area that may not be on that rotation; he mentioned she happens to be on that rotation and sits on that organization, so he believes that is an inherent conflict; and he advised he did not put that together until he saw this as part of the Agenda Report. He noted he sees how it may seem but she said she was willing to take the bull by the horns and that she was willing to ask the TDO, and he certainly hopes all restaurants that have ownership and sit on the Board to follow Ms. Thompson's lead and makes that same request.

Commissioner Pritchett stated she thinks Ms. Thompson needs to charge the County full price; and she noted Ms. Thompson's family, throughout her whole life have donated so much money to the community. She stated on Thanksgiving they would open up and feed the homeless people who did not have money; their family has continually poured money into the community; she thinks of Ms. Thompson's family as heroes; she has worked in the church her whole life and she believes the Thompsons are incredibly wonderful to this community; and she does not know how this looks, but her reputation is never in question with her. She advised Ms. Thompson paid \$50,000 of her own money to try a sea grass; she believes Ms. Thompson is incredible; she reiterated her reputation is not in question with her; her restaurant is always full and people come from all over the world; when her dad started Dixie Crossroads it was just a little hole in the wall and it was always busy so they expanded it; and she wanted Ms. Thompson to know she is one of her all time heroes.

Ms. Thompson inquired what Commissioner Tobia is asking of her.

Commissioner Tobia advised the issue may be larger with the TDC than with her business in dealing with conflicts; he thinks the conflict may be the way it is administered and not the way Ms. Thompson is handling things; it sounds like she is handling things extremely honorably in saying that she would instruct the TDC not to put her restaurant on the rotation and neither should any of the other businesses that sit there be on the rotation; and that is wherein lies the conflict.

Ms. Thompson advised Peter Cranis, Tourist Development Director, not to send any travel writers to her restaurant until she gets thrown to the curb.

Commissioner Tobia thanked Ms. Thompson.

Commissioner Pritchett and Commissioner Smith stated or charge full price.

Commissioner Lober advised he does not think that would solve the issue.

Ms. Thompson stated she is hearing two different things; Commissioner Tobia says no travel writers; and Commissioner Pritchett is saying bring them in but charge full price.

May 30, 2019

Chair Isnardi stated she thinks the Board has to be careful not to penalize Ms. Thompson.

Ms. Thompson stated she is being penalized because she sits on the TDC.

Commissioner Lober explained his TDC appointee was penalized in a sense as well, she was making money, and now that she is on the TDC she has lost money.

Ms. Thompson stated her point was she was not making any money but she did receive publicity; and she will stand with what she said for the TDC to not send any travel writers to her restaurant as long as she is on the TDC.

Commissioner Lober stated he would like to extend and allow the meeting to go beyond 9:30 p.m. otherwise there will be a problem.

Motion fails due to lack of a second.

Ms. Thompson inquired if the motion needs to be amended.

Commissioner Lober stated he is going to keep his motion as it was; if Commissioner Tobia wants to move that the TDO does not send folks to Ms. Thompson's restaurant then that is a separate issue and he may well support that; but he thinks the Board need to address one thing at a time.

Commissioner Tobia stated it is a separate issue and one that cannot be handled tonight.

Tim Deratany stated he is the Chairman of the TDC and he does not understand about the conflict of interest; he does not understand why she thinks it is a conflict of interest; and he does not believe it just speaks to what Commissioner Tobia said, it speaks to being on the birding thing and having all the birding people to come to Ms. Thompson's restaurant and giving the birding people money in which she is on that. He asked if there is more to this than just that.

Chair Isnardi stated there is nothing about a restaurant on the birding thing; it has to do with the nonprofit she volunteers for, she is not compensated as a member; and she did not think it even needed to be there.

Mr. Deratany stated he did not think so either.

Chair Isnardi stated she thinks the Board is over killing this waiver; the problem is because half of the appointees are required to be in the tourism industry and collect the tax; and now the Board is disqualifying people that are required by the Statute.

Mr. Deratany stated he was amazed to see it, but he remembers Ms. Thompson was very adamant about Anna Palermo and her thing at the meeting; she felt it was not good enough that she was going to give up her commission; Ms. Thompson went on and on about it; Bob Baugher sent him a letter saying to cut her off because she was going on for so long about it; and he hopes the Board gives her the exemption.

The Board approved the forms for Laurilee Thompson to waive any potential standards of conduct issues under Section 112.313(3).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM J.4., APPROVAL, RE: PURCHASE OF UNDIVIDED Y2 INTEREST IN THE FINAL PARCEL NEEDED FOR HALL ROAD PUMP STATION DRAINAGE IMPROVEMENT PROJECT

Corrina Gumm, Interim Public Works Director, stated this Item is requesting approval for the purchase of 50 percent undivided interest in the final parcel needed for the Hall Road Pump Station and Drainage Improvement Project on North Merritt Island; the request is also to waive the requirement for a Phase One environmental site assessment; and also to authorize filing of a partition or other necessary legal action. She went on this drainage improvement project will replace the mosquito control pump and also provide two permanent pumps to improve stormwater recovery time for the areas south of Chase Hammock Road, east of State Road 3 during larger rain events; staff recommendation is to accept the counter offer of \$100,000 from the seller; and the County Attorney's Office has reviewed the contract.

John Schantzen stated continually the Board has agreed to increase the density and raise the property of the new properties making those who have been there for a number of years, suffer the water problems; and he is speaking on behalf of the additional pumps and the property needed.

Mary Hillberg stated she is requesting the Board approve the pump project; North Merritt Island still has significant high hazard flood areas; it looks as though there may be more coming in the future with the interesting climate changes; and she asked the Board to please consider not increasing the density.

Commissioner Lober stated in the interest of time the Board has less than seven minutes to get through everything including Board Reports, so he is calling the question.

Commissioner Tobia asked what the amount on this is.

Ms. Gumm responded the counter offer is \$100,000.

Commissioner Tobia inquired if there is a contract for that \$100,000; and he stated the Assistant County Manager John Denninghoff does not have to answer that question, it was sarcasm.

The Board executed Contract for Sale and Purchase needed for Hall Road Pump Station Drainage Improvement Project; waived the requirement for a Phase I Environmental Site Assessment as required by AO-37; and authorized filing of a partition or other necessary legal action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

May 30, 2019

ITEM L.5., BOARD REPORT, RE: JOHN TOBIA, COMMISSIONER DISTRICT 3

Commissioner Tobia noted early on the Consent Agenda the Board approved the Economic Development Council (EDC) contract 5:0; somehow the County Manager was able to reach a mutual agreement with many of the protections and reform that he has been seeking but he has been unable to get; and he thanked him for his wonderful negotiating skills in reaching this agreement. He continued as always transparency needs of taxpayer funds are paramount; and he thanked him for his hard work.

Chair Isnardi inquired if Commissioner Tobia is stating the County Manager did a much better job than the politicians.

Commissioner Tobia noted a much better job.

Upon consensus of the Board, the meeting adjourned at 9:25 p.m.

ATTEST:

SCOTT ELLIS, CLERK

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