

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

9:00 AM

The Board of County Commissioners of Brevard County, Florida, met in regular session on March 21, 2017 at 9:00 AM 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	Vice Chairwoman/Commissioner District 1	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Chairman/Commissioner District 4	Present	
Kristine Isnardi	Commissioner District 5	Present	

INVOCATION

The invocation was provided by Pastor Jason Linkous, New Life Christian Fellowship Church, Titusville, Florida.

PLEDGE OF ALLEGIANCE

Commissioner Pritchett led the assembly in the Pledge of Allegiance.

MINUTES FOR APPROVAL

The Board approved the February 7 and February 21, 2017 Regular Meeting Minutes.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.A., RESOLUTION, RE: PROCLAIMING MARCH 19-25, 2017, AS FLORIDA SURVEYORS AND MAPPERS WEEK

Chairman Smith read aloud, and the Board adopted Resolution 07-045, proclaiming March 19-25, 2017, as Florida Surveyors and Mappers Week.

A Representative from the Florida Association of Mapping Society expressed his appreciation for the Resolution.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Curt Smith, Chairman/Commissioner District 4
SECONDER: Jim Barfield, Commissioner District 2
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.B., RESOLUTION, RE: RECOGNIZING BOB BARNES, THE CHILDREN'S HUNGER PROJECT

Commissioner Pritchett read aloud, and the Board adopted Resolution 17-046, recognizing Bob Barnes for the Children's Hunger Project.

Bob Barnes stated everyone takes for granted that kids are going hungry in Afghanistan, Africa, and Asia, but kids are going hungry today right here in everyone's back yards; he will not waste time talking about the reasons or making comments on society because it would take more than a day; but the reality is there are all kinds of priorities that people address, and he asked for everyone to keep in mind when in a place of worship this week, to tell those in charge that kids are going hungry right here in Brevard County. He expressed his appreciation for the Resolution; he noted the charity was started by David Cohen, Jean-Yves Clerc, and Samuel Jordan, not just him; and there are hundreds of volunteers including the new executive Director, Keith Gee, and Laura Spearman is a Board member.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER: Jim Barfield, Commissioner District 2
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.C., RESOLUTION, RE: PROCLAIMING MARCH 21, 2017, AS TRAFFORD REALTY COMPANY DAY

Commissioner Barfield read aloud, and the Board adopted Resolution 17-047, proclaiming March 21, 2017, as Trafford Realty Company Day.

A representative from Trafford Realty Company stated he is quite confident no one on the Commission met A. R. Roy Trafford, so he brought him with them; he had such a vision for the County that they have all benefitted from his beginning back in 1917; probably everyone knew Al Trafford because he kept the living going in Brevard County; and he feels they owe so much to him in this past 100 years, it is something they will treasure. He expressed his appreciation on behalf of Trafford Realty for the Resolution.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Jim Barfield, Commissioner District 2
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.D., RESOLUTION, RE: RECOGNIZING AND CONGRATULATING THE MERRITT ISLAND KIWANIS CLUB ON THEIR 60TH ANNIVERSARY

Commissioner Barfield read aloud, and the Board adopted Resolution 17-048, recognizing and congratulating the Merritt Island Kiwanis Club on their 60th anniversary.

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A representative from the Kiwanis Club expressed appreciation for the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.E., RESOLUTION, RE: DECLARING APRIL 2017 AS CHILD ABUSE PREVENTION MONTH

Chairman Smith read aloud, and the Board adopted Resolution 17-049, declaring April 2017 as Child Abuse Prevention Month.

A representative of the Child Abuse Prevention Task Force and Brevard Cares stated in the past year Brevard Cares served over 1,400 children in this community providing prevention services and strengthening families in partnership with many organizations; during the month of April they invite all of the community to educate themselves about the programs and services that are available to families; and they also advocate to learn more about how to support those programs to make them all available for all children.

Another representative of the Child Abuse Prevention Task Force stated during Child Abuse Prevention Month they work very closely with local community partners to promote awareness through public policy and through several community activities; she provided lists to the Board; and she noted the April kickoff event is a family fun day, which is held at Squid Lips from 5:00 pm to 8:00 pm. She continued they do pinwheel plantings around the county which is Florida's adopted sign for child abuse prevention letting everyone know that all children deserve to grow up healthy and safe; there is a wear blue day on April 7, which is statewide; there is a courthouse proclamation, which is similar to this, on April 7; they do a neighborhood walk on April 21, where they canvas a neighborhood and present materials for 300 families with literature education on prevention; and at the end of the month they hold a banquet.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Chairman/Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.F., RESOLUTION, RE: DECLARING APRIL 10, 2017, AS GOPHER TORTOISE DAY IN BREVARD COUNTY

Chairman Smith read aloud, and the Board adopted Resolution 17-050, declaring April 10, 2017, as Gopher Tortoise Day in Brevard County.

A representative of the Gopher Tortoise Council expressed her appreciation for the Resolution; she stated gopher tortoises are a keystone species and their health helps give an indication of the health of the environment; there are many other species in the burrows with them and they are threatened around the United States; and she noted Hundred Acre Hollows is located about half a mile from the Indian River Lagoon and by keeping this land for the animals and for the enjoyment of the public, they are preventing a lot more pollutants from going into the Indian River Lagoon (IRL). She continued reading quotes by Margaret Mead, "Never doubt that a small group of thoughtful committed citizens can change the world, indeed it is the only thing that ever has." and "We won't have a society if we destroy the environment."

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Curt Smith, Chairman/Commissioner District 4
SECONDER: Jim Barfield, Commissioner District 2
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.G., RESOLUTION, RE: DECLARING MARCH 2017 AS EYE DONOR MONTH IN BREVARD COUNTY

Chairman Smith read aloud, and the Board adopted Resolution 17-051, declaring March 2017, as Eye Donor Month in Brevard County.

A representative from the Florida Eye Bank stated in 1905 the very first corneal transplant occurred; it was performed to restore the sight to a day laborer who lost his vision due to an accident; now corneal surgery is common place and has a success rate of over 95 percent to restore the vision to people who have lost their sight; and the selfless act of corneal donation gives the gift of sight to more than 48,000 Americans every year, who suffer from corneal blindness. She went on to express her appreciation to the Board for the Resolution.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Curt Smith, Chairman/Commissioner District 4
SECONDER: Jim Barfield, Commissioner District 2
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM I.H., RESOLUTION, RE: RECOGNIZING MERRITT ISLAND HIGH SCHOOL GIRLS SOCCER TEAM, 2017 STATE CHAMPIONS

Commissioner Barfield read aloud, and the Board adopted Resolution 17-052, recognizing Merritt Island High School Girls Soccer Team, as the 2017 State Champions.

Scott Carswell expressed his appreciation for the Resolution.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Jim Barfield, Commissioner District 2
SECONDER: Kristine Isnardi, Commissioner District 5
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.1., AGREEMENT WITH ENVIRONMENTAL CONSERVATION SOLUTIONS, LLC, RE: UPGRADE UNDERDRAINS AT COUNTY FACILITIES

The Board executed Agreement with Environmental Conservation Solutions, LLC (f/k/a Plastic Tubing Industries, Inc.), to upgrade the septic system underdrains at three County facilities; and authorized the County Manager, or designee, to execute future contract amendments following approval from the County Attorney's Office and Risk Management.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.3., GRANT FUNDING REQUEST TO FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, RE: PRINTING AN UPDATE OF THE BOATING AND ANGLING GUIDE TO BREVARD COUNTY

The Board granted permission to apply to the Florida Fish and Wildlife Conservation Commission (FWC) for funding to reprint the Boating and Angling Guide to Brevard County; approved legal venue in Leon County for the anticipated FWC grant agreement; authorized the County Manager to execute the subsequent grant contract, if awarded and approved by the County Attorney and Risk Management; and approved any necessary budget change requests.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.4., APPROVAL, RE: BREVARD COUNTY SHORE PROTECTION PROJECT MID REACH, STATE GRANT 16BE1, AND BREVARD COUNTY SHORE PROTECTION PROJECT NORTH AND SOUTH REACHES, STATE GRANT 16BE2

The Board executed Grant Agreements with Florida Department of Environmental Protection (FDEP), to accept State funds for the Brevard County Shore Protection Project Mid Reach, State Grant 16BE1, and Brevard County Shore Protection Project North and South Reaches, State Grant 16BE2; waived legal venue in Brevard County, as the current agreements indicate legal venue in Leon County; authorized the County Manager, or designee, to execute future contracts, grant amendments, and task orders as required, and in excess of \$100,000 to accomplish these projects; and authorized any necessary budget change requests.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.5., COST-SHARE AGREEMENT CONTRACT #LP05118 WITH FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, RE: SCOTTSMOOR PHASE 2 DENITRIFICATION SYSTEM

The Board executed Agreement #LP05118 with Florida Department of Environmental Protection (FDEP) to construct a denitrification bioreactor treatment system in Scottsmoor, Brevard County; approved legal venue as Leon County; authorized the County Manager, or designee, to execute future contract amendments and change orders, subject to approval of the County Attorney's Office and Risk Management; and approved associated budget change requests.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.7., BINDING DEVELOPMENT PLAN, RE: GERALD CRAYTON, TRUSTEE

The Board executed a Binding Development Plan with Gerald Crayton, Trustee, for property located on the west side of North Courtenay Parkway, approximately 560 feet north of Crisafulli Road, Merritt Island.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.8., BINDING DEVELOPMENT PLAN, RE: G.T. MOTORS, INC.

The Board executed a Binding Development Plan with G.T. Motors, Inc., for property located on the east side of Valencia Road, approximately 400 feet north of W. New Haven Avenue, Melbourne.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.9., INTERLOCAL AGREEMENT WITH CITY OF MELBOURNE, RE: PERTAINING TO UTILITY INSTALLATION AT LAKE WASHINGTON ROAD, MELBOURNE

The Board executed Interlocal Agreement with City of Melbourne pertaining to the utility installation (water main) at Lake Washington Road in Melbourne.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.10., MEMORANDUM OF AGREEMENT WITH FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), RE: NORTHERLY SEGMENT OF THE ST. JOHNS HERITAGE PARKWAY PROJECT

The Board executed a Memorandum of Agreement with Florida Department of Transportation (FDOT) related to the Northerly Segment of the St. Johns Heritage Parkway Project.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.11., GRANT OF EASEMENT TO BREVARD COUNTY FROM PATRICK AIR FORCE BASE, RE: PROPERTY LOCATED IN SECTION 22, TOWNSHIP 26 SOUTH, RANGE 37 EAST - S04 LIFT STATION

The Board approved and accepted Grant of Easement from Patrick Air Force Base for the S04 Lift Station located in Section 22, Township 26 South, Range 37 East; and authorized the Chairman to execute the Grant of Easement.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.12., GRANT OF EASEMENT TO BREVARD COUNTY FROM PATRICK AIR FORCE BASE, RE: PROPERTY LOCATED IN SECTIONS 22, 23, AND 27, TOWNSHIP 26 SOUTH, RANGE 37 EAST - B19 FORCE MAIN

The Board approved and accepted the Grant of Easement from Patrick Air Force Base for property located in Sections 22, 23, and 27, Township 26 South, Range 37 East - B19 Force Main.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.13., GRANT OF EASEMENT TO BREVARD COUNTY FROM PATRICK AIR FORCE BASE, RE: PROPERTY LOCATED IN SECTION 25, TOWNSHIP 28 SOUTH, RANGE 36 EAST - MINTON ROAD RIGHT-OF-WAY

The Board approved and accepted the Grant of Easement from Patrick Air Force Base for property located in Section 25, Township 28 South, Range 36 East - Minton Road Right-of-Way.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.14., UTILITY EASEMENT TO BREVARD COUNTY FROM CITY OF INDIAN HARBOUR BEACH, RE: CONVEYENCE OF EASEMENT (804) NEEDED FOR THE S-15 LIFT STATION/OARS AND PADDLES PROJECT

The Board approved and accepted the Utility Easement from City of Indian Harbour Beach needed for the S-15 Lift Station/Oars and Paddles Project.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.15., RESOLUTION OF NECESSITY, RE: ACQUISITION OF PARCELS FOR ST. JOHNS HERITAGE PARKWAY

The Board adopted Resolution of Necessity No. 17-053, declaring the necessity to acquire certain real property located in Brevard County for the SJHP Project construction and maintenance, as well as placement of utility lines and associated facilities, as flood plain compensation related to SJHP and Washingtonia Road or incidental public road related uses on the properties described herein lying in Section 3, Township 28 South, Range 36 East and Section 34, Township 27 South, Range 36 East; authorized the County Attorney's Office to proceed with this action in accordance with the requirements set forth in Chapters 73 and 74, Florida Statutes; and authorized the payment of reasonable expert fees per Chapters 73 and 74, Florida Statutes, as part of staff efforts to negotiate settlements.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.C.1., PERMISSION TO PIGGYBACK, RE: TAMPA BAY WATER'S BULK SODIUM HYPOCHLORITE CONTRACT #2015-042, AND ADD TO PURCHASING SERVICES VENDOR OF RECORD FOR FY 2017

The Board authorized permission to piggyback the use of the Tampa Bay Water's Cooperative Purchase Contract Bulk Sodium Hypochlorite Contract #2015-042, for purchasing bulk sodium hypochlorite from Odyssey Manufacturing Company for use at the County's wastewater treatment plants, and add to Purchasing Services Vendor of Record for FY 2017.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.C.2., APPROVAL, RE: CHANGES TO CENTRAL SERVICES FY 2017 CAPITAL IMPROVEMENT PROGRAM (CIP)

The Board approved changing the Central Services FY 2017 CIP that a portion of the FY 2016-2017 funding for the Government Center North fire alarm system replacement be reallocated to fund the replacement of HVAC chillers at the County Service Complex Titusville.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.C.3., CONTRACT WITH ROBINSONBUSH, INC., RE: EMPLOYEE BENEFITS CONSULTING SERVICES

The Board accepted the recommendation of the Employee Benefits Insurance Advisory Committee to retain RobinsonBush, Inc. as the Board's employee benefits consultant; and authorized the Human Services Director to execute a multi-year contract for consulting services with RobinsonBush, Inc.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.D.1., APPROVAL, RE: BUDGET CHANGE REQUEST(S)

The Board approved the proposed Budget Change Requests.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.D.2., RESOLUTION, RE: ISSUANCE OF BREVARD COUNTY , FLORIDA TAX-EXEMPT REFUNDING REVENUE BONDS (DT LEASING PROJECT), SERIES 2017, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCING AGREEMENT

The Board adopted Resolution No. 17-054, for the Brevard County Refunding Revenue Note (DT Leasing Project), Series 2017; and approved and executed the Financing Agreement.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Commissioner District 5
SECONDER: Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.D.3., REVIEW AND APPROVAL, RE: ADDENDUM TO CAREERSOURCE BREVARD COMPREHENSIVE 4-YEAR PLAN 2016-2020

The Board reviewed and approved the Addendum to the 4-year Local Workforce Service Plan developed by Brevard Workforce Development Board dba CareerSource Brevard; and authorized the Chairman to execute the Plan.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM III., PUBLIC COMMENTS

Lynda Weatherman stated the National Space Symposium held in Colorado Springs, Colorado, brings together space leaders from around the world to discuss, address, and plan the future of space; it represents the largest most comprehensive gathering of business leaders in civilian, military, and commercial space anywhere in the world; and over 11,000 industry representatives attend with space leaders from more than 30 countries representing China, France, Germany, Korea, Japan, Russia, and the European Commission along with economic development professionals from such states as Texas, Virginia, Maryland, Alaska, Colorado, Hawaii, and Florida. She continued as Frank DiBello, the president of Space Florida, mentions in his letter, the symposium is the most target rich environment available for providing a personal marketing opportunity to those individuals who make a decision as to where a project may be established or relocated; the recent success on the space coast becoming a global leader in the growing commercial space market is no small measure and it is a result of this Commission's long term commitment to job growth, team work within the state, and federal partners; over the years at the Space symposium, the Board has accompanied her at meetings with decision makers of Blue Origin, SpaceX, Lockheed Martin, Boeing, United Launch Alliance, all of which are companies now building facilities, adding employment, and are increasing the launch manifest right here in this community; and having the elected officials meet directly with decision makers sends a distinct message and demonstrates that this industry, a culture on the space coast, reflects a welcoming attitude towards aerospace.

Charles Tovey expressed his appreciation for allowing him to speak; he stated he appreciates all of the community effort and all of Brevard's effort for helping the community; he did notice that March 10 was recognized as Tortoise day, while there are tortoises fleeing for their lives; he has photographs; he called the Environmental Protection Agency (EPA) and the rest of them, but nobody has done anything about it; the development of Palm Shores and no recognition of the wildlife for the importance of the environmental impact it has on the Lagoon and the County as well; and he does have more seeds for whoever, especially Hundred Acre Hollows. He continued that he could not find Commissioner Tobia's phone number anywhere; that the Commissioner may not welcome his calls, but he is a taxpayer and he does have a right to his public comment for expressing his thoughts and opinions; he has reviewed some of the Lagoon work and some things have not been mentioned that he would like to submit; and one thing is the County contractor and State contractors that are being employed are not recognizing the no blowing of debris in the streets, because it is causing problems. He added this is one of the things he has for the Lagoon; he did bring his other tie; he does have his information, he did not want to do it today because of some personal matters; his mom just got out of the hospital; and besides his property and the Lagoon, his parents are his biggest concern. He went on to say he appreciates anybody's help towards anybody in need whether it be a child, elderly person, a bum on the street, and that goes back to the trailer park across the street; even though there

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were undesirables, people have a right to live and they need to be given the opportunity, if they still cannot produce then cut them loose; he is still looking for the opportunity, all his personal issues are just about resolved; it is up to the Board; his fines and fees for the arson and taking his boat inadvertently; \$50,000 in fines levied against him; and he is ready when the Board is.

ITEM IV.A., ORDINANCE, RE: ECONOMIC DEVELOPMENT TAX EXEMPTION FOR ERCHONIA CORPORATION

Commissioner Smith called for public hearing to adopt an ordinance for Economic Development Tax Exemption for Erchonia Corporation.

Stockton Whitten, County Manager, stated this is a request to adopt an amendment to Ordinance 15-20, for Erchonia Corporation; it reflects a change in the address and a reduction in the scope of the ad valorem tax exemption; and basically the real estate, real property exemption is being removed from this project.

Commissioner Tobia stated he mentioned something in the ordinance, a conjunction being the word "and", and the County Attorney mentioned he did not agree with his explanation, which is fair; he did want to point out case law that the town of Longboat Key vs. Island Properties points out that ordinances have to be looked at the same way that statute is; he followed that up with Baker County Med Services which he quoted, "When a statute does not define a term, we rely on the dictionary to determine the definition." and the dictionary definition of "and" is a conjunction and is to be taken jointly; and he stated finally and most appropriately, Florida Birth Related Neurological Injury Compensation Association vs. Florida Vision of Administrative Hearings 1997 states, "Unless the word 'and' makes the Statute so absurd and unreasonable that to make it obvious that the legislative body meant 'or' the words cannot be substituted." He went on to say he wanted to back up his assessment that "and" in that ordinance needed to be used the way it was intended to be used; and he will wait to hear what the County Attorney's opinion is because he mentioned he would be glad to provide a written view point and bring it to the Board at this meeting.

Scott Knox, County Attorney, stated he did not bring a written response to that, but he would be happy to provide it; looking further down in the ordinance the terms are separated by an "or" and it has to be read in context of the entire ordinance and not just portions of it; therefore, his opinion is that it means "or".

Commissioner Isnardi stated her only suggestion would be in the future when questions like these come up, for the Board to get a written opinion from the County Attorney, because it would make her more comfortable with the decisions she makes, since there are two interpretations.

Chairman Smith stated it was duly noted.

There being no further comments or objections, the Board adopted Ordinance 17-004, correcting the third recital in Brevard County Ordinance 2015-20 by substituting the correct address upon which an economic development ad valorem exemption for tangible personal property tax exemption was granted to Erchonia Corporation; providing for ratification; providing for an effective date, removal of the real property exemption originally granted, and retroactive application of the correction.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.B., BOARD DIRECTION, RE: FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DECISION TO NOT FUND COLLECTION OF PRIVATE ROADS: AUTHORIZE STAFF TO RETURN TO THE BOARD WITH LEGISLATIVE INTENT; AND AUTHORIZE STAFF TO SEND LETTER

Euripedes Rodriguez, Solid Waste Management Director, stated as part of the hurricane effort of collection on the street, the County collects debris from private roads; this is based on a directive by the Board from 2007 in which he had proposed a question to the Board whether it wanted them to pick up on private roads regardless of whether the Federal Emergency Management Agency (FEMA) would reimburse the County or not; in the past, the County had received reimbursement from FEMA on every occasion that they had done this; this hurricane is slightly different, FEMA rejected their petition to fund the private roads and requested them to submit four things in order to do an appeal, which is the address, the photo of the debris at each address, which is after the fact and impossible to do, the cubic yard calculation at each address which is not possible, and the location of the final disposal for each address; and based on this, he is seeking guidance from the Board whether to appeal the decision of FEMA or not.

Commissioner Pritchett asked for more clarification on what is being requested.

Mr. Rodriguez replied the letter is one of the items in this Agenda Report; the first one is whether the County wants to formally seek an appeal from FEMA; one is to seek authorization to come back to the Board with Legislative Intent to change the Ordinance in order to meet the current FEMA requirements; and the last one is to send a letter to the federal officials to see if they can exercise any change of opinion from FEMA.

Commissioner Pritchett stated she is very comfortable with that, there is just no way to get photos of the debris.

Commissioner Barfield asked if there was any further cost impact for the County to appeal it.

Mr. Rodriguez replied it is just time and effort of staff and the County Attorney.

The Board approved appealing FEMA's decision to not fund the collection of hurricane debris on private roads.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.B., BOARD DIRECTION, RE: FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DECISION TO NOT FUND COLLECTION OF PRIVATE ROADS: AUTHORIZE STAFF TO RETURN TO THE BOARD WITH LEGISLATIVE INTENT; AND AUTHORIZE STAFF TO SEND LETTER (CONTINUED)

The Board directed staff to return to the Board with Legislative Intent to draft an ordinance addressing the reasons for the rejection of this type of debris removal for future storm events.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.B., BOARD DIRECTION, RE: FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DECISION TO NOT FUND COLLECTION OF PRIVATE ROADS: AUTHORIZE STAFF TO RETURN TO THE BOARD WITH LEGISLATIVE INTENT; AND AUTHORIZE STAFF TO SEND LETTER (CONTINUED)

The Board authorized the Solid Waste Management Director to send a letter to appropriate Federal Officials regarding factual circumstances of FEMA's rejection of this cost and the unreasonable regulations.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.C., BOARD REVIEW AND APPROVAL, RE: SECTION 70.51(17)(A) AND SECTION 163.3181(4), FLORIDA STATUTES, MEDIATION SETTLEMENT AGREEMENT BETWEEN BANANA RIVERFRONT, LLC AND BREVARD COUNTY

Scott Knox, County Attorney, stated this is the dispute resolution process culmination mediation settlement agreement in Banana River LLC in Brevard County; it is the proposed mediation settlement agreement which is a result of a proceeding that was filed by Banana Riverfront, also known as Squid Lips; in that proceeding, authorized by Florida Statutes, it allows for a property owner to claim in this instance the County is being unreasonable or unfair in the application of its ordinance to a particular piece of property which is the Squid Lips location on A1A in Cocoa Beach; and there was a very long mediation process and this is the agreement which provides for several things. He continued this property was acquired by Banana Riverfront in 2015; the Board has gone through a process of proving a nonconforming use existing on the property; subsequent to the purchase of the property in 2015, the owner constructed a new deck with a roof which was being used for presentation of live music; that caused some issues because there were no permits pulled to do that and as a result a cease and desist order issued; and that is what led to the dispute between the property owner and the County. He went on to say the agreement tries to resolve these issues and basically provides the owner would be required to install stormwater improvements at a significant cost, which would reduce the impact on the Indian River Lagoon (IRL) that this property has been having for years; it also requires the installation of sound barriers both on the roof and on the wall in two different places, at the owners cost; there is a limitation on the number of hours that the facility can be used for live music and amplified music; it is not currently a restriction the owner would have to observe in the current nonconforming use status; and in exchange for that, the owner would be able to

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keep the improvements that he has already installed. He added the options before the Board are to approve the agreement as presented, authorize staff to go back and renegotiate, the third option now that a lawsuit has been filed challenging the denial of the Comprehensive Plan amendment sought as part of the original attempt to resolve the issues, would be to file a counterclaim to make the owner take down the illegally constructed improvements, and the fourth option would be to proceed from mediation to a special magistrate hearing, which is also authorized and required by statute; however, he does not feel that is appropriate at this point, until the comprehensive plan issue is resolved; there is no way a special magistrate can recommend any kind of a change to the use because it would not be consistent with the Comprehensive Plan; and he believes the County would have to go through the Comprehensive Plan suit first.

Chairman Smith reminded everyone that they would start with the speakers, however there are two time certain items on the Agenda and they would need to stop at 10:30 a.m. and 11:00 a.m. to hear those items.

Kim Rezanka stated in the words of Ronald Reagan, "they are asking the County to trust but verify"; there are many Magnolia Bay residents that do not trust Squid Lips, so this agreement is better summed up by Secretary of State, John Kerry, "verify and verify"; this agreement provides tremendous oversight and draconian penalties; while concerned with some of the deadlines and penalties, Banana Riverfront has agreed to the terms of the agreement; mediation requested by Banana Riverfront and provided for by Florida law resulted in this agreement; there was close to 14 hours of in-person time between the County Attorney's Office, Natural Resources, Stormwater, Planning and Development, and at times there were nine County employees involved in this mediation; and many residents are not happy with this agreement, as the Board has received between 100 and 700 emails. She added in the emails received the residents want to punish Banana Riverfront, some want to string up Mr. Underhill for not paying property taxes, however, the property taxes have been paid; the County has not lost out on property tax revenue and his 2016 property taxes are not delinquent; those who have spoken previously submitted emails and they will speak again this morning, they will speak about all the horrible things that have happened and that will happen in the future if this agreement is approved; their concerns for the future are speculation and exaggeration; the neighbors are emotional, but emotions are not facts; the facts are that Squid Lips will not become a night club, a live concert music venue, and the outside deck will not be standing room only, it will be for the seating of customers with an occupancy standard of the County; and traffic will not over burden A1A as the 2016 Transportation Planning Organization (TPO) traffic counts show this segment at only a 67 percent maximum allowable volume. She went on to say focus on what this agreement will accomplish; Attorney Knox provided the details, but she believes it is very significant that there will be a reduction of solids, nitrogen, and phosphorous from the stormwater that has been historically dumped straight in to the IRL; there will be tight constraints on when the bands can play, which are not normal for anyone in Brevard County; the time constraints and noise constraints are generally limited by ordinances and not by times; the noise muffling devices, the sound curtains and the hard cover canopy; two site plans will be required; and residents and visitors will have access to the IRL. She noted in summary, Banana Riverfront needs to move forward, the community needs to move forward, and not dwell on the past; there are very serious penalties if this agreement is violated; and she requested on behalf of Banana Riverfront, for the Board to approve this settlement agreement.

Sam Shake stated he is a neighbor to Squid Lips; he was emailed a flyer from Squid Lips on March 17, 2017, to help preserve the right of the community to dine on the riverfront; he and his neighbors have never disputed the restaurant next door, it was there when his building was built; it was a nice place to walk to and eat; and what was disputed was what happened after Jack Baker's Lobster Shanty was purchased by Banana Riverfront and everyone knows what happened then. He stated the flyer reads, "there are a small but very vocal group of

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homeowners who are primarily from the adjacent condominium that are trying to keep the deck closed forever, please help us dine on the riverfront"; and he noted that is just not true, the neighbors would welcome a nice restaurant next door and they would be the best customers. He continued as for the mediated settlement agreement, it appeared to him on September 20, 2016, the Board denied zoning changes to the Conditional Use Permit and the Comprehensive Plan amendment because of the changes that were being made to Jack Baker's Lobster Shanty such as noise, traffic, and safety; he believes the Board voted the restaurant is okay, but an open air music venue and nightclub does not fit in their quiet neighborhood, and he agrees; the mediated settlement agreement, other than the stormwater attachments that were put in and whatever sound or noise monitoring devices, is virtually the same proposal that Banana Riverfront had before, but was denied; and the neighbors believe this is going to be different than a restaurant, with a different crowd, it is going to be loud even with the sound monitoring devices, it is going to be different than before. He reiterated it does not fit in a nice quiet neighborhood; the neighbors are concerned the Board will take the mediated settlement agreement and approve it; and what they would like to see is for the Board to vote it down again.

James Suplee stated Squid Lips was in operation for six weeks, before the County caught up with its illegal operations; dining on the deck was an oxymoron in his opinion; he asked how someone can dine with a band playing at 100-110 decibels; the property line is 60 feet away from his home; and none of the residents want to deny Squid Lips of a restaurant with a deck music venue, what they do want is for Squid Lips to be a good neighbor and to provide them with a good restaurant. He requested the Board to deny the mediation.

Joan Friedman stated she feels as though she is in a bad dream, like she went to bed one night knowing the Board had denied Squid Lips' request 4:1 and then she woke up and is now back again fighting the same things all over again; there has been a lot of concern about the sound and she does know they intend to install a sound barrier curtain but she and other neighbors do not know the performance history on that, whether it will work or not; if she can hear the Star Spangled Banner playing several miles away from Patrick Air Force Base, then it is hard for her to believe that she will not hear the noises from the band and party goes from the building right next door; and she knows they are going to install an electronic sound monitoring system, but she doubts it is going to truly reflect from those on the upper levels of the condominium, above the tree line, which may buffer the lower levels. She continued when Squid Lips opened their deck, literally hundreds of cars converged there; she tends to believe this will happen again, and they will not have adequate parking for it; it was a nightmare of parking and traffic problems the entire time the outside deck was open; they were parked everywhere, legally and illegally; and there were cars coming out of the exit and turning left, which is a one way street, going the wrong way. She went on to say in that six weeks the community dealt with really bad sanitation and health issues; there was no attempt made to address the fact that trash was overflowing from the dumpsters and being piled on the ground all around it; this went on for the entire time Squid Lips was opened; they were slammed with business, however it does not take five or six weeks to get control of it; and it only resolved itself when the outside deck was closed due to violations. She added the condominium maintains the County easement between their property and the condominium property; when the deck was opened, almost daily the residents had to police the litter that was thrown over the walls onto their property; they all bought there because of the quiet, family friendly environment; Squid Lips bought there knowing full well what kind of community they were moving into, a primarily residential neighborhood; however, they had planned to change it without any thought to the compatibility and not just to Magnolia Bay, but the entire community there; she has heard Squid Lips is already announcing that the deck is going to be opened very soon; and she asked if she was missing something, because she thought she was there doing unfinished business, not that the Board had already made a decision. She stated as a law abiding, tax paying citizen she is heart sick that once again she

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has to fight for her right to a decent quality of life, and that it is being threatened again; and she respectfully requested the Board deny the agreement.

Sal Bate stated he would like to focus his comments in three areas; the first one is the complete failure of Banana Riverfront to exercise its due diligence prior to the purchase of this property in 2015; he would like to discuss the legal thing that relates to the zoning and the prior Board's decisions; and he would like to talk about the provisions in the proposed settlement agreement that is believed to be extremely weak and does not have any teeth to protect the citizens. He went on to say in the Agenda report it clearly states that by its own omissions, Banana Riverfront illegally expanded the use footprint; what their counsel's report does not inform is that it includes a 4,182 square foot roof and a new outdoor stage for entertainment; if this is not a nightclub, or loud music venue he does not know what is; the principle, Mr. Underhill, has two other Squid Lips locations which are fine and are located in areas that do not affect people like this one; he is sophisticated, experienced, and he had a duty to exercise due diligence; he bought this property with his eyes wide open; he knew the Lobster Shanty, he knew the zoning, he knew the neighborhood, but rather than get conditional approval, and then proceed, he willfully, recklessly, and flagrantly ignored existing law; and he hired unlicensed contractors, expanded the property with the intent of almost doubling its capacity, and he operated this as a nightclub and outdoor music venue, not a restaurant. He continued Mr. Underhill is the creator of his own problems, and the Board should give this fact great weight; 62-1190A states the purpose of zoning is to protect neighborhoods; the County protects environments, turtles, and everything that can be protected; and he asked the County to protect the people in residential neighborhoods. He explained the second document, which was referred to earlier, is the Comprehensive Plan; 62-501 is a County policy document that guides development, it is the County's zoning that implements this Comprehensive Plan, and the Board has implemented both; and knowing all of this exists, Banana Riverfront applied for a rezoning, a Conditional Use Permit, and an amendment to this Comprehensive Plan, all three of which were denied and rightfully so. He added normally three strikes is an out, but not in Florida; Florida law gives another opportunity and that is why the agreement is before the Board; the formal mediation was done because the denial of the Comprehensive Plan; the residential people's position is that the Board should deny this because it subverts the intent of a Comprehensive Plan, Zoning Code, and the Board's prior decisions; it would legalize what is plainly illegal, which he believes is illogical at the very least; it inadequately protects residents of Magnolia Bay and others who have a pre-existing right and expectation of quiet enjoyment; and this may result in substantially diminished property values as defined in 62-1190C 10 to 15 percent. He added it rewards Banana Riverfront, who comes to the Board in bad faith with unclean hands that have violated and abused the zoning provisions, whether the taxes are paid or not; the record still shows the taxes are not paid, and he owes over \$46,000, not to mention the other property in Melbourne; and there are 22 health code violations that exist. He asked if there had ever been a site plan submitted in the past two years; 62-301 states the purpose of a site plan is to ensure a proposed development is non-injurious; if the Board should be inclined to accept this agreement, he would request the Board allow this matter to proceed to a special magistrate where an evidentiary hearing can take place; and the Board would be fully educated and could make its decision on a recommendation.

The Board recessed at 10:27 a.m. and reconvened at 10:35 a.m.

ITEM VI.F.1., CITIZENS REQUEST BY MARK SHANTZIS, RE: POLICY TO KEEP COMMISSIONERS OFFICES IN THEIR DISTRICT

Mark Shantzis stated he wanted to discuss whether Commissioners should have their offices located in their districts; the big picture is if a Commissioner is not going to have their offices in the district then why have districts; then there is a question as to access when a Commissioner moves his/her office away from his/her constituents; and the issue of cost and difficulty once the

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office has been moved. He continued he has a slide that shows cost; it talks about the current office off 192 running about \$30,000 a year to operate when someone is there, and \$25,000 to operate when no one is there; these numbers are from the County Facilities office and County Manager's office; all he did was use calculations with the County's information; to the left is the current cost and the cost to the right is to the District 3 taxpayers, which is nothing, since they have been accessing that office for 20 years; and then down further, it shows what the new costs are when the office was moved to Viera. He added now there is a cost of \$25,000 for the existing office and the cost of operating the new office which includes the opportunity of rental, because once that space is filled up, which is now full, the County has to look at leasing or building new space; anytime someone takes up space, there becomes a future need for more space in the growing process; whether the space is used right now which fills the building, or any space which will eventually fill the building, forces a new building to be built at a certain point; and the cost of that runs about \$25,000, which is \$18.00 a square foot with a \$4.00 common area maintenance to rent around here. He went on to say off to the right is the cost of the District 3 taxpayers, because there are now 750 taxpayers per year who have to drive another 20 miles with another hour or two of travel; to calculate their wage of \$20 an hour and figure out the gas and maintenance and depreciation they are spending another \$30,000 in order to access the new office; between that \$30,000 and the extra \$25,000, there is basically \$50,000 worth of additional expense and 15,000 miles more per year that the taxpayers, with more pollution, more possible accidents, and more congestion; the office at 192 is perfectly located for everybody in the District who goes anywhere across 192; and this office has been literally taken to a different location and completely inaccessible. He asked the Board to police itself and have Commissioners stay in their own District.

Gail Meredith stated she thinks this is an important issue; the Country seems to be in some kind of crisis of representation in that it is heard more and more about elected officials who do not represent their constituents, instead they represent their donors; representatives need to live in their districts so their constituents can reach them, some people cannot drive, and public transportation is terrible in this County; in this particular case some of the Commissioners seem to not want to listen to the people in their district and this seems to facilitate that; and she noted the people will be watching this very closely because it is a very bad direction to go in.

Nancy Higgs stated she sat as a District 3 Commissioner for 12 years; she wants to share the importance of having the Commissioners offices located in their districts; the Charter outlines the Commissioners will live in their District; it makes logical sense to her that the Commissioner would also work there; it gives them the opportunity and the public the opportunity to get to know each other and the situations that may concern them; she believes in local government, it is about people and their lives; and frankly the buck stops here. She continued to get clean air and other things, there is an opportunity at the Commission level along with the partners with the cities to make things happen; and she believes the citizens deserve the right to access their Commissioners and to have the ability to talk to them. She urged the Board to accept and direct staff to have a policy or ordinance for adopting so people can have a Commissioner living and working within each district.

Randy Foster stated when someone runs for office, they run to represent people within a district, and to do that they must have an office in the district; just imagine Congressman Bill Posey in the Eighth District closing down every office in Brevard County to save money and stating to email or visit him in Washington, D.C; there would be a lot of County Commissioners banging on his door to open the offices back up because he is not representing the people he was elected to represent; he knows the Commissioners have been to Washington D.C. before and this car tag says taxation without representation, which is exactly what District 3 has right now; it is not about Commissioner Tobia, it is about the voters having representation and not having to drive 20-plus miles to see their Commissioner; that office does not belong to the Commissioner, it belongs to the residents of District 3; and he asked the Board to do its job, pass an ordinance, and make sure everyone is representing their district by keeping their offices

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within their district. He continued he is a resident of District 3; John Tobia is his County Commissioner, but he does not feel that way because the office that has been there since the 80's has been closed; he could not believe when he went there a few weeks prior and there was a sign on the door; it is a beautiful location; and he again asked the Board to pass an ordinance. Pamela Acevedo stated she was concerned reading the article in the local news that Commissioner Tobia had moved his office; as it is it took her an hour and ten minutes to get to the meeting; the point is those who voted for Commissioner Tobia expect him to be in the district, accessible, and to be able to go to his office and voice any concern or work with him on anything he may need their assistance with; and he thinks it is admirable that a Commissioner would move an office to be closer to their constituents, but one who moves their office further away is questionable.

Richard Charbonneau stated Commissioner Tobia is not his Commissioner so maybe he does not really have a right to comment on this; here at the County Commission meeting, Chairman Smith and Commissioner Tobia are right upstairs, along with the County Attorney and the County Manager, and he finds that to be convenient; he goes to the County Courthouse to do mediation, then he comes to the government building to do some stuff, he does some of his shopping at The Avenues, and he finds it all very convenient; he thinks a lot of people from the south part of the County do a lot of their business in this area; and to dispel a rumor that he has heard many times, he has been to Commissioner Tobia's office probably 10 times and every time he just walked in, there was no lock on the door and there was no buzzer.

Commissioner Tobia stated he is going to leave this to the discretion of the Board; while he appreciates every ones input he is certainly responsible to the voters and nonvoters of District 3; the only thing he asked is if the Board does make this decision on financial considerations to use realistic numbers; the financial analysis was sophmoric at best; there is no value associated with the space that he has in the County office; the previous tenant of that office moved to another public building where there were no additional costs incurred; and the 750 people spoken of, have not showed up to his office. He continued the moving expense was \$4,000 and should have been on there. He commented he hopes the value of this property can be looked at sooner rather than later to try to move it off the tax rolls; his first thought was to find additional space at Palm Bay City Hall; however, that is not in his district; he greatly appreciates Mr. Shantzis for bringing this up for discussion; Mr. Shantzis had contacted Commissioner Tobia's office during his time as a State legislator and both of his issues had been resolved in a timely manner while using the telephone; and his home was a few minutes from Commissioner Tobia's home but instead he chose to call to have his issues taken care of. He went on to say there is 100 miles explained in the handout and at no point is County Commission District 3 to this office, anywhere near that 100 miles round trip, not even 80 miles round trip; and he again asked the Board if they take that into consideration to please take real numbers into consideration, as he did when he decided to move his office. He added he is responsible to the voters of District 3, however, if it is the discretion of the Board for an office in District 3 he would hope that he could find an office that does not have an expense associated, possibly a satellite office somewhere, where they could look at County Commission District 3 office in getting it on the tax roll; there are some parking issues but it still has, according to the Property Appraiser, even with the parking issues a value of \$140,000; and he would hope the Board could deal with the taxpayers in as fair and as transparent a manner as possible, and he reiterated he would leave that to the discretion of the Board on how it would like to move forward with the issue.

Commissioner Barfield stated he brought this up at the Ethics Workshop and he knows in his district there are a lot of people and traffic; it is important that there is a face in the district; it is a good way to Viera from his district; he really believes the Commissioners constituents should have as easy access as possible to their County Commissioner; he believes that is why each Commissioner has his/her own district and should have their office in their district because those are the people whom each Commissioner represents; and he thinks this is a decision that needs to be made by the Board for the future, so the people know they have that access. He

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went on to say since Commissioner Tobia does not have a problem moving, he really thinks that is what needs to happen.

Commissioner Pritchett stated she does not want to get to where the Board is micro managing each other; she respects the Commission and Commissioner Tobia, whom she believes is doing a great job; her only hesitation would be to do something that makes him feel like the Board is pushing him into something; Mr. Shantzis called her and he really opened her eyes to how important this is, because he really wanted to see Commissioner Tobia but could not get to him, because it took too long; and she asked Commissioner Tobia if there was a way he would consider moving back to his district, even though she does believe he tried to save money, before the Board moves forward with a motion because she does not want the motion to be directly related to him. She continued it does make sense to operate within their own districts so she would support a motion for a policy to have Commissioner's offices located within their own district because even if the Commissioner is not there all the time, their staff is.

Commissioner Isnardi stated this has been discussed before at length in the Ethics Workshop; while she agrees, she personally moved her office to be more central in her district even though there was an expense incurred by the County for that space because there was no room at local municipalities for an office after an extensive search, she does hesitate in dictating to Commissioner Tobia because he does represent, that is why there are districts; while she may see things philosophically different than him, she does not believe it should be within her power to tell him where he should have his office; the Viera building was designed to house all five Commission offices at one time; now that has obviously changed but someone had it in their vision and it made sense to have all the Commissioners located in one building so each Commissioner would have access to staff; she does appreciate that Commissioner Tobia is trying to save money for the County; she noted District 5 is quite an odd district and it was difficult for her to find a central location; and she knows Commissioner Tobia is responsible and accountable to the voters in his district.

Chairman Smith stated this is not a Commissioner Tobia issue; Commissioner Tobia made a decision and he has to live with that; his constituents will let him know what they think of it in three and a half more years; but he personally thinks it is an important issue for the County because it affects all five districts; it is important that the Board either make a decision going forward that all District Commissioners be physically located within their district or everybody gets to decide and any district can move whenever and wherever they want; and he does not think that works going forward. He added he thinks it is an important policy that this Commission can make.

Commissioner Tobia stated he does not want to put anyone in a tough spot when it is certainly not all that financially constraint; he expressed appreciation to Commissioners Isnardi and Pritchett for their sentiment; while he may agree, he thinks it would be great if the Board set a Policy that this would be done in a unanimous fashion and he believes the Board has the ability to do that based on the sentiment; his only recommendation is if the Board were to move forward would be to provide the opportunity for a transitional period in which his office could find something that would not incur any additional expenses other than the move because he would certainly like to go in a direction that would save taxpayers; and he again expressed his appreciation to Mr. Shantzis for bringing this forward. He went on to say this shows that citizens have a voice and he looks forward to the motion.

The Board acknowledged the citizen request by Mark Shantzis to keep all Commissioners offices in their district; and directed staff to draft an ordinance requiring each Commissioner to have their office be located within their district in 60 days.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.A., PRESENTATIONS OF TOP TWO RANKED FIRMS, RE: RECRUITMENT/SELECTION OF COUNTY MANAGER

Leslie Rothering, Purchasing Services Manager, stated at the March 7th Board meeting the Board directed the two top ranked firms come back and interview with the Board; the two firms are The Mercer Group, Inc. and Renee Narlock and Associates; a Representative from the Mercer Group is in the audience; Rene Narlock is outside and will not be present while interviewing Mr. Higginbotham; and following the interview presentations, the Board can make a decision on how it wants to proceed. She noted they were allotted 10 minutes to do their presentations and give some insight on their approach of what they will be doing for the County.

W. D. Higginbotham, a representative of the Mercer Group, Inc., stated he has prepared a two page executive summary which was included in the proposal; he is just going to cover some of the points that were in the complete proposal presented to the County in late February; The Mercer group has been in operation in the State of Florida for the past 27 years; he has been with The Mercer Group for six years and maintains an office full time in Volusia County; and prior to that, 30 years in the private sector, mostly as a City Manager for cities in Florida, one in Brevard County. He continued he will be the Project Manager handling this project if afforded the opportunity to do so; he handles much of the material and interviews all of the candidates himself, as well as the screening, so that he can report when he makes a recommendation to the Board as to the semifinalists and he can answer most of the questions the Board might have without the candidates being present; the qualifications and staffing are set forth on pages one through four in the formal proposal; and it touches on his background. He added the understanding of the project is the County and the Request for Information (RFP) set forth the items it wants the recruiting firm to touch on; those are enumerated in the cover letter as well as on pages five and six of the proposal in detail as to what the Board is expecting from the recruiting firm; and pages six and seven are the details in which the firm would deliver that are in the RFP. He went on to say the seven step process on how the firm goes about analyzing to come up with candidates to be presented to the Board; pages seven through ten of the proposal deals with the position analysis of how the firm would work with the Board in terms of developing the job qualifications and the position profile, the recruitment process, the resume review, and the candidate screening; and he reiterated he does all the candidate screening himself and spends no less than an hour with each of the candidates mostly by phone unless they are close at hand. He stated in terms of the background investigation that the firm provides, they recommend it be done after the Board has chosen to interview the candidate, and it will be completed before the Board meets with the candidate; he would recommend the County have a meet and greet on the afternoon or evening before the interview process and presumably in a public environment which he will coordinate or help coordinate, where the Board and the community can meet the candidates; the Board may want to do a one on one in addition to the public interview; and that can be discussed when he meets with the Board. He continued he will assist with a negotiation and a follow up of the candidates working with a satisfactory agreement if the Board chooses to do so; the schedule he recommends is on page 11; the firm is successful in getting candidates and having the process completed in usually 11 or 12 weeks, he suggested 11 weeks on this, and the details are set forth; and there is a flat fee that was proposed on page 12, the total amount including all expenses is \$15,750 even if the firm has to continue in advertising, until the Board has selected the candidate of its choice. He went on to say his firm set forth 10 guarantees, all of which are important, but he would like to touch on

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some of them; the firm keeps working until they find the candidate the Board wants; they have success in their recruitments and it is demonstrated in Florida where they have recruited for 18 counties, some multiple times; they never pursue a candidate that has been selected while they are under employment in this County, unless they had permission to do so; they will also not recruit from any of the staff within two years of a candidate placement and he typically does not do that anyway; and they also do not present candidates simultaneously to more than one client. He noted if the candidate were to leave for any reason within the first two years by the Boards choice or the candidate's choice The Mercer Group will redo the recruitment for a nominal advertising fee.

Commissioner Tobia asked Mr. Higginbotham if he had or has any prior relationship to this Board or any Brevard County staff.

Mr. Higginbotham replied he does not.

Commissioner Pritchett stated she is sure the group works through a database of people who have registered with them to find positions and she asked how many people are in the database he will be using to help find the new County Manager.

Mr. Higginbotham stated he maintains a database; however, a database over 60 days old is not very useful; good candidates who remain in a database for more than 60 days may not be considered a top candidate; they have offices in 13 states and most of the database he has is from reaching out to the other consultants across the country; he does have a certain database because he does this a lot; but he does not have a number. He continued he came to Florida as a City Manager in 1984 and is very well known; he speaks at conferences and interviews candidates at those conferences; and he has also been very active with International City/County Management Association (ICMA).

Commissioner Pritchett stated she is trying to find out if there is a large pool that he will be going through to find candidates; she is guessing there are thousands and she is hoping he has a large number of candidates to start his process.

Mr. Higginbotham stated he does not have thousands, but there are probably 20 who come to mind to satisfy the Board's needs.

Commissioner Pritchett asked if he already has an idea of candidates.

Mr. Higginbotham replied sure. He stated he will get anywhere from 70-90 candidates; Brevard County is a very attractive place so there could be over 100, but they will not all be qualified; he suspects maybe one-third or a little more will meet the minimum qualifications; and then he will come up with 8-10 semi-finalists to present to the Board.

Commissioner Pritchett noted with all the snow storms going on up north there may be some really good people who want to move to Florida right about now.

Mr. Higginbotham stated having lived in Florida, he knows a lot of people want to come to Florida at this time of the year; he was in California before and when they used to advertise during this time of year, he would drive through the snow to get candidates; and he is very careful in screening these candidates to make certain they do not think they are coming here to retire in this position.

Commissioner Isnardi asked what attributes, characteristics, and experiences would make an ideal candidate to be presented to the Board for Brevard County.

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Mr. Higginbotham replied he would have to get those attributes from the Board; he will suggest some attributes, but one of the first things he would do is to meet with each Commissioner either as a group or individually to discuss the attributes; he will meet with the community whether it is a business community, residents, or staff to get the attributes that fit what the Board wants, more than what he thinks the candidates should have; and he understands the Board's needs with Emergency Management and perhaps the candidate should know more about the County's emergency preparedness more so than the budget.

Commissioner Barfield asked approximately how many similar positions he places per year.

Mr. Higginbotham stated they make 80-100 executive placements per year; in Florida he personally placed City Managers for Plant City, Deltona, Port Orange, County Manager of Citrus County, he is working in Collier County, and Sarasota County was a County Manager; they have placed nearly 200 city and county managers in Florida during their tenure; there is a list of county and city managers but if he placed all the positions in there, there would be thousands nationwide; and for the county manager positions it would be 18 counties, some of them more than once.

Commissioner Barfield asked for the number of turnovers in the past 10 years.

Mr. Higginbotham stated it was very slim; he has been with The Mercer Group for nearly six years and he has never had to replace one; he had one that left early, an internal Auditor for County Clerk because the candidate was not a good fit; and other than that he has not experienced any. He continued it does not happen very often; most candidates are screened quite well; and it is their intent to present someone who is going to be transient.

Chairman Smith asked if he handles both public and private placements.

Mr. Higginbotham stated he does, but his focus is in the public sector, he does very little in the private sector; he has a request right now for a university president and that is a tough recruitment; somehow he has been labeled as the person for upstate New York, they love getting people from Florida for their County Health officials; that is close to the private sector because they look for candidates from the private sector for a position such as that; but they do not get a lot of requests from the private sector for recruitments. He noted they would do it upon request.

Chairman Smith asked if anyone would be able to apply if this became public knowledge.

Mr. Higginbotham replied absolutely; he stated when he meets with the Board, it may decide it wants him to reach out to the private sector for someone who has private sector experience or maybe someone that is in the private sector; it is pretty tough to move into the top position in any public position, county manager or city manager, with no public sector background; he understands, especially in Florida with the sunshine laws and public records laws, but granted the Board has the County Attorney to assist that person, but there will be opportunities that the candidate needs to know because they are going to be working with one or more of the Board members on issues; and the candidate will need to understand the attorney will not be sitting there with him/her. He cautioned the Board against entertaining somebody from the private sector who has no public sector experience.

Chairman Smith asked how the firm would get a feel for the personality type he thinks would fit in this situation in Brevard County; and he commented there has to be some assessment going on.

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Mr. Higginbotham stated he is going to meet with the Board and spend as much time as the Board wants him too; he is going to meet with the community of the Board's choice whether it is business and/or residential, to get the feel for this community; he cannot say his few years here as a town manager makes him all knowing about what the Board is looking for; and what the Board is looking for today may not have been the same as 10 years ago; but he is going to get that feel from speaking with the Board. He went on to say he will have questions; he will interview the candidates, obviously he will not be doing the talking, he will be doing the listening; when listening to someone speak and answer questions for an hour it gives him a lot of knowledge about the candidates and he will know a lot about what the Board is looking for, in this community; and he will spend the time necessary to get a feel for what the Board is looking for. He noted he prides himself on understanding what the communities are looking for because he has been a city manager in four cities in the State of Florida, and he has been the Economic Development Director for North Central Florida which gives him a feel for the communities in Florida, all 67 counties, whether they are rural or urban counties.

Chairman Smith thanked Mr. Higginbotham for his presentation.

Mr. Higginbotham stated he takes great pride in what he does and if afforded the opportunity, the Board will not be disappointed; and he thinks it will be quite pleased with the candidates he will deliver.

Rene Narlock, President of Narlock and Associates, stated she has been in the business close to 25 years, primarily focused on public sector recruitment, senior management, and senior leadership; her firm has been in business since 2014, prior to that she was with another public sector search firm; they had a west coast office in California and an east coast office in Tallahassee; when the owner of the firm retired, she went into business for herself; and she is out of Tallahassee and has a secondary office in Georgetown, Texas. She continued she has done hundreds of searches in the public sector over the years; her current projects include City Manager of Coral Springs, City Manager of Dunedin, and a couple other Public Housing president, CEO recruitments from Virginia; past projects is a long list; she has recruited in Florida and nationwide for county managers, city managers, and department directors; and in Florida specifically in the last five years or so she recruited county managers for Alachua County, Lee County, Pasco County, and most recently Palm Beach County. She went on to say she knows her way around Florida, she is a native here; she really has an appreciation for this area and what it has to offer; she has a process which was outlined in her proposal; it is a proven process that will get them from point A to point B in a successful search in scouring the nation for talent and bringing the Board some high quality individuals to compete for this position; as a search firm, this one is great for her with the location, organization, and situation; as some places and situations are not quite like this, meaning maybe a past manager had been fired, but here it is just a great opportunity to get the right person to come in and move forward with the organization; and she is hoping to get a nod on doing this search. She added she has the staff, the time, and she is ready to go at the Board's request; in the Proposal there is also a timeline; it does take a little while but once she gets started, she will come to the Board for a kick off and the clock will start; they will build momentum and keep the momentum moving forward; and she is sure the Board is interested in doing that as well. She reiterated she has seasoned staff and the ability to carry this from start to finish; she stated they understand the nuances to carry this from start to finish, of doing a recruitment, of open records, and all of the things along the way that will be very important in having a successful search; her role is to bring great talent; she does not tell anyone who they should hire, she just listens, goes out to find that talent, and then she brings those folks back to the Board; and her goal is to make the Board's decision really hard, meaning there are several candidates who can do the job and do it well. She continued she always brings a diverse group and that means a lot of different things; whether it be racial diversity, gender, experience, maybe there is someone who has been an assistant in a large county but has never been a county manager, maybe there would be a

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seasoned county manager, maybe the Board would want someone who has never had government experience, and that would be another end of the spectrum; she takes her marching orders from the Board; she will bring candidates that it is looking for; and then it comes down to helping the Board navigate the process and make a decision. She stated she has a standard structure, but when it actually comes down to the details of it, she will look to the Board for direction.

Commissioner Pritchett asked if her firm has a large database that they start with; and she stated she is just curious how they go about determining the great talent and how they find them.

Ms. Narlock replied there are several pieces to the process; she does not look at her last search and whoever did not make it is now chosen; they start from scratch and use all the resources they have in place which includes a database; she is connected to different associations and organizations such as ICMA which if someone is a professional city manager they more than likely are a member of the association; between her database, her connections, and her network there are added elements to it; and for example if she sat down with the Board and its priority was a particular type of development for the community, she would go and find what communities have been successful in that particular area already, and she will seek out the talent who was responsible for it or was involved in it. She added she kind of comes in the back door to find people who may not be looking, but are qualified, and actually recruits them or draws them to this community; and it makes up a really good, solid, and interesting pool of candidates when they get to the interview table.

Commissioner Pritchett asked if she has hundreds or thousands in her field of candidates; and how many people she will start looking through to find a Brevard County Manager.

Ms. Narlock stated the first notification would probably go out to 1,500 people; the really targeted group will probably be about 150; and then she would expect 50 applications, of which she would have an interest in talking to probably the top 15; and then she will whittle it down from there to make a recommendation to the Board with the top seven to be interviewed by the Board.

Commissioner Pritchett asked if Ms. Narlock does a nationwide search.

Ms. Narlock responded affirmatively. She stated there is always a chance to meet someone who is familiar with the area, maybe grew up in the area or went to school in the region; their career could have taken them far away and her call would be a perfect timing for them to come back to the area; she will look in Florida and regionally but she likes to throw the net far and wide because that is where surprises come from; and she will be looking for the best.

Commissioner Isnardi asked in her experience with recruiting of city and county managers what combination of characteristics would she find to be the best fit for Brevard County.

Ms. Narlock replied she would look for someone with energy, someone who could be the face of the organization and connect with the stakeholders here; she would want someone who is sound in budget and finance; and she would probably look more on the economic development side as an added background; she would not look for just candidates who are familiar with County, because she likes to look for people who have worked for public, and private, cities, and counties, the blend tells her the candidate is able to go from one environment to another successfully; and it is a fluidity she feels is important in a candidate. She continued to say someone who brings a lot of leadership is always needed because it is what the job is really about; there is a lot of activity here; it is one of the questions she would be asking the Board because she needs to make sure the person whom the Board selects is prepared for what is

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coming five or 10 years down the road depending on the cycle of Brevard County's organization; she would look for someone who is a visionary and someone who has worked for several Boards, meaning they did not just work for a four-year time frame while the Commission was serving its one term; and she needs to know the candidate can survive the change when new faces appear on the Commission. She noted this is no small feat for a county manager; this is a large complex organization; and the candidate will have to have some substantial experience functioning in an organization at that level, for her to feel good about them as a candidate.

Commissioner Barfield asked how many senior level people she has recruited in the past two years who were not actually looking for a job.

Ms. Narlock stated the way she approaches a recruitment is to hit it from every angle; she will advertise, she will reach out to people, and then she will do some more strategic finding of people; by the time she gets to someone they have probably seen it in an add, got a call from her, or received an email from her; sometimes it is hard to track how someone has heard about it, however she does hear candidates say on a regular basis they were not looking for a job, but decided this could be the one; and she already knows it is a good opportunity for them, she just has to help them figure it out. She went on to say she cannot stop people from applying for the job; it is open and whoever wants to apply does; she does have people who apply for almost everything she does which is not a good strategy because she needs to know the candidate understands this is a good fit, the candidate is committed to the process, and has thought this through, so when he or she gets to the finish line, they know this is for them.

Commissioner Barfield asked how many positions in the last couple years have turned over.

Ms. Narlock replied she has a guarantee in her proposal; she has not had to exercise the guarantee in 15 plus years; even in that situation the gentleman had taken a job, moved with the anticipation his family would come once school was out, in the meantime, an elderly parent became ill, and after eight months he decided to go home to help take care of the parent; life is woven up into all of this stuff and there are times things like this happen; and people can best prepare with having those discussions upfront. She added one of the questions she asks candidates is what their long term and short term career goals are; what she usually hears is the candidates plan on working another 15 years; they give her what their picture looks like; and she needs to make sure it is what the Board is looking for.

Commissioner Tobia stated the Board would be remiss if it did not talk about the fee; he only saw the top two so he cannot speak about the four; he does not know if she saw her co-applicants package but at best case scenario she is more than 45 percent higher; and he asked what she brings above the other applicants. He commented the other thing is the statement, expenses are estimated to not exceed \$6,500; he reads it as the fees could go higher, otherwise, it would state expenses will not exceed; and he asked how often they go above the expense estimate.

Ms. Narlock stated it needs to be reworded because it will not go higher; as a matter of fact she does not anticipate it going that high; \$6,500 is a standard amount of expense based on past history, but a lot of her searches, she is getting on a plane at least three times; flying out of Tallahassee is rather expensive; she reiterated she does not expect to reach \$6,500 on the expense cap; however, there may be a good possibility the Board may ask her to come on site for an additional visit. She continued if the Board goes through interviews and does not find a single candidate who stands out, there may be two or three, then they will need to be brought back for another round; she will make sure their agreement says it will not exceed \$6,500; as for the professional fees she is a little surprised the total fees is 45 percent higher; the professional fee itself she thinks is pretty competitive in comparison to some of the other recruitments she

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has done; this may be a couple thousand higher than if she were looking for a department director and the reason being is when she is working with an elected body, the recruitment is a totally different process than just working with a county manager to hire the human resources director; there is a lot of scheduling, public meetings, and a lot of interaction; and she thinks it is on the top end of her professional fee. She added she is curious to see if her proposal may have a typo, because she really thought they were more competitive; the answer to the question is they are very good at what they do and the talent the Board will see, will demonstrate it; she has had candidates who were part of a pool before and they did not get the position but came back to her and said they were proud to be in her pool of candidates based on the other candidates; therefore, the Board will get top shelf talent from her. She went on to say she likes to find rising stars, hidden gems, and she loves to bring top shelf professional people; her searches turn out to be a real educational process because there is so much talent that comes in the interview process, she begins to learn about what others are doing and it is valuable for informational purposes; and she is very comfortable with the proposal.

Commissioner Tobia stated when the Board voted in favor of hiring a firm, 30 seconds later her resume appeared on the dais; and he asked her if she had a prior relationship with anyone on the Board or anyone else.

Ms. Narlock replied she has never met any council person here; when she did the Alachua County Manager search Brevard County's Manager was in the process; it was the only interaction she had and it was pretty limited as far as making a recommendation to Alachua County which was many years ago. She noted she does rely on her reputation; she is doing three searches right now; she thinks there is a good connection of human resources professionals in this state and they know who they like to work with; and they know who takes the burden off of them during a process like this, because it does take a lot of time and effort.

Chairman Smith asked if she does private placement as well as municipal placements.

Ms. Narlock responded she does primarily public sector; what happens is she will work with a Board and will serve on a community non-profit board also; when they need an executive director because of the work she does here, the Board would put her name out there; the private stuff she has done has been non-profit and is from a referral connection; and her aim is public sector because they are some of the brightest people in this field and there has been plenty of demand for the specialization.

Chairman Smith asked if anyone could apply, like if someone from St. Louis heard about it, could they contact her and ask to be in the pool.

Ms. Narlock responded affirmatively. She stated they open up her website for candidates to apply; it is very user friendly; and anyone can apply for the job.

Chairman Smith asked if she had a project manager and who would be in charge of the recruitment.

Ms. Narlock replied she is the recruiter; she will handle this project; she has staff who would handle a Director position; but for an elected body and for it to be open with all it is going to take to make sure they get from Point A to Point B, she will be the person; she will be there for every on sight meeting; she will meet with the Board on kickoff to get all the information she needs beyond the standard job description; she will talk to the Board about salary, possibility of internal candidates, and everything under the sun; she will be back to recommend candidates to the Board; and she will be back again to facilitate the interview process on site with the candidates. She added she will be in the process until the very end including the assistance with negotiations, if needed.

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Chairman Smith asked since each situation is unique how she would assess the uniqueness of the flavor of Brevard County versus other counties.

Ms. Narlock replied she thinks over the years she has developed a sixth sense; she listens a lot on the front end; she will ask the Board if there are others it wants her to meet with, like Mr. Whitten, department directors, or even community members; she finds out the scope of where the Board wants her to reach out to and listen to everyone; and she goes beyond to figure out what the big picture is, or the longer vision, then she comes back to the Board to let them know what she sees, what she is hearing, and if she is correct in her thoughts. She continued, she makes sure she has the clear picture; which is another one of the elements that have made her so successful; if she has any questions, she will get answers; she will drill down to find out what challenges the County is facing, what the opportunities are, what the hurdles are for someone coming in at this point in time, what the vision is for the organization, and the culture of the organization; and she will ask pointed questions to help her frame and understand what a good fit would be, because she is not interested in bringing somebody here who does not fit the organization.

Chairman Smith stated he would like to put this aside until the end of the meeting so the Board can have as much time as needed. He asked for thoughts from staff.

Ms. Rothering stated it would be fine; however, both firms are here so they can come back and listen to open discussion, otherwise, if they leave they will miss the discussion, but they do not have to stay; and if the Board were to vote now they would be here to hear the Board's discussions; or they can wait until later.

Chairman Smith replied if it were done later they could still hear the discussion, and it would give the Board time, without constraints, to hash it out.

ITEM V.C., BOARD REVIEW AND APPROVAL, RE: SECTION 70.51(17)(A) AND SECTION 163.3181(4), FLORIDA STATUTES, MEDIATION SETTLEMENT AGREEMENT BETWEEN BANANA RIVERFRONT, LLC AND BREVARD COUNTY (CONTINUED)

Ben Bishop stated he has not specifically read the mediation agreement but his understanding is there are multiple controls, checks, and balances written into the mediation agreement that restrict sound levels, operating conditions that he thinks would make it plausible for everyone to give this a second chance; and one thing he can say about Mr. Underill, having worked for him for 13 years, is when he shakes a hand and makes an agreement he stands by it. He continued he does not think this would be any different.

Susan Suplee stated she vehemently opposes this mediation settlement agreement; this agreement is grossly negligent in reflecting the 1,800 pages of findings of fact and the three previous denials; this agreement does not reflect the integrity of the presiding Board at the time of the denials; and it is challenging the integrity and knowledgeability of the sitting Board today, which consists of three new Board members. She continued for references purposes, their immediate residential community from 20th Street to 24th Street consists of 13 single-family homes, 11 multifamily units, and one condominium property of 34 luxury units under development; this community has contributed over a million dollars in tax base to Brevard County in 2016; Magnolia Bay's 57 units paid \$285,000 of that, which is a substantial tax base; since the purchase, Mr. Underill's taxes were in arrears, but as of today, certificates were bought and paid for by private funding; she inquired who is to say how he will obtain the funding to adhere to this agreement and pay for stormwater management; and should this agreement get approved the property values will decrease. She went on to say, she is not asking for the restaurant to close, only the capacity to be brought back to the original capacity for dining, which is 60, and for the music venue to abide by the noise ordinance compatible to dining music at 70

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decibels. She continued to say she takes exception to Ms. Rezanka's comments on speculation because she lived the nightmare for five to six weeks; their lives and their property use have been threatened; for all the reasons of the Zoning Code, the Comprehensive Plan for this residential community will irrevocably be destroyed; and the Board has taken an oath to protect the citizens of Brevard County and has sworn to uphold the ordinances and Comprehensive Plans put in place. She added although the tax base in her immediate community may be a drop in the bucket to some, they too are entitled to their use of their property, their safety, and protection of their livelihood; and she respectfully asked the Board to stand up to the unethical business practices and deny the agreement.

Gary Shetzline stated he is in favor of Squid Lips and any person who wants to go into the restaurant business; it is a tough business and the Board has restricted this person's property long enough; and he asked how a person is supposed to pay taxes when they cannot operate their business. He added the Board has taken employment out of the region by not allowing this business to operate; he feels it is long enough; it has come to a mediation agreement via the laws in place; and he believes the mediation agreement should be upheld.

Randy Berner stated he completely endorses the viewpoints of his neighbors about this matter; it is often difficult to swallow why they are even there discussing this again, but they are because it has been allowed; most of his neighbors have already spoken the same feelings as he has; one particular issue he believes he is qualified to speak on is the impact the Board's decision may have on the protective service community, primarily law enforcement; and he feels he is qualified to speak on it because he was a member of the law enforcement community for 31 years. He continued he was an eye witness to about five or six weeks of Mr. Underhill's business model and he can tell there will be a drain or an additional need from the Brevard County Sheriff's Department (BCSO) to deal with the matters that are going to occur as a result of his not catering to a 45-65 year old group; he has a print out from the Melbourne Police Department, which may be a little dated, but in 24 months from October 1, 2014, to October 24, 2016, there were 72 incidents logged into the computer dispatch system; in his location at Sebastian in 34 months, the Sabastian Police Department had 117 incidents logged into their computer dispatch; and he thinks it is quite obvious if he is allowed to continue with this entertainment venue it is going to cause problems, and it is going to require a law enforcement response. He went on to say in previous testimony Mr. Underhill said to the Board the problems he mostly has with his Melbourne location are from pan handlers, while the document he has clearly states it is not the case; there may be calls for service regarding panhandling but there is everything else too from fights, drunken disorderly, thefts, and assaults; and if he ran another six months, he thinks it would be the same situation; and he asked the Board to keep in mind the impact it is going to have on the protective service community should it allow this agreement to go forward.

Mark Holloway stated he agrees with what his neighbors have been saying and wanted to add a few points; quiet enjoyment has been talked about, residential community and a rightful expectation to that; they talk about sound barriers, they talk about noise monitoring, and after working with submarines sonar acoustics for years, in an open area like that there will be a funneling effect; as far as the fines for this, stringent fines of \$500 is the cost of doing business and does it have to be paid, not necessarily, there are no tax certificates for that; and keeping promises, there was not much adherence before and he does not expect it in the future.

Heather Couch stated she has lived at Magnolia Bay for almost six years; when they purchased their home the Lobster Shanty was right next door; they enjoyed the venue for lunch and dinner and music on the weekends; when they learned Squid Lips would be the new owner of the Lobster Shanty they were initially delighted; as a former restaurant owner herself she wanted only success for Squid Lips; and she was a good customer in the beginning. She continued their quiet environment changed drastically; the demographic, they had been told by Squid Lips,

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would lean towards older in age as is consistent with their surrounding community; however, there was a much younger clientele and with it came crowds, noise, parking problems, and safety issues; their nice restaurant had become a bar, music, and party venue; and she feels Squid Lips has totally misrepresented Magnolia Bay residents, Snug Harbour Residents, and all of the condominiums and private homes in the surrounding community. She noted they would welcome a restaurant with due diligence, complying with zoning ordinances, permits, and regulations; and she urged the Board to vote against the mediation agreement.

David Couch stated if the Board votes for this he is going to have 48 hours a week of listening to music, by choice or not; he realizes the Board will not have to hear it, but he does; and from a fiscal standpoint he does not see any advantage to this County with the expenses Randy talked about with the law enforcement and the loss of tax values, Susan talked about.

Robert Love stated he lives up north and he goes back and forth, while his wife lives here in the winter; his friend Mike also goes back and forth and they hang out together down here; Mike's favorite place is the Sandbar, a nightclub; Mike called him one day and told him about this really great place and it was located right next to his place; Mike told him there was a beautiful outdoor bar with music and the place was hopping; so when he came down they had planned to go the next evening; however, when he went out on his terrace trying to talk with his wife, the music from Squid Lips was so loud, it was as if he had his radio turned all the way up and after 15-20 minutes of the noise, he had to go inside. He continued the venue is a nightclub, it is noise, and it can be heard all the time; if anyone living in a house and 70 feet away there was a wedding every night with 200 people and a five person band, they would be tired of it and not be able to enjoy their back yard; if showing a place to a realty date they cannot bring them when the music is playing because no one would want to buy the place; and it is a real problem they have to live with. He added zoning laws are to regulate the use of property for health, safety, comfort, and welfare of the citizens; it was said earlier today, words need to be used as they were intended to be used, and the non-conforming zoning was done well over four or five years prior to Squid Lips purchasing this property; it was thought out very well and made for 60 people on the patio because they knew the sound could not be dissipated over the water; and a nightclub sound like that roaring out rock music in a neighborhood should not happen. He mentioned there is a resident whose husband is hard of hearing, but he has to sit inside his residence with a headset on to block the noise so he could read, that is how loud it was; zoning was enforced well over four years before they bought the property and Banana Riverfront had no reasonable expectation when the property was purchased that they could extend the seating to over sixty; that is proven by him building the extension without building permits; he chose to do it and now he is coming back like a bully trying to shove it down their throats by threatening the County; and the County said it does not like to litigate, it would rather settle. He went on to say he does not like that attitude because for him as a citizen, he does not want to listen to the music all the time; allowing this expansion of 200 plus people on the patio is unreasonable to him, it would be a public and private nuisance, and it would prevent the peaceful and private use of his property; and the Board members should think about if it was right next door to one of them.

Chris Conneen stated he is speaking on behalf of Squid Lips; Mr. Underhill is someone he has come to know as having solid integrity and character; he has collaborated with him on nonprofits; he does not know this person's place to be a partying kind of nightclub; at his current locations the music is over by 11:00 p.m. or earlier and it is not every night of the week; he has heard a lot of exaggeration and emotions in the group; and he is here to speak on Mr. Underhill's integrity and support the mediation to be worked out.

Sherry Nelson stated what jumps out to her is this is a mediation settlement agreement between the County and Squid Lips and she thinks this has gone way off, out in left field.

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Barbara Schluraff stated she has been a south Cocoa Beach resident her entire time in Brevard County, which has been almost 25 years; she has lived even further south from Magnolia Bay which is a very unique part of the County being narrow, quaint, and quiet and that is why she and her friends choose to live there; she is a real estate broker and has two Century 21 offices, one in Cocoa Beach and one in Melbourne; and the reason for bringing that up is because all day long she is looking at property values and the highest and best use of property. She added she has listed and sold quite a few of these Magnolia Bay properties, other condominiums, and homes in the city and mostly on the beaches; the residents choose to live there because it is quaint and quiet; she has been at Magnolia Bay for five years and she loves it; however, when the party scene started happening next door, she stopped going out on her porch and decided if it were to continue she would have to sell, maybe at a loss if she had to. She continued to say she is frustrated; she is a small business owner; she has owned the company a little under three years and it has been an enormous amount of work, so she respects any small business owner; but she also built out and renovated properties and she did it with permits; she understands there has been a lot of work done without permits and she has a problem with that because she had her projects stopped due to permitting issues; and Squid Lips has plenty of history with restaurants and they know the drill. She went on to say she supports what the other residents have said; she is concerned about the increased domino effect if this is allowed; most of the properties in south Cocoa Beach are \$400,000 and up; there are some very high end properties and she does not think the crowd supports a party atmosphere; and she noted she has spoken with Charthouse recently who has 40 outdoor seats and it is a profitable, successful restaurant. She stated she is sorry they do not support Squid Lips having 200-plus seats outside, but they can run a successful, profitable, and nice restaurant; they knew what they were getting into and now they want to change it; they were all excited to have a restaurant next door to walk to, but then it became party central and that is not why they all chose to live there; and she asked the Board to help them. She continued it has been very upsetting to her because she sold many of the properties at Magnolia Bay in good faith.

Zach Potter stated he is representing Snug Harbour; he feels like this entire argument has been mischaracterized; he strongly opposes the agreement being considered; Mr. Underhill had done a good job of characterizing it as a big government trying to shut down his small business; he believes more than anything that has been discussed, this is about being a County who does things the right way, standing up for small businesses who do things the right way, and he has a history of doing things the wrong way; to go back and look at his history with the City of Melbourne, which is not on record with the County, he has had a long history of issues with Planning and Zoning there; and he is effectively asking to be rezoned without being rezoned by being grandfathered in nonconforming property and changing what he is and changing his footprint. He continued Mr. Underhill is asking essentially for a bailout by his neighbors; he has done things he sought for his own profits; and is now asking the neighborhood and the Board to bail him out because he made mistakes and he spent a lot of money. He went on to say he is one of the few young people in attendance opposing this; he is in support of land use; he will be in this county for probably the next 80 years dealing with the decisions and ramifications of everything the Board chooses to do today; and he is proudly a very strong conservative and he feels this issue may become politicized and some of the newer conservative members of the Board may falsely vote in favor of the small business here as cover saying they are pro-business and antigovernment. He stated in reality this is something that relates to the foundation of modern conservatism which honor conservatism in his opinion and is based on the tenth amendment; it is all about support of local government; and in the constitution it says, "what is not here will be governed by the states" and it is all about representation of the people and the local people being able to determine their own future and destiny; he believes it is very important the community came out in full force in opposition of this; the Board had done their job before and voted against rezoning this property; and he strongly urged it to stand again with the decision and oppose the rezoning.

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Robert Sullivan stated he was taking a look again this morning at the structure built there; it is amazing to him how a 4,100 square feet deck with a huge roof was illegally built without a permit; if it had not been for Bob saying something it would have carried on; and he asked whose job it was to stop it because it was not done under the cover of night. He continued everyone knows what happened at the last vote; he happened to have gone to Commissioner Barfield's office and met with representatives from the County concerning the agreement between Squid Lips and the County; they spoke mainly about the noise issue and how the Lobster Shanty was technically able to have music 24 hours a day; and in good faith they were cutting them down to four days a week, then eight hours the other three days Friday, Saturday, and Sunday; he asked how many people were allowed to sit out there; and his concern was whether this was a concert venue or dining with music in background, seems to him it is a concert venue because it is built like a concert venue and looks like a concert venue. He added it is not really built for a restaurant. He stated Attorney Knox had commented, in good faith he had to give something in this mediation process; in good faith the County would cut down the hours; and he wonders in good faith if he could not help and potentially give him a tax credit for the storm drainage or make some of it count for some of what he owes in taxes, which would be the County giving something instead of the neighborhood having to give something when it comes to the quantity of people who are going to go there; Mr. Underhill wants to have as many people out there as possible, he wants people drinking, enjoying, and he wants it as often as he possibly can; and he commented he respects any businessman wanting to make as much money as possible. He noted on top of himself, he represents his immediate neighbors. He went on to say he is not sure how important the project just south of Bob Baugher's project is; Bob has 14 very expensive condos going in there at roughly a million dollars a piece; his comment last time was, he is developing property next to a restaurant not a concert venue; this greatly affects who he can sell to; and the people who live there are the ones who have to potentially deal with what the ex-officer had to say. He stated the reality of the situation is very close to Coconuts beach access situation; there is drunkenness going on, the flashing lights, extra law enforcement needs to be brought in, they hang around, they go to the beach, and there is crime in the area; his personal house was broken into last week in the middle of the day, they took a cell phone, stole a gun, and an apple television, and his neighbor was broken into; the traffic situation is a huge difference; there is parking on his side of the street and the other side of the street; and these people want to see a concert. He continued his problem is with the agreement; it did not seem as though the homeowners in the area were represented; he was never notified; it was between the Board and Squid Lips, and the Board was supposedly protecting the peoples interest, but he does not see anything in the agreement protecting him or his immediate neighbors; and to him the key issue is the outside occupancy and how many people are allowed to sit outside. He added it is up to 200, 300, or 400 people, which is a concert venue; if it is down to the original 60 people or 75 people; no one wants to shut this restaurant down they just do not want an outdoor concert venue.

Bob Baugher stated he is the property owner of the property immediately to the south; it is three acres and he has owned it since 1987; he is one of the largest taxpayers on the barrier island, Cocoa Beach, and Cape Canaveral; he has mixed views on the this; he is a property rights advocate; he bought his property a long time ago, half of it is zoned commercial and half of it is zoned residential; and as it sits today it is a residential piece, but the Comprehensive Plan allows him to have mixed use and go back. He continued one of his plans is to have a restaurant and he has talked with some brand restaurants about the location; his other issue is what the neighbors have all said; this was a mixed use neighborhood that has over the last 10 years and the last boom, switched a little more to the condominium use, the highest and best value; they have multiple restaurants and have already lost one to the condominium to the south, which has been stalled for six to seven years; and he does not want to lose any rights he has paid for and has been operating because of an operator. He added it is not what is done but how it has been done. He went on to say they have had some really serious issues with this operator and he was the first one to fight him because of a parking issue; there was an illegal

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expansion of the restaurant and he asked him to deal with it; Mr. Underill refused to deal with it, so he dealt with it by putting pressure on the County, because he knew all the issues; at the same time he has always made his money from tourism and this County cannot afford to give up any more commercial property on the water; this is really an operational issue; and the Board has its hands full because he is on both sides of the fence. He stated he does not want the County to hurt tourism because it needs waterfront restaurants; it needs the operators to operate within the community they are in, so they need to be respectful to the area; there is not an easy answer here; and he asked the Board to not destroy a waterfront restaurant because of a bad operator. He reiterated the County needs them, tourism needs them, and the people pay tax dollars to have them; he commented he does not have a solution today; he has read the agreement and there are some very strong things in there; he thinks parking should be in there too; right now the area is having sidewalks put in so the parking on the right of way will block that from happening; and it takes law enforcement half an hour and sometimes longer to respond because if it is not a life and death response, it is low priority. He went on to say he has had responses in his neighborhood that took over an hour because they were low priority; and hopefully Mr. Underill will clean up and answer these people's questions.

Courtney Yells stated he and his wife had been coming to Cocoa Beach for many years; when Magnolia Bay was built they were one of the first occupants there, and they love it; he has heard issues come up and he echoes the same sentiments; however yesterday when listening to 99.3 on the radio he heard an advertisement for Squid Lips; the advertisement stated, Squid Lips is a resort with excitement every day; and it ended with a statement, "manners are optional". He continued on to say he was really stressed to hear the clientele have an option to have good manners; and he asked the Board to deny this acceptance of the change.

Michael Mason asked the County Attorney when he was going to disseminate the results of the mitigation package he negotiated to the residents of Cocoa Beach and to Brevard County because he has not seen what was negotiated; and if Attorney Knox would take public comments once he does disseminate the mitigation package. He heard the highlights but he has not seen it on the County website and he feels there is an obligation to disseminate the package to the residents.

Al Abbasse stated this is a pretty intense issue the Board has to deal with; it really comes down to just a couple of things; there is a mediated settlement, it was handled and it was done in the best interest of the community and the business; and now it appears the owners of Banana Riverfront have a few violations; there are operations in place to deal with it, if they violate them they have to pay the fine. He continued they also have an agreement within the community to do business and provide jobs; it is a great economic impact that this organization would be bringing to the community, mostly jobs; and the down river effect of that is the services of the other companies that supply them with jobs they provide; and it is a lot to think about, but also to allow people to operate a business because that is what the local economy is all about. He added how many more businesses are wanted and/or needed and how many businesses provide more jobs; to arbitrarily take away because of noise, the music is too loud, just put the decibel limits in place and allow them to operate the business, if they do not then they can be shut down; and if they are a good business they will operate and cooperate within the community to provide for the community and allow themselves to profit, and let everyone enjoy their offerings.

Charles Tovey stated he has personal interests in Squid Lips; he used to watch the firecrackers on his birthday from the hotel; he respects any community who moved in there; they have opportunities to benefit the Lagoon and the community more so than what they are doing; he has an alternative if the plan is not approved; and they could possibly get a floating vessel to and from Cape Canaveral packed down with the band and the food, then they would not be stationary and would be able to clean the river environmentally. He continued what he is looking

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for is a partnership between Squid Lips, the Lagoon Council, and the rest of the community; he has other issues about the library and the park; either the library is closed or their hours; it is difficult to find a parking space; and there is no reflection on Squid Lips, they cannot control the people who enter or their behavior, the intoxicated people who are walking the streets without looking because that is a busy intersection; and the lights go out. He added he is keeping this short and will discuss the rest of the stuff with Mr. Woodard.

Jessica Brusio stated she is in an interesting position as she is an employee of Squid Lips and also a neighbor; she started there a year ago and has managed to make it through as one of the last few people who are still hanging in there; she is a single mother of two; she is also a professor of science and teaches online; and this allows her to be a mother of two six year olds and work. She added this has severely impacted her own income as well as many others; she does not know how many people had lost their jobs when Mr. Underhill had to close down the deck but it felt like at least 100 people; she has read through the plan approved at the Planning and Zoning meeting back in September 2016; they have just lost so much job revenue, so much employment tax, business tax, there is so much the County has lost besides Squid Lips itself; she asked the Board to think about it and all the constituents who live in the area and rely on this income for their families; and not only that, but the community of South Cocoa Beach who do not live right next door, but would like to have this to put a boat in the water and enjoy the weekend; Patrick Air Force Base is down the street and there were so many service men who would come in for lunch; to her it was great; and she talked to people who are members of the community now, but use to live at the base, they said there was nothing on the base and they had to go to another town. She stated she thinks this would better everybody and if the business would adhere to what was brought forth in the Planning and Zoning Meeting, she does not see it as a problem given those parameters; if there are noise violations afterwards then it is another thing, and it could be looked at; she knows the concerns about the security in the area because they would have to wait for a deputy to respond, but maybe private security could be looked at during the busiest hours; and she is hoping those in the community and those who work there can just enjoy the atmosphere.

Buz Underhill stated he was only opened for about six weeks; they had some issues during that time and they have acknowledged them; they had some sound issues and some other problems and they have never denied it; they had an opportunity, Sam Shake had mentioned to his attorney if they were willing to meet with them, so in August they had been closed a number of months, he met with them and acknowledged they had some sound issues and he would do what had to be done to get the sound in line; and the one they have in Melbourne is very similar; it is actually physically closer to the Pineapple House, which are upscale condominiums, than they are to Magnolia Bay and they had the same issues. He continued he sat down with some of the owners and he solved the problems with sound blankets, sound engineers told them what they needed to do so they were not a disturbance to Pineapple House; they did it without the compulsion, the requirement of the City of Melbourne, or anybody else; and he has given his word he will do the same with Magnolia Bay. He added the problem is he has not had the opportunity to perform; he has heard a number of the folks here say he did not do things, but he has never had the ability to sit down and find out whether or not he would perform what he said he would do; if someone were to look at the complaints from the City of Melbourne for the last three years there would not be one single call on a noise disturbance; what this settlement does is allows him to get things permitted that were not properly permitted; if there are deficiencies in any of the construction it gives them the ability to rectify the problem; and it allows him the opportunity to do what he says he is going to do, which is to comply with the noise Ordinance of the County. He went on to say he does not like a lot of the provisions in the agreement because he believes they are very difficult, however, he has agreed to them; he will be governed by those and will operate within it; nobody else in the County gets fined \$500 for the first violation of noise, \$2,500 for the second violation for noise, and \$5,000 for the third violation of noise; and he commented there is not much profit in having a band there. He added he heard a lot of

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folks talk about limiting the number of people; the issue is not the number of people; he could put 300 people out there and if they were all doing yoga there would not be a problem; he reiterated the issue is the noise; and he thinks the settlement agreement adequately addresses a remedy for whatever might happen in the event he exceeds whatever the noise Ordinance of the County is. He stated he has heard a number of discussions about changing the zoning; he is not asking to change the zoning, that was something they had asked previously and it was turned down by the Board; he has the ability to continue operating the way he is now without restrictions other than the County noise Ordinance; if he were to take down the deck he could continue to pour the runoff into the Lagoon like it has been done since 1925; he has no obligation to mitigate any of it, which he has agreed to do; they could play the music much more than the hours he has agreed too; and he would not be limited to the number of people. He continued even though this is not a perfect settlement, it does not address everybody's interest, but it certainly mitigates any inconvenience or problems caused to the Magnolia Bay residents; Mr. Burner was a little disingenuous about the police calls in Melbourne; there were probably 71 calls on the street address, but the address is the intersection of Pineapple and Eau Gallie Boulevard, so anything that takes place in the area gets tagged to his address; there was one assault unfounded, two disturbance fights both of which were domestic, the rest were reckless driving, repossession, and some other stuff over the past 24 months; and even though he would like the Board to believe there was all kinds of fights and stuff going on, it was not the case.

The Board recessed at 12:52 p.m. and reconvened at 1:05 p.m.

Commissioner Barfield asked the Fire Marshall what the capacity was before and after the new deck.

Frank Scales, Fire Marshall, stated he believes when Jack Baker had it, it was 396; at the last inspection his guys went to, half of the building had been shut down and he believes they included the deck, the whole entire building would have been 372.

Commissioner Barfield asked if the deck was included.

Fire Marshall Scales stated the note on the computer that was used said, "deck square footage I..." and did not go any further, so he does not know if there was a problem with the computer or what; and he does not know if it may have meant inclusive of something else.

Commissioner Isnardi stated she was at other appointments so she had her Director of Community Affairs meet with some folks at Magnolia Bay; she had questions after she reviewed the issue from the past; this is a very difficult situation because if she lived there she would not like the noise either; but she understands where Mr. Underill is coming from because it is a restaurant and it does have a right to be open; there are noise ordinances in place; if there has not been any noise complaints and he is willing to take the additional noise restrictions as part of the mediation agreement, that she would give him the benefit of the doubt; and she would allow him to operate because, other than people being angry because he did not properly permit in the beginning. She added she believes the Board should give him a chance; the Board could appeal and it could continue to the magistrate judge; and it would be drug along even further. She continued the one common theme was noise and if it were addressed she does not see how this could be a bad thing; it is riverfront property, a good mixed use; she knows there are residents who expressed they would like a Charter House Restaurant, but that is up to the owner to decide how he wants to operate; and she could address several other points too but she is trying to be conscientious of the time. She continued she does understand where the residents are coming from; she has neighbors too and could call Code Enforcement but it makes it a little awkward when her husband is the Deputy City Manager; she feels bad for them and their concerns; however, she thinks Mr. Underill has more than compromised with this mediation agreement.

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Commissioner Tobia stated he does not think this is the quasi-judicial forum they have in Planning and Zoning but he is going to disclose nonetheless; Mr. Underill mentioned he has a property which sits closer to another condominium than even Magnolia Bay is; he lived there for a better part of three years and there were some concerns; Mr. Underill handled them; maybe they should not have gotten to where they were, there were parking and noise issues, but they were taken care of; he knows this because he was an elected official at the time and people quickly got off the subject and wanted him to outlaw motorcycles because they were the largest issue of the residents there; and what he admires about Mr. Underill is he admitted to his mistakes, very rarely does someone admit there were problems and that he was responsible for those problems. He continued to say he read the mediation document; after the third violation it comes back to the Board; and should it come to that, it will be his recommendation for no music on the deck. He added he does not believe residents should have to fight after a promise from a business owner has been broken; he would hope should this mediation agreement pass, if Mr. Underill violates the mediation agreement, the Board members would immediately and unequivocally revoke his right to have any type of venue out on the river; however, at this juncture he believes Mr. Underill should be given the benefit of the doubt, because his one previous experience with him, he made good on his promises.

Commissioner Barfield stated Chairman Smith and himself were on this Board when all this came forward; he thinks everyone needs to know what the background consists of; there has been a restaurant there from back in the 80's; when Jack Baker bought the Lobster Shanty he did some work on it; he had the zoning changed to residential and they had a non-conforming use Continuing Use Permit (CUP); if there was ever any change in size the zoning would have to be changed back to commercial; and that is where it all started. He continued another thing is the location of the restaurant because all the properties around are either condominiums or residential; and that means it is incompatible to make it bigger from the zoning perspective. He noted there was a zoning request, then the CUP, and a Comprehensive Plan that were denied; and the point is it did not change. He added the previous Board voted to turn it back to the restaurant it was; he can still have music and a restaurant, there was no change from what it was when Jack Baker had it; some modifications can be made within but that is it because it had fit in well with the residential classifications all around; and the Board did not vote to put him out of business. He went on to say he does not remember who the gentleman was that said he was worried about the precedent that this would set because the Board is legalizing what would be illegal; the Board has followed the law and to do this does set a huge precedent today; he is a business owner too and he understands all of this, but everyone still has to play within the rules; and this is a tough situation because the Board does not want businesses to fail. He stated tourism is a big effort here; the Board has not stopped him from working; all that was said was it had to go back to the way it was; for that reason he is opposed to the mediation agreement; and if he wants to go further to the Special Magistrate he is fine with it.

Commissioner Barfield motioned to deny the mediation agreement.

Commissioner Pritchett stated she was a little confused when discussing the capacity; she asked if the capacity is less now with the deck being occupied than when it was the Lobster Shanty.

Fire Marshall Scales stated part of the building had tables and chairs stacked up in it and it was not being used any longer, which was one of the reasons it went down; he cannot guarantee that from back in March; he has heard two figures today, one from Ms. Rezanka who sent someone an email and she said they were taking out square footage done on net, not gross area; so taking out the bar, taking out poles, or taking out whatever would be 600 square feet less which would be 40 people; it is 15 square feet per person as a less concentrated use; if using the total figures, as someone else put out as 4,100 square feet it would be 270 people;

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and without looking at the site plans he cannot say for sure what the actual true occupancy load would be.

Commissioner Pritchett stated she read through the mediation agreement; if things would have been done the way they should have, then they would not have to be here; it is a little frustrating trying to figure this out; she watched it from the year before she got on the Board and there is a lot of value on both sides; she is pro-business and believes very much in getting business back in since the economic problems; and she knows it is the Board's responsibility to protect the residents, because it is all they have. She continued the couple things she is concerned with are adequate parking, the noise, ADA compliance, and stormwater since the Board just got a \$32 million tax to protect the river; she does like in the agreement if the permitting does not go through it does not open; she feels there is a good chance part of it will have to be ripped up anyways to do some of the things that have to be done; and she does agree with Commissioner Tobia's stance, if the Board goes through with it, if there are any more problems with sound there would be no more music on the deck. She went on to say she would have to vote with Commissioner Barfield because it is his district; if it were her district she would have put the extra energy into it, but he is the one who has to live with all the residents; and she really wishes the project would have sat down with the community and would have come to happy terms; there are so many things that have to be right in a business especially with so many people, it has to be safe; and she thinks this is one the hardest things she has had to do since being on the Board.

Commissioner Isnardi stated what came before the Commissioner before was a rezoning of this area and it is not what is being asked for today; if this is working next to the Pineapple House the onus is on the business to not have the noise, which appears to be the issue; and this is a new Board and there can be a Board or Council that does something different than a previous Board, that is why they are elected, either to replace what was there or to bring something new to the table; and she reiterated the onus is on the business holder to do the right thing, if he does not he will have to pay the fines. She added if he does not then she is sure the Board will be hearing from the community; this is a different issue, it is for use of the property with the deck; and she thinks a lot of the concern with the rezoning being before the prior Board was big hotels coming into these nice quiet areas.

Commissioner Pritchett asked if there is any way to get Magnolia Bay and the other people who own property to get with the owner and get some type of comfort agreement; she thinks if that could be done, then the Boards job would be so much easier; she is hearing everyone would enjoy this type of venue, but they feel like they got a little burnt; and she thinks Mr. Underill would make it a priority so it does not happen.

Chairman Smith stated he had the pleasure of meeting with Magnolia Bay folks several times about their comments and complaints; he acknowledged them, he agrees with most of them, and he too lives on water and has a restaurant that is probably less than 500 feet away, which can be quite loud also; what his community wound up doing with them was restricting their band playing to Friday evenings from 6-9, Saturdays from 12-10, and Sundays from 12-6 and it has worked out fine; and during those times he and his neighbors can live with the music. He continued he also met with Kim Rezanka and Buz Underill several times, most recently discussing the mediation agreement; he had the County Attorney in his office recently talking about it; he was not happy about the mediation agreement simply because he did not understand what the law was or the provisions that were available to the complainants; after it was explained to him, he understood, but his initial reaction was who authorized the County Attorney to negotiate anything on the Boards behalf; the Board was blindsided and had no idea this was going on; and after he discovered all the parameters involved he understands it is perfectly legal and it is within the rights of the County and the complainant. He added looking at the agreement itself, he agrees with Mr. Baugher; however, the Board needs to find a way to

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split this; it is important to the residents who live there and it is important to the business community; he thinks the agreement splits this pretty well; the times are limited for the music which he thinks is the biggest complaint; Mr. Underill is aware of that; and he is going to rule in favor of Mr. Underill and his undertaking. He went on to say he thinks this works well for everybody; he thinks the residents of Magnolia Bay will see it is not a big deal; if they cannot they have the resources because Mr. Underill has the threat of \$5,000 fines, and they can always come back to the Board. He stated there has been a motion to deny by Commissioner Barfield and inquired if there was a second.

Commissioner Pritchett seconded the motion.

Chairman Smith asked if the motion to deny were to pass where it would leave the Board.

Scott Knox, County Attorney, stated theoretically it goes back to a Special Magistrate, but there is also a suit filed that would address the Comprehensive Plan issue and the County would have to respond to the suit; it could respond in a couple ways, one of which would be to counterclaim to have the illegally constructed deck and roof removed to restoration of the property condition it was back in 2015; and the other option is the Special Magistrate gets to finish the process by having a hearing in front of her, which she will come back with a recommendation of what she thinks.

Chairman Smith stated he sees this as traveling down a road nobody will win.

Commissioner Barfield stated he is a little unclear about the lawsuit on the Comprehensive Plan.

Attorney Knox responded he has not read it yet, it just appeared on his desk this morning; he thinks what they are challenging is the denial of the Comprehensive Plan amendment and if it was reasonable for the Board to have done what it did; his position would be it was, but as part of that, the County would probably be required to file a mandatory counterclaim as to clear violation of the decking, roof, and the small retention they have now filled in with sand; and it would have to be back to where it was when the Board approved the site plan for the non-conforming use. He continued that is the implication and the fact the land use there is being challenged may require the Special Magistrate proceeding to be put on hold because he does not think the Special Magistrate is going to be in a position to say Mr. Underill should be allowed to do something he cannot do under the Comprehensive Plan; therefore, he thinks the issue would have to be resolved.

Commissioner Barfield asked if it would be appropriate to table this until the outcome of the suit.

Attorney Knox replied it is an option; but he thinks from the applicant's standpoint certainly he wants to get back in the business; and he thinks Magnolia Bay would like the issue resolved too.

Commissioner Barfield stated what he is concerned about is if the Board makes this decision and then the lawsuit goes one way or another if it would impact anything in the settlement agreement.

Attorney Knox responded if the County files the counterclaim and it succeeds, then Mr. Underill will be under court order to remove all of the stuff he has put in.

Commissioner Barfield stated it sounds like they are counter to each other.

Attorney Knox stated one resolves it and one eliminates it.

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Chairman Smith stated neither side is going to win; that was his point; he asked for further clarification since Commissioner Barfield made a motion and it has been seconded, if the rest of the Board agrees with his motion what will exactly happen.

Commissioner Barfield reiterated his motion is to deny the agreement.

Attorney Knox stated if the agreement is denied the law suit is going to proceed, unless it gets withdrawn and he does not think that is going to happen; then the County would file the necessary counterclaim which will involve removing everything done illegally; the suit will go to court; the Special Magistrate may or may not want to see it until the suit is resolved; and his suspicion would be it would be fruitless to go forward with the special magistrate proceeding until it is resolved.

Chairman Smith asked if the Board votes to defeat Commissioner Barfield motion and the other three decide they want to make a motion to accept, would it have to make a second motion.

Attorney Knox replied affirmatively.

Commissioner Tobia asked if the Board were to deny the first motion and then there is a second motion to accept the agreement if the law suit would be dissolved.

Attorney Knox responded he is not sure if it gets dissolved, but it can be requested to be dismissed.

Chairman Smith added the attorney is nodding her head.

Chairman Smith called for a vote on the motion.

The Board defeated the motion to deny the settlement agreement.

RESULT:	DEFEATED [2 TO 3]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Rita Pritchett, Jim Barfield
NAYS:	John Tobia, Curt Smith, Kristine Isnardi

ITEM V.C., BOARD REVIEW AND APPROVAL, RE: SECTION 70.51(17)(A) AND SECTION 163.3181(4), FLORIDA STATUTES, MEDIATION SETTLEMENT AGREEMENT BETWEEN BANANA RIVERFRONT, LLC AND BREVARD COUNTY (CONTINUED)

The Board reviewed and executed Section 70.51(17)(a) and Section 163.3181(4), Florida Statutes Mediation Settlement Agreement between Banana Riverfront, LLC and Brevard County.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	John Tobia, Commissioner District 3
AYES:	John Tobia, Curt Smith, Kristine Isnardi
NAYS:	Rita Pritchett, Jim Barfield

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ITEM VI.E.1., CITIZENS RECOMMENDATIONS, RE: GREATER EFFICIENCY AND EFFECTIVENESS

Stockton Whitten, County Manager, stated each year the Charter takes recommendations from the citizens that speak to improve efficiency and effectiveness of County operations; this year there are six recommendations from the citizens; he thinks it is opened for a 30-day period as required by the Policy; and this young lady is coming to speak on the sixth recommendation which is from Mrs. Booth. He added her recommendation is to eliminate the use or sale of styrofoam products on public property or by vendors who do business with the County.

Emily Oliver stated this is an example of what every child in Brevard County eats lunch on; she wants to speak on the negative effects polystyrene has on the environment and to everyone's body; when polystyrene is exposed to heat it releases chemicals; and the kids who eat hot lunches off of the trays can develop sicknesses and cancer due to polystyrene. She added one of these polystyrene trays takes one million years to decompose; she did some research and found out her school alone uses 50,000 trays in just one year; in Brevard County they use 6.1 million trays per year, imagine the whole State of Florida; to put this into perspective she found out the tallest building in Florida is 789 feet tall and it is called the Four Seasons Hotel located in Miami; and if someone were to stack up all the trays in Brevard County to equal the height of this building, there would not be just one stack of these polystyrene trays, not two stacks, not three, not four, and not five, but there would be 93 stacks of polystyrene trays that end up in the landfill; and she did not just come to inform the Board about the trays she also has a solution. She continued for her fifth grade science fair project she decided to find two different plates that were better than polystyrene trays and would actually decompose in the landfill; she used the newsprint plate and the corn starch plate; the newsprint plate decomposed within two months in her backyard; that is a heck of a lot shorter than a polystyrene tray which takes one million years; and it is her hope the Board will support her resolution to decrease the polystyrene use in schools and businesses around Brevard County.

Marcia Booth stated according to the world economy forum report of January 2016, plastic production has increased in the past 50 years; from 15 million tons in 1961 to 311 million tons in 2014, and it is expected to double each year over the next 20 years; the recycling rate for plastics in general are less than 14 percent; each year at least eight million tons of plastic leak into the ocean; and that is the biggest point. She continued it does not go away it just breaks down into small pieces and ends up in the oceans; all the trouble the Indian River Lagoon (IRL) is going through, this is one of those pollutants; according to the numbers from this report it is going to end up in 2025 with one ton of plastic for every three tons of fish; by 2050 there will be more plastic than fish in the waters; and the only way around it is to reduce the amount of plastic used where a more sustainable alternative exists. She went on to say Emily's school changed from polystyrene to paper trays for one day; polystyrene is a type of plastic manufactured from nonrenewable fossil fuels and synthetic chemicals; the polystyrene is what the food containers are made of; and the polystyrene foam is lite weight and it just blows everywhere. She stated polystyrene is durable, does not degrade, and is difficult and costly to recycle; those small pieces are often ingested and harmful to our health, and the health of wildlife, and the health of the environment as a whole; and the real cost of polystyrene containers is a lot higher than the price paid for the containers themselves. She continued as of June 2015 over 110 cities and counties have banned polystyrene all together, or partially; Miami Beach is part of the list and just recently Coral Gables joined; the Surfrider Foundation has a list of polystyrene Ordinances on their website; Brevard County is 72 miles long and almost 35 percent is water; the County would greatly benefit from limiting polystyrene and avoiding direct cause in managing this type of waste; and based on staff comments, numerous events, and vendors, the reduction of polystyrene can be made possible by using a phase in approach.

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Mr. Whitten commented the Charter requires the Board to approve, approve with revisions, or reject; the Board has the staff report in the Agenda; the issue at large would be Parks and Recreation, which has 238 active agreements and approximately 4,700 rentals; and this would be a big issue for them. He added Ms. Rothering has given issues with regard to Purchasing; therefore, whatever the Board may do is a prospective look at the issue; and he reiterated the Charter requires the Board to approve, approve with revisions, or reject. He noted her recommendation is for Brevard County to eliminate styrofoam containers on all public property, by vendors on public property, and local government contractors; and he thinks for clarification it would be under the Board of County Commissioners and would not affect the School Board.

Commissioner Pritchett stated she does not like those things and they do not use them in her house; she tries to avoid styrofoam since she found out when hot liquid is placed in them, it releases really bad things into the body; she is probably going to vote to reject it because she does not think the County is ready to do this; but she would like to keep visiting this and start encouraging everybody to move over to paper because she thinks it is a healthier alternative for the environment; and she did not know the children were eating lunch on those trays every day. She commented that she would be calling the School Board and throwing something into their ear about schools changing over to paper; she agrees that she would like to get rid of styrofoam all together; and she really appreciates it.

Commissioner Barfield stated he knows this would be a big thing to do; it would be nice if there were a way to do a pilot study; he does not know who it would be turned over to, but he would like to have a study to see what the implications are; there are certain things that could be done; the sub-contractor agreements could be phased in; and he asked Mr. Whitten what the Board could do along those lines.

Mr. Whitten stated he thinks the lease on the purchasing side as the contracts expire or come up for renewal, could address it as a requirement to not use styrofoam; and as the many contracts come to terms, it could be piled on a number of those.

Commissioner Barfield stated he knows there is a cost implication as well.

Mr. Whitten responded that maybe Purchasing could give the Board a report on the likely contracts that will be coming in and which ones would be cost appropriate for some kind of pilot study.

Commissioner Barfield stated he knows when looking in the Lagoon that is what he sees. He asked what the Board needs to do.

Mr. Whitten stated the Board needs to make a motion to approve with revision to undertake a pilot study with implications and a possible phase in of certain or select contracts that are coming to terms.

Commissioner Isnardi responded she thinks this is a great idea; she does not buy it in her house; she is not the perfect individual who does green use, but they are pretty good in their house; she likes the idea but wants to make sure it is not a cost burden to the County; however she does feel like then the Board is tasked with finding the cheapest paper products that it can get; she does not know if a lot of it is used by the Board, but she is willing to be open to anything; and she noted if any of the Board is needed, it is more than willing to help.

Chairman Smith stated he would go along with some type of pilot program if they could phase it in; he spent a lot of times on beaches, both on the St. John's River and the Indian River; there is a lot of this stuff and it is not easily picked up; he does clean up four times a year on one of the

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islands off of Grant for Keep Brevard Beautiful (KBB); and in his own house, when they have egg cartons they recycle them at Publix.

Commissioner Barfield stated there is usually an end point for a pilot study and he thinks one year would be sufficient.

The Board considered Citizen Efficiency and Effectiveness Recommendations (CEER) and approved CEER 2017-006 with revision for a one-year pilot study program to provide a smaller scale reduction or elimination of polystyrene, and authorized the County Manager to provide a report after the one-year mark.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.E.1., CITIZENS RECOMMENDATIONS, RE: GREATER EFFICIENCY AND EFFECTIVENESS (CONTINUED)

Stockton Whitten, County Manager, noted this recommendation did not really come with a recommendation; it was on the TPO website; a gentleman had comments about the TPO website, Babcock Street, and certain intersections on Babcock Street; he thinks the Wyoming intersection is one of the Board's approved projects, so that will be undertaken shortly; and he would suggest because there was no recommendation that the Board reject the webpage design recommendation.

The Board considered Citizen Efficiency and Effectiveness Recommendations (CEER) and rejected CEER 2017-001, for Web Page Design, by Ropn Rincones.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.E.1., CITIZENS RECOMMENDATIONS, RE: GREATER EFFICIENCY AND EFFECTIVENESS (CONTINUED)

Stockton Whitten, County Manager, stated this recommendation is from Mr. Martin for a full-time Sustainability Director; the role of that person would be to benchmark current activities and accomplishments with an eye towards improving the County's performance; that was given in the staff reports and they have talked a lot about the Lean Six Sigma process that is moving the County in the appropriate direction in terms of performance improvements, efficiencies, and eliminating waste; and looking at the County's budget book, each department has a number of performance measurements and it is under the responsibility and charge of the Directors to make sure they are meeting their performance measure. He added he believes they have the issue of sustainability with regards to how it is written up by Mr. Martin addressed under Lean Six Sigma; and he reiterated the County's performance measures in the County Budget Book that each Department and office Director is responsible for ensuring that they meet.

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The Board considered Citizen Efficiency and Effectiveness Recommendations (CEER) and rejected CEER 2017-002, for a full time County Sustainability Director requested by Eric D. Martin.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.E.1., CITIZENS RECOMMENDATIONS, RE: GREATER EFFICIENCY AND EFFECTIVENESS (CONTINUED)

Stockton Whitten, County Manager, stated the recommendation is to eliminate waste; basically to put everything out for competitive bid; the Board has a staff report from Mrs. Camarata which gives examples of some of the services that are currently outsourced and there is a more extensive list once clicking on the County's Budget Office link; under the general information section it shows the County outsources quite a bit of services and products; and it is the pleasure of the Board to approve, reject, or approve with revisions. He added he believes the County maximizes its opportunities for outsourcing and bidding items.

The Board considered Citizen Efficiency and Effectiveness Recommendations (CEER) and rejected CEER 2017-003, for eliminating waste requested by Mark Clancey.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.E.1., CITIZENS RECOMMENDATIONS, RE: GREATER EFFICIENCY AND EFFECTIVENESS (CONTINUED)

Stockton Whitten, County Manager, stated this recommendation is for all organizations to be required to obtain a license to operate Bingo; there is an exception in the Ordinance to the State Law and currently that exception exempts organizations and groups that have or serve 75 players or less per day; that issue has come before the Board a number of times; the Board has the staff report; and his recommendation would be that the Board reject this recommendation.

The Board considered Citizen Efficiency and Effectiveness Recommendations (CEER) and rejected CEER 2017-004 dealing with Bingo in Brevard County, requested by Donald J. Flammio.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.E.1., CITIZENS RECOMMENDATIONS, RE: GREATER EFFICIENCY AND EFFECTIVENESS (CONTINUED)

Stockton Whitten, County Manager, stated this recommendation is for homeless shelters and soup kitchens in North Brevard; Ian Golden, Housing and Human Services Director, has giving a report of the services available in North Brevard; some of those needs are met through various not-for-profit organizations; and he has given a pretty good report on what is in the community via not-for-profit organizations.

Commissioner Pritchett commented since this is in her District she wanted to say it is a funding issue and they are all working very hard towards this problem.

The Board considered Citizen Efficiency and Effectiveness Recommendations (CEER) and rejected CEER 2017-005, on help for the homeless requested by Jeanie Huppert.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Kristine Isnardi, Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VI.C.1., AUTHORIZATION, RE: SEND LETTERS TO BREVARD'S LEGISLATIVE DELEGATION AN DTHE GOVERNOR REQUESTING ADDITIONAL APPROPRIATION FOR HURRICANE MATTHEW WATERWAY DEBRIS CLEANUP

Kimberly Prosser, Emergency Management Director, stated as a result of Hurricane Matthew there is approximately 40,000 cubic yards of debris in the waterways of Brevard County; while the County and the cities have been responsible for cleaning up the land based debris, the State has just begun to clean up the waterways, in which they are responsible; it was funded at about 25 percent of the cost estimate they received; they are currently 18 percent complete with the waterway debris collection in Brevard County and they are almost out of money which leaves quite a bit of waterways still having debris in them; and it is not just in Brevard County it is in seven other counties as well. She requested authorization to send a letter to the legislative delegation and the Governor requesting they provide funding for their State agency to complete the project.

Chairman Smith commented he will personally do the follow up to the delegation and the Governor.

The Board authorized the County Manager, or his designee, to send letters to Brevard's Legislative Delegation and the Governor, requesting additional appropriations to Florida Department of Environmental Protection (FDEP) for Hurricane Matthew waterway cleanup.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM V.A., PRESENTATIONS OF TOP TWO RANKED FIRMS, RE: RECRUITMENT/SELECTION OF COUNTY MANAGER (CONTINUED)

Chairman Smith stated the presentations have been completed by the two top ranked firms.

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Commissioner Pritchett stated she thinks they are both great companies; she likes The Mercer Company's cost; she is more comfortable with Renee Narloch and Associates because she seemed to have a lot more search ability; and she is going to listen to what the rest of the Board has to say.

Pam LaSalle stated she was opposed to the County hiring an outside firm; she did some research on the Internet and came across some interesting information; she realizes this is a very serious position and some of the people who will qualify to be a good manager may come with some baggage, but all the same, the County needs someone who the people feel they can trust and is competent; she is a little alarmed about an article she came across out of the *Palm Beach Post* about the Narloch Firm; the headline was "Discrimination Claim Against Firm Dogs County Administrator Candidate"; it seems one of the six finalists of the 80 applicants for the County Administrator position was working at a firm, Westat, that agreed to pay \$1.5 million to settle a federal discrimination claim, that systemically discriminated against thousands of female and minority job applicants in 2008 and 2009; and the perspective administrators responsibility at Westat included corporate social responsibility issues and provided overall management in a number of areas including Human Resources. She continued while this job candidate provided a positive statement of their abilities in the article, the company they worked for had to pay \$1.5 million in back wages and interest to 3,651 applicants and make 113 job offers as positions became available; the settlement occurred several months before the job opening; and she read from the article, "the six candidates were vetted by the Tallahassee based consulting firm of Renee Narloch and Associates. Two Commissioners, Priscilla Taylor, and County Mayor, Shellie Vanna, said they did not know about Westat's discrimination settlement until told about it by a reporter at the post. That is also how Ron Davis, Chairman of the Selection Advisory Committee said he learned of the settlement." She added this company also failed to tally the votes properly with both internal and external candidates; she does not know if any problems exist with The Mercer Group, she did not come across anything; she found out in the paper they were the cheaper of the two; and she would like to avoid this and have it done in house, but if the Board is determined, she would prefer it go with The Mercer Group because they are more economical and at this point appears to be more competent.

Charles Tovey stated experience with the Economic Development Commission (EDC) not experience for the EDC; personally he is against any of the people who have worked for economic development anyways because it is a conflict and they should have experience with the environment and working with the EDC not from the EDC; he just wanted to make clarification on that; he also has a process with the styrofoam use; the County jail uses a lot of styrofoam; and he does have a way of cleaning the water with the styrofoam and it could take that long, but he has a way of processing the styrofoam and making it beneficial for the environment and the community as well. He continued it does not have to be a bad thing it just has to be a thing.

Commissioner Tobia thanked Chairman Smith for sitting in on the search group; he did not vote for a search firm because this is one of the few times he did not think it would be good to outsource; nonetheless he wanted to thank Jerry Vesco, Human Resources Director, and Scott Knox, County Attorney, as well; he stated they are three competent and intelligent individuals; and he commented he is not sure if the Board is getting a great deal with The Mercer Group or if Ms. Narloch is out the realm, but given the two factors of price and the recommendation of the Board, it will be his selection to move forward with The Mercer Group.

Commissioner Barfield stated in his business world he has to do a tremendous amount of recruiting high end medical people; he thinks both of them are very good; Ms. Narloch nailed it when discussing recruiting methods; the best people you find are the ones not looking, that is how he does it; however, looking at the price he is going to end up going with The Mercer Group as they are experienced as well.

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Commissioner Isnardi stated she was really torn hearing from both; her thoughts in the beginning were to hire a firm regardless of who the majority decided on; she has to trust her Human Resource Director and the County Attorney, and The Mercer Group is their first choice; they have been doing this a long time and she trusts their judgment; and she thinks they are both fantastic firms; obviously saving the money is a bonus but if they were evenly priced she would have to go with the first ranked firm.

The Board selected The Mercer Group, Inc. as procurement Consultant to perform executive recruiting services for the County Manager position.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VIII.A., BOARD REPORTS, RE: STOCKTON WHITTEN, COUNTY MANAGER

Stockton Whitten, County Manager, stated he sent the Board information on the Budget Workshops, and he needs the Board to approve Budget Workshop dates, Tuesday April 11, 2017, at 3:00 PM, Thursday, April 22, 2017, at 3:00 PM, Tuesday May 9, 2017, at 3:00 pm, and those were the only three dates where all five Commissioners were available.

The Board approved adding three new Budget Workshop dates to the Board's Meeting calendar, Tuesday, April 11, 2017, at 3:00 p.m.; Thursday, April 27, 2017, at 3:00 p.m.; and Tuesday, May 9, 2017, at 3:00 p.m.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Commissioner District 5
SECONDER:	Rita Pritchett, Vice Chairwoman/Commissioner District 1
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VIII.A., BOARD REPORTS, RE: STOCKTON WHITTEN, COUNTY MANAGER (CONTINUED)

Mr. Whitten stated he also sent a proposed Workshop schedule; those were divided into six workshops and there are only three dates; the Board will have to squeeze down or come up with more dates at a later time; he will try to compress unless the Board wants to give him some additional guidance on that; and he also needs to know if the Board wants him to invite the Charter officers to present to the Board.

Commissioner Isnardi stated as far as dates are concerned, the Board was given options; she thinks during both sweepings of the large amount of workshop dates she only had one conflict during the second one; her schedule may be a little more open than some only because when she does work, it is on the weekend so it does not interfere; but maybe what the Board could do is look at other dates other than Tuesday, Thursday, and Friday; and she is sure between all of them they could come up with three more dates.

Mr. Whitten stated he looked at dates in addition to Tuesdays and Thursdays, obviously trying to accommodate all of the Board's personal and work circumstances; if the Board wants him to look beyond those dates he will continue to do so; he thinks he also gave the Board a calendar for Budget Development; and the only thing he would say in looking for three more additional

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dates is because not all the proposals are in until May, and he will have direction from the Board prior to May; and in May and June the County Manager is meeting with everybody to come up with a balanced Budget Proposal. He continued it will be a condensed time frame, it will be an interim County Manager that will have to work in the condensed time frame; and he would say just in consideration of those factors that the Board works as quickly as it can to come up with three additional dates.

Chairman Smith asked if Mr. Whitten could expand his possible days to Mondays and Wednesdays.

Commissioner Isnardi asked about Fridays.

Mr. Whitten stated he works for the Board so he is good with the dates; it is the Board's calendars.

Commissioner Isnardi stated if someone is working from 9 a.m. to 5 p.m. that is fine, the Board could have the meeting at 6:30 p.m. that is what other people do who have full time jobs and serve on councils.

Chairman Smith asked if all five Commissioners have to be at the meeting; he stated the Board needs to do this, it is not an option; and as far as daytime and nighttime jobs, some days need to be freed up because each Commissioner should be committed to their constituents.

Mr. Whitten stated the wisdom of his years would say it is always preferable to have all the Commissioners there, especially when discussing Budgets; and he will go back to the drawing board for three more dates.

Commissioner Isnardi asked if there were evening meetings for workshops or if that was not an option.

Chairman Smith responded not since he has been there.

Commissioner Isnardi asked if that was not an option for the people; she knows a lot of workshops where the residents show up for workshops more often than they did the actual Commission Meetings; and if it would be out of the realm of craziness to have it at 6:00 p.m. if it accommodates someone else's schedule.

Chairman Smith stated personally he does not like 6:00 p.m. He is an introvert; and when it gets to be 5:00 he is done with people.

Commissioner Isnardi stated she is just trying to be accommodating without singling anyone out; she does not know whose schedule it is and does not care; everybody wants to do the right thing; and that is the compromise.

Chairman Smith stated whatever the Board comes up with, he will be there.

Mr. Whitten asked if that could include Saturdays.

Chairman Smith responded yes.

Commissioner Isnardi responded no.

Mr. Whitten commented that is his point; he thinks Mr. Abbate is ready for a direction; he will exclude Saturdays but will look for evening opportunities which may present more possibilities.

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Commissioner Isnardi stated it does not have to be at 7:00 p.m., but maybe around 4:00 p.m. or 5:00 p.m.

Chairman Smith asked Mr. Whitten to give the Board the spread and the Board will make dates.

Mr. Whitten stated he would give them to the Board as quickly as possible. He continued he has one last thing; he thinks Chairman Smith and Commissioner Barfield are not available for the April 6, zoning meeting and he has been told there are two items for District 2 and there are no items for District 4.

Commissioner Barfield replied he will be back.

Chairman Smith stated Commissioner Pritchett can run the meeting.

ITEM VIII.D., BOARD REPORTS, RE: JOHN TOBIA, DISTRICT 3 COMMISSIONER

Commissioner Tobia stated he wanted to get Chairman Smith's direction as the Board moves forward with the budget workshops; he asked if the direction would be to look retrospectively at the previous year's budget; does he expect the departments to have proposed budgets as they come to the Board; and is the Board going to look at the green money that was talked about in the previous Budget Workshop.

Chairman Smith stated he did look at past budgets and he came up with something like \$2 million and he threw out what he knew he could not get agreements on; and then he came up with \$1.3 million of items that he thought he could get some agreement on.

Commissioner Tobia stated he wants to be fully prepared as the Board moves into this; he thinks Chairman Smith stated roads and infrastructure need to be a priority; and he asked if he and his fellow Commissioners were being charged with dissecting the previous year's budget, specifically looking at the green money and the nonrecurring, and focus on those types of issues, obviously getting rid of the reoccurring first. He continued to ask, as the Board meets, how the Chairman wants the Board members to disseminate to the other Commissioners, because he feels it would be unfair if they all walked in and dropped their recommendations on his desk prior to the workshop.

Chairman Smith stated to ask Attorney Knox because when he did it, he presented it to the other four Commissioners in one of the meetings.

Scott Knox, County Attorney, stated as long as there is no interaction between Board members, they can send out their ideas as to what they would cut or a list of cuts as to what they intend to present. He added as long as the Commissioners do not email back.

Commissioner Tobia stated his issue is if he thinks line item 16 should be cut and another Commissioner sees and thinks line 16 should be cut also, so he is not worried about the first person who sends it out, but the second person.

Attorney Knox responded not to tell them.

Stockton Whitten, County Manager, stated first of all the Board is not going to know what line item 16 is; if the Commissioners are going to drill down to line item budgets and a justification, the question that is asked of the departments and the response of the departments, then all of the Commissioners should have benefit of the questions and the responses because the departments are all capable of walking up there and defending their line items based on their expertise and needs; and he explained how budgets are made. He continued State level,

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County government, and City government; until the Board tells the department that they are reducing the service level associated with their programs and services, their baseline is last year's budget or the number that allows them to maintain their service level; and the academic discussion of zero based budgeting has always been something that happens more in text books than in the real world. He went on to say it is his expectation that the departments will walk up before the Board at the workshop and present their needs; they are not going to have a balance budget proposal because there are so many moving pieces and parts to the budget that they will not even know what their revenue is by the time they get into the workshops; and to say taking something from one area and moving it to another may be a good exercise, but until the Sheriff walks in and tells what his needs are and the Board knows the effect of the Federal Budget on CDBG and HOME, there is a lot of work to be done. He noted his expectation is that when he walks up there, the Budget Workshop is basically talking about the green money; the form was presented to the Board, which actually balances out the \$220 million in revenues versus the \$220 million in expenditures; as noticed the workshops are grouped in logical areas so when the Board is drilling down, he thinks that he has given some very good logical groupings to look at; and the departments will be prepared to defend their line items. He stated there will be an expectation on his part that they will be asked why a line item is necessary, so they are preparing to give a presentation of needs but also have departments ready to defend whether or not a folding machine is necessary in the current fiscal year and if it will be necessary in the next fiscal year.

Commissioner Pritchett stated she thinks as they all go through this she is expecting staff to run their departments effectively and efficiently because if not then the department heads need to be switched out to do a better job; she is expecting that to be mixed in with the budget already; and what she will be looking for is if there are some services she does not think the County should be giving to, with this challenging budget period. She added she is kind of curious as to what the revenues are going to be, what the millage is going to be, and what kind of funding the Board is looking at; she hopes the Board will not have to do any cuts, that there will be adequate revenues, but right now she is trying to figure out alternative revenues coming in to help out; and she has a couple ideas she is going to throw out when the Board has its next sit down meeting. She added if Attorney Knox is comfortable with her sending an email as long as there are no responses, so the other Board members can think about it; she is looking forward to moving into this; it is a big budget and they have done a great job in the past; she hates to talk about cuts and would rather talk about areas that can grow out as a community and start expanding; and she hopes they get there soon to take on county projects to improve the quality of life.

Chairman Smith asked when the Board will know what the Consumer Price Index (CPI) is going to be, that the Board will use.

Mr. Whitten stated he thinks it is being calculated now; he thinks Jill Hayes, Budget Director, said the County is at 1.26; they will not know what the property roll is until June 1, when the Property Appraiser sends over the preliminary roll and certifies it on July 1; with regards to roads, remember at the first budget workshop it was discussed that the Board has an ability to allocate an additional \$6 million of one time funding in this current fiscal year and then on a recurring basis the next fiscal year there will be an additional \$1.5 million; and he knows there are a lot of things being said out there about the County's ability to fund the recurring periodic maintenance of roads, but he reiterated prior to 2016 they were only doing eight miles of periodic maintenance and this current fiscal year because of the additional \$1.2 they are doing 20 miles. He added the proposal is for the next fiscal year, because the County will have an additional \$1.5 million; the County will get somewhere between 20 and 34 miles of periodic reoccurring maintenance; in 2021, because of constitutional taxes of the bonds are paid off, the County will get between 34 and 61 miles per year; and the Board has made good progress in terms of prioritizing the needs. He continued to say in a period of five fiscal years the County is

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going from 8 miles per year to 61 miles per year in terms of funding towards roads; the question at the last workshop was about refinancing the constitutional gas tax, that was done last year; the financial advisor reminded him yesterday, and those bonds have a rate of 1.26; and there are four more payments of the constitutional gas tax.

Chairman Smith asked if the County paid that off could it accelerate the \$6 million.

Mr. Whitten replied they will try to bring back some creative ways to advance that; his creative way is perhaps an internal loan and to stretch the three years to six years, that way there is an additional \$1.5 million on top of the \$1.5 that is an anticipated increase for next fiscal year; and the good and bad of the road situation is, in five years the County will be at the benchmark of the 55 plus miles per year, but the big issue has been and always will be the backlog. He asked how the County will get a pot of money to address the \$500 million in needs that have been identified by staff.

Commissioner Tobia stated if he did not know better he would think Mr. Whitten was running for office; he watched that presentation too and he thinks it is wonderful that he thinks the County is spending more, but to look at the bottom of the chart, which he spent a lot of time with, he would see the County's need is getting greater every year; even though the County is spending more the gap is getting larger and larger; yes, tough decisions will need to be made, however placating folks that the County is no longer paving the eight miles is really sending out false promises to people; his office has been spending a lot of time; yes, there is a \$1,100 folding machine, but those are the things he thinks are incumbent upon the Commissioners to look at; he is sorry if it gets in the way of whatever Mr. Whitten's office is doing; and he commented he does not appreciate notes or emails coming from Mr. Whitten's office when it is dealing with green money questions. He went on to say it is a very complicated process; yes, he and his staff have asked a lot of questions and there will be a lot more questions to answer; travel line items are good to know as well as who and where; his office is doing this and he is more than willing to share the information anytime with any of his fellow Commissioners; and what he is not willing to do is stop asking questions he believes are so fundamentally important to the Board, who is trying to understand it. He added he may not know what line item 16 is, but he will make up line items and there will be 16, 26, or 126 and he thinks the Board needs to look over them individually and ask the serious questions about decreasing or eliminating, and what the impact would have on the Board member's constituents; and he believes it is important to ask the questions. He encouraged the rest of the Board to investigate the budget, as it was put upon them by the Board's Chairman; according to sunshine it has to be done openly, so it needs to happen on an individual basis when asking the questions; and any of the results that come out will be shared with the rest of the Board, so it can tackle this very serious matter dealing with fully funding infrastructure in a way that will make the roads quite a bit better. He again encouraged his fellow Commissioners to ask the questions he is asking or better questions, so he or she can all come with a robust way of looking at the budget instead of coming into presentations about why a department needs that equal funding as it did for the previous year; and he believes more knowledge will only make this process better for everyone.

ITEM VIII.E., BOARD REPORTS, RE: KRISTINE ISNARDI, DISTRICT 5 COMMISSIONER

Commissioner Isnardi expressed appreciation to the Sheriff and the Pet Posse for raising over \$40,000 at the car show this weekend.

March 21, 2017

**ITEM VIII.F., BOARD REPORTS, RE: RITA PRITCHETT, DISTRICT 1
COMMISSIONER/VICE CHAIRWOMAN**

Commissioner Pritchett stated she was at the Sheriff's awards this past weekend; and she is proud of the Sheriff's Department.

**ITEM VIII.G., BOARD REPORTS, RE: CURT SMITH, DISTRICT 4
COMMISSIONER/CHAIRMAN**

Chairman Smith commented every time he goes to the Sheriff's Award ceremony he is blown away by the dedication, talent, and courage; the Sheriff has a phenomenal amount of people who work there; they step up every single hour of every day to protect and serve the community; he recognized Garrett Lamp, the firefighters, and all those involved in the St. Baldrick's Day shave-athon; and they raised over \$250,000.

Upon consensus of the Board, the meeting adjourned at 2:38 p.m.

ATTEST:

SCOTT ELLIS, CLERK

CURT SMITH, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA