

September 2, 2021

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, September 2, 2021

5:04 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

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

Zoning Statement

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

C. PLEDGE OF ALLEGIANCE

Commissioner Zonka led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

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

Result: Approved

Mover: Bryan Lober

Second: Kristine Zonka

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

F.1. Approval, Re: Request #21 for Disbursement of Educational Facilities Impact Fees

The Board authorized the disbursement of Educational Facilities Impact Fees in the amount of \$5,458,005.86 to the School Board of Brevard County, in accordance with the terms of the Interlocal Agreement; and authorized the County Manager and Budget Office to execute any budget changes required to implement this disbursement.

Result: Approved

Mover: Bryan Lober

Second: Curt Smith

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

G. PUBLIC COMMENTS

Jerilyn Bird stated she is in attendance to speak about the fluoride in the Mims water; she is a dental spouse and works in the oral surgery office; she is a mom, a volunteer, and a race director for the Tooth Trot which gives money to give kids a smile for going on 24 years; she has had fluoride in her drinking water since she was born in Grand Rapids, Michigan, in 1955; and she still has fluoride in her water in Rockledge. She noted she is very concerned about the lack of fluoride in the Mims drinking water; as the Board of County Commissioners, the Board quickly voted to remove fluoride from Mims without prior notice; the Board then called for a ballot in the mail; Chair Pritchett received 30 percent of those back of which 70 percent voted in the affirmative for fluoride in the water, yet that was not good enough; and she mentioned this Board was voted in by the people and yet none of the Board members live in Mims. She continued by saying it seems as this Board runs as an oligarchy; the Board of County Commissioners is supposed to work for the good of the majority; each of the Board Members can decide for himself or herself looking at the research and the science that tells them that fluoride is indeed good for people, in the drinking water, yet she feels that one person controls the Board's vote; she thinks each Board Member needs to stand on his or her own; she is not sure if it is special interest that a Board Member may want votes for him or herself and that is why the Board wants to side with one person, or if each Board Member has truly looked at the science; and she commented this is a community and the Board of County Commissioners should support the people.

Yoshita Patel Hosking stated she is not a lobbyist and the time that she and her colleagues spend defending community water fluoridation is her own as she does it on behalf of her pediatric dental patients and her dental and medical colleagues who have supported this issue; she has heard some untruths that she would like to set straight with the support of the Brevard County Medical Society, Brevard County's largest group of medical providers and Dr. Jane the owner and board-certified endocrinologist of access endocrinology; they wrote letters in support for community water fluoridation that were submitted to the Board this week; they deny, as medical professionals, all the claims that have been made at previous meetings regarding thyroid dysfunction and its link to community water fluoridation; Commissioner Pritchett and Commissioner Zonka both showed support of the COVID-19 vaccination at the last meeting; and Commissioner Zonka also spoke eloquently regarding the safety and the Federal Drug Administration (FDA) support of the vaccination and the misinformation that has been spread regarding the side effects. She advised community water fluoridation has been studied for over 75 years and is supported by every major medical organization in the County and country; Brevard County's own medical professionals who have been working tirelessly combating the COVID-19 disease and the misinformation, have also spoken out against the fluoride misinformation; the Board of County Commissioners have a responsibility towards the community to address this and make it right for the patients and also for the providers that thanked by the Board just last week; there are no simple fixes to cavities, even with toothpaste, floss, mouth wash, dietary counseling, and oral hygiene instructions; she still sees decay all day long; last week Commissioner Smith asked a speaker about whether cavities were transmissible and the speaker said no, that is absolutely false; she mentioned just like any other disease, cavities are transmissible, they are caused by bacteria called streptococcus mutans and that bacteria is shared by sharing food, kisses, etcetera; therefore, a high risk adult with cavities can give their child an increased risk of having cavities just by living in the same house. She went on to say dental cavities are the most common disease of childhood and the bacteria that causes them is transmissible; however if a child has access to fluoride in the form of toothpaste, mouthwash, or the easiest method of sipping on tap water all day, that decreases their chance for decay significantly; there are many social determinants of health, economic stability, physical environment, education, food, and governmental influences; policy changes like the one that was decided in May to remove fluoride will account for a large negative health impact on the Mims community; healthcare does not stop at District lines the

way that the Board has noted the decision making does in this case; patients without fluoride incorporated in their teeth will move to other districts; and she asked why their health and voice matter only if they may cast a ballot only in this particular district.

Dr. Angela McNeight stated she is the current president of the Brevard County Dental Society and a practicing orthodontist in Brevard County; people are in attendance to show the Board that the Brevard County Dental Society and the Brevard County Medical Society stand united in an effort to bring fluoride back to the Mims community; none of them are being paid for their involvement there, none of them are part of any fluoride groups, they are volunteers doing their best to inform and protect their patients; the Board has received letters from many groups, most recently the Center for Disease Control (CDC), the Florida Department of Health (FDOH), the American Dental Association, and the Brevard County Medical Society; and they are urging the Board to listen to the years of research so it can help the people who voted them in, with their dental and medical health. She noted the Space Coast should be known for its dedication to science and its devotion to safe and effective public health measures, including community water fluoridation, not turning its back and ignoring what good research shows, that community water fluoridation is effective and safe; she advised she is there to address some of the claims that have been made over the last few meetings; for the claim that community water fluoridation is mass medication, there have been 108 lawsuits brought against community water fluoridation and not once has it ever been ruled as mass medication; and she would encourage the Board to visit fluidlaw.org if the Board is interested in reading about these court decisions. She went on to say there have been questions posed about whether or not using fluoridated toothpaste and fluoride rinse are a substitute for drinking fluoridated water; toothpaste and fluoridated rinses do not have the same effect as community water fluoridation, while one-shot exposure to high concentrations of fluoride and toothpaste are valuable, they are not a substitute for the very effective consistent exposure of the teeth to a low level of fluoride throughout the day, as provided by community water fluoridation, which decreases decay from 25 to 45 percent; while imploring this Board to reconsider its fluoride removal, it was very generous of Commissioner Pritchett to propose a vote; and from the number provided, over 70 percent of the ballots returned are in favor of fluoride, which surpasses the supermajority threshold and a 34 percent paper ballot mail return is pretty good. She added it is clear that the Mims residents want community water fluoridation returned and she hopes the Board will listen to them.

Susan Antoon stated she lives in fluoridated Suntree and consumed Cocoa water since 1979; they chose their home partly because of the fluoridated water; she was born in Gainesville which was the first city in Florida to have fluoridated water; she grew up in fluoridated Jacksonville; she is 70 years old; and thanks to good public health practices she has never had Polio, smallpox, or a cavity. She noted she read with some interest, all of the alleged conditions the Florida Action Network claims that one can get from fluoridated water, and she has none of them and neither does any member of her extended family; she was particularly amused by the latest claim about infertility; she has five grown children and they are healthy with nearly perfect teeth; and they have eight children with nearly perfect teeth. She commented she hopes the Board will agree to restore these proven health benefits for the families of Mims.

Dr. James Antoon stated he is a practicing periodontist in Rockledge, Florida; he has lived in Brevard County since 1979, and grew up in Brevard County prior to that; he is in attendance because this is an important issue for all of his patients and fellow citizens; the dental and medical communities will continue to work for the return of fluoridation; he worked on this issue for 20 years before Mims was fluoridated; he knows this is a successful public health benefit from over 7,000 studies in over 75 years; and it is a wonderful health benefit for children. He went on to say fluoride is a nutrient and it is required for proper health; it is especially important

for children and teeth; it is not a medication; this claim has been answered by the CDC and the FDA in over 100 court cases; there certainly is water fluoridation in Europe, Great Britain, and Asian countries as well; the reason it was added to milk and salt for many decades in Europe was because the water was not potable or drinkable, and it made more sense to place it in the salt and milk so children and adults could consume it; and now that there are modern chlorination systems in Europe and Asia there are more fluoridation systems added. He mentioned his four boys were high school athletes in Brevard County at Satellite High School in track and basketball; they would routinely consume two liters of water or more during a practice day or game day; many people do this routinely as it is good for people's health and completely safe; suggesting otherwise is misleading and frightening; and he has seen many organizations suggest this. He asked the Board to consider that nearly 80 percent of Americans are served by fluoridated water, it is not toxic and it prevents 25 to 50 percent of dental decay that would normally occur; he stated as the Board has heard from the medical community, especially pediatricians, that decay untreated can cause medical complications including facial abscess and socket abscess, bronchiolitis, and even brain abscesses; why would the children and adults of Mims in Brevard County not benefit from community water fluoridation like the rest of them; not one credible recognized scientific organization in the world opposes community water fluoridation; if Brevard County is to be a high-tech community and attract high-paying jobs, it needs to be first in public health and not return to 1940 when dental infection was one of the leading causes of hospitalization and death; and he asked the Board to please reconsider its position and honor the large, apparent, supermajority of Mims who returned those survey ballots.

Idaigna Alvarez stated she has been a pediatric dentist in Brevard County since 1994; she started her work in North Brevard County when she joined Dr. Eli White's practice in Titusville in 1995; he has been a pillar of children's dental health in Brevard County for many years; she believes he has been a pediatric dentist in Brevard County for almost 40 years; while working there with Dr. White she soon noticed a difference in the incidence of decay between the children of Titusville and the children of Mims; she commented on this to Dr. White and he explained to her that at the time Mims did not have fluoride in the water and Titusville did; and he felt this was a large factor in why Mims children had more decay than the children from Titusville. She went on to say he also explained to her that he was working in 1994 with other dentist in that same area to get fluoridation in Mims water to help reduce the decay and to provide this benefit to the children of that area; in 1998 Dr. White came into the office excited to tell her that fluoride was finally approved in the Mims area; he was very excited that day because he felt he was doing something for the children of that community; and she can assure the Board that after working with Dr. White a couple of years, she saw the benefits with the children of Mims, a reduction of cavities and all the problems they cause. She noted that today, after 23 years, she cannot understand why everyone is fighting for fluoride that provides such a benefit to the children; the benefit is backed by science and she is not going to talk about the science, the Board has heard enough about the science; and she asked the Board to reconsider its decision and reinstate the benefit of the fluoride in the water for the children.

Pastor Karen Curry stated of all the people who have spoken tonight she is not sure the Board has heard from a Mims resident; she had no intention of speaking tonight but having seen there are no other Mims residents in attendance, she wanted to make sure that their voices were heard as well; she was born and raised in East Mims; she is very disappointed in the way that this fluoridation issue became a surprise for all of them; she does not understand and it is frustrating, especially being that they just established a new organization to improve the quality life and do some community development in Mims; it seems like as soon as the residents are starting to look at doing some things in that vein, they are now looking at something that would reduce the perceived value of living in that community; and she hopes speaking on behalf of

the East Mims residents that the Board would please consider reversing the decision. She noted it is frustrating and she does not understand it; having not been told ahead of time that this was coming on the Agenda or anything, it feels a little dismissive of the Mims community; and she hopes in the future the Board would have a town hall before the decision is made so the people's voices can be heard about things like this that affect their everyday life and their children.

Chair Pritchett asked if Pastor Curry mailed her survey card in.

Pastor Curry responded affirmatively.

Chair Pritchett advised she is going to talk about this in a little bit; and she advised if the Board is ever to put something in their water she promises to go door to door to see what the residents want as far as adding stuff; and they have her word on that. She commented she is going to read what she has sent to the newspaper today; as far as this, there are two sides to it; she has really read science on both sides and she has documentation; the documentation is written by Doctors of Medicine (Mds) and Doctor of Philosophy (Phds) and the thing that got her, even with COVID-19, there is so much disagreement, here is the thing, if it ends up being good, wonderful, but she thinks the medical community has a whole lot to work out as far as science to determine if this is safe; she believes it is good for teeth; she believes, from what she has read that there is a lot of potential for damage to other parts of one's body; it will not be seen right away, there are long-term effects; and she is bothered that everybody keeps bringing up the thyroid situation. She noted she has lived with it; people can argue with her about certain things coming up, but no one can argue about her testimony, she knows what she has lived through; people should grant the courtesy of saying it could be possible with some people; to do absolutes with things in the medical community, when it is science, it gives her a little bit of a struggle; and as far as being a medication, the FDA does call it an unapproved drug, and a medication is anything that is used to treat an illness, whether it is considered that in the medical field, public perception sees it as that. She continued to say the profession she works in with accounting, if it walks like a duck, quacks like a duck, and looks like a duck, they call it a duck; it looks like a medication and it looks like the County is doing a mass medication to a group of people, regardless of whether they need it or not, regardless of size and weight, regardless of the amount they may be taking in of other items of fluoride, and there is a potential, even if everything comes out that it does not cause damage, that there could be large amounts going to a particular section of the population; and she noted the Board voted as it did on the consensus of thinking that she knew what her community wanted, and she still believes she knows what her community wants; there was enough opposition that came out, and Pastor Curry is the only Mims resident that has shown up beside Ms. Lisa, to say anything; she has heard a lot from Mims and she has been listening; in case she missed a section of the population she chose to do a survey because the Mims meeting did not work, she only had 20 people from Mims there and only a couple even spoke; and she advised the survey was for her to see if she needed to come back and re look at this. She mentioned this is what she wrote to the news guy, "For me to support mass medicating the water of fluoride, I would need to see strong support to do so. I have 770 out of 3,440 currently, which is less than 24 percent of the customers, 22 years ago, when there was less data on potential harm to the rest of our bodies, there was a very large positive response, 90 percent of the people responded. I did not see this support to put this back in the drinking water this day. This was a survey for me to see if a supermajority of Mims really wanted this in the water." She mentioned she sent two letters, a newsletter, and a postage paid survey card to send back saying that they must vote yes and mail the card back if they wanted fluoride placed back in the water; it has been in the newspaper every week for two months; she knows everybody reads the paper; it has been on the news; and she posted it on Facebook and received a huge community

response of people saying they did not want the fluoride in the water. She mentioned there has been thousands of dollars spent by all the groups encouraging people to vote for it or not vote for it, they have done robo calls, signs, and billboards; she has not had a response of the supermajority of the community that wants the fluoridation; right now people are pretty strong on what they want; she is watching COVID-19 as well and people are very strong on what they want put in their bodies; to put this with the vaccine, the vaccine could possibly be life or death; there is time on this for the medical community to keep doing the studies to find out if the things she is reading are true; the community got to send back to her what their thoughts were on this and she thinks they spoke pretty loudly; and she noted she has a supermajority of the Mims community, and she did not tell them they had to vote no, but told them they had their marching orders to go get the votes, and even though they do not live there, they did a wonderful job and they really believe in what they are doing, but they could not get the support for it. She added she does not see the support for it either; it should be on the news tonight and she talked with the paper about it a while ago; she has been talking to people about it and everybody seems pretty confident where it is settled; she left it open for an extra four weeks just in case, and there were some late votes coming in, but she does not have the response that the dentists and medical doctors thought they could get; and she noted that is where she has settled. She stated it has nothing to do with this Board, it had to do with her doing the survey; it was her survey; people started saying she was doing an election and it has to be a certain percent; she does not know why everybody tried to take off with that because it was never meant for that; she did it to try to get the data to see if she could have missed it; and by the end of it she is pretty confident that she did not.

Commissioner Lober stated he knows he is going to get in trouble for commenting on this, but for those who like and dislike him they have probably picked up on it by this point that he really does not have a filter; if that costs him votes in the future so be it and if it gets him votes so be it; he does not like to play games and he would rather level with people and let them know where he is at with things; and hopefully that is refreshing to some. He continued by saying there is a difference between a dentist and a board-certified endocrinologist, and he says that for a reason; he heard from Chair Pritchett in a prior meeting or more the concerns about thyroid cancer or thyroid conditions, and he trusts his dentist implicitly, if he tells him something about his teeth or his mouth he is not going for a second opinion, he trusts whatever he says; when it starts to go towards something that he does not have the same level of training and specialty, side effects that are systemic or thyroid cancer, he has not heard anything from any experts; he is not saying he does not believe what these people are claiming, but in his profession, he is used to seeing people cite the basis and point to the specific studies that were conducted by someone with the requisite experience, training, education, and he is not saying people cannot do that; he heard from Dr. McNeight that fluoride and toothpaste is not the same as fluoride in the drinking water, basically a high dose exposure is not necessarily as effective, he thinks is what her implication was, as a prolonged low dose exposure; she may be right, he does not know, but to say it without citing it, or telling him where she formed that conclusion, he does not believe or disbelieve it; and as far as the Rockledge Drive resident it is interesting in terms of the word special interest, there have been a number of individuals at various times, that think that he may share something closer to their opinion, for instance the tree issue on Rockledge Drive. He went on to explain he has a different take than Commissioner Smith does on the tree issue; he does not view it as wrong deferring to the Commissioner in whose district the action or the inaction has a disproportionate impact; there are counties where they elect Commissioners at large and there are counties where there are a mixture of some who are elected and some are also at large; he views very carefully who is a constituent and he tries to, when it comes to matters disproportionately or exclusively in some cases impacting one district, to stay in his wheelhouse, because the fact of the matter is, if there is an issue with trees on the portion of Rockledge Drive that he lives on, he would hope that Commissioner Smith would

extend the same deference to him, understanding that he lives and works in that district; there are portions of the County that he is in less frequently than he is in Orlando or Seminole County; this is a long County and he is not an expert in the intricacies of Mims any more than the intricacies of Grant/Valkaria; he has been to both of those areas; and if he does not share Chair Pritchett's opinions as far as her concerns or level to which she is convinced of her concerns. He noted he has been displeased by both sides in this issue, those who are extremely pro-fluoride and those who are extremely anti-fluoride because he does not feel that they have really made a good presentation in terms of presenting the data with adequate citations; the Board is told to go to different websites that are put on either by an industry that stands to benefit one way or the other; he has seen it from both sides and he believes they are equally guilty of that; he does not want any elected official who is so spineless and so jello-like in their convictions that they are willing to change their position based on someone threatening them; he thinks that is despicable for anyone to change their position based on a threat regardless of what it is; and people have no business in elected governance if they are going to change their position based on a threat. He stated the bottom line to him, even if someone has made a justified argument, is where is this impact falling; Chair Pritchett has been elected twice by overwhelming numbers the last time; he has to defer to her and he has never said anything different in the fact that he is trying to extend the same level of deference to his colleagues that he hopes they would continue to extend to him; there are issues that come up undoubtedly in the other districts where the individual Commissioner in whose district the problem or issue falls will need that deference; and he cannot start picking and choosing which issues he needs to follow up on, even if he does agree with someone. He added he does not share the same level of concern but it does not change the fact that this is a representative democracy, it is not something that impacts his constituents, and it does not mean he does not care about those people, it just means he has to defer to the elected representative that a supermajority of them chose; he respects what everyone is trying to do and they can come to every single meeting, but he does not know that it is going to change; his vote will change instantaneously as soon as Chair Pritchett's vote changes; unless there is a new novel argument that is so extenuating that it would justify him deviating from the Lober doctrine, they can come back, but it is not going to change his vote.

Chair Pritchett stated if Mims would have sent overwhelming support she would have come back and talked to the Board; she did not see it though; it was 22 point something percent which was just not enough; this Board, or any Board, should not be making medical decisions for anybody; she does not know how it ended going in 40 years ago, it should not have happened, this should be an individual choice, same for COVID-19 shots; she will never vote to mandate COVID-19 shots, never; she does think people should get the shot, she has had one, and she has had four people that she loves die from it this week; she believes it is important, but she also believes in the Constitution of the United States of America where people have free choice over their own personal bodies; and as long as people have a choice and they do not want to do something, they do not have to, they are running their own risk. She added the people do not want the fluoride in the water, and they do not have to; if it is a good thing, they are running their own risk; she has a lot that are adamantly strong about not wanting this because they do not want to have this going in their body; it costs a few thousand dollars to try to get it out with these systems; she stated maybe she can make it so that all the people who want it, if they put in a fund so she can put reverse osmosis on everybody else's house that did not have it, it might be something to consider, but that is quite a cost; and this is where she what she is sticking to. She mentioned, as far as the fluoride, Mims let her know if they wanted it; the basic premise of this is she thinks it is wrong for any government to force someone to put something into their body; she would have agreed to do it if she had a strong enough support, even though she would have had some problems with it in her heart, but it just did not pan out; and all the work these people put into it, she just did not see the response; and she believes

that is the will of the people.

H.1. William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) Request a Small Scale Comprehensive Plan Amendment to Change the Future Land Use Designation from PI to RES 1 (21PZ00033) (Tax Accounts 2316601 & 2323951)

Chair Pritchett called for public hearing on Items H.1. and H.2., a request by William D. and Elizabeth Anne Elliott, Trustees, for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI to RES 1; and a request for change in zoning classification from PIP to RR-1.

Jeffrey Ball, Planning and Zoning Manager, stated Items H.1. and H.2. will be read into the record as a companion application; there will need to be a separate vote for each Item; Item H.1. is William D. and Elizabeth Anne Elliott, Trustees, request for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI to RES 1; the application number is 21PZ00033, tax accounts 2316601 and 2323951, located in District 2; Item H.2. is William D. and Elizabeth Elliott, Trustees, request for a change of zoning classification from PIP to RR-1; the application number is 21Z00020, tax account number 2316601 and 2323951; and it is also located in District 2.

Chair Pritchett advised she has one comment card from Joe Mayer.

Commissioner Lober stated he thinks Mr. Mayer will be okay with where this goes; he has one disclosure as to both of the items; he spoke with nearby resident Douglas Waller about the proposal either yesterday or the day prior; apart from that, he believes Mr. Mayer is representing the applicant; and if he makes a motion he doubts that Mr. Mayer will have any concerns with respect to waiving his three minutes.

There being no further comments or objections, the Board adopted Ordinance No. 21-24, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", setting forth the fifth Small Scale Plan Amendment of 2021, 21S.05, to the Future Land Use Map of the Comprehensive Plan, amending Section 62-501 entitled contents of the Plan, specifically amending Section 62-501, Part XVI, entitled the Future Land Use Map Appendix, and provisions which require amendment to maintain internal consistency with these amendments, providing legal status, providing a severability clause, and providing an effective date; and approved application number 21PZ00033 to change the Future Land Use designation from PI to RES 1 in District 2.

Result: Adopted

Mover: Bryan Lober

Seconder: Curt Smith

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

H.2. William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) Request a Change of Zoning Classification from PIP to RR-1 (21Z00020) (Tax Accounts 2316601 & 2323951)

There being no comments or objections, the Board approved the request by William D. and Elizabeth Anne Elliott for a change of Zoning classification from PIP to RR-1, located in District 2.

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

H.3. Joseph A. Calderone Requests Change of Zoning Classification from TR-3 to TR-1-A (21Z00021) (Tax Account 2315419)

Chair Pritchett called for public hearing on a request by Joseph A. Calderone for change in Zoning classification from TR-3 to TR-1-A.

Jeffrey Ball, Planning and Zoning Manager, stated Joseph A. Calderone requests a change of Zoning classification from TR-3 to TR-1-A, application number 21Z00021, Tax account 2315419; and it is located in District 2.

Commissioner Lober asked Chair Pritchett if she has anything beyond the applicant's comment card.

Chair Pritchett advised she does not.

Commissioner Lober noted then he motions to approve.

There being no comments or objections, the Board approved the request by Joseph A. Calderone to change the Zoning classification from TR-3 to TR-1-A.

Result: Approved
Mover: Bryan Lober
Seconders: Kristine Zonka
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

H.4. Comprehensive Plan Text Amendment to Include a Property Rights Element as Required by House Bill 59, Requiring all Local Governments to Create a Property Rights Element

Chair Pritchett called for public hearing on a Comprehensive Plan text amendment to include property rights element as required by House Bill 59, requiring all local governments to create a Property Rights Element.

Jeffrey Ball, Planning and Zoning Manager, stated this is a Comprehensive Plan text amendment to include a Property Rights Element as required by House Bill 59, requiring all local governments to create a Property Rights Element.

Commissioner Lober stated he knows there was one typo in the actual Agenda Item and he does not know if it has been corrected in the copies; on the second page where it reads, "Comprehensive Plan, included" it should read, "including" and he would also ask that in addition to that, the line preceding that, the third line on the second page for the Item, where it reads, "person or local government that will suffer", that staff use may, in line with the other terminology; that fact of the matter is the County already allows it anyway; and he thinks that is in keeping with what the County is already doing.

Chair Pritchett advised she is good with that.

Commissioner Zonka advised she already knows the answer to this, but just to be clear, she asked if staff added another paragraph based on Planning and Zoning recommended; and she asked if those recommendations were outside what the State legislature was looking for as far as the Comprehensive Plan update.

Tad Calkins, Planning and Development Director, responded the Local Planning Agency (LPA) recommendation was to add that paragraph.

Commissioner Zonka inquired of the Assistant County Attorney, Abigail Jorandby, if that paragraph is necessary, in her legal opinion, because those things should be covered by local Ordinance.

Attorney Jorandby advised Commissioner Zonka is correct; they have the four conditions that were proposed by the legislature; and the addition by the LPA is not necessary because it is covered by the definitions under Florida Statute, Chapter 163.

Commissioner Zonka commented her only concern would be not having it clean and it not being necessary; it is nice to place the language in there; this in itself is all posturing by the legislature because it does not really mean anything; and she inquired with the Planning and Development Director if the County is supposed to consider those things anyway.

Mr. Calkins responded he does not believe that private property rights has ever been an issue or concern on the Board's decision making.

Commissioner Zonka replied, exactly. She went on to say she would guess they want the local government to make sure they are aware of private property rights, which she thinks the Board has done a darn good job of; she is happy to appease them and place a stamp of approval on it; and she thinks it should just be taken out.

Commissioner Lober mentioned he is fine with whatever the rest of the Board wants to do; however, if it stays in there he would ask for the changes he noted; and if not he is fine just using the bullet points on the preceding page.

There being no further comments or objections, the Board accepted a text amendment to the Comprehensive Plan to add the following Property Rights Element:

- The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights,
- The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to State law and local Ordinances,
- The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property,
- The right of a property owner to dispose of his or her property through sale or gift;

and to change the Table of Contents to include this Element.

Result: Approved

Mover: Kristine Zonka

Seconded: Bryan Lober

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

***Update on Rental Assistance**

Ian Golden, Housing and Human Services Director, stated the Emergency Rental Assistance Program has been running for about 26 weeks now; in that time, they have received about 1,823 applications; that includes about 1,500 initial applications and about 323 repeat applications; repeat is because the way the law works, the County can not only pay the money that they owe on their rent, but it can also help with additional prospective assistance; and in this time frame staff has obligated about \$6.2 million of the \$18 million that was allocated. He continued by saying almost \$4.4 million is for direct assistance and the remainder is administrative that has been obligated; the latest article he could find said the State of Florida, as of the beginning of August, had obligated less than three percent of the \$871 million; at that time, staff obligated, depending on how someone does the math, either 24 or 32 percent; he explained 32 percent if it is looked at as a total obligation of the total dollars, or 24 percent if it is looked at as just the dollars that were for direct assistance; and he noted staff has taken several actions since the implementation of the program. He went on to say when the Board approved the Policy it approved some waiver language so staff has done waivers to this point; the first waiver was to allow for a further prioritization beyond what the law requires; the law requires staff to prioritize those who have been on unemployment for the 90 days prior to application and those who are under 50 percent of the area medium income; for Brevard County and a family of four it is about \$36,300; staff found that Brevard County had a lot of evictions that were coming in, so staff did further prioritization where if someone met that criteria and had an eviction summons, they would be considered the highest priority; and then they would go down from that in prioritization. He advised the second waiver had to do with additional guidance from treasury regarding helping people with hotel stays; there has been a Policy put in place, or an addendum to the Policy, to allow for that with specific criteria; for that staff is looking at people that have to have 30 percent or under the very median income and they will only help for three months; this requires them to be actively working with the Brevard Homeless Coalition to try to find somewhere to stay; they cannot have been kicked out of a shelter for behavior issues; they do allow attestation, right now they are primarily looking at as income, attestation; and they look at that as a last resort, for example if someone's employer shut down because of COVID-19 and the individual cannot access pay stubs, they will review that and look at attestation to be able to move forward with assisting those people. He mentioned staff worked with the Clerk's Office, County Manager's Office, and the Court system on evictions; as people move through that process, once they have the eviction hearing, there is typically five to seven days to pay into the court registry to stave off that eviction; that is not enough time because staff found that people are waiting until actually the day of the hearing to apply, and that is not enough time for staff, even if they approve to get a check cut by County Finance; they have the ability to use County credit cards to pay directly into the Court Registry in those instances and they use the same back up documentation and auditing; and that is just because of the time frame and the delay that it would take to cut a check which could be more than two weeks. He stated he mentioned the prospective payments, and legislation lets them do up three months of prospective payments and then people have to reapply; they had been doing it on a month-by-month basis just to make sure that people still needed the help and that they were not just doing lump sums; there was also some concern that some landlords would take the three month payment and then still evict for some reason, and there was no mechanism to claw back the funds; because of the increase in evictions, the increase in processing time it now takes because of those additional evictions, staff is now doing that three months so people do not have to worry and come back month after month; he added those people are not a priority because they do not meet those other criteria; staff also does not want to see them go into an eviction because of that; they would still have to reapply after the three months prospective payment; and that is by law and it cannot be changed. He noted they have hired 12 full-time temporary positions; in addition, they did an accounting position, all to help with processing; they currently have four vacancies because people find other jobs and will

move on; they have been working with the temp agencies to try to fill those positions; some additional things that they have been working on is, Treasury recently came out with promising practices regarding additional attestations that are available and they cover a number of things, some of which staff actually already apply, having to do with self-employment, zero income, and some others that they are looking into have to do with roommate attestation or certification, a lease certification, they are not as comfortable with that but staff will be working with the County Attorney's Office to determine what that would look like if they move forward; and Treasury has also identified some additional policies that came out on August 25, and of the seven they identified, staff is already doing three. He added some of the other ones, there are some internal concerns, one is trying to find a not-for-profit that will make payments while processing; he mentioned staff can search but he is not sure if there is a not-for-profit non-governmental agency that has the funds that they are willing to risk, if at the end of them putting the money out, the County ends up denying the applicant, and to do advanced assistance to landlords based on estimated arrears; he is not quite sure about that one too, so they are currently looking at those other options and reviewing them; they are in the process of revising the application itself which would be another waiver, to hopefully make it a little easier; and to also gather a little more demographic information for the reporting requirement for Treasury.

Chair Pritchett stated she received a call today asking about this; she opened up the new Treasury guidelines and read through that; Mr. Golden just answered a lot of the questions she had; it said they could use the not-for-profits, but then the not-for-profits are on the hook if it goes south for the funds; she agrees that would be a tough situation although they would be allowing it; and she asked if by any chance it eased the County's responsibility or obligation to these funds oversight if something is not right with how the County distributes them, and are the Feds going to take full responsibility if the County messes up.

Mr. Golden responded no, the Federal Government are not.

Chair Pritchett responded she did not think so.

Mr. Golden stated staff did look at the option of using not-for-profits at the beginning and there were a couple reasons they did not; one being the liability the County does not give up its liability if the work is passed down to someone else through a Request for Proposal (RFP); they would still be responsible if that not-for-profit did something incorrectly and required a payback, it would have to come from General Fund, from the County; they would hopefully then have a contract that would allow for claw back language with that not-for-profit, but how long that would take and what that process would look like, he cannot guarantee; and additionally one of the things they looked at was the idea of trying to get it up and running as quickly as possible. He continued on to say the law was signed December 27, 2020; staff was before the Board by January 12, 2021; they had the draft policy to the Board by the end of January; the Program was up and running mid-February; based on a national call he had at the end of March, beginning of April, at that time there was only a couple dozen that were up and running across the country, so they were very quickly out of the gate; and he mentioned if they had paused and looked for those not-for-profits, it could have been anywhere from a three to six month process, depending on if there were appeals and other things.

Chair Pritchett commented it then would have been tough on them because they would have the liability and responsibility; she thanked Mr. Golden for continuing to follow with best practices and finding out how to keep the money flowing; she noted she reminded the reporter today that this Commission made it clear that as quickly as they could get the money out legally into people's hands that was the Board's top priority and it remains that way; and she reiterated

that she thanks him for his hard work.

Mr. Golden stated he wants to emphasize that even though he has that waiver language, the Board has given some direction, so even though he can waive parts of the Policy, there are things he will not waive; and for example, the Board was adamant that they not pay individuals directly, even though it is allowable under the law, so that is something that he would ever waive.

L.4. Bryan Lober, Commissioner District 2

Commissioner Lober stated this is up to the Board, but he wanted to run it by before he expended any kind of funds whatsoever in doing this; as far as travel funds or anything or that sort, he has never reported anything beyond mileage; he has never done airline or hotel, or anything like that; at this point he serves as the District 14 rep on the Florida Association of Counties Board; he is over Brevard and Volusia on this Board and they have a conference scheduled to take place in Palm Beach County; it is over a couple of days and it starts really early in the morning so to avoid getting up at 3:00 a.m. or 4:00 a.m. and driving, he was hoping the Board would be okay if he spent a couple nights over there and paid the registration, something along the lines of \$200 to participate; and he noted he does not think the total bill for everything is even going to hit \$1,000. He mentioned before he spends even a penny, he wanted to make sure that no one had an issue with it.

Chair Pritchett advised the Board is all good with that.

L.5. John Tobia, Commissioner District 3

Commissioner Tobia stated he would like to commend Chair Pritchett on her Chairmanship; he purposely tries to stay away from that position; he thinks she and her predecessors have done a good job; he thinks a number of folks try to take advantage of that position and it has been handled very well; he mentioned there is a Board Policy that he is sure she is aware of, but he thinks she may have a little more backing if she heard from the Board and that is BCC-97; and it deals with Public Comment. He mentioned there are certain members of the public that are currently running for office and appreciate time in front of the microphone, that is in direct contradiction to BCC-97; there are two sections of public comment, but it is actually only one; it is 30 minutes and then the remainder so folks are treating that as two sections; they are putting in a card for one and then putting in a card for another; the members of the public have the ability to put in a card for any Item on the Agenda, but they are using this as a time to campaign; and he advised just to be clear page nine of the Policy says individuals may not speak under both the first and second Public Comment period. He noted as they move forward, if the Chair lets these people know, she will have his support because it is very difficult to say no to someone, but Policy is clear and it is unfair to everyone else that waits their turn, that the Board provides people to go twice; he announced kudos to the School Board who had 144 speakers and went through those one minute at a time; and he thinks that fact that the Board allows three minutes, is exceedingly generous.

September 2, 2021

Upon the consensus of the Board, the meeting adjourned at 5:59 p.m.

ATTEST:



RACHEL M. SADOFF, CLERK



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

As approved by Board October 12, 2021.