



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Development and Environmental Services Group

J.1.

4/4/2023

Subject:

Notification of the Annual Sewer and Water Maintenance Index adjustment with Board discussion

Fiscal Impact:

To be determined annually

Dept/Office:

Utility Services

Requested Action:

On February 18, 2021, the Board approved Utilities implementing annual sewer and rate increases utilizing the Consumer Price Index (CPI) to the Sewer and Water Maintenance Index without a specific cap. If the rate rises above 3.4% per year it is to be brought before the Board for notice and discussion.

As the Sewer and Water Maintenance Index to be implemented is 4.41%, without alternative direction from the Board, Utility Services will be moving forward with implementing the 4.41% rate increase.

Summary Explanation and Background:

On February 18, 2021, the Board held a Budget Workshop which included Utility Services making a presentation regarding the Department using a rate adjustment matching the CPI (Water and Sewer Maintenance).

The motion was made and approved that if the new index without a cap, rises above 3.4% per year it is to be brought before the Board for discussion (see Attachment A). Attachment B (page 43 of 46 per the footer of the attachment) are the meeting minutes highlighting the discussion of the motion and the verbatim motion being made. In conformance with Board direction, since the Index to be implemented for 2023 is at 4.41% this matter is presented to the Board for discussion before implementation.

Clerk to the Board Instructions:

Email Clerk Memo to Karina Perez Perez at: karina.perez@brevardfl.gov <<mailto:karina.perez@brevardfl.gov>> and mail original to Utility Services, Attention: Karina Perez Perez



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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Kimberly.Powell@brevardclerk.us

April 17, 2023

MEMORANDUM

TO: Edward Fontanin, Utility Services Director Attn: Karina Perez

RE: Item J.1., Notification of the Annual Sewer and Water Maintenance Index Adjustment with Board Discussion

This is to correct the memorandum of April 5, 2023. The Board of County Commissioners, in regular session on April 4, 2023, accepted staff's report regarding the annual Consumer Price Index (CPI) sewer and water maintenance index rate adjustment; and directed staff that they do not need to report the index adjustment to the Board of County Commissioners unless the proposed rate adjustment will exceed the CPI sewer and water index for that year.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script that reads "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/tr

cc: Commissioner Tobia
Finance
Budget



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April 5, 2023

MEMORANDUM

TO: Edward Fontanin, Utilities Services Director Attn: Karina Perez

RE: Item J.1., Notification of the Annual Sewer and Water Maintenance Index Adjustment with Board Discussion

The Board of County Commissioners, in regular session on April 4, 2023, approved Utilities Services implementing annual sewer and rate increases utilizing the Consumer Price Index (CPI) to the Sewer and Water Maintenance Index without a specific cap. If the rate rises above 3.4 percent per year it is to be brought before the Board for notice and discussion. As the Sewer and Water Maintenance Index to be implemented is 4.41 percent, without alternative direction from the Board, Utility Services will be moving forward with implementing the 4.41 percent rate increase.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over the typed name and title.

Kimberly Powell, Clerk to the Board

/ns

cc: Commissioner Tobia
Finance
Budget

I.I.

Proposed what his Motion would be JT

1) I MOVE TO DIRECT STAFF TO PREPARE AN ORDINANCE AMENDING THE TOURIST DEVELOPMENT TAX BUDGET PLAN TO ALLOW MONEY BUILT UP IN THE CULTURAL FUND TO BE USED TO FUND THE TOURISM + INDIAN RIVER LAGOON GRANT PROGRAM IN THE 2023-24 BUDGET YEAR.

I.I.

2) I MOVE TO STOP DIVERTING FURTHER FUNDS FROM THE BEACH FUND FOR PURPOSES OTHER THAN BEACH RE-NOURISHMENT AND CONTRACTUAL OBLIGATIONS FOR BEACH CLEANING AND LORI WILSON PARK.

Failed

J.I.

3) I MOVE THAT WE ACCEPT STAFF'S REPORT REGARDING THE ANNUAL CPI SEWER AND WATER MAINTENANCE INDEX RATE ADJUSTMENT. I ALSO MOVE TO DIRECT STAFF THAT THEY DO NOT NEED TO REPORT THE INDEX ADJUSTMENT TO THE BOARD OF COUNTY COMMISSIONER UNLESS THE PROPOSED RATE ADJUSTMENT WILL EXCEED THE CPI SEWER AND WATER MAINTENANCE INDEX FOR THAT YEAR.



Att. Karina Perez

CC: Commissioner Talar
Finance
Budget



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RECEIVED

FEB 22 2021

UTILITY SERVICES

February 19, 2021

MEMORANDUM

TO: Eddie Fontanin, Utilities Services Director

RE: Item II.E., Utilities Services Budget

The Board of County Commissioners, in special session on February 18, 2021, approved changing from Consumer Price Index (CPI) to the Sewer and Water Maintenance Index without a specific cap, if it rises above 3.4 percent per year it is to be brought before the Board of County Commissioners at the next available Commission meeting for discussion.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

cc: County Manager

Colonel Wallace stated staff can build those specific packages with those costs and those percentages into that package for the Board meeting; the open discussion will happen between the Board; and the public will see it.

Chair Pritchett stated that is wonderful.

Colonel Wallace continued by saying he thinks what Mr. Abbate was saying is this was such a wide gap from tier four to tier one on capital, infrastructure, and personnel that staff just wanted the Board to focus on it a little so that staff could bring that back to that Commission meeting, have that discussion in front of the public, and give staff the direction to go on so it can press forward.

Chair Pritchett stated that was a good start today; and she asked if the County Manager was comfortable.

Commissioner Zonka asked if the COVID funding has been moved over to the Public Safety accounts to reimburse personnel.

Jill Hayes, Budget Office Director, stated staff is working on it, and they are still closing out all of the CARES funds, but they have established the Public Safety Fund.

Commissioner Zonka mentioned she knows the County has established the fund because the Board voted months ago to do that; and she inquired if the County is going to expend those funds and move those monies so that it is not just sitting there.

Mr. Abbate responded yes the Board has the authority to do what it thinks is appropriate with those funds, and Public Safety funds will be available to be utilized; staff believes the Sheriff is going to be asking to utilize them for Public Safety, because two-thirds of those payroll dollars were actually for his payroll expenses; he is sure the Sheriff will be looking for that; quite honestly, depending on what happens with the Fire Assessment and everything being talked about today, those dollars are dedicated on the fire side to the General Fund side; and he had hoped to be able to use them, if the Board so chooses, for capital and infrastructure projects, because when people see the numbers on the General Fund side, the money is not there if the County does not use those dollars, so staff was hoping to use it there.

e. Utility Services

Eddie Fontanin, Utility Services Director, stated he will be presenting a Rate Revenue Sufficiency Study that was performed with the cooperation of Raftelis; Rob Ori and Thierry Boveri are present for in-depth questions; and a quick agenda overview is to basically talk about the scope and objectives that were performed as it relates to the Rate Revenue Sufficiency Study, discuss a little bit of the history of the last rate increase that was approved in 2013, the major changes that have occurred since 2013, and the findings of what was conducted under the Revenue Sufficiency Study. He continued by saying staff looked at the 2013 study and since then they have done a revenue comparisons and looked at some sensitivity and utility dynamic changes that have occurred since; they have talked about the septic to sewer; there are regulatory changes that have come out since 2013, and updating infrastructure assessments which now seems to be a more prevalent requirement and level of service for utilities these days due to some of the leaks and mishaps that have occurred over the years; he went on to say they have looked at industry rates and benchmarks, along with recommendations; and in 2013, there was a need for a rate increase, because prior to that there was not a rate increase since 2008. He stated prior to that, in between 2008 and 2013,

there was no indexing and as a result, prior to 2013 for example, the Utility Capital Improvement Plan (CIP) budget was \$1 million for Countywide in comparison to the \$18 million that the County has; there was that need in 2013 to deal with obvious deficiencies in the current assets which he refers to as RMR; through there, there was a five-year rate implementation; and since 2013, a few things have happened. He advised he will be talking about the septic to sewer; in the last go-round, which would have been last year, there was some funding that moved over to perform selective septic to SOIRL, which the Request for Qualifications (RFQ) for engineers is out for that effort right now; assessments of renewal and replacement, at this point staff has a very rigorous assessment program of all of its assets, whether it is a valve, an Air Release Valve (ARV), a force main, or a gravity line, and the whole objective of that is to identify the unknowns or lower the frequency of mishaps by doing such; they have completed the North Riverside Forest main, but the North Riverside Forest main is not the only project that is needed in order for the resiliency of the beaches; and that was all driven from Hurricane Irma and the discharging. He stated June of last year, Florida passed F.S. 403.806 which says, there are particular bodies of water identified in Florida, the only one on the East coast was the IRL, all the others were in Hillsborough, Pinellas, and Manatee County; in there, is a requirement that by July of 2025, that any plant that is adjacent to any of those Lagoons be converted to an Advanced Waste Treatment (AWT) system for water quality purposes; there is talk about treatment and capacity for the growth that is foreseen in the County and being able to service development as it comes; there was talk about adopted index and part of the due diligence they did was they created a dynamic model, it is a key component and the basis of a lot of the information encompassed, which allows staff to put a lot of information and matrix in order to come with the calculations; and they have determined what the rate recommendations are based on the current system and also looking at it with the major changes that have been discussed. He went on to say based on the criteria of filling in the gap of what has changed from 2013 to 2020, there are some future resiliency projects, additional funding for the septic to sewer program, the growth, and also the need for the other components; they are looking at a cumulative of \$356 million between now and fiscal year 2029; there was talk about what the current five-year program is and in addition, the ones being talked about as the future; for a little lay of the land of how this associates as dollars, of the \$356 million, and how that falls within each Board Member's District, this slide is a brief breakdown of that; and that shows how the dollars would be allocated. He discussed CIP, but mentioned it is important to talk about operations and maintenance; in addition, because of the growth in the County, and the emphasis of doing more assessments and more due diligence, they are also anticipating new employees or a larger staff; current projections show them needing an additional 31 new positions for operations; he has shown on the board a little bit of flavor of what staff is doing in terms of preventative maintenance; there is more to it, but it is just to give an idea that all of that is for them to be in a preventative mode and not into a reactive mode; and that works out to be cheaper for them rather than addressing it as it occurs. He continued by saying this slide shows a reserve balance; if they stay on the current program, at the current rates, with the current CPI index, and implement all of the projects identified through the 403 for the State resiliency and all the other ones that were not taken into account from the 2013 rate, in 2026 they will be at zero; they will then run a deficit, which they cannot because departments have to submit a balanced budget each year; the black line shows what the industry standard is; Utilities likes to maintain a 120-day Operations and Maintenance (O&M) budget which is basically the equivalent that if all funds stopped coming in, the Department would have 120 days to stay afloat; and now industry standard is starting to get more into three or four months. He commented he knows he is not the first to talk about rate adjustments, but in doing so, he would propose some rate adjustments to bridge the gap; the slide shows the recommendation, and the percentage per year that he would propose; he pointed out that this is only for the Countywide rate adjustments so this does not show Barefoot Bay, he will talk more about that into the presentation, and he noted these are not taxpayers, these are rate payers; not

everyone in the County will be subjected to these, similar to anyone who lives in Melbourne, they already have their utility system and their own rates; and on the water bill the only ones these would fall under are Mims, everyone else in the service area would either be under City of Cocoa or City of Melbourne water and would not be subjected to this. He stated to give a scenario of what eight percent equates to is under the sewer bill, there is a second column that would show what the delta increase would be to a monthly bill for a sewer bill, to a typical sewer bill of 5,000 gallon consumption; there is depth beyond this graph, but this is really a graph to show that staff has done its due diligence that based on that recommendation, they can get to where they need to be, with the understanding that the delta would be financed through debt service; none of the projects that he is talking about above the current capital program, the additional ones, those would be done through a debt service not necessarily a self-funded service; as the Board knows, the Utility Services Department has two utilities, the Countywide system and Barefoot Bay; as he shared the FY2029 projection, staff is also looking at Barefoot Bay in terms of a \$51 million increase; a big part of that is associated with staff looking at the vulnerability of the utility as a whole, not just a Barefoot Bay, but a whole under the jurisdiction; and he noted that Barefoot Bay has the highest vulnerability out there; he would like to say beaches but they have made improvements; there is more to come; and historically Barefoot Bay has not been able to fund itself to where it needs to be. He mentioned the water plant is from 1963, the wastewater plant was done in 2005; what they invested in 2005, was done economically due to the finance structure of Barefoot Bay; when looking at doing this investment to get them to the point where they consider it a viable and reliable system; they talk about the water and the wastewater plant; they do it, not only for the reliability, but they see growth occurring in Barefoot Bay and with the additional septic to sewer coming on they would also add some flexibility for future expansions if needed; this graph is showing at the current Barefoot Bay rates and the CPI, if they were to implement what they want to with the \$51 million program, in Fiscal Year 2022 they would break even, but technically they cannot because there is a bond requirement that they are still currently paying off the debt of the purchase of Barefoot Bay, which is approximately, he thinks under \$9 million, there is still \$8 million left, and with that there is a bond covenant requirement for reserves so there is not really flexibility in the financials associated with it; and looking at Barefoot Bay as a stand alone system, staff has provided the option of looking at a rate adjustment just for Barefoot Bay. He added in Barefoot Bay predominantly, most of the customers there are both water and sewer, so when looking at the water and sewer bill cumulative that is pretty reflective of most of the customers; they are looking at a 14.5 percent increase and that changes slide from a monthly bill perspective; he explained the green arrow or the solid black line really shows the flatness of how they collect further revenue on the existing rate structure and how the dotted line would really propel staff to get to bridging the gap; and talking about all the requirements of the investment needed, that would all be done through a debt service program. He mentioned when talking about rates, it is always interesting to see how the County compares with other utilities and utilities that are within the County; he has provided a broad spectrum of utilities, some within the County, some without; looking at the bottom right corner they have been summarized to show how Brevard County compares with its neighbors; right now this is the sewer rate, and it is really predominantly what Brevard County is as a utility, so 95 percent of the customers represented under the utility services, are sewer only customers, because their service goes through the City of Melbourne, City of Cocoa; the five percent not accounted for would be what Mims would provide; that really gives an indicator of how Brevard County compares; and right now they are the lowest in the County. He reiterated the only people this would really fall under would be Mims, they are true water and sewer customers; again, this shows relative to other utilities, how Brevard County compares with that; based on growth, the eight percent Countywide, and this sewer rate comparison for the Countywide, and based on an eight percent in Fiscal Year 2022 and eight percent in 2023, they would still be lower than what Palm Bay, Cocoa, and Titusville are today, without them ever doing a rate increase; he

mentioned the indexing associated in 2013, when the Board approved the rate increase that was presented to them, they also approved an index, and in the index they used the CPI index; in experience and talking with the rate consultants, the CPI is not an accurate assessment of an index associated with a water and sewer matrix; the Bureau of Labor Statistics actually has a water and sewer matrix, and it provides an indicator of how the comparison of CPI to the matrix that they currently have; and he knows there is an approach that when rate indexes or when rates are approved they do not come back with more rate increase in the future and putting the correct index to that helps that probability of needing to. He went on to say this is really about the vulnerability perspective of Barefoot Bay and this will be concluded during the last part when he asks for direction, but when talking about Barefoot Bay, there is direction needed on how to proceed; option one is status quo, no change in rates, indexing, and not merging it into the County system; option two is to adopt the rates for Barefoot Bay independently which is the 14.5 percent model and in addition, Barefoot Bay operates on their own rate Resolution and many of the costs are cheaper than what is in the Countywide system; for example, a connection fee associated in the Countywide system that would be \$2,200 is \$760 in Barefoot Bay, so it would go through those corrections in order to get those rates adjusted accordingly; the third option would be to integrate Barefoot Bay into the County system; the idea of this is if they hold the Barefoot Bay rates where they are and they identify that the Barefoot Bay rates are high, that is to be determined by the Board, is to hold the Barefoot Bay rates and over the course of time the County rates over a three or four year period will actually equal what the Barefoot Bay rates are; if in year one the County can integrate Barefoot Bay into the County system, hold the Barefoot Bay rates, and adjust them up, it would not be the 14.5 percent increase associated with Barefoot Bay customers and it would basically incorporate the financials into the Countywide system and give the Department some financial flexibility on how to operate the utility as a whole; and he mentioned he wanted to bring the point out about the CPI versus the waste water maintenance index and show the comparison with the hope that utilizing that will not be a need five to 10 years down the road because they are hoping the index is reflective. He continued by saying they are looking at achieving financial targets, funding the projects that are being mandated at a State level, whether specific through Florida Statutes (F.S.) 403 or the expectation of septic to sewer or of minimizing discharge; he is seeking direction on how to approach the Countywide rate, the Barefoot Bay rate, the idea option three presented which was discussion of merging Barefoot Bay into the County, and also the direction of utilizing the different rate index in lieu of the CPI.

Commissioner Lober stated as far as switching from CPI to the water and sewer index, that just makes sense, and he will make that motion across the board; beyond that, looking at the options, he will explain why he does not like option three, and he asked for forgiveness for his sarcasm, basically Barefoot bay came to the Board and said it had totaled its car and asked the Board if it wanted to buy it and make the remaining payments on it, and the Board said sure it would buy it, and it is still paying for it, as was mentioned; and he asked if that was \$8 or \$9 million.

Mr. Fontanin responded \$8-plus million.

Commissioner Lober noted that is an obscene number for what the County received, the County should have been paid to take it over as opposed to pay to take it over, but it is where it is; now the folks that sold the County a salvage car are asking if the County wants to buy them a new car; there is no way that he can meet his fiduciary duty to District 2 constituents and go for option three; he knows that may be unfortunate or is unfortunate for the Barefoot Bay residents, but the County is in a situation where he does not know that the rest of the County can subsidize; as far as option one is concerned, he has concerns with that as well; he mentioned earlier that there were a few things he feared in life, while he fears fecal matter in

the river; his concern is that Mr. Fontanin has suggested the County needs to do X, Y, and Z to get to a viable and reliable system and that would clearly indicate that the County is not at a viable and reliable system; he gets fully that anything can break, he could buy a brand new Toyota Corolla and it can break, but if he is driving the one that was flooded, the chance that is going to happen with 200,000 miles on the engine, is a little higher; he does not want to wait until there are more issues with Florida Department of Environmental Protection (FDEP) as far as consent judgments, and he also does not want fecal matter in the river because it negatively affects property values; it is horrible from an environmental standpoint; and he is not going to go on and on about why he thinks that is an issue. He pointed out that he thinks something in option two is appropriate as far as keeping the systems separate, because he would not support anything that involved consolidating them; he does not think he can do that and maintain the duty he has to his constituents; as far as the rate changes, and what makes him uncomfortable, it is going about these somewhat drastic percentage-wise increases for folks that have difficulty; he would like to have some mechanism in place where their sewer and water are not going to be shut off if they are in arrears to some degree, based on this increase in charges; it would continue to accrue and they would still owe it, but he does not want someone who is destitute, not working due to COVID, to have to be concerned that if they flush their toilet it is not going to work or that if they turn on their faucet it is not going to turn on; it is the cost of not having the river turn into a cesspool; and he really feels so strongly about it that there is nothing that is going to get him apart from option two, and if someone wants to argue they will have to get another Commissioner apart from him because that is where he is at.

Mr. Fontanin stated he knows this is just in discussion mode; the rate revenue in option three shows a slight increase of one to two percent up through 2025, in addition to what would be on the Countywide system; and he inquired if the rate increase were to be consistent instead of the 8.92, the 9.33, but to follow the recommendation of the County-wide system, and bring it into the County would that be a consideration.

Commissioner Lober responded the short answer is no.

Chair Pritchett stated she had a thought on that, but she is probably right there with Commissioner Lober; as far as the increase for regular, she lives in the City of Titusville; the average there is \$79.67 and the average in Titusville is \$109, so the County rates are incredibly lower than the municipalities; she thinks for the things that the County needs to get done, and they have not even talked about the capacity issues, she thinks the Board needs to get some of this weight off, so staff can start working on some capacity; she would support this because it is just going to increase the water bill up to \$79.67, which she thinks is still way under the rest; she thinks as it goes on in years it might be a discussion depending on how money is coming in; and this is a user fee, people are using it, and they should be paying for these things as well to keep utilities running effectively and efficiently.

Commissioner Tobia stated there are two issues that he has mentioned quite clearly, Barefoot Bay and then the rates; first he would like to discuss Barefoot Bay which falls exclusively in County Commission District 3; he wants to talk about something that he thinks the Board talks about far too much, as it sometimes has a mentality that each Commissioner is a District, but the Board members really are not, they are a place holder and districts change; he at one point in time, represented a district that he no longer lived in while in the State legislature; things change and he thinks the Board is entrusted with all of Brevard County; and the IRL does not uniquely impact three and not five or one district. He added he thinks the Board members need to look at the broader picture, yet he says Barefoot Bay falls exclusively in his District, but no matter what happens here, he will end up on the short end of the stick, so he just wants to lay out all of the data points that he has and find out where the rest of the Board is at on this

one; and no matter which way this Board goes, his phones will light up and people will say he made the wrong decision, whether he hears it from the constituents in Barefoot Bay or whether he hears it from the constituents that do not live in Barefoot Bay. He stated the first issue is option one, if the County were dealing with a clean Lagoon, but that system is at its failing point, and he thinks Mr. Fontanin said that they were going to have some major issues coming up; if the County does not adjust the rates bad things will happen; and he inquired with Mr. Fontanin if option two is just placing a band-aid on the situation.

Mr. Fontanin replied no, staff did the due diligence and option two is looking at Barefoot Bay as an independent entity.

Commissioner Tobia remarked Mr. Fontanin mentioned it has been around since 19 something.

Mr. Fontanin responded he does not know and asked others.

John Denninghoff, Assistant County Manager, advised the treatment plant was 1963.

Commissioner Tobia stated he does not know that it is long term solution, that this is something that a new facility would meet; conversely, it is very difficult to ask the average rate payer to pay eight percent more and then take Barefoot Bay citizens, and that eight percent, they are paying so much more right now, if they were to drop down to that lower rate they would actually be saving money; the issue with this is if the County has new capacity, that means new growth and new growth in the south part of the County, means his phones light up; and he explained what he is trying to say is whether the Board increases the rates 14 percent, his phones light up or if the Board were to add them to the system and increase capacity, his phones light up; and he is not advocating on one side or the other, he would just like the holistic approach to this, what is going to be better not for the people of Barefoot Bay and not for everyone outside of Barefoot Bay in County Commission District 3, but the entire County. He went on to say from his understanding, and he could be confused, but he inquired how that is not option three; option three adds them into the County system but keeps their rates where they currently are, which even if someone were to increase and they are so much higher than everyone else, and if the County were to increase everyone eight percent, they are still leaps and bounds, \$20 to \$40 more than everyone else.

Mr. Fontanin noted there is a three to four year catch-up.

Commissioner Tobia stated he does not know if there is a hybrid approach to any of these things, but he can guarantee that he is still going to hear concerns that rates are higher; what that would also do, from what he is being told, is that the hookup charges, if the County did that, would then go to the Countywide hookup charges; and he inquired if that was correct.

Mr. Fontanin responded they would.

Commissioner Tobia stated he is not saying \$2,100 is an unfair amount, but from the perspective of the people in Barefoot Bay they would see it go from \$700 to \$2,100; he would argue that is an issue of parity so he would strongly support that; he noted to remember these are manufactured homes and these people with a homestead exemption generally pay quite a bit less in property tax which he often has to explain to them at their dismay; his point to this is he is trying to look at it from a parity issue, because he is going to hear it from both sides; and what he wants to hear is what the rest of the Board's thoughts are because his underlying principle is what is best for the Indian River Lagoon, when it comes to the water treatment facility.

Commissioner Zonka stated she is sort of where Commissioner Lober is; she understands it probably makes Mr. Fontanin's life a little easier to integrate them completely in the County system, but the County agreed to take on that train wreck, and she does not like the idea that the rest of the County has to pay for it; it is a decision the Board made and it does not mean that the County should not take care of a failing part of the County; it would be the same for any neighborhood the County cleaned up or any road that it does; she is okay either way; and she mentioned she wished that Commissioner Tobia had a position because that is his area. She mentioned she is on the fence with this one, because she does not think the rest of the County should suffer for it, but this is one County, so the Board needs to take care of the entire system; she thinks it would make the Board's job easier just to integrate them in; and she mentioned should they pay a little more for the first few years, if it can be done legally, yes, probably.

Mr. Fontanin stated staff can propose it; and he commented the options presented are just a flavor but staff can look at different dynamics.

Commissioner Zonka stated maybe after a few years or after their system is at least to the average of what the County is, maybe that is when the County brings them equal to the County's rates, because they are already paying a lot of money now.

Mr. Fontanin added in addition to a rate he does not even know about doing an additional Municipal Service Benefit Unit (MSTU) on top of it.

Commissioner Tobia noted that was only for Barefoot Bay, and he asked if he could have time for the rates afterwards.

Chair Pritchett responded yes.

Commissioner Tobia responded he is good either way; and if the Board did a 14 percent increase he would hear from the folks and their hook up charges would still be independent, so it would be the 700 as opposed to \$2,100 or \$2,200.

Mr. Fontanin answered yes; one of the things he would propose is if the Board does the 14.5 percent, to allow the Department to come back and also update the rate Resolution for Barefoot Bay because the \$760 they are paying is really low; and these are the rates that were inherited from back in early 2000 and they have never been adjusted.

Commissioner Tobia asked if they were on an independent system.

Mr. Fontanin responded affirmatively.

Commissioner Tobia stated he does not expect them to pay more and not get the same level of service that they would otherwise be getting with a new County system and all that good nonsense.

Mr. Fontanin responded in the affirmative.

Commissioner Tobia stated then there is the parity issue; that he would have trouble doing; put them on the system, increase the charges, and increase the fees, that is great, but leaving them on the current system and then charging them as if they were on the other system is just not fair, to the hook up charges and all that good nonsense; they are either unique or they are

all within the County; he thinks it is one or the other; and he noted he is not arguing for one he just thinks the hybrid to both, is they get the short end of the stick.

Mr. Fontanin responded that connection fees are also referred to as impact fees and impact fees also fall under Florida Law; if he were to propose a new connection fee there is a due diligence calculation, what the rate consultants would help with; it is not an arbitrary number that staff can just use; that would be if staff looked at Barefoot Bay independently; if the County looked at Barefoot Bay merged into the County system, those numbers were already looked at, and he believes it is around \$2,200 which is a calculation in order for the connection fees, and they are used for capacity increase only; it is not about replacing the same line with the same line, it is about the extra capacity; as a comparison, the riverside project was up-sized by four inches, the diameter of the existing cannot be used by connection fees but the four inch increase can; and he is just letting the Board know that if it is the Board's direction that Barefoot Bay be independent and staff were to come back and talk about the modifications to the rate resolution, they would do a due diligence as part of that.

Commissioner Tobia mentioned just to be clear the viability of the system in Barefoot Bay, given the option two rate increase of 14.5 percent, the health of the IRL would be no worse if that was scrapped, and they were on the larger system; and he asked if that would be fair to say.

Mr. Fontanin noted he is trying to answer the question correctly; and he asked if what Commissioner Tobia was saying was if they were or were not to do the 14.5 percent.

Commissioner Tobia mentioned the difference between putting them on the system and leaving them, but ultimately there needs to be a new water treatment facility; and he asked if that was correct.

Mr. Fontanin agreed with that statement; and he pointed out water and waste wastewater.

Commissioner Tobia stated that is what the County is failing to discuss at this point, whether or not to merge them all on to that system prior or not at all.

Mr. Fontanin responded affirmatively.

Commissioner Tobia commented that is the larger one, and he thinks that gets into the rate increases; and he asked for his two seconds on the rate increases.

Chair Pritchett had Commissioner Tobia continue.

Commissioner Tobia advised he cannot vote for the eight percent, and he does not like to say he does not like increases, he thinks there has to be a reason why because there are additional costs and mandates; Commissioner Lober and himself lost at the last meeting with a 2:3 vote about redirecting SOIRL monies that could be used for infrastructure, new wastewater plants; the SOIRL Committee did their job as requested but plans change, and that money could have easily been redirected to that infrastructure to lower that potential increase and have the same amount; and it would most definitely be above the CPI of 1.234, and it would also be absolutely lower than the eight percent that it currently is. He noted he does not know where it is, but he does not think that it would be fair to vote against a rate increase and not provide a reason as to why; and if anyone wants to go back and change that plan he would certainly be more willing to do that, but if not that is why he cannot support it.

e. Utility Services

Chair Pritchett inquired where Commissioner Tobia is on the rate index now.

Commissioner Tobia inquired if Chair Pritchett is asking about the eight percent.

Chair Pritchett responded no, there was a rate index to where staff did not want to do the CPI but do what was recommended nationwide with the Water Sewer (WS) Maintenance index.

Mr. Fontanin commented this is just a snapshot over the last three years and if the Board wants to place a cap, such as three percent, staff has worked with a cap before; the message he is trying to make is not to utilize the index more inclusive for a utility, there is a \$2.8 million shortfall; to look at the previous slides it shows three percent; and if the water, sewer, and maintenance were to exceed above three percent staff would cap it at three percent, if that was the desire of the Board.

Commissioner Tobia inquired where the water, sewer, and maintenance index has been over the last five years.

Mr. Fontanin replied they only did the last three years.

Commissioner Tobia asked what it has been over the last three years.

Mr. Fontanin stated it is right on the screen; the reason he did just the last three years is because in 2013 it was in Fiscal Year 2018 which the indexing occurred; and they were using that as a snapshot.

Commissioner Smith mentioned he is just taking it all in; he thinks it is extremely important that the systems get upgraded as necessary; he thinks it is imperative that the rate payers pay for it, not all the taxpayers of the County; and he has made that clear before. He went on to say he thinks to do what Commissioner Tobia is suggesting is a bail out from his perspective, and he is not keen on that; if the Board has to raise the rates, then it has to raise the rates because the rate payers own the system; and that is where he is at.

Chair Pritchett asked if Commissioner Smith is a yes on the Countywide rate adjustment.

Commissioner Smith responded that option two sounds good to him.

Chair Pritchett repeated option two is good for Commissioner Smith as well; and she asked Commissioner Smith how he feels about the rate index.

Commissioner Smith advised he is still undecided on that.

Chair Pritchett stated she has Commissioner Lober's, and she still has to get Commissioner Zonka.

Commissioner Lober remarked he wants to make sure the Board is all on the same page with respect to option two versus option three and what it really means apart from what is pretty patently obvious on the paper.

Chair Pritchett mentioned she thinks the Board has it, that there is an understanding so she thinks the board just needs to get the votes in to give staff direction; and she commented she understands and asked if the rest of the Board understands.

Commissioner Lober responded he has gotten the impression that there is a little disconnect; and it seemed that there was at least a suggestion that going with option two might be untenable or might somehow be harmful to the Lagoon, at least that is what he was starting to perceive.

Chair Pritchett noted she does not think Commissioner Tobia was saying that.

Commissioner Tobia advised he just asked the question, and he thinks the Board got an answer that it would not be.

Commissioner Lober responded as long as the Board is all clear on that; and he did not want that to be a disincentive for folks to go a certain way.

Commissioner Tobia mentioned he was not advocating one way or another; he just wanted to know before he made that decision; he would be okay with the last ones, which were 3.4, 3.2, and 3.1, with a cap; and he would do it at the 3.4 which is the highest of those.

Commissioner Lober advised there is a standing motion still as far as moving from the CPI to the water and sewer index.

Chair Pritchett responded she did not have a second on that yet, so she thought this discussion was very good.

Commissioner Zonka commented she thinks she understood clearly, but since there was a lot of Barefoot Bay discussion, she asked Mr. Fontanin to discuss the scenario exactly because she wants to make sure everybody understands; she asked again to explain the exact scenario if the County integrated Barefoot Bay into the system; and she inquired what would be ideal for not just the County system but for maintenance and management because obviously the system is broken, antiquated, and risky. She inquired how to do this as smoothly and fairly as possible and to make it easy for Mr. Fontanin to make plans for future capacity etc.

Mr. Fontanin responded that he appreciates that; he went on to say it is not only the flexibility financially, but it also provides staff, by merging into the County, a flexibility operationally; he has talked about the CIP, the operations, and maintenance of Barefoot Bay, but technically to bring staff from the Countywide system into Barefoot Bay, they have to be charged to the Barefoot Bay accounting system because they are providing a service in Barefoot Bay; and it is almost like the equivalent if the County were to go into another municipality that had their own jurisdiction, they would be back-charged.

Commissioner Zonka stated Barefoot Bay is already paying more than what the County is paying right now.

Mr. Fontanin responded affirmatively.

Commissioner Zonka continued by saying it is hard to blame the Barefoot Bay residents; it is an older population and probably a lower income as well, because of the type of area; her concern is she does not want to hit them all at once, but at the same time she wants to make sure that the rates will be increased so the County can maintain and keep up with the growth; that is the maintenance rate of three percent, assuming that the system is at least at the average acceptable level; and she inquired if that was correct.

Mr. Fontanin responded yes; and he commented he is sure there is a baseline that they are not meeting, but this is what is being published.

Commissioner Zonka inquired if the County is meeting the average, of not just capacity but proper maintenance.

Mr. Fontanin responded this is why staff is doing a very aggressive approach on doing the assessments of every component of the County's assets, because that is part of the calculation; there is a bit of a guesstimate, because as staff goes through and assesses, there was an area in Indialantic that they thought would have a horrible gravity system, but upon assessment, they were actually in good condition; staff is finding some things in Barefoot Bay that are exceeding in a not so good way in their assessment; the index and the 14 percent, a lot of those being outside of the water, wastewater plant which is definitely a need; they have put a pool of money aside in order to address the existing infrastructure and whatnot; staff is hopeful that will be sufficient; and staff is confident, but they are still going through that process.

Chair Pritchett asked Commissioner Zonka where she is at on the County rate adjustment.

Commissioner Zonka responded obviously the Board needs to increase it; the discussion comes to where it is between the three percent and what the utility is asking for; she would be okay with it slightly higher than that, but she does not know that she would be quite at the number that was brought back; she has also changed her mind a little bit learning more about the Barefoot Bay system and what that means as far as integrating them into the system versus not; and she thinks she would rather see them integrated based on the information Mr. Fontanin provided today.

Chair Pritchett noted she has three option twos and an option three; and she is not sure Commissioner Tobia knows where he wants to be yet, which is going to carry a lot of weight with her.

Commissioner Tobia stated he does not win either side of this one; Commissioner Lober mentioned the wrecked car scenario; he asked Mr. Fontanin to tell him how the people from Barefoot Bay would be getting a bailout if they were to go on the County system, pay their current rate, and not have an increase until the County rate met the Barefoot Bay rate; he is trying to understand; they would be paying more than the County; and he asked if that would make up for the million dollar bond or that \$8 million bond. He asked if there is a number that the County could increase that would make up for that \$9 million bond so they were not getting a bailout, or is that so untenable.

Thierry Boveri stated he is with Raftelis as the Senior Manager, and he was principal in doing the analysis for what is being presented today; he thinks there was a lot of discussion about what is the benefit and drawback of some different options; the discussion right now is centered around option three, and integration with Barefoot Bay; one of the things to keep in mind is when doing an integration like that, there is a benefit because it is like a regionalization; and the benefit to everyone for doing that is everybody is kind of paying the same revenue into the same bucket.

Commissioner Tobia commented he thinks Mr. Fontanin explained that very well; he understands where Commissioner Lober is coming from and he agrees; he does not want them to benefit from the situation; and the question is, even taking that synergy into account, how much would the County have to raise rates so the \$9 million bond could be fully covered.

Mr. Boveri stated right now he is speaking in rough numbers; Barefoot Bay generates about a

little over \$4 million a year in revenue; if they were to take them to the County's existing rates, they will be generating a little over \$3 million in revenue; and when thinking about it, in perspective of the bill impacts that were presented earlier, they were around \$100 and the rest of the system is around \$70 or so, and so the percentages, in relationship to that, kind of make sense. He went on to say the County would be able to cover the debt service and operating expenses, but they would not be able to cover all of the things that were identified to be funded in the Barefoot Bay system, including the improvements that were indicated to be necessary for the benefit of the environment associated with the improvements to the water and the sewer systems; what the County would have to do is probably keep the rates where they are at now; and if the Board were to integrate them, as was presented in option three, and raise their rates, either at the same rate or keep them flat and let the County rates approach to the bill over time.

Commissioner Tobia inquired if that is option three as it states.

Mr. Boveri responded affirmatively, and stated it will approach it over time, but another one could be that it could still be integrated, and there would be a benefit of the integration of the two systems.

Commissioner Tobia commented he thinks the question becomes whether people are getting an advantage in Barefoot Bay with option three; Commissioner Lober said it was a bailout, and he is not arguing; and he asked if there is a number that the County could increase what it has right now to offset that whether the difference between the \$9 million bond and what the County would be saving by integrating them into the system.

Mr. Fontanin commented staff would have to go through that analysis.

Commissioner Tobia went on to ask Commissioner Lober if the Board could solve that and they would gain a unique benefit, if he would have any issue with Barefoot Bay joining the system.

Commissioner Lober stated no, but with a caveat, because they are addressing half of the coin here by addressing the bond; that is a big part; knowing the system or his understanding is that their system is in a far more tumultuous, far more deteriorated state than the rest of the County, is there a delta to even get them to where the rest of the County is, knowing the rest of the County is not where it needs to be either, and he would want to see that before integrating them into the County system; he is not saying no, but there are some conditions that have to be addressed first; and that would be the first as mentioned, and the second to get them to where they essentially match the rest of the County either per capita or per area cost level so it is not that they are spending four times as much in Barefoot Bay to buy the new sewer plant even if they were to wipe out the bond that the County is paying on the old one. He added if the County could wipe it so that it is all on a level playing field, on the front end then he would go along with integrating them.

Mr. Fontanin stated as he talked about the Barefoot Bay system, they discussed the \$51 million; he knows a lot of entities associate the State Revolving Fund as being the source; and the State Revolving Fund is capped at \$20 million per year.

Commissioner Lober inquired if that is per project.

Mr. Fontanin responded in the affirmative. He stated there is no guarantee that the County will get the full \$20 million because the way the State Revolving Fund works, it is an allocation that comes from the Feds to the states; then it is a function of the demand; obviously with the State Revolving Fund, they try to give as much as they can across the board; talking about a local

example, the City of Palm Bay just did an award, he thinks, for a new wastewater treatment plant at \$26 million, State Revolving Fund; and they submitted the application for the State Revolving Fund of which they stated they could only get \$20 million, and in order for it to be awarded they had to do a short-term loan for \$6 million. He mentioned the benefit of merging Barefoot Bay into the County system, it also includes the bond rate benefit; if the County has to do a loan of some sort, the financials of Barefoot Bay right now would not be very favorable in a low interest rate loan of any sort because of that; and by bringing them into the County it gives the County that flexibility to utilize Barefoot Bay, if it decided to.

Chair Pritchett stated she is not sure where Commissioner Tobia is, but she is starting to go more towards option three; her thought is she does not think there can be growth right now because there is no capacity; she thinks if the Board does this, because it is going to have to do something to fix it down there; the Board is going to have to do something with wastewater; it is going to be County revenues as well, coming in down the road; she cannot really visualize the financial abilities with that; and she inquired if the Board could come back and discuss this when it has more of the numbers before it just says option two or option three.

Commissioner Tobia stated he is sensitive to what Commissioner Lober said; he does not want the people in Barefoot Bay to be getting a selected advantage because of the terrible system that they currently have in place, through no fault of their own, it is probably fault of the County for accepting it, however it is in the past; whatever holds the rest of the rate payers neutral, whatever that fee is, if staff can bring it back and say instead of having to increase it \$14, maybe it could be increased \$16 and everyone else gets that new CPI, that new index, until they meet that number; staff just needs to give the Board a number, if it is somewhat reasonable; he is just not comfortable giving a unique advantage to some folks at the expense of the rest of the County; and he does not think that is very fair for rate payers. He added it sounds like the Board is all in the same place, as long as Barefoot Bay does not get a unique advantage.

Chair Pritchett responded maybe Mr. Fontanin can bring something back to the Board and it can spend some time with him; she is thinking that it is a certain amount here and if the Board does it and the County ends up making more money and being able to handle that capacity issue, it might be good for the long term; and she does not have the numbers so she cannot see it right now.

Mr. Fontanin commented the County has the benefit of the rate consultant to go through that due diligence.

Chair Pritchett commented she thinks it was a good talk with good questions; if staff would come back with that, it would help her a little more in the decisions; and she advised Commissioner Tobia is going to have a heavier weight with her than the rest of the Commissioners because he lives in that area.

Commissioner Lober noted he truly does not know the answer to this question; and he asked if there is anything unlawful or prohibited with the County, if the concern is getting funding to do what needs to be done, in the thought that staff just cannot get reasonable terms pledging revenue from another source, for instance from the County as a whole.

Mr. Fontanin responded the County can loan it; there is a process that he is not familiar with; and it would have to be something that would go in front of the Board in order to do so.

Commissioner Lober mentioned he does not want the Lagoon to get polluted because there

simply is not enough money, to him that is not an acceptable alternative; and if the Board can pledge the rate payers payments for the whole system for the purpose of fixing that section of the County, knowing that it is not what is going to be used to pay for it, and that it is going to come from that section of the County, he would be okay with that.

Chair Pritchett inquired if Commissioner Lober means taking a loan from another department to do this.

Commissioner Lober responded as long as the Board knows that it is setting the rates that can service the debt; and if it gets staff a lower percentage cost to either enable something to be done or to get it done for a lesser amount then he is okay with it.

Mr. Fontanin stated he is not just talking on the cuff on this, but by doing that, it would increase the debt service for the Countywide system, so there is an off-set with that.

Commissioner Lober commented maybe he could talk with Mr. Fontanin outside of this; and he apologized for ambushing Mr. Fontanin with that.

Mr. Fontanin responded it is okay.

Chair Pritchett responded Mr. Fontanin has an agreement with raising the rate adjustment; she thinks some of the Commissioners want to have a little bit more discussion on the rate later; with Barefoot Bay, she thinks Mr. Fontanin is going to come back to the Board with those; and she thinks there is a consensus on the rate index. She advised Commissioner Tobia that she is comfortable with the 3.4 percent cap; and she asked if the rest of the Board agrees.

Commissioner Lober stated he would suggest to allow a little more flexibility, that it be capped at 6.8 over any two-year period; the problem is if there is a year that is higher than 3.4, the maintenance costs are not going down, and he hates to set the County up knowing that it is being capped in a way that may more significantly impact the County in having a deficit between what the actual maintenance costs are and what they really end up being permitted.

Commissioner Smith agreed; and he stated the County will never catch up if there is a down year.

Chair Pritchett advised she would agree to that if it is stipulated that if it ever goes over the 3.4 that the Commission would at least know about it for conversation.

Commissioner Lober mentioned that is fine and that he would modify his existing motion to switch from CPI to these purposes Countywide, to the water and sewer maintenance index capped at a maximum increase of 6.8 percent over any two-year period; and if any year is going to exceed 3.4 that it be brought back as an Agenda Item at the next available Commission meeting.

Chair Pritchett stated Commissioner Lober stated he is going to make a motion to do the new index, if the index is ever over 3.4 percent it would have to come back to the Commission.

Commissioner Lober explained it would be for informational purposes, and if the Board wanted to take action at that point, it can take action to address it; by default, the motion would allow for up to 6.8 increase in a year, granted the likelihood that is going to happen is pretty trivial; and as Commissioner Smith remarked, the County is never going to catch up if it sets a cap that is too low, and the problem is those costs are going to continue to add up, and it will have

to get it somewhere.

Commissioner Tobia commented there are three data points, 3.4, 3.1, and 3.2; he does not know that it has ever been zero, but he is not comfortable if it goes from zero to six; he is comfortable at 3.4 or 3.5, but he reiterated he is not comfortable with 6.8 over two years; and he noted it becomes complicated.

Chair Pritchett mentioned that she thinks Commissioner Zonka is going to be the heavyweight in this; and she asked what Commissioner Zonka's thoughts were.

Commissioner Zonka responded without making Mr. Fontanin go into a full on presentation, she asked what is lost by not giving the rate increase that was recommended by the consultant, as far as capacity and maintenance; she stated she knows 3.2 or 3.4 percent is not going to get the County a safe system; and that is her concern. She noted she is not excited about any of this and she would have liked to have seen different things happen up to this point.

Mr. Fontanin responded the way he looks at it, and to look at the slide and use that comparison, it is one of those things that basically, and he is rounding, over three years there was a \$3 million shortage of revenue that could have been collected; and over six years it would have been \$6 million.

Commissioner Zonka pointed out she is talking about what the Board is asking for; she inquired what is being lost by a 3.4 or even a six percent increase from what the consultant is suggesting, what is the County losing; and she asked that Mr. Fontanin put it in real items, such as what the County is not going to do.

Mr. Fontanin responded less assessments, less staffing, less CIPs.

Commissioner Zonka explained that is Capital improvements and means expansion of the system.

Mr. Fontanin replied capital, repairing of existing assets; and it is that much less, that can be performed.

John Denninghoff stated it is not just expansion, it is also maintenance.

Commissioner Zonka stated that is exactly what she was trying to get at; that is her concern because the Board keeps hearing how the County has this system that is so antiquated; and there are pipes that should have never been put in the way they were.

Mr. Fontanin noted his Department functions on a balanced budget and it maximizes to what is budgeted; the larger the budget, in this case the \$3 million, is \$3 million more they could have been doing assessment in one fiscal year in lieu of spreading it out over three years; and it gives staff the ability to be more aggressive or proactive to find these shortages in the system and get them addressed sooner rather than later.

Chair Pritchett commented she thinks if the County would have done this all along it would not have to be looking at a higher percentage rate increase right now, it would be a little more competitive with the other municipalities; she is going to change her mind; and she asked if Commissioner L:ober wanted to make a motion to just go with the water and sewer maintenance index, she would vote for that, but she does not know if he has another vote.

Commissioner Lober stated if he does, he will go back to the original motion and make it just the water and sewer; it is not that he wants anyone to pay a penny more, it is just that the County is going to have to come up with it at the end of the day; and if the County does not, it is going to be back in the same place where it is now.

Commissioner Smith stated it is realistic versus unrealistic.

Commissioner Lober advised he will modify his motion back to what it was originally, the CPI Countywide to the Water and Sewer Maintenance Index without a specific cap; and he asked that it be part of the motion, if it exceeds 3.4 he would like for it to be brought back, not necessarily for any action to be taken, but be brought back at the next available Commission meeting for discussion.

The Board approved changing from Consumer Price Index (CPI) to the Sewer and Water Maintenance Index without a specific cap, if it rises above 3.4 percent per year it is to be brought before the Board of County Commissioners at the next available Commission meeting for discussion.

Result: APPROVED

Mover: Bryan Lober

Secunder: Curt Smith

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

III. III. PUBLIC COMMENTS

Michael Bramson stated he is going to speak real quick on something outside of what he normal speaks of; he thanked everyone for what they had to say today; he commented the information given today and the acknowledgment of what is going on in Brevard County across the Board, has been fantastic; one thing that he thinks people forget, especially on his side of the table, is to thank everybody; he likes to talk about the people like Chief Schollmeyer, Chief Jorgenson, and Chief Kline, the staff, the County Manager, and those type of people who all work, and half of them he does not even know; it is that kind of people that sit on the side of negotiations; there are a lot of hours and a lot of work, and a lot of stuff that went into the presentation that was done on behalf of Fire Rescue; he thinks that magnitude of what needs to happen and what has happened over the past couple years is not reflected in the presentations that are heard over a short period of time; and he wanted to acknowledge that the firefighter's union and the firefighters recognize that, across the board with all the Commissioners and County staff; he noted there is still a long road ahead, but at least it is moving in the right direction; the comments that were made today he can tell the Board, have changed the way the Fire Department will move forward from this day forward; and that is the first changing direction of the ship that he has seen in many years. He reiterated he would like to thank everybody in the Brevard County staff for the amount of energy and the product they have produced today.

Chair Pritchett thanked Mr. Bramson for his comments, and stated that was very nice of him.

5. 5. John Tobia, Commissioner District 3

Commissioner Tobia stated he just wanted to ask the question of the rest of the Board on two issues that he generally brings up; he is not asking for a motion; he knows this is the County Manager's budget, but as many parameters as the Board can give him to work within, he thinks that is what the County Manager was asking for on the Fire Assessment; and his questions would be to find out where the rest of the Board is on whether or not the Board will ask him to craft a budget that would require the Board to declare a tax increase or to bust the charter cap,