

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

9:00 AM

The Board of County Commissioners of Brevard County, Florida, met in regular session on July 23, 2019 at 9:00 AM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**CALL TO ORDER**

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

**MOMENT OF SILENCE**

Chair Isnardi called for a moment of silence.

**PLEDGE OF ALLEGIANCE**

Commissioner Lober led the assembly in the Pledge of Allegiance.

**ITEM E.3., RESOLUTION, RE: PRETRIAL, PROBATION, AND PAROLE SUPERVISION WEEK**

Commissioner Smith read aloud, and the Board adopted Resolution No. 19-111, declaring July 21 - 27, 2019, as Pretrial, Probation, and Parole Supervision Week.

A representative stated he is honored to recognize the tremendous efforts of the Brevard County Probation Officers and staff of the Florida Department of Corrections (DOC) put into maintaining supervision over nearly 5,000 offenders in Brevard County; these officers are working 24 hours a day and seven days a week to support the Florida DOC's mission of creating a continuum of services to meet the needs of the offenders entrusted to their care; they staff and facilitate self-improvement programs; and they seek out and make referrals to treatment providers, host job fairs, and coordinate GED classes all while working to create a safer community by monitoring compliance with court orders and partnering with other law enforcement agencies to conduct probation compliance initiatives; and his hope is that the efforts put forth by these officers reduces victimization, creates safer communities, and leads to the offender's successful outcome of their cases, thereby accomplishing the Florida DOC's vision of inspiring success by transforming one life at a time. He went on to say he applauds the hard working officers and staff of the three probation services of Brevard County; and he is honored that the Commission has publicly recognized their hard work and dedication to the citizens of Brevard County and the State of Florida.

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

**ITEM E.4., PRESENTATION, RE: FLORIDA INLAND NAVIGATION DISTRICT CHECK**

Jerry Sampson, Brevard County Commissioner for the Florida Inland Navigational District (FIND), stated for those who are unaware of the District, it was created in 1927 by the Florida Legislature to work with the Army Corp of Engineers to complete and maintain the intercoastal waters as it flows through Florida; it is a significant economic engine worth about \$2 million to Brevard County; the water way was completed and they have worked to maintain it. He continued since 1986 the legislature felt that FIND could do more to help foster the economic development along the water ways and it gave them an additional responsibility working with counties, municipalities, and State agencies to improve the infrastructure along the water ways so the economic engine along the water ways could be improved; in that time they have worked in Brevard County with the County and the municipalities to assist in funding over 140 projects worth over \$35 million; with regard to Brevard County, they have worked with the County for almost 60 projects in that period all over the County; recently they helped fund Christianson's Landing Facility, they worked with the water management districts to move muck from all of the major basins within Brevard County at almost \$35 million worth of activity, they have done a number of boat ramps and parks; the MIA POW was one that was started early and they have done several projects including starting to advance the Florida Department of Transportation to utilize the causeways to enhance the recreational activities and involvement in Brevard County, they have helped purchase and fund River's Landing in Merritt Island, they have done considerable work at Kelly Park, they have helped create and fund fishing catwalks on Max Brewer to enhance that activity, as well as numerous projects within the city; and they are currently working with the County to assist with purchasing a spoil site on Merritt Island for the dredging needs of Sykes Creek and the canals on Merritt Island. He noted the County has applied for funding of \$500,000 for that project and he is happy to say their board is in support of that, it just has to go through their finishing process to be able to award that grant. He went on to say he is in attendance today to present the County a check for the final project on the MIA POW park at the foot of the Pineda Causeway; there have been some things when developing that park, the first thing they did in cooperation with the County was to build a clubhouse where groups meet, expand the parking, and create a nice launching ramp; one thing that came up was there was a bunch of rock and when people would put their boat in the water they would have to take a hard turn to avoid ending up on a rock reef, so that took considerable effort with various environmental agencies to be able to get that permitted; recently the County has completed the channel dredging of MIA POW park so the folks can watch and go straight out without having to worry about where the rocks are and just follow the channel; the check is worth \$260,000 for their portion of reimbursing that project; and they look forward to working with the County on many projects in the future. He advised the County had applied for a short term grant for derelict vessel removal in which they removed the two vessels sitting on the waterfront in Cocoa since Hurricane Irma; there were ownership ships but they finally got them resolved; and once the County requires the land for that spoil site, the County will be eligible to apply for grants to help construct the dike with the actual spoil facility on it, and he noted the County is eligible for a 50/50 grant.

Commissioner Lober thanked him for the help with the derelict vessels; he stated with the County pushing and FIND pushing he thinks they are moving in the right direction; they are down to about 40 vessels now throughout the County; it is slated that in the next six months it

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will essentially be wiped to zero, however, understanding full well that there will be more that will become derelict during that time.

Mr. Sampson stated he does not know if they will ever get to zero; Brevard has more waterways than any other county on the east coast; it has the Indian River, the Banana River, and the creeks and things, along with the weather that comes through and unfortunately blows the vessels loose and puts them on shore, some of which have ownership issues; therefore, he feels they will always have derelict vessel issues, but they are eager to work with the County to clean up those issues. He pointed out they are partnering with the State agencies and the County with the muck removal in the Lagoon because it is a critical issue; the waterway will not be an economic engine if no one wants to use it; and their whole thing is finding how to maximize the water way for economic activities and development for the County.

Commissioner Smith stated derelict vessels are a nightmare for everybody; he thinks he may have come up with some ideas; he has been working with some of the County legislators from the State with an idea to come up with an amnesty program where people who have a boat that they do not want to deal with anymore, instead of taking it out, anchoring it, and letting it sink and become a County or State problem, this would allow them to turn the boat over to the State; it would be much cheaper to dispose of a floating boat than a sunken boat, not to mention the horrible environmental damage that is done when they sink; and hopefully that will be done in the next session.

Mr. Sampson noted at their meeting on Friday they had a presentation by Florida Fish and Wildlife Conservation (FWC) Commission Boating and Water Ways Division, and that was one of the issues brought up; of course they will do whatever they can to assist with that because Commissioner Smith is correct, a floating boat is whole lot easier to move than one that sunk; sometimes they stay in the water so long they have to do an environmental concern because FWC considers them artificial reefs by then and they cannot just be removed; the process takes so long it becomes a habitat that cannot be moved; and it is just one of those they have to deal with and it is frustrating. He continued Brevard County is one of the few counties, and they encourage the other counties to do it too, that does not charge to get rid of a boat if they do manage to carry it to the landfill, the County has not been charging fees to get rid of that vessel because it is also a considerable cost, it is not like the old days when people would drag a boat up in a marsh and just let it deteriorate; and when talking about wooden boats after a year or two the only thing left would be the metal pieces, but with the fiberglass ones that does not happen, it is almost there forever. He commented when it gets to the point when a boat is unusable and no one wants it, people are just anchoring them; some of those boats are not being maintained, the anchor system is not up to par, and he has watched them being dragged south then dragged back north when the wind blows; and he mentioned he appreciates the Board's support on getting that done.

#### **ITEM E.5., RESOLUTION, RE: SEBASTIAN CORBETT EAGLE SCOUT**

Chair Isnardi stated there has been some confusion because the Board had allowed some latitude with Public Comment last time; typically there is five minutes for quasi-judicial type of public hearings, so the Board is going back to the most efficient way by allowing the three minute allotment so there is no confusion; and obviously for quasi-judicial matters it will allow the five minutes.

Commissioner Pritchett read aloud, and the Board adopted Resolution No. 19-112, recognizing and congratulating Eagle Scout Sebastian Corbett.

Sebastian Corbett thanked the Board for the Resolution.

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

**ITEM E.6., PRESENTATION BY SENIOR AIRMAN NICHOLAS BENNETT AND VETERAN ACTIVIST DONN WEAVER**

Commissioner Lober advised this presentation is by Senior Airman Bennett who is the legislative representative of the Air Force Sergeants Association (AFSA) and Donn Weaver who is involved tremendously in the veterans center in District 2 at Veteran's Memorial Park; and their presentation is regarding communication and cross-County awareness.

Nicholas Bennett stated AFSA advocates for federal legislation that affects the veterans and active-duty service members to protect their earned benefits on Capitol Hill; his job is to support the troops and their well-being both during and after they have served their country; people might think in this effort everyone is on the same page, unfortunately the national budget does not always support that assumption; legislation specific to issues that involved benefit plans and active-duty retirement pay needs to be revisited year after year supported by a voice from organizations like this; and he asked for the County's partnership to rapidly raise awareness of AFSA throughout each Board Members respective Districts. He went on to say AFSA represents more than 100,000 members that lend their voice to the lobbyists on the hill; 1,037 of those members are the Board's constituents; in addition, he is told there are currently over 150,000 retirees across Brevard County and many are included in the 72,000 veterans living in Brevard; this highlights just how loud the AFSA voice can be in this region; the Board's support would maximize the potential to best speak on behalf of the people who are affected by the legislation these people support and offend; and specifically they are asking for connection and exposure throughout the County. He went on to say AFSA wants to continue speaking to the people that it so passionately advocates for by any means within the Board's purview, through inclusion in related events, continued correspondence regarding local VA military related policy, and even a sponsorship through the news outlet appearances; AFSA wants Brevard County to know that it has a partner that bridges a shared vision all the way to Washington D.C.; and it also wants to share the connection to the Commission already created by the Veterans Memorial Center and over 15 other organizations in the area.

Donn Weaver stated it is his honor to once again support the active-duty people in the military and his own service; he is delighted to be there not just to tell the Board about AFSA, but there are other organizations like that; the veterans are in connection with all of them; if AFSA can partner with all of those and engage with the Board they will be a stronger County and a stronger place for veterans and others to see the benefits of life and cooperation; on a personal note, having talked to the Board several different times over the years, he thanked the Board for helping them make the best Veterans Memorial Center and Park in the State; the State came through with \$1.5 million to build a museum and the County \$1 million to start the Park and another \$1 million to finish the Park through the Parks and Recreation Department; and that facility is where active-duty people already come and share in relationships with veterans as they go to the bases themselves when they can to make that synergy of the trilateral partnership work. He thanked the Board and noted it is really a delight to be a veteran and come home to where he grew up in Brevard County, Florida.

Chair Isnardi thanked Mr. Weaver and Mr. Bennett for their service.

**ITEMS PULLED FROM CONSENT AGENDA**

Chair Isnardi advised she has cards for the Item F.1, so she asked for a motion to approve all other Consent Agenda Items.

**ITEM F.2., BOARD POLICY REVIEW, RE: BCC-52, APPROVAL OF BINDING DEVELOPMENT PLANS**

The Board granted amendment to continue Board Policy BCC-52, Approval of Binding Development Plans.

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

**ITEM F.3., APPROVAL, RE: DONATION OF WARRANTY DEED FOR ADDITIONAL RIGHT-OF-WAY FROM LAKE WASHINGTON CENTER, LLC (OWNER) FOR THE ADDISON POINTE APARTMENT PROJECT**

The Board approved and accepted the donation of Warranty Deed for Addison Pointe Apartment Project from Lake Washington Center, LLC.

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

**ITEM F.4., APPROVAL, RE: PERMISSION TO SOLICIT AND AWARD A REQUEST FOR QUALIFICATIONS (RFQ) FOR PAVEMENT CONDITION ASSESSMENT AND UPDATE TO THE PAVEMENT MANAGEMENT PLAN**

The Board approved permission to solicit and award an RFQ for the Pavement Condition Assessment and Update to the Pavement Management Plan; authorized the County Manager to appoint the Selection and Negotiation Committee; authorized the Chair to execute the Professional Services Contract contingent upon review and approval by the County Attorney and Risk Management; and approved any Budget Change Requests associated with this action.

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

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**ITEM F.5., APPROVAL, RE: ASSIGNMENT OF EASEMENT AND RESOLUTION FOR PARCEL 800.3 FOR THE FDOT SR5-US1 OUTFALL DITCH REHABILITATION PROJECT**

The Board adopted Resolution No. 19-113, for FDOT SR 5 - US 1 Outfall Ditch Rehabilitation Project; and authorized the Chair to execute the Assignment of Easement.

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

**ITEM F.6., APPROVAL, RE: STATE-FUNDED GRANT AGREEMENT AND RESOLUTION FOR DESIGN OF HOLLYWOOD BOULEVARD WIDENING FROM U.S. 192 TO PALM BAY ROAD**

The Board adopted Resolution No. 19-114, authorizing the Chair to execute the State-Funded Grant Agreement with the FDOT; approved the State-Funded Grant Agreement with the FDOT for the design of Hollywood Boulevard Widening from U.S. 192 to Palm Bay Road - Project Number 437203-1-34/44-01; and approved any necessary budget change requests associated with the Project.

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

**ITEM F.7., AUTHORIZATION OF CHANGE ORDER #3 FOR MEAD AND HUNT, INC.**

The Board approved Change Order #3 with Mead & Hunt, Inc., f/k/a Quentin L. Hampton Associates, Inc. for the engineering design and construction services at the South Central Wastewater Treatment Facility expansion in the amount of \$190,702.

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

**ITEM F.8., COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY APPLICATION(S)**

The Board directed Ian Golden, Housing and Human Services Director, as the Executive Official with Authority to sign Applications, certifications, and any other documents required for submission; authorized the County Manager to sign all contracts, agreement, amendments, and modifications with the Florida Department of Economic Opportunity and/or their Agents, upon the approval of the County Attorney's Office and Risk Management; authorized Housing and Human Service Director to sign all contracts, agreements, amendments, and modifications

related to award projects upon review and approval from the County Attorney's Office and Risk Management; directed the Housing and Human Services Department to complete any activities required for project implementation; appointed the CDBG Advisory Board as the Citizen Advisory Task Force; and authorized the County Manager to approve all budget changes requested in relation to CDBG - Disaster Recovery funds.

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

**ITEM F.9., AMENDMENT TO FLORIDA FOREST SERVICE MEMORANDUM OF AGREEMENT #7304**

The Board executed and approved the Amendment to MOU #7304 with the Florida Forest Service to supervise the management and harvesting of timber from Environmentally Endangered Lands sites solely for habitat restoration.

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

**ITEM F.10., APPROVAL, RE: INTERLOCAL AGREEMENT RENEWAL BETWEEN THE COUNTY AND U.S. FISH AND WILDLIFE SERVICE - MERRITT ISLAND WILDLIFE REFUGE**

The Board approved the Interlocal Agreement between the County and the USFWS - Merritt Island National Wildlife Refuge for establishing emergency response, mutual assistance, responsibility, and procedures in fire emergencies arising on lands within the boundaries of the Merritt Island National Refuge and the St. Johns Wildlife National Refuge, and the lands protected by Brevard County Fire Rescue.

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

**ITEM F.12., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE ORDINANCE RESCINDING SELECTED COMPANIES' ECONOMIC DEVELOPMENT TAX EXEMPTION**

The Board approved legislative intent and granted permission to advertise for an ordinance rescinding Economic Development Tax Exemption for selected companies that no longer qualify for the County's Economic Development Ad Valorem Program.

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

**ITEM F.1., LAND CERTIFICATION FOR THE MID-REACH OF THE BREVARD COUNTY FEDERAL SHORE PROTECTION PROJECT**

Virginia Barker, Natural Resources Management Director, stated this is land certification for the Mid-Reach of the Brevard County Federal Shore Protection Project; in August 2016 the Board entered a Project Partnership Agreement with the US Army Corp to construct the Mid-Reach project; the Agreement requires that Brevard County acquire real estate interests in all the beach front properties where the sand will be placed; in October 2018 the Board approved a Resolution of Necessity that authorized staff and the County Attorney's Office to proceed with a quick-take proceeding for the easements that have not been garnered voluntarily; on May 1, 2019, the Board authorized Chair Isnardi to execute all Certifications of Lands for the projects subject to receipt of an Order of Taking from the Court; and that Order of Taking was received on May 23, 2019, for the remaining five easements. She continued this gave the County the real estate interest that was needed to certify lands to the Army Corp of Engineers, however, the quick-take has been appealed; meanwhile, the Army Corp of Engineers must have land certification by the end of July; the project is already out for bid, but they need the land certification before the bid opening; therefore, staff is requesting the Board authorize a conditional certification which is in the Board's packet and it is similar to conditional certification that the County took in 2000 when a similar situation occurred in the North Reach; and the appeal was denied that time. She went on to say the construction for the project is to start in November through April 30th; staff needs to start as close to November 1 as possible for the project to be constructed in a single season, before the April 30 permit imposed deadline for sea turtle nesting; in order to start by November 1 they need to certify lands now so the Army Corp will open the bids and proceed with the project; any delay in the certification at this time could push the project into the following Fiscal Year and unfortunately a lot of the federal funding has an extremely tight time line and that \$37 million staff worked on with the congressional delegation could be lost; lots of agency staff is at risk also if they do not move forward now; and she advised she has more details if the Board wants it. She added that they have spent \$15 to \$16 million getting to this point for the Mid-reach already; they have constructed an \$11 million mitigation reef that was just completed in June; and they have moved forward with the public notice per the Board's authorization for the erosion control line, mailing notifications to 2,000 ocean front residents, that the project would begin construction this year.

Sandra Sullivan stated she reached out to the Florida Oceanic Society which is based in Martin County; they went through a similar process where it was proposed with the beach nourishment to cover their reef; today that is considered one of the destination treasures for tourist in Martin County; she urged the Board to re-evaluate the environmental aspect; and she showed a picture of the signs Martin County has on their beaches, promoting the habitat. She noted the worms are about an inch long and they group in 50,000 per square meter and create their homes from pieces of sand; during high tide they move to the tops of the tubes to feed; she just wanted to point out it is educational, it teaches people how to protect them, and it teaches others about the fascinating creatures; and it provides experience of the unique ecosystem and to help people protect what others understand. She went on to say she has a number of brochures that she has put in the lobby on the bulletin board; one of them stated these reefs help maintain the integrity of the beaches by trapping sand and reducing erosion specifically during storms; the worm reefs provide a significant habitat for many marine organisms by

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providing shelter and food sources; crab, algae, octopus, sponges, fish, and sea cucumbers all benefit from worm reefs; sea turtles feed on algae and sea lettuce that thrive on the surface of these reefs; and she thinks they should be protected like they are in Martin County. She added these reefs are part of the ecosystem and people do not always understand all of the elements of the ecosystem; people make changes then they find out it was a mistake; she thinks during one of the storms, chunks of the artificial reef was washing up on shore; and she noted the reefs are protected under the Florida Coral Reef Protection Act, Chapter 403, Florida Statutes, so the County is not allowed to bury them.

Commissioner Lober asked how extensively examined was the potential impact to wildlife.

Ms. Barker explained the project in this area was delayed in 1995 in order to do very thorough environmental studies; staff has worked with every environmental agency, satisfied all of their requests for information, and they have done extensive mapping and monitoring of both the physical presence and intermittent burial exposure of the reefs along with the wildlife that uses those reefs; they worked with the Army Corp of Engineers to design this project in a totally different way in which they normally design their projects, to be a thin fill project in order to protect 90 percent of that rock reef source, which staff agrees is a treasure; they have mitigated for the 10 percent that will be buried intermittently; and they have built five acres of mitigation reef to mitigate up to three acres that will be buried from time to time. She went on to say since the construction was just completed in June she does not have a final report on the ecology of the mitigation reef yet, but she does have an email from the biologist consultant who did off-shore transects in late June; in the near shore transect of the native rocks, there were no turtles seen on the near shore transect; there were two seen over the natural reefs in front of Patrick Air Force Base as they were boating out to the Brevard County reefs; during off-shore survey they saw mating green turtles, a couple sub-adult and adult Loggerheads, and off transect they saw three juvenile green turtles and one adult Loggerhead; there was a pretty cool looking ribbon eel on the mitigations reefs, there were green turtles doing what they had designed the reef to do, they were hanging under the little ledges that were constructed on the west-facing side; and lots of fish, algae, tuna, soft corals, and etcetera; and that is what she has shared on the ecology of the mitigation that has been built so far; it was very important to them to build the design and construct the best mitigation possible since they are impacting a fraction of this reef; and they have done everything they can to try to balance the need to protect upland property, infrastructure, and protect that reef. She stated the thin fill project does that, protecting 90 percent of the native structure and mitigating for the unavoidably buried part.

Commissioner Lober stated he does not know anything about the Florida Coral Protection Act mentioned; and he asked if that is a potential issue with respect to this.

Eden Bentley, County Attorney, stated she would have to defer to Ms. Barker on that.

Ms. Barker stated there are the Magnuson-Stevens Fisheries Act, Essential Fish Habitat, and many more federal and State rules that protect this habitat; that was part of the extensive review that had to take place, like how these agencies could permit staff to bury some of this precious reef resource; and all of that was taken into consideration with the permitting process and the mitigation requirements. She added if the mitigation reef were to fail to meet all of the requirements of all of the permits then they would stop maintaining the beach project, the beach would go back to eroding, the native rock would become re-exposed, and it would be re-colonized by the critters who will still be occupying the 90 percent that is protected.

Karen Colby stated she listened with great interest and it changed some of what she was going to say; she has heard people mocking the whole worm concept; these worms are not actual wiggling worms, they actually build the reef; they have a life span that is short enough when then die, more grow on top of them, so in a sense it is a growing, living reef; in her opinion, the

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most important job it has is to protect the people; by dumping dirt it is sub-standard to the local sand that is native, it is dirt, it has been proven, and if anyone smells it they would understand it does not belong there; the little critters she used to see are no longer there; and she mentioned these are not just worms, they are critters that build algae, they build coral that eats algae, the algae that can potentially threaten with red tide. She questioned if the Army Corp of Engineers are the guys that built the canals and made the messes that the County is trying to fix right now; she stated she does not know if she would listen to them say it is okay to bury the reef; she mentioned the reef is covered more than the 10 percent, she was out there three or four times in the last two weeks, and she has not even seen the reef, it is gone; that thing off shore supports turtles, ribbon eel, and some other species but she did not hear what she wanted to hear like hatchling red fish, hatchling snook, and hatchling pompano, she did not hear any of those things frequenting the reef that is supposed to mitigate the damage to the one that has actually been damaged more than 10 percent; and she inquired how that is measured, how people know it is not already at 80 percent damaged, which is what she is looking at as a non-scientific beach goer. She inquired how is the 10 percent being tracked and who is doing it; and if she could be part of that committee if there is one. She went on to say the animals that are out there on the off-shore, mitigating has nothing to do with the animals that are crushed and buried under the fake sand; it washes down during the rain and there has been a lot of rain; the little critter is a good thing to have here, it keeps the water clean; that dirt that was dumped and came out of mid-Florida is certainly not going to keep the water clean as it is adding a murky substance to it and it foams; and she has pictures of it.

Commissioner Lober asked if Ms. Barker would to address any of the concerns that were raised; and he asked in terms of the fill being placed out there, if it is sand or dirt, and if there are any concerns that it has either phosphates or nitrates in it; and he asked what is actually going on out there in terms of what is being put down.

Ms. Barker noted one of the things staff had worked on with the Army Corp was the timing of the project and constructing it at the same time as the renourishment of the South-Reach; by doing that they were able to use off-shore sand from Canaveral shoals which is beach quality sand that is placed out there by mother nature off shore of the Cape; it has been on the beaches, washed down from the Carolinas, migrating its way, and it is definitely the quality they want on the beaches; one of the challenges of this thin fill design is in order to protect 90 percent of the rock reef, they cannot typically construct it with hydraulic dredges using off-shore sand, so historically they have had to do truck haul projects using upland sand; and by constructing this with the South-Reach they are going to use the hydraulic dredges to pump the better quality off-shore sand onto the South-Reach and then truck it from the South-Reach to the Mid-Reach.

Matt Fleming stated he organized an effort called Save the Mid-Reach; the reason he did it is because the damage that has been on-going to the beach; he enumerated the significant design flaws of the Mid-Reach Shore Protection Project and to appeal to self-interest of each Board member to do the right thing and delay the Certification of Lands; the natural reef that runs along the shore is a valuable natural resource and the things that make it valuable is its accessibility, its biodiversity, and its uniqueness as well as its home to great fishing, good surf breaks, endangered species including sea turtles, it functions as physical barriers to erosion, it provides a place to observe and learn about wildlife, and it is a unique attraction to tourists; and the project design is to bury the natural reef with continued massive and damaging nourishment projects along eight miles of the beaches. He continued this dumping is composed of both dirt and sand and is an effort to widen the beach being sold to the public as upland structured protection, despite claims that this project is not intended to bury the near shore reef, that is exactly what it will do; the emergency nourishment project after Hurricane Irma has already buried much more than the 10 percent limit of shore line reef burial; and there are additional flaws to the design of the project. He went on to say it uses the beach profile which is not reflective of the natural profile of the beach because it widens the beach significantly; the

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formulation used to calculate the natural north to south sand movement were intentionally flawed by Olsen Engineering to give the impression that more nourishment is needed than what actually is because it financially benefits whoever is slated to get the bid on this project; inland material has been used three times in previous emergency projects and three times it caused severe degradation to the quality of the beach and near shore water resulting in significant and accumulating harm; the mitigation reef which has been constructed off shore provides enhanced habitat for marine life, however, it does not mimic the ecological functions of the natural coquina reef in numerous measurable ways despite the fact that this is a requirement of law; and the economic benefits and cost of this project have not been accurately measured against alternatives like managed retreat or smaller scale nourishment, in fact they have not accurately measured at all. He stated the argument that the County has to build seawalls is a false choice; in the 20 or 30 year time range, 600 to 1,000 feet may be necessary may be necessary and this accounts for less than five percent of the total length of the beach in the project area; this Army Corp of Engineers Project is projected to cost hundreds of millions of dollars over the next 50 years; the cost of sand is increasing and the availability of beach quality sand is decreasing, so by any measure this renders the project financially unsustainable in its current design; the sea level rise was not included as a consideration in the design of this project, local opinion was never surveyed in this projects inception, upland and inland sources are both a proof of the project, someone learned how to turn dirt into money and he thinks everyone knows who that is; and he advised the Board to vote against this.

Commissioner Lober inquired if it is dirt or if it is all beach quality sand.

Ms. Barker advised it is beach quality sand; and the State and federal permits have very specific requirements on the grain size, distribution, and the color and they have exceeded all those federal and State requirements.

Commissioner Lober inquired in terms of the 10 percent limit does staff do anything and if so what do they do to determine on an on-going basis that they are not exceeding that 10 percent coverage.

Ms. Barker responded because beaches are a very dynamic system and there is off shore bars that move on and off seasonally and the storms, these rocks are buried and exposed off or on with or without any of the County's projects, so in order to get a true picture of how much rock is there, they have had to map the rock on multiple occasions across the last decade; they have used the combination of those data sets to document how much rock has been there historically; and they will continue to do that as part of the permit monitoring requirements going forward. She mentioned if the County exceeds that 10 percent burial then they will either have to provide more mitigation or scale back maintenance of the project so that more of the natural reef becomes exposed; and she advised there were numerous public forums and workshops held in the Satellite Beach community back in 2008 through 2010, during the environmental design portion of getting this project ready to be presented to the Board.

The Board authorized the Chair to execute all Certifications of Lands; and accepted the County Attorney Office's conditional certification for easements that are under appeal for the Mid Reach of the Brevard County Shore Protection Project.

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| <b>RESULT:</b>   | <b>ADOPTED [4 TO 1]</b>                                  |
| <b>MOVER:</b>    | Rita Pritchett, Commissioner District 1                  |
| <b>SECONDER:</b> | Curt Smith, Commissioner District 4                      |
| <b>AYES:</b>     | Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi |
| <b>NAYS:</b>     | Bryan Lober  |

#### **ITEM G. PUBLIC COMMENTS**

Reverend Johnnie B. Dennis thanked the County Managers office for an issue he brought to them five weeks ago and it has been 95 percent resolved. He stated when it comes to the Sheriff wanting more taxes, that would be a no vote for him; he has no confidence in the leadership the community is getting from him on the drug epidemic in West Cocoa; they have talked about that issue since 2010 and it is now 2019 and it is still pending; his community is getting nothing for their tax dollars as it is; 73 percent of the people voted to cap taxes; and he resolved that the will of the people is upheld with a 5:0 vote for no vote on taxes for the Sheriff or anyone else in this County.

Sandra Sullivan stated a lot of people have said this dump material is just her yard and an interesting thing has been going on in South Patrick Shores these last few weeks, that is gas lines are going in; the company installing the gas lines is digging big holes down to the water table and finding all kinds of military material; the recent comment from the Environmental Protection Agency (EPA) to Department of Environmental Protection (DEP) saying her yard is just hoarder material, well here is a 50 caliber bullet that was dug up yesterday by the Company digging the gas lines on South 1st Street; she showed a bottle that was only made back between the mid-1930s to 1948 that says Titusville, Florida; she displayed another one that was melted, and commented there are incineration pits in the area and liquid disposal pits, where chemicals deposit in the ground; there are pieces of naval dishware on other streets; and the material is so dense it broke the bit on their directional boar machine used for placing the gas lines, and it was disable all day yesterday because they hit something. She noted it is one thing to be ignored for how many months that she has been doing show and tell, and last month she brought oil from an oil barrel that was dug up in her yard; she has asked and asked the Board for its help to get these people to her; the EPA has scaled back to six tests for her community for the EPA assessment; they are testing six wells, they are not testing for floaters, which are the petroleum products, they are not testing for Trichloroethylene (TCE) that was added to the oil with these barrels were documented as being disposed in their neighborhood; and there are other issues with the water. She explained it is bad enough dealing with the stress of dealing with this, but then she cannot even drink the water; she should a bagging adding it is chloroform, bacteria, and it is a matter of public record; it is on the 2018 water report for Melbourne water; and people have been coming to Board with water issues for a while. She went on to say there have been meetings with Melbourne water by citizens with Courtney Barker from the City of Satellite Beach; then they hold meetings at the City of Satellite Beach saying they know there is no issue with the water, nothing has been dug up, and everything is fine; and she advised it is time for some action.

Charles Tovey thanked Commissioner Lober for his explanations and making this more clear for the outside public; a few of his people do not mind Commissioner Lober at all, and appreciate his clarity; he thanked Chair Isnardi for doing a bang up job, but the rest of the Board is doing fair jobs, but he has not gotten the grades out yet; he has to change his three minutes of talking, the smooth talkers that are appreciative of their way have not been through what he has been through and the experience other people have been through; and he appreciates their respect and how smooth their talking is. He went on to say he is a general practitioner, he does not just

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limit himself to this or that, he has many talents and he affects himself towards all of these items, just like a herd of elephants, it takes time for fruition to evolve; the erosion is one thing he works on, it is called mass wasting and it is a process of slow creeping slump; it slows the process of erosion but to look at the beach and all the nice sand being placed there, it may suit the County's needs and be approved but it is not the same quality; the drainage instead of it soaking into the ground, it goes right into the ocean; and they are putting all the sand that the County is spending money on right in front of these things and what it is doing is filling in the marine life that are immediate on the shoreline and making a sand bar all the way out to the new stuff being done. He stated that is a similar thing that is happening with the Lagoon; one of these days the Board will find out what he does and how important it is; it is a necessity to the Lagoon, the environment, and the beach; back to the erosion, if the Board would look at the big picture he paints, it is different; one of these days he will be able to explain it all; and all the new buildings are raised off of the ground so it all runs off, it does not soak in, it drags everything out into the ocean or into the Lagoon.

Janice Crisp thanked the Board for allowing people to express their freedom of speech at the meetings. She stated it is a God given right that some have forgotten it cannot be taken away, but only given away; she intends to not give it away without a fight; the Brevard Democrats have relentlessly for months come to the chambers to disrupt the County business; today they are here again under the banner of civility; and she would like to take some time to talk about civility. She went on to say a few quotes that people should not forget are, "If you are not prepared to come to that table to represent that voice then do not come because we do not need any more brown faces who so not want be a brown voice, we do not need black faces that do not want to be a black voice, we do not need Muslims who do not want to be a Muslim voice, and we do not queers, who do not want to be a queer voice," by Vionna Presley, Democrat.

The audience inquired if the Board is going to allow her to continue.

Chair Isnardi allowed Ms. Crisp to continue speaking.

Ms. Crisp continued reading another quote, "People love you and you win, and when your son looks at you and says Momma you won, bullies don't win and I said baby they don't because we are going to go in there and impeach that MF-er," by freshman Congresswoman Tlaib, also a Democrat; in response to a citizen's tweet, Democrat Eric Swalwell responded, "and it would be a short war my friend, the government has nukes, too many of them, but they are legit and I'm sure we could find a common ground to protect our families and communities"; and Melissa Martin said she had better things to do than work on this ordinance, and she agrees. She stated she thinks the County Commission does as well; it has water issues to fix, the Lagoon has more problems to continue working on, there are businesses and homes that need attention, citizen's need the attention of their elected officials more than they need a redo of the sticks and stones will break my bones, but words will never hurt me rhyme that was learned in kindergarten; if these petty thin-skinned issues are what Brevard Democrats are concerned about more than the business of Brevard County then she suggest they focus their attention on the issues that reside in their own party, both locally and nationally first, then come back to the Board; whenever their own precinct chairs, one of which was removed by a sheriff's deputy during the last meeting, and the chairwoman have claimed all of Brevard voters are "local yocals" and "bigots" cannot abide by the civility pledge or even common manners have a serious problem. She suggested getting back to real business.

Jenny Swisher stated she moved to Brevard from Montana and her parents are snowbirds; they are going to buy her a house because she cannot grow up with her children and see one of them get cancer in their early 30s; for 30 years in South Patrick Shores there have been newspaper articles and constant talk about ALS clusters and Cancer clusters in South Patrick Shores and no one is doing anything about it; no one disclosed that to her when she moved

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here; and now as a mother of four and a care giver of a combat vet, she is currently packing because she has to move. She explained her property has chards of glass, 50 or 60 per day she pulls out of her property; there was an airplane fuselage underneath her pool; and the fact people are saying it is not a military dump after pulling out naval plates it is a military dumpsite. She noted the EPA has called it one; everybody is either afraid to speak the absolute truth or admit it, but she thinks they need to make a decision and say something, whether it is a military dump or not and whether people should have a right to know before they put their hard earned money into a VA home loan that their husbands fought for on a piece of property; and she is so lucky that she can move and take her children because of her parents help, otherwise, she would be stuck there. She went on to say everyday she takes care of her neighbor every day, he has ALS; after 30 years in that house he now has ALS; another gal about six houses down has ALS, another one two houses back has passed away; there is a problem in South Patrick Shores and everybody knows it; she could have an incredible opportunity and made great friends, but she is going to end up losing them because she has to sell her house and move; and she is going to have to tell people what is under her house because she will not sell this house to a mother. She added her children have cut their feet and her dogs have eaten some glass; there is so much stuff underneath the property in South Patrick Shores that it is dangerous; and people are going to continue to get sick unless everyone gets together and gets something done.

Commissioner Smith stated he has heard the comments made today and he has done something; September 2018, he got Congressman Bill Posey and Senator Marco Rubio, and then Senator Bill Nelson involved; they in turn got the DEP and EPA involved; and if people are saying the DEP and EPA are not doing their jobs, then he would advise them to contact the federal administrators because this Board has no power.

Audience members yelled out that they have, many times.

Commissioner Smith noted the Board cares; it is not as if it is twiddling its thumbs, but it has no power or jurisdiction to remove stuff from people's yards; and he would just advise that the people keep complaining to the federal authorities.

Commissioner Lober stated he would like to present a motion that allows him to send a letter to federal legislators essentially expressing the County's concerns with respect to the situation, on behalf of the Board, and encourage them to use all available resources at their disposal to do whatever is possible to identify and rectify the situation.

Chair Isnardi inquired if Commissioner Lober would run that through the County Attorney's Office before mail off.

Commissioner Lober agreed.

The Board authorized Commissioner Lober to send a letter on behalf of the Board to the federal legislators expressing the County's concerns with respect to Sandra Sullivan's situation, and encouraging them to continue using all available resources at their disposal to do whatever is possible to better identify and rectify the situation in South Patrick Shores, upon consideration of the County Attorney.

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

Matt Fleming stated he wants to explain to everyone in the room what was voted on earlier with respect to the Mid-reach, the Board has voted to bury Brevard County's natural reef and the vote was a procedural one that the Board is going to say even though property owners are appealing the decision to take their property to do this; and the Board will assume that appeal is going to happen and approved it today, wasting millions and millions of tax dollars to destroy a valuable environmental resource.

Commissioner Pritchett commented that is probably not true.

**ITEM H.1., PETITION TO VACATE PUBLIC UTILITY EASEMENT - COCOA - MAGDIEL FROMETA**

Chair Isnardi called for public hearing on a petition to vacate a public utility easement in Cocoa request by Magdiel Frometa.

Corrina Gumm, Interim Public Works Director, stated this is petition to vacate 10 foot of the 20-foot public utility and drainage easement that is along the rear line of lot 12, block 358, of the Port St. John Unit Eight Subdivision; this will allow the owners to make some improvements to an existing concrete pad that is currently within that easement; notices were sent out to County agencies and public utility companies; and they have received no objections.

There being no further comments of objections, Board adopted Resolution No. 19-115, vacating a part of a public utility and drainage easement in Port St. John Unit Eight Subdivision, Cocoa, as petitioned by Magdiel Frometa.

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

**ITEM H.2., PETITION TO VACATE PUBLIC RIGHT-OF-WAY - PIKE STREET, MIMS - JOHN VOGT**

Chair Isnardi called for public hearing on petition to vacate a public right-of-way on Pike Street requested by John Vogt.

Corrina Gumm, Interim Public Works Director, stated this Item is a petition to vacate part of the 50-foot wide public right-of-way on Pike Street lying between two parcels in Scottsmoor; the specific right-of-way to be vacated is located between lots 11,12, 18, and 19, Block 37 and lots 14 through 19, block 89; the owner owns all of these lots and it will allow him to combine the lots and build a single family residence; the petitioner has executed a public drainage easement in favor of Brevard County as requested by the public Works Department; notices have been sent out; and they have received no objections.

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Dawn Shook stated she just is not sure how this would affect her as far as if there were cost involved or if she has to remove the fence for him; and she asked if the petitioner is responsible for all the fees to this.

Ms. Gumm stated the petitioner is charged \$640 for processing that request; and she is not sure of the fence because she was unaware of any fence.

John Vogt stated he owns both properties; Ms. Shook's concern is down the street a little bit; this is between his two properties; it is a future road where back in the 1940's it was said they would put a road in there, but there has not been any roads put in; this has been going on for a while in that area; and he just wanted the easement vacated so he can combine it for one three-acre lot. He advised Ms. Shook's fence is behind the back property line and has nothing to do with where he is at; and he noted he just wants one lot to put a house on and receive one tax ticket.

There being no further comments or objections, the Board adopted Resolution No. 19-116, vacating a part of a public right-of-way in Scottsmoor Subdivision, Mims, as petitioned by John Vogt; and approved the Drainage Easement.

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

**ITEM H.3., RESOLUTION AND EXCHANGE AGREEMENT BETWEEN NASA INVESTMENT PARTNERS (N.I.P) AND BREVARD COUNTY RELATED TO THE NASA BOULEVARD AND WICKHAM ROAD INTERSECTION STORMWATER RETENTION POND**

Chair Isnardi called for public hearing on a resolution and exchange agreement between NASA Investment Partners (N.I.P.) and Brevard County related to the NASA Boulevard and Wickham Road intersection, stormwater retention pond.

Corrina Gumm, Interim Public Works Director, stated this is a request to approve the exchange agreement between N.I.P. and Brevard County related to the stormwater retention area property at the southeast corner of NASA Boulevard and Wickham Road; staff has prepared this agreement per the Board's direction to address the specific list of items discussed at the May 30th Board meeting; and this includes that the developer must acquire the adjacent 2.5 acre site to be used as a replacement pond, the developer must provide for all of the design permitting and construction activities for the relocated stormwater pond prior to the exchange, the project must include addressing conditions needed to prevent upstream flooding, the pond design must incorporate the stormwater needs for their proposed development, and the exchange is not to occur until completion of the pond construction.

Scott Knox, Weiderman Malek Law Firm, stated he thinks staff has covered the exchange agreement very well; the Board authorized it back in May; they worked hard to get it completed and he thinks they have it done; and he believes Commissioner Lober asked for a lien provision, which he did add to this agreement.

Chair Isnardi asked for an explanation of that.

Mr. Knox stated for some reason the owners of the land transferred to the ownership of N.I.P.

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do not maintain the new retention pond, and then there will be a lien imposed on the property that is being acquired by N.I.P. for the cost of the maintenance.

Commissioner Tobia stated on May 30, the Assistant County Manager stated he thought this was a fair deal but he did not know if this was the best deal the County could get, and he asked if anything has changed since then.

John Denninghoff, Assistant County Manager, stated nothing has changed.

Commissioner Tobia noted he voted against this because it was a no bid contract and he did not think there was any logical reason why this should not be placed on the market to see if it was a fair and just value; and since nothing has changed, he advised he would be voting no on this.

Commissioner Lober stated he voted no as well, however, at this point he does appreciate Mr. Knox working with him to ensure the more favorable terms with the County; and he advised he would be supporting this.

Commissioner Smith stated since they are the ones who own the property that will be transferred to the County and no one else does, it just makes sense that the Board should go through with this because it benefits the County.

Chair Isnardi asked how much property tax on the existing property would be acquired.

Mr. Denninghoff replied none.

Chair Isnardi asked if N.I.P. is going to invest \$570,000 in maintenance over 30 years.

Mr. Denninghoff explained that is an estimate.

Chair Isnardi stated Mr. Denninghoff worked extensively with N.I.P. as she spoke with the County Manager about it yesterday; and she inquired if Mr. Denninghoff feels comfortable with this exchange.

Mr. Denninghoff advised he does.

Chair Isnardi asked if he sees it as a benefit to the County.

Mr. Denninghoff responded he does.

There being no further comments or objections, the Board adopted Resolution No. 19-117; approved and executed Exchange Agreement with N.I.P. related to stormwater retention area currently owned by Brevard County in the southeast quadrant of the intersection of NASA Boulevard and Wickham Road; and authorized the Chair to sign all closing documents, deeds, and easement documents as required at closing.

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| <b>RESULT:</b>   | <b>ADOPTED [4 TO 1]</b>                                   |
| <b>MOVER:</b>    | Curt Smith, Commissioner District 4                       |
| <b>SECONDER:</b> | Rita Pritchett, Commissioner District 1                   |
| <b>AYES:</b>     | Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi |
| <b>NAYS:</b>     | John Tobia  |

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**ITEM H.4., PUBLIC HEARING, RE: CODE REVISION TO LIMIT TERM APPOINTMENTS OF PLANNING AND ZONING BOARD MEMBERS**

Chair Isnardi called for public hearing on a Code revision to limit term appointments of the Planning and Zoning Board members.

Tad Calkins, Planning and Development Director, stated this is a request to conduct a public hearing to consider revisions to the Zoning Regulations, Section 62-182 relating to the Planning and Zoning Board to establish term limits to the appointment members to eight consecutive years; this provision would also allow for the reappointment of a member after serving two years as an alternate or having a two year hiatus from the board; and if the Board has any questions he would be happy to answer them.

Commissioner Lober stated he wants to call attention to the second page of the strike through version that is on the Agenda; one of the concerns he received and he thinks all the Board members were copied on it, was what would happen if there simply are not any individuals who are inclined or qualified to serve; and he pointed out one of the additions is that a Commissioner may request that the Board of County Commissioners waive the aforementioned term limits should they have difficulty filling the member position. He added that at least puts that concern to rest.

There being no further comments or objections, the Board adopted Ordinance No. 19-16, amending Chapter 62, Land Development Regulations, Code of Ordinances of Brevard County, Florida; amending Article VI, Division 3, Planning and Zoning Board; specifically amending Section 62-182, Membership; to limit the maximum term of Planning and Zoning Board Members to eight consecutive years; provide for two years as an alternate before returning to another eight year term; providing for a waiver provision; providing for severability; providing an effective date; and providing for inclusion in the Code of Ordinances of Brevard County, Florida.

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

**ITEM H.5., APPROVAL, RE: FISCAL YEAR 2019-2020 HOME INVESTMENT PARTNERSHIPS PROGRAM CONSORTIUM ANNUAL ACTION PLAN**

Chair Isnardi called for public hearing on approval of the Fiscal Year 2019-2020 Annual Action Plan for the Brevard County HOME Investment Partnership Program Consortium.

Ian Golden, Housing and Human Services Director, stated this is the second and final public hearing for the Annual Action Plan; the public comment period ended on July 21 and he has received no public comments; and the Agenda Item itself lays out a number of requested actions for the Board for projects to be able to move forward in the coming year.

Commissioner Lober asked for more background as he feels it would be a benefit to the public.

Mr. Golden explained as part of the requirements for the Federal funding they receive from the US Department of Housing and Urban Development they are required every year to put an action plan together that outlines what they have done the previous year, and projects they will be working on in the coming year; every five years they put together a comprehensive plan that

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encompasses what they hope to do long range; that will come back to the Board in 2020 or 2021; and this is just basically checking that box for the Federal government. He added as a result of this it will allow the Chair to sign off on all the federal documents required for the grant, allows the County Manager to sign off on all the project contracts, allows Housing and Human Services Department to do whatever is necessary to move those projects forward, and authorizes the County Manager to be able to sign budgetary change requests.

Chair Isnardi stated in the future she would like to see the County shift more toward the core needs, food and shelter, as a primary focus when developing that next action plan; she does not know how the Board feels about that; and she knows a lot of work goes into putting that together.

Mr. Golden asked for clarification of the core needs because most of the CBG funds are for infrastructure; they do roads, speed bumps, street lighting, and drainage projects.

Chair Isnardi stated that obviously that is a core function of County government; what she is talking about is the extra services the County provides; and she would like to see that go in that direction for food and shelter.

Mr. Golden inquired if Chair Isnardi is talking about the public service activities.

Chair Isnardi responded affirmatively.

Mr. Golden advised he could have a conversation with her to see what he can do to address that.

There being no further comments or objections, the Board conducted the second and final public hearing; approved the Fiscal Year 2019-2020 Annual Action Plan; authorized the Chair to execute the required certifications and SF-424 Applications for Federal Assistance from the United States Department of Housing and Urban Development (HUD); authorized the County Manager or his designee to execute the Community Development Block Grant (CDBG) Program and HOME Investment Partnerships Program Grant Agreements and Disbursement Agreements with the four Brevard County HOME Consortium member cities, upon approval from HUD; authorized the County Manager or his designee to sign contractual agreements, modifications, and amendments for projects identified in the Action Plan (including any associated budgetary changes) after approval from Risk Management and the County Attorney's Office; authorized the Housing and Human Services Department, as contract administrators, to use competitive processes to secure contractors to complete proposed projects and services; and authorized the County Manager to execute necessary budget change requests.

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

\*The Board recessed at 10:25 a.m. and reconvened at 10:37 a.m.

#### **ITEM H.6., ADOPTION OF PROPOSED FY 2019-2020 AD VALOREM MILLAGES**

Chair Isnardi called for public hearing for adoption of Fiscal Year 2019-2020 Ad Valorem

Millages.

Frank Abbate, County Manager, stated this item is a request for the Board to accept the Fiscal Year 2019-2020 proposed millage rates; the Agenda attachment that is provided in the packet provides the Board with details of the 25 individual taxing Districts that Brevard County is the taxing authority over; that includes 20 operating and five voter approved debt millages; the aggregate proposed millage rate which represents all operation millages is 5.8447 and is a 7.62 percent decrease from the Fiscal Year 2018-2019 aggregate rate of 6.3268; the aggregate proposed millage rate of 5.8447 is equal to the aggregate roll back rate; and as a result if the Board approves the recommended millage rates under this proposal, according to Truth in Millage (TRIM) requirements established by the State of Florida statutorily, the final budget hearing will not be advertised as a tax increase. He continued in order to support the critical needs outlined in the Sheriff's budget proposal, the Law Enforcement Municipal Service Taxing Unit (MSTU) is being proposed at a rate that exceeds the rate calculated under the County's charter cap and will require a funding of a critical need and a supermajority vote; critical taxing districts including the General Revenue Countywide, Mosquito Control District, Fire Control MSTU, and the seven Road and Bridge District MSTUs are proposed at a rate that increases ad valorem revenue by 2.44 percent change in Consumer Price Index (CPI), and that is with the exception of new construction which are included in that figure; the Library and the voter approved Parks and Recreation Taxing Districts are proposed at rates which will allow these Departments to meet their organizational initiatives, including the employee compensation increase that is proposed in the budget and the infrastructure needs by providing revenues that slightly exceed their Fiscal Year 2018-2019 revenues due to new construction; and they received the certified property values from the Property Appraiser on June 25 which started the clock ticking on the TRIM requirements. He went on to say Florida Statute requires that within 35 days of the certification of value, which is August 4, as the taxing authority the County must inform the Property Appraiser of the following via completed TRIM forms, the prior year millage rate, the current year proposed millage rate, current year roll back rate, the date, the time, and the meeting place of the tentative budget hearing; within 55 days of the certification of value which on August 24 the Property Appraiser is required to mail the TRIM notice which notifies taxpayers of the tentative millage rates and also serves as the announcement for the first public hearing in September; the first public hearing will be held on September 12, 2019, at 5:30 p.m.; at that meeting the Board will adopt the tentative millages and the tentative budget; then within 15 days after that tentative budget hearing, the Board as taxing authority will advertise its intent to adopt the final millage and budget; and as previously stated the tentatively adopted millage rate is equal to or less than the roll back rate as it is proposed and because of that the advertisement will headed Notice of Budget Hearing and not a Notice of Proposed Tax Increase. He stated the Final Budget Hearing is scheduled for September 24; at this meeting for each of the 25 taxing districts, the County will be required to state the percent increase in millage over the roll back rate; the Board will be required to adopt the millage rates and the budget by separate vote for each of the 25 millages; and they will adopted by resolutions by announcing each taxing authority, the roll back rate, and the percent increase in the millage rate to be levied.

Commissioner Lober stated seems this is not a tax increase, the percentage change from the aggregate prior to Fiscal Year is a -7.62, and he would move to adopt the millages.

There being no further comments or objections, the Board approved the FY 2019-2020 Proposed Millages for the purpose of notification to taxpayers by the Brevard County Property Appraiser; and authorized the County Manager to complete the Florida Department of Revenue's Certifications of Taxable Value, Forms DR-420.

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

### ITEM I.1., CIVILITY ORDINANCE AND POLICY

Commissioner Tobia stated on July 16th the Speaker of the House of Representatives Nancy Pelosi called the language of the President of the United States racist; Ms. Pelosi's democratic colleague ultimately ruled Ms. Pelosi out of order based on the passage by Thomas Jefferson's Manual of Parliamentary Practice; citizens should always feel free to come speak their minds without retribution or intimidation; this ordinance exclusively focuses on the conduct of elected County Commissioners during the meeting and has no impact on the First Amendment rights of the citizens who wish to speak; the U.S. Congress has rules that create a bare minimum for conduct on the floor; and in fact U.S. Rule 17 states, members should avoid using personality. He went on to say his one ask is that the Board is no more dysfunctional than Congress and should it not pass this, it will be; and it is terrible to compare this Board to Congress, but that is where he is setting floor with this.

Philip Stasik, on behalf of Space Coast Progressive Alliance, stated he appreciates that this subject is before the Board today; he stands in support of the ethics and civility guidelines that are proposed; Space Coast Progressive Alliance strongly believes they should bind all Brevard County employees at all times; in the words of Dr. King, "I have a dream" he has a dream that the ethics and civility language being discussed can grow a spine and be stiff and strong to allow it to stand tall; he dreams that those words will serve as a foundation, a foundation upon which a strong ethics office or citizen ethics board will be built; this would be a real ethics watchdog that could take a bite out of misbehavior and prevent corruption at all levels of the County government; its guidance would be binding and not just words that will just blow away in the wind; and he has a dream that they will reach out to the community for a nonpartisan or cross partisan peers to build the structure. He continued volunteers such as perhaps a retired Marine Corp Judge Advocate General, perhaps a retired Brevard County Judge, a retired manager from a NASA ethics office, or a retired ethics professional from a local university; at the last Commission meeting a Commissioner said he does not like government and today he wants to fix it; he wants the County and its constituents to fix it together; Brevard County government has a hole that must be fixed; and he encouraged everyone to build a County government that everyone could be proud of. He noted Brevard County government is a laughing stalk both nationally and internationally; he asked the Board to look at the ethics guidelines of the State Supreme Court; from military leaders at Patrick Air Force Base, and at the Cape; from the ethic's office at the Kennedy Space Center, and Human Resource experts in the aerospace community; he commented to take the best of the best and make it the County's own; today is the day to wake from the County's recent collective nightmare; and he asked if everyone could work together to make this dream a reality.

Chair Isnardi advised that if the Commission has any questions for any of the speakers, they would wait until after everyone has had a chance to speak and then they can respond.

John Neland stated he would like to start by reading the words of a member of the Board, "I am not typically a big abortion proponent, but in Patel's case I might just be willing to look the other way, as I can only imagine that the scourge on humanity and our economy, her offspring would prove to be that given her litter would likely be raised with an entitlement mentality, zero work ethic, and taught the hypocritically racist and sexist position that the white man is evil,

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unfortunately those least capable of properly raising children typically procreate without a second thought and society is left dealing with the repercussions;" he has attended well over 100 of these public meetings in the last 20 years and never has heard or read such vulgar and vitriolical language from a sitting member of a governing body; residents of Brevard County showed up at the July 9th Board of County Commissioner's meeting to express their concern and dissent towards these comments; and he noted Thomas Jefferson said, "Dissent is the highest form of patriotism." He continued Commissioner Lober described those in attendance at the July meeting as a mob; he applauds those in attendance as patriots; leadership is a privilege to better the lives of others, do not lose the opportunity to lead morally; and in response to the civility ordinance he has some rhetorical questions. He asked if the audience can clap during a meeting to show approval of a bill passed by this Board, and if so can they boo at disapproval of a bill passed by the Commission; he asked if he could stand at the podium and call the entire Commission a fake Commission because at the July meeting Chair Isnardi sat at the dais and called the *Florida TODAY* a fake news media; he asked if he could stand at the podium and call the Commission a mob that is just trying to bully the residents, as Commissioner Lober called the residents who were at the last meeting a mob who was trying to bully him; and he stated the purpose of the ordinance in front of the Board now should be to maintain control and decorum of a public meeting, not to quiet dissent.

Sandra Sullivan stated she is an Independent and she sees the comments on social media; there is a lot of incivility out there and there is a First Amendment right for people to say what they want; what matters is what happens here in these chambers, when people are doing their duties and such; when people attempt to erode the First Amendment while it may sound really good and just reason at the time, it is a very slippery slope; and she worries about people's rights being taken away. She continued looking at today, there is no privacy compared to what there was when she was growing up; she cautioned everyone about the First Amendment right; of more concern, there are so many issues in Brevard County dealing with infrastructure, the drinking water, the environment, and County business, and she would personally like to see County time dedicated to County business; and if people want to have their First Amendment right to speak then all be it, but she asked if the County meeting could be County business on the Agenda.

Melissa Martin stated she thought she would use her time to answer some frequently asked questions; first question, does the County need a civility ordinance, technically no the Board already has the authority to clarify and enforce the standard of conduct for public officials and their agents, but in reality, apparently yes; what this ordinance does is it lays out in plain terms that a Commissioner may not engage in illegal conduct and the Board does have the ability to stop it; next question, is this a political stunt, the answer is no, and she is only answering this questions because it appears to be coming from two of the Board Member's offices; this is not political and it is not personal, and from her original citizen's request she asked for the Board to have staff look at this issue and report back with options; she deferred to the County Attorney's Office and the County Manager to help the Board protect the integrity of County government; and she appreciates Commissioner Tobia for taking bold action on this matter. She noted she was able to work with Commissioner Tobia on designing the ordinance to ensure it does not infringe on anyone's First Amendment rights; she commented good government is not a partisan issue, she respects her fellow Americans that are Republican who have had the moral tenacity to speak up about this, either in the public eye or working behind the scenes; if the Board wants her to put on her Democratic party hat, she would say please continue to do nothing because that works in the Democratic Party's favor; question three was does this infringe on the First Amendment rights of Commissioners, and the answer is no, all public officials already have a higher duty of care and a responsibility not only to maintain civility and decorum during public meetings but to not engage in illegal or unconstitutional conduct; illegal in the sense that engaging in words or actions amount to threats, harassment, intimidation, or defamation are already against the law, but even more so when they are used to silence

opposing voices; the ordinance is also shaped in a way to tie it directly to the very purpose of the Board, it still has plenty of room to drill down on someone if serving a legitimate purpose like exposing fraudulent intentions or unethical dealings with that threat for County resources; however, for members of the public who come to the Board meetings to speak their minds or address grievances, even if they bring points of concern that personally offend the Board, the Board Members may not harm them or their rights. She went on to say while adopting an ordinance would be great, what really needs to happen is an official declaration of the community standards, official reprimand against the clear and continuing violation of those standards; and regardless of what the Board does about this ordinance, she asked that the Board move to censure.

Roger Gangitano stated he does not often come before the Board as he tries to stay out of its business and stay informed; he figures the people elected the Board Members and they are more informed about the issues than he is, so no matter whether he agrees or disagrees with the votes, he stays out of it; this particular issue he believes affects him because if he is expected to be civil when he comes to a meeting, then he does not see why civility cannot be maintained on the dais; he does not think a special ordinance or resolution is needed to make that happen; he thinks Robert's Rules allows for the gavel to be slammed down and stop authorization for someone to speak if the Chair feels he or she is out of order; and if that is not right then there has to be another method for the Chair to do it, but to pass a resolution that says people have to be polite, there is a sign at the back of the room that says something to that effect, that everyone will be civil to one another. He added the Board is facing that sign at every meeting, but it is to his back so if he has to be expected to remember it, then why can the Board not remember it; he asked why the Board needs a special resolution to do that; he thinks it is wasteful; another point he wanted to bring up is that four out of five of the Board Members have another full time career and he disagrees with that; he does not think that is proper because no two items can occupy the same space at one time, nor can any one item be in two places at the same time; and he noted people cannot be a plumber and a County Commissioner especially if the Board Member is supposed to be working on the plumbing inside of a government facility, because then it becomes really close to a conflict of interest. He stated when a Board Member has another career it could possibly overlap and be a conflict of interest; even when it is not, that other career deserves his or her full time attention if he or she is working a full time career, as does being a County Commissioner; if the Commissioner worked their County Commission job full time, how much more could the Board be getting done rather than handling it part time; and to sum this up he does not think the Board needs an ordinance or resolution to be civil, he thinks the Chair may just have to use the gavel a little differently than what it is currently being used for.

Suzanne Valencia stated a Commissioner is a Commissioner full time and should reflect the values of the Brevard County Commission.

Karen Colby stated there are community leaders who have issues in their own backyards with civility, ethics, integrity, and contamination; they have murky tap water, flowing into their own homes and they are more concerned about censuring the County officials; she thinks there needs to be less censorship and more dialogue towards solving these serious issues; and those issues include drinking water quality, military dumps in South Patrick Shores draining in to the river, PFOS contamination, neurotoxins in Lake Washington, dying Indian River Lagoon, Proposed toxic muck dredging, and dumping that nasty stuff called dirt on the Mid-Reach. She mentioned everyone could be working together to resolve these issues but instead people are engaged in a civility war about an event that happened on Facebook outside of the County business atmosphere; she does not agree with the censorship of the public officials, their time is their time unless they are breaking the law and nothing was done to break the law; it is refreshing when public officials are actually engaged in conversation with the public, like what the President does when he engages in conversation; and she noted she hears people

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snickering behind her and she hopes that is on the record. She went on to say if it is part of people's rights to be respected no matter what people believe in; people from all around the world have different faith, different religion, different atmospheres of being raised, different ways of looking at things, and someone's opinion is not going to go away just because some forbids their expression of it; people cannot legislate opinion versus offense; and to her censorship shuts down the conversation entirely. She added some people say censorship exists to protect large masses of people from damaging content, but then no one is getting the complete truth; just because someone does not agree with an opinion or message, it does not give them the right to subject the public officials to witch hunts and character assassinations; everyone has a right to freedom of opinion and freedom of expression and those rights include freedom to have opinions without interference and to seek, receive, and import information and ideas through any media and regardless of the frontiers; some people might use censorship to skew the truth or to hide the facts; and she thinks is it better for all people to know as much as possible, that is how people are able to form their own opinions and ideas. She stated Brevard County was built around the idea of everyone having a free, unchallenged, and uncensored voice; she read that proposal and she asked for it; and she commented much of it is offensive, the County does not need it, and it is a violation of the rights. She added the court of law could handle what people do outside of this room.

Janice Crisp stated this ordinance was not online or in the Agenda Packet.

Chair Isnardi advised she has it pulled up online, so it is online.

Ms. Crisp stated at first glance this ordinance may seem harmless and like it is imposing good manners but she would like to draw attention to the rules of decorum under Section 230, if anyone actually has the ordinance they can look at because she had to call and ask for it, under a.1 the members of the Board shall not make statements intended to intimidate, threaten, defame a member of the public or chill their speech if it serves no legitimate purpose; under 1 it states the intent includes but is not limited to attacking the personal character of any individual including but not limited to calling into question their integrity unless they are convicted of a crime, labeling another individual pejoratively, pejorative is defined as a word or phrase that has a negative connotation or is intended to disparage, in a manner that does not directly relate to County business at hand especially when done in retaliation to the viewpoints or content of a speaker's comments; and number 2, states, legitimate public purpose is defined to include issues of public concern which is those listed on Meeting Agendas, ethics, fraud, waste, or abuse of authority or government resources. She went on to say keep in mind that the current Supreme Court ruling is that the First Amendment prevents government from punishing speech and expressive conduct because it disapproves of the ideas expressed, therefore any individual can come to the podium and speak pejoratively and he or she is covered under the First Amendment; elected officials have set rules; the rules that are set out by a 2006 case gives a test to determine if speech and expression is protected; the test is nowhere to be found in this ordinance and it has nothing to do with what Congress does; and it would seem to her if the Board did try to censure or reprimand or punish a Board Member, there would be a law suit. She noted courts currently employ a three-part test to determine the protection of the government employee's speech; and the First Amendment only protects government employees when speaking as private citizens.

Stacey Patel stated today this Commission will make an important decision; she asked will it protect the constitutional right of the people of Brevard to petition its government for the redress of grievances, will it defend the First Amendment by standing firmly against government retaliation for acts of free speech, will it demonstrate the leadership this community needs to rise above divisiveness and cultivate civility and mutual respect, will it stand with the majority of its constituents who believe decency, decorum, and their constitutional rights ought to be nonpartisan and non-negotiable, or will it instead place partisanship before principle, will it

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through silence and inaction explicitly adopt incivility in government and retaliation against the public's First Amendment rights as conservative policy in the community; she commented Commissioner Lober's actions have clearly chilled civic participation and free speech in the community; he has threatened livelihoods and lawsuits, made comments that the Anti-Defamation of Florida said could be taken to greenlight violence, and issued vicious public insults against local residents who dare to dissent; a District 2 resident who attended the last Commission meeting was too scared to speak up because she feared Commissioner Lober might make it difficult for her to access County services; and another District 2 voter wrote he or she is simply trying to understand why he is allowed to continue, and that he or she does not feel confident to show up at the meetings. She continued given the Commissions silence and inaction over the last few months she has to wonder if the other Board Members might be scared of Commissioner Lober as well for retaliation; as Commissioner Smith stated, Commissioner Lober has a very short fuse; she asked if fear of retaliation is why the Board fails to act on so many calls for censure; she advised she is asking for the Board's moral courage to protect the community; and she stated as the community faces the peril of political polarization, she would ask the Board to rise above the fray and offer the kind of moral leadership that can hold the community together by celebrating people's differences and adamantly refusing retaliation against those who express dissent both inside and outside of these chambers. She stated the proposed civility ordinance is one small necessary step, but it is by no means sufficient; it still ultimately depends on the Board's moral courage to vote for censure or to petition the Governor; perhaps it could be used to protect the public from being called naive, dishonest, gullible, a mob, hateful, bigot, liar, racist, sexist, professional agitators, and asses as they were referred to at the last meeting, from the dais; she asked what about what goes on outside of these chambers, the vitriolic diatribes against those who request public records, the thoughtless comments the Anti-Defamation League said could be taken to green light violence, the remarks about the abortion of her future children or referring to them as a scourge on humanity that somehow makes it way to the national press, and what of the threats against the livelihood of someone who dares to dissent with a public official online; and she does not believe this ordinance even begins to address the root of the problem, but the Board can. She asked the Board take clear and divisive action today to restore civility on this Commission and to protect the public's free speech from further government retaliation.

Sanjay Patel stated for months there has been a subjectively bad actor on the dais, a Commissioner lacking basic skills in decency and decorum, an individual incapable of acknowledging his short-comings; when his behavior caught national attention and he deflected blame to the individuals who have borne the brunt of his cruelty, instead of taking immediate decisive action, the rest of the Commission looked the other way; when a preteen gets on Snapchat and acts a fool online, everyone hopes an adult steps in to reprimand the child and probably take the phone away, unfortunately, the preteen here happens to be an elected official and it looks like the adults have left the room; and he commends Melissa Martin for stepping up and doing something, the reality is, it should not have come to this. He continued the Board had ample opportunity from early March when his abhorrent comments online and his retaliation on a private citizen's employment were first addressed, to mid-May when he eroded the public trust by taking on the Chair's husband as a client and all any of the other four board Members had to do was say publicly that is not right, that is not how the Board conducts itself, and move to censure him in hopes that he would learn a lesson; this ordinance is a good first step but make no mistake the most egregious behavior has happened outside of the confines of the Board's chamber and has still not been addressed; Commissioner Lober claims the public is attacking his right to free speech, but the First Amendment exists to protect the public from the actions of the government; and free speech is the right to criticize the public officials and not lose employment or fear them unleashing their minions to do harm to people or their families. He went on to say the only individual attacking anyone's right to free speech is Commissioner Lober; when he thinks of the Board Members' role of County Commissioners, he thinks they have a really hard job with an endless list of needs and issues, and a limited pot of resources to

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address them; the Board's job is to attack the hard problems and find the solutions that benefit the majority of the community; and he urged the Board to tackle head on the problem that is District 2 Commissioner so that the community can all move forward together on those issues that require all to solve them. He stated since Commissioner Lober so often clamors for context, he would offer some context that he conveniently left out in explaining a snow plow remark in the last meeting; as he mentioned, before his comment someone wrote , word of wisdom to the protesters, beware of the Dodge Chargers, he left out the words of the second commenter who wrote if you hit one, back up and go again, just kidding; it is to this comment that Commissioner Lober directly responded with, "I wouldn't recommend using a snow plow, it might look intentional," so he will leave everyone to interpret his so-called joke; and he offered a warm welcome to Commissioner Tobia whom former Cocoa Mayor, Henry Parrish, has deemed no better than a radical, socialist, Democrat. He noted if Commissioner Tobia were interested in joining the team, he would provide him a slip of paper after the meeting to give him a list of their meetings and teach him the secret handshake.

Peter Fusscas stated in the Mason Manual of Legislative Procedure it states rules should be applied with judgment and fairness, flexible rules are rigorously applied to differing situations and often produce injustice; in a civility ordinance people must be mindful that they do not trample on anyone's right of free speech; people cannot or should not over regulate a deliberative body; he concurs with an editorial by *Florida TODAY* that a civility policy is great but Brevard County should not need one; and while he joins *Florida TODAY* in applauding the efforts of Commissioner Tobia and Melissa Martin for drafting a civility ordinance, he would like to point out that Brevard County already has one, it just needs to be enforced. He continued the ordinance already established provides that Robert's Rules of Order is to be used in conducting its legislative meetings; Chapter 7, Section 43, Chapter 20, Section 61, of Roberts Rules of Order 11th Addition addresses the decorum and debate and the disciplinary procedures; these rules address the concerns expressed by Commissioner Tobia, Melissa Martin, Florida TODAY, and himself; accordingly, the Board of County Commissioners has been given the authority and guidance under Robert's Rules to address the issues of civility and decorum; and by maintaining order under Robert's Rules, the hearings, the debates, and the workshops, the Board can eliminate rancorous behavior, insults and obscenities, personal attacks, and avoid delays that devoid disruptions. He went on to advise Robert's Rules is intended to give everyone who is patiently waiting an opportunity to exercise their constitutional rights to express their opinions and voice their objections; inside this legislative body, the elected official can be censured or disciplined under Robert's Rules, of course proper procedures need to be followed with an affirmative vote; the rules herein however, have no jurisdiction outside of this deliberative body, outside free speech rules supreme; and the people's remedy for abusive behavior outside this legislative body rests in the courts on claims of liable or slander or at the ballot box. He advised the people cannot shut down free speech no matter how much someone dislikes what has been said; and in summary, the County already has the tools and the rules to maintain order if it uses it to exercise that authority.

Adam Tritt stated the concept that freedom does not mean license is firmly established in culture and in law; the idea that rights come with responsibilities is also firmly established, so much so that over 250 years ago, George Washington wrote a book called Rules of Civility and Decent Behavior because he saw similar difficulties as what is being seen today; and as Commissioner Tobia pointed out Thomas Jefferson also spoke about these issues. He continued unfortunately this is nothing new for this Commission, so he is not talking about one particular Commissioner today; he would like to make sure this does not happen in the future as it has in the past; this Commission has had difficulty over the past 30 years of attacking the public and chilling public commentary; his own children have been victim of this; and he would like to see it stop. He went on to say since Robert's Rules of Order has not been effective in doing so, since other Commissioners have not been effective in doing so, he will applaud Commissioner Tobia and Melissa Martin for stepping up to make this happen; he understands

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there is a difference between free speech and hate speech, this is why there are hate speech laws; it has long been the habit of people who want to say something inflammatory, they know it will be harmful to say, but they take a step back and say it is free speech; this is the habit of many groups in this country who wish to cause difficulty, who wish to spew hate, spew vitriol and hide under the American flag and the Constitution; and he asked the Board to not let that happen on this dais. He explained he is a teacher and held to a much higher standard than the normal population, what he says, what he publishes, and what he puts on the internet; he assumes the Commission is saying it is held to a less high standard than he is, he does not think that is right or fair; he is for the proposal; and he commented he sincerely hopes the Board will vote for it today.

Elizabeth Michelman stated she is really starting to get annoyed that she has to come to these meetings; she woke up to un-American filth; it is not in here but it is out there and it impacts everyone; she is upset and hurt; she is first generation American and what her family gave up to come to this country was a lot; and she does not think anyone in this room can really understand the sacrifices. She noted her father worked really hard and had to leave a really good life to pursue a better life in this country, and he did so; she showed a document her father was given from the Ellis Island Centennial Commission for his good works and the fact that his name is on that document, it will be protected in perpetuity; it is a reminder to everyone that when people talk about free speech, there is also hate speech, and she thinks people have gone over that line; and she noted that the Board's free speech and the public's free speech have a right to exist as long it does no harm, whether in the chambers or out of the chambers. She stated the future generations throughout the world would see the symbol of Liberty's light burning brightly if the Statue of Liberty would be saved, restored, and preserved.

Robert Burns stated he feels compelled to respond to two of the public comments that he heard; there is no character assassination going on here, there is character suicide going on; people may come to the podium and use colorful language when addressing the chambers, but these voices have no color; there are no black, red, white, or blue voices, people are all American voices; and he finds it abhorrent that someone would come to the podium and suggest otherwise. He went on to say he is American; he saw the comments that Commissioner Lober made on Facebook this morning claiming that some are un-American filth; Commissioner Lober can call him filth if wants to, but what he cannot do is call him un-American because he is American, a citizen, and a retired veteran as is Melissa Martin, so the filth is subjective but the un-American certainly is not; he has heard a lot of people saying this ordinance is not needed; the County does not need a civility pledge on the back wall, but because people are uncivil someone felt compelled to put it up there; and there also does not need to be Sheriff deputies in these chambers but because people do not adhere to the civility pledge, someone felt the need to place deputies in the room to help maintain civility. He stated these ordinances are not there because they are needed they are there to hold people accountable for their actions; there does not need to be laws about people driving under the influence of alcohol, it should go without saying if someone cannot walk then he or she certainly should not be operating a vehicle on the highway, but people do it; Commissioner Lober has continued to cause harm to the citizens here; he talks about his constituents, but everyone is his constituent; he is not just the District 2 Commissioner, he is on boards throughout this County and he votes on matters that affect everyone; and the laws that regulate him for being subject to removal do not have to happen within this chamber, he does not have to commit a felony inside this chamber to be subject to removal. He advised the Board could always address Commission Lober's outside behavior.

Judy Koons stated she is an attorney in the State of Florida and has been for over 40 years; she is also a graduate of the University of Florida College of Law and a graduate of Harvard Divinity School as well; during the last 20 years she has served as a Law Professor and among the courses she taught are Florida Constitutional Law and Professional Responsibility; and a graduate of Cocoa Beach High School. She stated the civility ordinance is necessary to restore

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trust in the County Commission; people have lost trust in what the County government is doing and other processes have not worked; it calls the people to this end to take this step of adopting this ordinance; when local officials use their position to intimidate, bully, and engage in retaliatory speech and conduct, it is definitely a problem and it shakes the trust in the government; and consequences of distrust in the government is dire. She continued civility is a nonpartisan and partisan issue; the floor of civility is essential to all speech, red, blue, green, and all other stripes; bullying, retaliation, intimidating speech of public officials chills the speech of members of the public of all political stripes; this ordinance fortunately points the way out of the partisan mess that all have been embroiled in; and it assists and supports the discussion that is so direly needed on the important issues that have come before the Board, many of which she heard earlier this morning. She went on to say there are levels of protection of speech; the purest speech is political speech of the people in this room; elected officials are clearly called to a higher standard, any argument that an elected official has a First Amendment right to engage in bullying, intimidating, and retaliatory speech that chills the political speech of constituents is fundamentally flawed; there is no silver bullet of immunity for public officials that chills political speech; people are afraid to speak, they are afraid of retaliation and humiliation, and they are afraid of personal injury to themselves or their families because some speech of an elected official has raised those issues; and she encouraged the Board to support this ordinance.

Matt Nye stated he hope his comments today serve a legitimate purpose, and he hopes to honor the spirit of the topic; he will strive to make his points and apply it in civil fashion; he feels like he is living in Bizzaro land, like in Superman with truth, justice, and the American way; one of his arch enemies was Bizzaro Superman; back in November 2017 he wrote a post on his blog with the following headline, Commissioner smith seeks to shut down Commissioner Tobia's free speech at Commission meetings; the post went on to say the proposed ordinance appears to be a result of perceived personal slights on the part of Commissioner Smith after Commissioner Tobia questioned some of his travel expenses and acted in a manner that Commissioner Smith deemed to be a discredit to the Commission; to his credit Commissioner Smith had the good sense to pull the ordinance from the Agenda and it was never spoken of again, until a couple weeks ago; and fast forward to today, and the target of the previous ordinance, Commissioner Tobia, putting forth a similar proposal, and that is what he means by Bizzaro world, yesterday's free speech advocate is today's censor or in story book terms, pot meet kettle. He went on to say on the subject of hypocrisy he does not remember the outrage from the left when then Commissioner Fisher bullied Commissioner Infantini and members of the public on a regular basis; this ordinance seems to be designed to placate the victims that were heard from earlier and muzzle future Commissioners from being able to speak their minds and defend themselves against allegations or comments made by members of the public; what he finds most interesting is the ordinance does not address comments made outside of the Commission meetings which as he understands it were the catalysts of this in the first place; and even worse while presumably trying to control the behavior of a current city Commissioner, the ordinance imposes an undue burden on future Commissioners. He stated in typical government fashion this is a solution in search of a problem and in this case the solution does not even address the problem but in fact creates a new one; the threat of having a supermajority of fellow Commissioners voting to ask the Governor to suspend a Commissioner if they do not like what one says or how one says it, is sure to have a chilling effect on Board discussions and will certainly prevent future Commissioners from speaking their mind in the heat of the moment for fear of running afoul of the proposed ordinance; the answer seems simple, if the members of the Board truly believe Commissioner Lober crossed a line, they should take a symbolic line and censure him and his behavior; he does not condone Commissioner Lober's comments on social media and he can honestly say it would never have occurred to him to say such a thing to another person; however, he absolutely and unequivocally believes it is his right to say something in such poor taste even as sitting County Commissioner. He noted if Commissioner Lober wants to commit political suicide on social media or in a public meeting, that is his God

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given American right to do so; the taxpayers of Brevard County expect their elected officials to act in reasonable and respectful fashion; when those elected officials do not live up to that standard, they will face the consequences in the next election cycle; this is the way the system of government was intended to work; and he hopes the Board will continue to allow it to do so.

Bob White stated he is speaking on behalf of the Republican Liberty Caucus and they are opposed to the adoption of the civility ordinance for the primary reason that it is absolutely not necessary; even Mel Martin who was one of the principle behind the establishment of it acknowledged that fact in her opening remarks; it is technically not necessary, it is effectively not necessary because the Board already has the tool that it needs through Robert's Rules of Order in order to be able to go ahead and prevent this kind of incivility from taking place; as an advocate for limited government it should be obvious that his organization is never going to advocate for something unnecessary; the government that governs best is the government than governs least; and all of this time has been taken up to debate whether or not to adopt an ordinance that is absolutely unnecessary. He asked the Board not to adopt this ordinance as it is absolutely a slippery slope; and people can say it will not necessarily lead to further infringement on free speech but who is to say that once a civility ordinance is adopted that this Commission or any other Commission in the future will feel that they are being threatened or assaulted from the podium by members of the public or that the Commission will not expend that ordinance to the behavior of the taxpayers who come to address it.

Robert Chapman stated he is a Vietnam veteran, his uncle was a Korean veteran, his father was a WWII veteran, and his grandfather was a War of 1812 veteran who came to help create Florida when it was a territory; being that knows and has lived the history of Vietnam and Korea he knows that out of these conflicts came modern progressives; they are the ones that coordinated with Soviet style communists to defeat the nation in Vietnam from with the Country; now years later progressives have gained full control of one of the political parties and is trying to destroy the constitution starting with the First Amendment along with the Second Amendment; and he informed the Board that if any Board Member aides these Anti First Amendment (ANTIFA) progressives to gain any advantage in stifling the First Amendment the patriots of this County will work hard to primary said Commissioner. He added he also agrees there are already avenues there that can take care of any Commissioner who is out of line; there is a recall petition available; and an opportunity to primary said individual, if the party that individual belongs to decides to do so.

Carolyn Howell stated she would urge the Board to adopt the ordinance of civility; the Board represents all of the citizens of Brevard County and the manner in which it conducts business should recognize the value of citizen participation in government all the time and set an example for the reasonable resolution of disagreements; the adoption of the civility code should also improve the efficiency of Commission meetings; and she would further urge the Commission to extend its civility code to social media. She continued at the last meeting Chair Isnardi mentioned that one cannot control social media outside of working hours, yet there have been numerous examples of educators, police officers, government employees, and elected officials who have been reprimanded, suspended, or even fired when their inflammatory and bias posts have revealed they would not be able to perform their duties; and it is not unreasonable to ask that public officials exercise their First Amendment rights in a civil manner rather than with crudeness, vulgarity, and intimidation.

Pamela Castellana thanked the Board for making the choice to serve the community, as she knows it is not an easy task, but she appreciates it; she thanked Commissioner Smith who has been very accessible to her; and she thanked Commissioner Tobia for bringing this issue to the forefront. She continued the County Commission vision statement includes the following goals, create a cooperative partnership between government, business, community organizations, and the residents; the core values are honesty, openness, leadership, quality, accountability, and

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innovation; and that is the mission statement from the County's website. She went on to say she has seen comments from a non-elected County Commissioner employee, the Community Affairs Director of one of the Commissioners, which stated, "This is about radical progressive politics, and ANTIFA life-type movement of disrupting the business of the people in the media and from the floor of our Commission, this is about going after five Republicans and sour grapes about Democrats losing elections." She continued this comment is from the same person who publicly disparaged her career choice as an independent contractor, "This is not a partisan issue if it were you would be saying this kind of vitriol attacks come from every one of the Republican elected County Commissioners, if it were you would have seen Brevard Democrats addressing every Commissioner for their personal comments." She went on to say our current leadership team of the Brevard County Democrats has been in place for more than two years, yet these concerns were not brought to surface until Commissioner Lober's election; it is about one Commissioner and his words and actions; Commissioner Lober once said that he went into the legal profession because he enjoys eviscerating people whom he considers bad actors; she inquired how any of this is creating cooperative partnerships between governments, community organizations, and the residents; and she noted the First Amendment provides protections for citizens to address their government. She noted she has ancestors who fought in the American Revolution to create the First Amendment right for citizens to approach their government; the obvious attempt to squelch any dissent through fear does exactly the opposite; and it is unfortunate that the County needs this civility clause but apparently it does.

Matt Fleming stated he thinks the civility ordinance is a good thing because it has teeth, it creates accountability for incivility coming from the County Commission who today is Republican and likely in the future will be Democrat, it protects the public from the Board; he is having a hard time deciphering the fundamental understanding that this is protecting someone's free speech when they are using their position in government and that speech to intimidate the public; and he has a personal example he would like to share. He commented on May 21, online in a public forum, Commissioner Lober said to him "Matt Fleming if you had a pot to piss in, I would sue you in a heartbeat" and that was in the context of what happened in the meeting that day; and his question is does Commissioner Lober intend to sue him.

Chair Isnardi explained the Commission is not going back and forth, and asked Mr. Fleming to make his comments.

Mr. Fleming apologized and asked Chair Isnardi to ask Commissioner Lober if he intends to sue him.

Chair Isnardi explained the Commission does not do back and forth dialogue during public comments because it often digresses quickly; and she noted he is welcome to use the rest of his time.

Mr. Fleming responded he would like that question answered, and he inquired what the process is for that.

Chair Isnardi noted she can ask Commissioner Lober after public comment and he can choose whether to answer.

Mr. Fleming noted he has several pots and he inquired again if Commissioner Lober intends to sue him.

Mary Jane Nail stated she is for the First Amendment, the Second Amendment, the Constitution of the United States of America, the flag, God, and all of those wonderful things that used to be okay in American; everyone knows there has been a change, a change in the public discourse, and a change in the official discourse and it is not very nice; she has listened to a lot of

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Democrats in this room and she does not agree with a lot of them, but she does believe that she should sacrifice her life for their right to express their opinions, whatever it may be; and she would have to confess that years ago she ran against Commissioner Tobia and then she regretted ever having done that because he seemed to come around and be more American pie, flag kind of person. She added she does not love the motion put before this Commission; she totally disagrees with it; she wants public opinions to be stated and she wants the Board Members to be able to state their public opinions; she thinks it would be very interesting if it started, and if the Board is going to do this righteous type of movement, by first instituting it with the US Congress; and she thinks first they need to be perfect and their language needs to be cleaned up. She went on to say she does not want them to clean up their language, let them to hang themselves; she mentioned she is totally opposed to this motion and this Agenda Item; she respects everybody's opinion on the Commission; she respects everybody's opinion in the audience; and she just wants it to stay that way. She commented keep on keeping on, say whatever anyone wants to say, she will defend anyone's right to say it; however, she would like everyone to defend her right to say whatever she wants to say as well.

Wayne Ivey, Brevard County Sheriff, stated his presence is not for the purpose of engaging in what has or has not been said, it is for the purpose of sharing his inherent belief that the Constitution was written to protect everyone regardless of what role anyone plays in society; as to the issue before the Board today he would ask people to consider how far people are willing to go to question the intent of what he believes to be the most important document in the history of this country, the Constitution; he asked if people are willing to start questioning the four corners of that document and what the intent was because if they are, where will it stop; and there is an extend to the Second Amendment which none of the citizens in this room would tolerate, or perhaps the Fourth Amendment about what they actually meant when it was crafted in regards to search and seizure. He continued what if people start questioning if people really have a right to remain silent and plead the fifth when accused of a crime; agreeably no one would stand for those vital parts of the Constitution being infringed upon, so he believes people need to be extremely cautious in considering the matter before the Board today; and while he leaves the legal views to the County Attorney as to the constitutionality of this ordinance, he personally has great concern over an ordinance or rule that attempts to take away someone's ability to express their opinion. He went on to say granted there are exceptions to freedom of speech, for example, people cannot yell fire in a theater, people cannot talk about bombs on a plan or in a school, and people cannot make threats against others; he is personally unaware of any restriction that stops people from expressing their opinions; if there is such a restriction he asked to please enlighten him because he has had a few people call him fat and one person sent him an email saying he needed to eat more salads; the other component that concerns him is who will sit in judgment of these potential violations and determine that the remarks made were uncivil and in violation of the ordinance, in fact who is the exact person that says those comments violate the standards of conduct; and if that person or persons is the Commissioners, then would that be asking the Board to preside as jurors in that as well. He inquired if people are really going to ask the Commissioners to now sit as judge, jury, and executioners; the Commissioners were elected to solve problems and run the County government, not sit in judgment of one of their fellow Commissioners, who may or may not have said something wrong; imagine the amount of the public's time as the Commission would be required to hear the accusations against someone and invoke to censure the defendant; in his opinion time would be best focused on solving other problems that require immediate attention to strive to make this community the best; and he commented he promises not one single person thinking about moving their business here is currently Google searching when any uncivil comments were made during the Brevard County Commission meetings, instead they are researching the crime rate, schools, business opportunities, infrastructure, natural resources, and above all else the overall potential. He stated the reality is the County, the State, and the country already have a civility clause that is extremely enforceable, it is called a ballot box where this community of almost 600,000 citizens sit in judgment over the actions of the elected leaders; if citizens feel

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that one of the County's elected leaders is acting inappropriately, they can judge them for themselves.

Commissioner Lober asked for some latitude; he stated he can split it up but first he would like to address some items brought up by the crowd; and then he will defer to Commissioner Tobia, but he may have some questions afterwards. He noted Mr. Stasik spoke about growing a spine and he thinks that is exactly what people need to do; free speech is about protecting views that not everyone agrees with, it is easy to protect those that people do agree with and he agrees with Mr. Stasik on growing a spine; as far as this preventing corruption, he does not know what type of corruption is alleged for this to prevent; and as to Mr. Niland, he read a quote without the context of course that he had placed on Facebook, but this ordinance has nothing to do with anything taking place on Facebook so this ordinance does nothing for that. He went on to say that dissent is the highest form of patriotism and he agrees with that and that is why the ordinance is a horrible idea; he mentioned whether hypothetically people could call the Commissioners numerous names, and he believes people can absolutely take their three minutes to say whatever they please; and he noted he respects people's rights to say whatever they want. He continued, Ms. Martin asked if Brevard County needed a civility ordinance and then she answered her own question stating technically no, and he agrees with that; she mentioned that the ordinance states in part that the Commissioners would not engage in illegal conduct, and he believes the ordinance goes way beyond that, it has nothing to do with illegal conduct; if it is illegal there is already a prohibition against it, and presumably some enforcement mechanism; Ms. Patel came up and spoke about constitutional rights and standing up for the First Amendment, and he agrees with that; everyone's constitutional rights need to be stood up for, everyone's First Amendment right should be stood up for; and Mr. Patel talked about the most egregious behavior occurring outside the chambers, but hypothetically if that were correct, he asked what does this ordinance do in any shape or form to address that, absolutely nothing. He stated Mr. Fusscas had a couple excellent points, not the least of which is that flexible rules applied to differing situations often produce injustice and that people should not over regulate the legislative body and that the courts and ballot boxes are available for people to address any concerns they have with respect to any conduct which did or did not occur outside of the Commission's chambers; Mr. Tritt mentioned there is a 30 year history of the Commission attacking the public, but what one person may consider an attack, another may think it is perfectly acceptable; if there is a 30 year history of attacking the public, then does that mean that for 30 years there should have been people censured and punished for what they have done; and he asked if things were really that egregious and what it was. He continued Ms. Castellana mentioned there was obvious attempt to squelch dissent through fear; Mr. Patel mentioned and he has continuously criticized there being a lack of context in accusations; there is a piece of a quote totally out of context often times and that is another example; however, he has never discouraged anyone from speaking. He added if anyone wants to speak they are welcome to come, speak, and say whatever they want as long as they are not threatening to plow something up or burn a building down; he does not have to agree with it, but he does respect the opinions of others; and he mentioned he has had family members that were in the military and he has current active-duty in-laws.

Commissioner Tobia asked Sheriff Ivey to come back to the microphone. He inquired if Sheriff Ivey has any concern with a citizen referring to one of his deputies as a racist.

Sheriff Ivey noted if someone brought it to his attention that he or she thought one of his deputies was a racist he would certainly look into it.

Commissioner Tobia inquired if he considers that serious.

Sheriff Ivey responded absolutely.

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Commissioner Tobia asked if he would consider it more serious if one of his deputies referred to a citizen as a racist or would he respect that as his or hers First Amendment right.

Sheriff Ivey responded it is certainly their First Amendment right to say it, but in his business, they do not say things or report things that do not have some valid nature to it.

Commissioner Tobia inquired if as a leader of a large well-respected organization, what he would do if one of his deputies referred to a constituent as a racist and there was no cause for it; and he asked if he would respect his or her First Amendment right or if he would take action to alleviate that from happening again.

Sheriff Ivey stated if anything else that someone brings to his attention, it would be thoroughly looked into and investigated through staff services to determine if it violated any policies or laws, and all of those details would have to be provided.

Chair Isnardi stated she had a similar conversation with Sheriff Ivey where there was someone complaining about one of his deputies, someone who has a very big opinion and he said some really off-color things or questionable things, and the Sheriff's Office determined that he had a right to his opinion even if people did not agree with it; and she inquired if the deputies was criticizing another elected official.

Sheriff Ivey responded affirmatively.

Chair Isnardi inquired was it officially investigated.

Sheriff Ivey advised his Staff Services thoroughly looked into it, and in the end, the deputy had a right to say it.

Chair Isnardi advised for the record, it was not one of the Board members. She stated she thought that was interesting that Commissioner Tobia asked that but she thinks it is a difficult comparison because the deputies are employed to enforce the law with the power to arrest and the power to enforce the law.

Commissioner Lober stated Commissioner Tobia asked him what would happen if one of his deputies called someone a racist and there was no cause; he asked what if one of the deputies called someone a racist and that someone posted online he or she did not want to see two individuals of a particular ethnicity in gender on the ballot; and he asked if that might factor into the decision whether or not that was appropriate.

Sheriff Ivey stated it would investigate thoroughly, they do not take one side or the other, they look at all the facts and circumstances then evaluate if there was a policy violation.

Commissioner Tobia inquired if Sheriff Ivey has any manuals or policies that deputies must follow of decorum that place them above that of a regular citizen, whether it be the way they handle themselves with the uniform or anything like that.

Sheriff Ivey stated there are policies that govern how the deputies control or handle themselves; there are policies when looking at someone on their social media sites; and they would investigate, if someone brought something to their attention. He noted his deputies have a right to be on social media and to express their opinions, however if there were to do something that violates policy then they are investigated.

Commissioner Tobia stated he understands this would only deal with them while uniformed; and he asked if any one of his deputies, while acting in their official capacity, used intimidation to get

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a desired result.

Sheriff Ivey replied he thinks there are some in the room that would argue just ones presence in uniform is intimidating, therefore, he is not sure that would be a valid question.

Commissioner Tobia commented he agrees because anyone that would come to the podium and ask for a fee increase to bust the cap certainly does have a bit of intimidation certainly with the members of the Board.

Sheriff Ivey responded that same person also manages an agency that constantly responds to calls for assistance.

Commissioner Lober inquired when Commissioner Tobia asked a question about a hypothetical about using intimidation to receive a desired result, have there been any instances that he is aware of in the past two years that anyone sitting at the dais has used intimidation to get a desired result and if so he asked Commissioner Tobia to articulate with specificity what those might have been.

Commissioner Tobia noted this is a policy that weighs out some level of decorum; his goal is very simple, there is no rule for a guy to open doors for women but it is a common courtesy; there is rule to take a hat off when entering a building, but it is common courtesy; and he knows this is going to go down a rabbit hole when it gets into the legal realm and he believes of the Board Members on the dais that Commissioner Lober is the smartest in that realm, but if he thinks asking the Board to intentionally intimidate constituents is just too much, his understanding is, should this pass, that he has a right to free speech and the courthouse is located 100 yards from here so he could certainly file in Circuit and Federal Court saying his rights were infringed. He commented he looked up the Florida Bar guidelines for professional conduct and it says, "A lawyer always should interact with parties, counsels, witnesses, jurors, prospective jurors, court personnel with courtesy and civility, and should avoid undignified discourteous conduct that is degrading to the court or the proceedings;" and he asked if Commissioner Lober went into Judge Davidson's courtroom and called her a racist or a bigot does he believe it would be violating his First Amendment rights for that conduct or would he believe that is the basis of an ethical complaint or another action.

Commissioner Lober stated he would be happy to answer that once Commissioner Tobia answers the question he asked him; and he noted the question he asked Commissioner Tobia is to provide specific examples of when anyone on the dais in the past two years intimidated anyone lacking in their official capacity.

Commissioner Tobia stated when Commissioner Lober threatens somebody's employment and that has been made mention of, but this policy does not deal with anything outside, only what happens in the chambers; this policy was not commenting on any of the comments that were made online with social media, it is dealing purely what is said on the dais; that was made mention of here by an individual; and she mentioned that she felt intimidated by that fact. He went on to say this would seek to solve that because it did not take place at this Board.

Commissioner Lober stated this is the third and last time he is going to ask Commissioner Tobia for a response to what he actually asked him whether there was any specific example of intimidation by anyone on the dais in the past two years, while acting in their official capacity.

Commissioner Tobia responded no.

Commissioner Lober stated in terms of the example provided by Commissioner Tobia, obviously it will be fact dependent, however attorneys while acting in their capacity as counsel have

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different obligations which are imposed upon them just like the Sheriff's deputies and members of the military do; if someone is concerned with what he has done as his capacity as an attorney or as a member of the Florida Bar, he knows many folks in this room have been actively encouraging individuals to grieve him to the Florida Bar which is the regulatory authority that essentially oversees complaints pertaining to attorneys; and the nice thing is with the Florida Bar they will not even send him a copy of it if it is a frivolous complaint. He noted he has not received copies of anything so whatever anyone may have sent in has been shredded; if anyone wants to send more frivolous complaints and have more taxpayer money going to fund the Florida Bar with nonsense, then to go ahead and send it in; and he advised it is impossible to answer Commissioner Tobia's question without more specific facts. He went on to say he would not think it is appropriate to call any judge a racist in court unless the judge made some racial pejorative reference; if the judge said something along the lines of what the individual said, out of context of the Commission on Facebook, he does not know whether it would be appropriate or not; and it may be a case of first impressions taken up because he does not believe any judge would be stupid enough to say anything like that.

Chair Isnardi asked if there was anything else.

Commissioner Lober advised he has some questions and asked for some latitude to go over them with the County Attorney because it is going to take a few minutes.

Chair Isnardi allowed Commissioner Lober to continue.

Commissioner Lober stated that on July 17, Ms. Martin posted in pertinent part on Facebook, "The current ordinance deals with decorum and civility in public meetings, it is just a restatement of what the law already says, and the main benefits of codifying this valance is 1). To educate the Commissioners" and it goes on and states, "2). Prevent unnecessary waste of taxpayer funds for having to defend lawsuits when Commissioners unwittingly or intentionally cross the line and create a hostile environment for dissenting voices." He noted it would willingly be fact dependent; and he asked if the County Attorney, Eden Bentley, would be surprised to see potential meritorious law suits filed against the County based on the enforcement of the proposed ordinance.

Eden Bentley, County Attorney, stated the proposal addresses speech; speech entails First Amendment issues; and when dealing with First Amendment issues there is always a balancing test. She continued the application of the rule to the facts is what can produce litigation.

Commissioner Lober inquired there is a potential for legal challenges on any ordinance, is there not.

Attorney Bentley responded affirmatively.

Commissioner Lober asked if Attorney Bentley believes there is a greater likelihood of lawsuits resulting from this specific ordinance than from other ordinances due at least in part that it deals with restricting speech.

Attorney Bentley stated it is a balancing test so it probably will lead to more litigation than some other ordinances, the County has ordinances litigated every day.

Commissioner Lober inquired if she could say whether the County would be successful in defending these potential challenges.

Attorney Bentley responded she could not, that would be a fact dependent issue.

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Commissioner Lober asked if it is accurate, as Ms. Martin had stated in writing that the current ordinance restates, "What the law already says."

Attorney Bentley responded not exactly because this proposal includes censure provisions that do not already exist.

Commissioner Lober asked the truth is that this goes beyond the existing law does it not.

Attorney Bentley noted it adds provisions.

Commissioner Lober asked if she agrees that the proposed ordinance restricts speech beyond what is currently in place at least insofar as it more severely penalizes speakers found in violation.

Attorney Bentley stated it provides censure provisions.

Commissioner Lober noted Ms. Martin stated this ordinance prohibits illegal conduct; and he asked if that is what the ordinance does.

Attorney Bentley explained it proposes to address an orderly and efficient Board Meeting; however, it is in Roberts Rules and in the Rules of Procedure.

Commissioner Lober stated while he understands that the County Attorney's Office may well have worked on the 2017 proposal that referenced, understanding that she most likely reviewed the current ordinance, he asked if she or anyone in her office wrote this specific proposed ordinance.

Attorney Bentley commented no, but they did do the draft in 2017.

Commissioner Lober asked in terms of the Agenda Item it is not a staff driven item is it.

Attorney Bentley responded it is not.

Commissioner Lober stated assuming the County Attorney presented at some point with such an item that she did not draft and did not necessarily approve of or agree with, her goal as County Attorney would have been to make suggestions for legality.

Attorney Bentley stated that is correct.

Commissioner Lober asked if the County Attorney could force any such suggestions on the Commissioner who asked for her opinion.

Attorney Bentley responded no.

Commissioner Lober stated he has some questions dealing with constitutionality and potential civil liability; this past week he provided her with some federal case law; and he asked if she had a chance to review the opinion in the federal case of Norse versus the City of Santa Cruz.

Attorney Bentley responded she has.

Commissioner Lober asked if that case dealt with the constitutionality of the enforcement of Rules of Decorum promulgated by a City council.

Attorney Bentley responded in the affirmative.

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Commissioner Lober inquired if he is correct in stating the Norse case dealt with the First Amendment challenge to the enforcement of those Rules of Decorum promulgated by a local governmental body.

Attorney Bentley responded in the affirmative.

Commissioner Lober asked if it is true that the Norse case stands at least in part for the proposition that regulation of speech by a local governmental body must not only be "view point neutral" but that it must also be "enforced that way" in order to be lawful.

Attorney Bentley advised the language is in the case.

Commissioner Lober noted the Norse case goes on and it states the "usual rule" is the governmental bodies may not prescribe the form or content of individual expression; and he asked if that is correct.

Attorney Bentley responded yes.

Commissioner Lober stated there is case law that exists indicating that "an undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression;" and he asked if that is correct.

Attorney Bentley responded that language is in the case.

Commissioner Lober mentioned while there is an ongoing litigation right now over what constitutes an actual disturbance, the federal court system has made it clear that the required threshold is one of actually disturbing or impeding a meeting; and he asked if that is a correct statement.

Attorney Bentley advised that was issued in the Norse case.

Commissioner Lober asked if there is case law indicating that it is prohibited to penalize a speaker in the instance case by ejecting a meeting attendee for destructive disruption, technical disruption, virtual disruption, nunc pro tunc disruption, or imaginary disruption.

Attorney Bentley again responded that language is in the case.

Commissioner Lober asked if there is a clear, bright line in where these various types of disruptions become actual disruptions or is this reliant upon a fact dependent analysis.

Attorney Bentley explained it is a fact dependent analysis.

Commissioner Lober stated there is not a bright line rule, to be perfectly clear.

Attorney Bentley advised no, First Amendment cases involve a balancing test, which inherently is not a bright line.

Commissioner Lober commented he now wants to talk about an example that most folks would likely think could be lawfully prohibited, even abhorrent conduct, such as one making a Nazi salute during a local governmental meeting, is in itself legally insufficient in justifying kicking that individual out of the meeting; and he asked if that is correct.

Attorney Bentley advised that was the ruling in the Norse case.

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Commissioner Lober inquired with that said, if tailored narrowly would it serve a significant governmental interest for content neutral regulations.

Attorney Bentley advised that is the language of the case law.

Commissioner Lober asked in regulation of content itself if it requires a higher threshold, a compelling governmental interest.

Attorney Bentley noted that is correct.

Commissioner Lober stated he would like to call people's attention to the US Supreme Court case of *Cohen v. California*; the US Supreme Court held that "The mere presumed presence of unwitting-less news reviewers does not serve automatically to justify curtailing all speech capable of giving the fence;" and he asked if that matches Attorney Bentley's understanding.

Attorney Bentley noted yes that language is in the case.

Commissioner Lober advised the US Supreme Court also expressed serious concern that a broad view of any authority to limit speech "would effectively empower a majority to silence dissidence simply as a matter of personal predilections;" and he asked if that is correct.

Attorney Bentley agreed.

Commissioner Lober stated a recent news article indicated Commissioner Tobia proposed disallowing any speaker from labeling another individual, "pejoratively including but not limited to applying labels such as racist, bigot, sexist, criminal, or evil, while these words appear to have been removed in the revision now being considered, he asked if the County Attorney would agree that this initial proposal by Commissioner Tobia and Ms. Martin would be objectively unconstitutional because with the rare exception as the Sheriff mentioned, it is impermissible to regulate specific words.

Attorney Bentley noted she recommended removal of that language.

Commissioner Lober commented going back to the *Cohen* case, it expressed that "governments might soon seize upon the censorship of particular words as they convenience guys for banning the expression of unpopular views." He inquired if that is correct.

Attorney Bentley commented that is a quote from the case.

Commissioner Lober went on to say while the specific language of the proposal has changed over the past several days, if the proposal was passed as it is currently worded, he asked would the County Attorney agree that the manner in which this proposed ordinance is applied may result in the County having to expend taxpayer funds fighting First Amendment challenges.

Attorney Bentley noted there could be, as applied, questions that could lead to litigation, as with all ordinances.

Commissioner Lober asked if the County Attorney believes that individual Commissioners would likely interpret the operative portion of the ordinance.

Attorney Bentley responded the Board has to make a determination; and she noted there is always this situation where there is the law, the rule, the facts, and the application of the law to the facts in every case.

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Commissioner Lober asked so essentially this is no different in that it requires subjectivity.

Attorney Bentley explained it requires application of an analysis.

Commissioner Lober asked if the ordinance passed as currently worded, would Attorney Bentley have any concerns of the constitutionality of how the ordinance may be applied by either future or present Commissioners.

Attorney Bentley stated she thinks that will be the test.

Commissioner Lober asked for an explanation.

Attorney Bentley explained that is how First Amendment cases operate; if someone has content neutral provisions, it can still be misapplied in the future; that is what she thinks would be the challenge; and she thinks this is facially constitutional but the application of the law in the future would be the question.

Commissioner Lober asked if under the proposed ordinance punishes a Commissioner for merely defending himself or herself by responding to defamatory comments made during Public Comment.

Attorney Bentley advised if the Board found that it was not serving a legitimate public purpose under the ordinance, then yes.

Commissioner Lober asked which is possible the way the ordinance is drafted.

Attorney Bentley replied yes possibly.

Commissioner Lober inquired if she believes the ordinance contemplates calling a point of order.

Attorney Bentley stated there is a reference to the point of order in the censure section.

Commissioner Lober inquired if the text of the proposed ordinance talks about a speaker failing to come to order, the fact is there is no explicit requirement calling for 'point of order' or to warn a speaker.

Attorney Bentley explained there is no explicit requirement.

Commissioner Lober asked absent reviewing line by line minutes from prior Commission meetings during the preceding two years, if there has been any specific conduct by any Commissioners which stand out in her mind, in which this proposal if had been actually in effect, that conduct would have been clearly barred as a result of the ordinance.

Attorney Bentley advised she does not think she has been to all the meetings in the past two years, but she explained even if she had, it is hypothetical if an ordinance had been in place and what the Members of the Board, whom have been different over the past two years, what they would have done, so she cannot answer that question.

Commissioner Lober stated he presumes based upon that, she could not say that would have accomplished anything in the past couple of years.

Attorney Bentley responded she does not know.

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Commissioner Lober inquired if it is clear where to draw the line in terms of which particular commentary is acceptable and unacceptable within the proposed ordinance.

Attorney Bentley responded it will be a Board decision based on the facts presented.

Commissioner Lober inquired if he gave her particular and fact specific hypothetical fact pattern, would she be able to tell him to a reasonable degree of legal certainty where the County would be subject to liability for enforcement under those circumstances.

Attorney Bentley stated it is going to be fact dependent; and she would have to wait and see what happened in the situation that arose.

Commissioner Lober inquired if Attorney Bentley agreed that in all likelihood the answer is unknown because there is a number of gray areas.

Attorney Bentley responded affirmatively.

Commissioner Lober stated judges are somewhat different in their views of the facts, including Judge Davidson; it is impossible to predict the assigned judge to a case prior to filing a suit; and he asked if she agrees with that.

Attorney Bentley replied yes.

Commissioner Lober noted he wants to shift a little more towards potential liability exposure; and he asked if Attorney Bentley could tell him whether or not Commissioners could or would as a result of enforcing this particular ordinance be subject to individual liability for depriving someone of civil rights under US Code, Chapter 19.83.

Attorney Bentley answered she probably could not; 1983 is the provision that was used in the First Amendment cases; this proposal does not seem to provide a punishment or censure that involves the limitation of the kinds of rights that lead to the 1983 judgments; this is an ejection, it is not a false arrest; and this is a censure that relates to Board actions at a later date and she does not think it is in a protective territory, but there are no cases on that.

Commissioner Lober asked if essentially it is an area where this would be a case of first impression.

Attorney Bentley agreed.

Commissioner Lober asked if the First Amendment right would temper the proposed ordinance if enforced.

Attorney Bentley responded affirmatively.

Commissioner Lober inquired despite representation of the misapplication of this proposed ordinance, could it serve to chill free speech.

Attorney Bentley commented she thinks that would be up to the Board Members.

Commissioner Lober asked if it is the hope of Attorney Bentley that this ordinance is not misapplied.

Attorney Bentley responded of course.

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Commissioner Lober stated in addition to concerns regarding what constitutes a "disruption," he is additionally concerned what constitutes government activity or related purpose may come into question; and he asked if there is a bright line rule regarding that.

Attorney Bentley responded there is not.

Commissioner Lober asked if the County Attorney could see the potential application of this ordinance and everything that would entail, resulting in lengthy discussions extending the already long meetings.

Attorney Bentley responded that is possible, it would depend on the Board.

Commissioner Lober questioned knowing the composition of the Commission, how likely is it that such discussions would be a quick five minutes; and he inquired if the Board should be for any reason be inclined to adopt a resolution of this sort, would it not be the best practice to allow the County Attorney's Office to address the constitutionality questions in the form of a written memorandum.

Attorney Bentley respond her office could do that.

Commissioner Lober advised he thinks Ms. Martin referenced to the fact that if she was encouraging staff to look at this and report back, which appears not done at this point, if any Commissioner asked Attorney Bentley to prepare any such memo on the constitutionality of the proposal.

Attorney Bentley responded she has not.

Commissioner Pritchett stated Mr. Nye missed something in that, she thinks what got her was someone saying Commissioner Tobia was a Democrat because sometimes Commissioner Tobia gives her a hard time with comments she makes; she noted the Sheriff brought up a good point, if the Board does this, it is trying to decide who is making the decision on this; she really believes in civility; the other place she works, if anyone even cusses they are out; and she asked how this is going to be lined up because if she gets to be queen then does it make it her rules. She continued everybody has different opinions and ideas of what is okay and what is not; it is not that she does not think some things have probably crossed the line of where anything should go; she believes the Board is starting to make some changes in that; she sees a lot of hope moving forward; however, she thinks everybody thinks there needs to be civility but the question is how to get to that path. She noted the Board may be able to get there in this place; sometimes there have been some problems; she thinks the Board is going to have to provide more by the Roberts Rules of Order; Board Members talk over the Chair many times and that should not happen; the Board needs to do better than that and questions need to be directed to the Chair; and she believes the Board needs to get back into that format. She noted there needs to be respect for people to have free speech and be able to say what they want to say without being booed or applauded when they speak; as the Sheriff mentioned there is just some things that should not be said; people have the freedom to say it, but they also have the freedom to pay the penalty for what they said; and the Board is going to have to weigh that. She went on to say she cannot control social media; it is a mess and she does not know how people are on it so much and do the things they do; her personal thing with her staff is they are not allowed to do any politics on it, as a personal policy; nothing gets accomplished there, plus it is not open to everybody so it is really not free speech and free comment; and she is just throwing that out to other Commissioners that maybe that is something the Board should implement so the public has the ability to come speak on things and the Board is not doing things on social media that are being published. She stated since she has been watching County Meetings, this has always been an issue; a year and a half ago there was some stuff going on where the

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public was showing up because of some of the things Commissioners were saying and doing; some of the election cards that go out on other Commissioners from other Commissioners; this is not new, it is out there; she hopes she does not get some of that slammed on her next time, she will not do it, but people have the freedom to do it; and she does not think it is okay to do these types of things. She added her personal policy is not to vote for anybody who slams someone else; she will not vote for anybody who has to make somebody else look worse to make themselves look better; and that is just her personal opinion. She noted she cannot implement that everywhere because everyone has his or her freedom to say whatever and as the Sheriff asked, who is going to be the judge of these things; she is mature enough to know that should not be her because she is in the position to make policy and not judging those types of items; she understands Commissioner Tobia bringing this forward because it is wearing; and she personally does not want to keep doing these things in a County Boardroom, she wants to do County business. She advised this has taken hours and hours; she cannot imagine the cost on staff and all of the Board Members in trying to do this; she does want to get to a place where this is not being done any longer; and she asked the Board to respect Roberts Rules of Order and to make an agreement that it will not be doing politics on social media. She mentioned she just does not think this is the format to do it; she thinks that would solve a lot of this; Roberts Rules of Order covers this; and she is probably going to be throwing the phrase "Point of Order" out there a little more. She advised she hears everyone and she respects everyone's opinions; but she thinks moving forward the Board needs to start enforcing the Policy as far as the Commission Chambers; as it was pointed out by audience members, eventually things end up where they need to be as far as what the public wants and needs; and that she has to respect.

Commissioner Tobia stated Commissioner Lober brought up a lot of potential legal issues that could happen; he trust they are all correct, they are certainly over his limited intellect; and he asked for all this to happen, his understanding is there would need to be an individual who would have standing, and he asked who the individuals would be, to have standing in these cases.

Attorney Bentley responded it would be the individual censured.

Commissioner Tobia stated his understanding is it has to be a Board Member.

Attorney Bentley stated that is correct.

Commissioner Tobia inquired if the County Attorney would feel comfortable defending this factual constitutional ordinance, in good faith.

Attorney Bentley responded she believes it is facially constitutional.

Commissioner Smith stated the reference to the green hair made by Commissioner Pritchett was during the last election cycle, his opponent did everything they could to demean him, trash him, lie about him and everything else; and he advised he did not have green hair it was an opponent trying to make him look bad. He advised there is a civility pledge and that was courtesy of Commissioner Pritchett from when she was the Chair; as had been mentioned, he had brought up a similar civility ordinance in the past for comments Commissioner Tobia had made regarding Carol McCormack and calling her a criminal and other things that he did not care for; he thought something had to be done about it; he mentioned the Ethics Commission has exonerated Mayor Carol McCormack of any criminal wrongdoing, so she is not a criminal; he had decided better of that policy because the Board has Roberts Rules of Order and if somebody wants to be disparaging and dismissive of the public or fellow Commissioners, then it is done at their own peril; and as someone else mentioned there is a ballot box in place; and he noted the Board has to do something because this cannot go on. He added this Commission has wasted a better part of two hours on this issue; he has been on the Board for five and half

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years and before Commissioner Lober took office, the meetings were three to four hours long, but a lot of work was done; and since Commissioner Lober has been in office this Board has spent a lot of time on Commissioner Lober on topics that have nothing to do with County business, so the meetings end up being five or six hours long. He went on to say Brevard County has an awful lot going for it, it has the Spaceport, the zoo, the beaches, USSSA, and hundreds of thousands who visit this County, it is a very special place; nationally this County is known for discouraging remarks made by Commissioner Lober; he even made the papers in Washington D.C.; he thinks the Board should be talking about the positive things in Brevard County; and the questions is what to do about Commissioner Lober. He commented he personally thinks there are policies in place and he is going to introduce a new policy to his fellow Commissioners; he sat with the County Attorney and that office came up with some wording that he thinks gives the Board some direction to follow; the Board has to make a decision on what it is going to do whether it be nothing and it just relies on the Chair to run the meetings efficiently, which he thinks is particularly the best way to handle it; he noted that Commissioner Lober was dually elected and if he wants to say whatever he wants to say on Facebook, abhorrent as he thinks some of those things he says are, that is on him but unfortunately it also reflects on the other Commissioners because people in the community do not differentiate between him and the rest of the Board; and he knows this because when he is out in public, people have asked him what is wrong with the Commission. He noted he thinks the Board needs to tighten up the rules it already has; if the Board thinks a fellow Commissioner should be censured because he or she reflects badly on the rest of the Board, he has heard it said that Commissioner Lober can do anything he wants on his own time, but he believes being a Commissioner he is always a Commissioner; he thinks when he steps down from being a Commissioner he can say whatever he wants on social media and no one will care; he thinks Commissioner Lober is entitled to say what he wants but he is also entitled to suffer the consequences; and his issue is the consequences coming down on the entire Board.

Commissioner Lober asked Commissioner Smith if he thought calling a dually elected State Representative short-sided and long-winded was appropriate and would he willingly censure him or her if it was a Commissioner.

Commissioner Smith stated not if it was true; it was true; and it is still true.

Commissioner Lober asked if that is a subjective matter.

Commissioner Smith responded affirmatively.

Commissioner Lober asked if Commissioner Smith would be willing to censure someone who called out an individual who made a blatantly racist and sexist post.

Commissioner Smith stated he would not call Commissioner Lober out for that, but he would censure him for trying to intimidate someone's employer because that is totally out of bounds.

Commissioner Lober stated he agrees with Commissioner Smith on that; he would like to know what employer he supposedly intimidated because someone did come to the podium and lied about her employment; and who also on record at the last meeting lied about him being in opposition with Ms. Martin at some point. He advised that individual was not intimidated, that individual used profanity against him. He commented he is going to read a quote from Scott Ellis that he wrote on Facebook; and he read, "The entire positive momentum of the new County Commission has been ground to a halt arguing over nothing. The only thing missing in this ordinance are trigger warnings and safe spaces." He went on to say given that this proposed ordinance can only serve to unconstitutionally be applied, he is not worried about the constitutionality of it facially, it is the application of it that he has concerns with and addressed with the County Attorney, given that it can only serve to unconstitutionally restrict speech and

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therefore result in civil liability for the County and potentially individual Commissioners, it is dangerous; and in reality the proposed ordinance has little to do with civility in meetings and thankfully that has come out today. He added its greatest champions including Ms. Martin and Commissioner Tobia have been quoted so as to indicate that the next step is restricting free speech outside of the County Commission chambers; that is in *Florida TODAY*, on Facebook, it is everywhere; for those who believe that elected officials should be held to a higher standard outside of Commission chambers, he asked what about his Second Amendment right to carry a firearm, if his First Amendment rights as a private citizen can be restricted can his Second Amendment rights also be restricted; he asked what about his Fifth Amendment right and what about others, what groups will be gone after next; and he noted it may not be a big issue because it does not affect others just yet, but it will be a huge issue when it is applied the other way around. He mentioned given that this proposed ordinance, had it been in effect two years ago, it would not have necessarily prohibited anything that has occurred, then why is it needed; given that this proposed ordinance is so ungodly subjective, is to be subject to the whims of particular Commissioners, what good can it do; a particular concern is the County Attorney hopes this particular ordinance will not be misapplied; and while he commends her for hoping that, she would not have to hope it was not misapplied if it was not drafted in such a vague and subjective in its application. He stated this strikes him as a feel good proposal designed to essentially satisfy an angry mob that does not represent a majority of the community; these are folks that represent a small sunset; and it will unquestionably lead to lawsuits and the County may well lose those lawsuits costing taxpayers not only their freedoms but actual money. He went on to say there are ongoing lawsuits right now dealing with what constitutes disruption; no one even knows what the courts are going to rule in terms of those suits yet; but there is a push despite this unsettled case law to adopt an ordinance that is going to put the County right in the middle of that and cost the County money; the County runs the very real risk of trampling one of the most cherished freedoms and one of the most cherished rights that has been at the very core of American freedom for hundreds of years; and being sued for doing it costing taxpayers money. He noted many of those who came to speak today supporting the measure are the least civil of all speakers who come before the Commission; anything he may have even thought of pales in comparison of what they have written and may have said; if this is passed, do not be surprised to see the Constitution turn into essentially one-ply toilet paper, the very first time it is applied; this is perhaps the least patriotic, least libertarian, least conservative item he has ever seen proposed by any official in the history of the County; and he was debating whether to find this funny or to be horrified that there is essentially an offer to teach Commissioner Tobia the secret handshake of the other party, but that is very telling. He went on to say this is not merely dangerous, it is an existential threat to the liberties of all as it opens the door for more, and it was already said they will go for more so it is not merely a hypothetical; it has already been said that there is a push for additional restrictions outside of the County Commission chambers; and he asked his colleagues to vote against this for a variety of reasons and at a dead minimum he would ask that it be tabled pending the drafting dissemination of a memo from the County Attorney's Office addressing the constitutionality of the application of this particular item otherwise there is going to spending of taxpayers' dollars defending against having trampled on the people's rights.

Chair Isnardi stated this is a policy in search of a problem; aside from the fact that the Board has Roberts Rules of Order, and the Board does its best to maintain it, there is always dissent; she is accountable to the people who voted to elect or not elect her to be in office; while she thinks it is cute that the Board Members want to be accountable to each other, she would hope that the Board is respectful to one another, but ultimately she does not want to be at the mercy of whether or not people decide that they agree with her policy or people agree whether or not her items have to do with County business; and she believes there is too much subjectivity and she does not feel comfortable supporting something based on someone else's ethical and moral or pejoratively whether someone decides something is County business or worthy of discussion. She admitted she thinks this is dangerous; she thinks it is very telling when the person that

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helped craft the ordinance with Commissioner Tobia had stated this is not political and in the second sentence says she is putting on her Democratic hat and asking the Board not to pass it because it will work for the Democratic favor; that should tell people where this is being driven from; she does not condone what Commissioner Lober does on his time on social media; would she have said it, no; but he is accountable to his voters; there are things in place to remedy his behavior; and there is an Ethics Commission so if someone deems they have cause to file an ethics complaint then he or she should do it. She went on to say if he violated the law then he will be accountable for that; she is not his judge and jury nor is she his mother and she does not pretend to be; she thinks if the County tries to subjectively decide on whether or not somebody's behavior is acceptable, that puts this Board in a rough position; she asked who is going to defend if there is a censure; if there is a censure based on this new, crazy policy, and Commissioner Lober decides to challenge the censure, she asked if the County would be responsible for the legal fees based on a policy the Board put in place; and she thinks it probably would because Commissioner Lober is an attorney and she thinks he would probably know how to correctly word that in a lawsuit or at least have a legal standing on whether or not the County should be responsible. She mentioned the Board Members are all adults and accountable to their voters; she has seen people not get re-elected based on their behavior; she has seen people do wonderful things and get re-elected overwhelmingly; and she has seen Commissions of past, do some very vicious things on the dais and nobody said anything, the public did not come out crying that people were being mistreated. She noted she finds it kind of funny that the Commissioner who brought this forward has said some pretty horrible things to another Commissioner in the past and no one said anything; at least at the time, whether people agreed with him or not, it was his right to say it; it was up to the Commission then if they wanted to disagree with it, but it did not have the right to censure him; people say if the Board would just censure him, this would go away; however she knows it would not, not when the motivating factor is what Commissioner Lober was doing on his own time; he is always a Commissioner and always accountable to the people who elected him; and at the same time he did not violate the law. She commented she may not have liked what he said, many people do not like what he said, but he did not violate the law; if anyone wants to file an ethics complaint she would ask that they please do it; and she advised she is not going to play mommy because someone does not like Commissioner Lober. She noted she would not be supporting this because she believes it is in search of a problem that the Board does not need.

Commissioner Pritchett stated she agrees with Chair Isnardi; she looked at Commissioner Smith's handout and she believes it is just tightening up policy with Roberts Rules of Order; she thinks it is pretty good, it talks about running everything through the Chair; it talks about anyone bringing presentations the Chair should view it first before even bringing it to the Board; when she was the Chair she has one Commissioner send something that was personal and she sent it back telling the Commissioner no and it was not added to the Agenda; and she thinks the Commission, and she knows Commissioner Lober is new and still learning some of this stuff, needs to respect the Chair and allow her to do this. She went on to say she believes it will solve 100 percent of the problems on the dais; she agrees if Commissioner Lober is not breaking the law the Board cannot do anything; and she does not want to do anything because people have a right to say what say, and there is always cause and effect.

Commissioner Tobia stated it is quite clear that the majority of the Board is not in favor of this ordinance and he respects the will of the Board; he does not want to put anyone in a position where they feel they need to vote up or down; if anyone wants to bring it up in the future he will certainly be a thumbs up on it; the policy is a bit troubling to him though for a number of reasons; the ordinance he was looking at was looking at controlling the behavior of a Board that went sideways; however, the policy does not deal with the behavior of the Board it only deals with the behavior of the audience. He mentioned he respects the audience; he has never been called anything worse than a socialist, but he respects people's rights to be able to do that; in the policy there are some troubling things to him such as cutting five minutes of speech down to

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three minutes; and while there may be concerns for long meetings, he does not think the blame should be to anyone in the audience. He continued he thinks everyone should have the opportunity to speak, therefore, he does not think the Board should take an ordinance that looks at maintaining decorum of the Board and turn it into a policy that turns into controlling the audience; and he does not think everyone is conjoined on that and he hopes the Board would at least give the public the ability to see this before it is being voted on.

Commissioner Smith advised the Board he is not voting on it; he just wanted everyone to have it; and he is seeking the Boards input.

Commissioner Tobia stated many of the ideas in the policy he had in his first draft but then pulled them out to separate it; and he advised he would be amenable to looking at them but he would not want to decrease the participation of the audience.

Commissioner Pritchett stated she knows it has been a long day, but the things in there, the Board has already been doing; it was voted on two years ago; the Board already moved Public Comment to three minutes, and everything else has already been done other than the quasi-judicial; this is just tightening up policy on that; there is nothing different, it just added tightening up policy of Roberts Rules of Order, for the Board not to go off on rabbit trails with the speakers unless the Board goes through the Chair; if someone goes to the podium and makes a comment the Board is not allowed to just start bantering with the speaker, so it protects the speaker; she thinks the Board Members need to do a little better at that; and it also says to not get the conversation going with individual Commissioners because it does not end well. She added it is better to go through the Chair so everybody can have freedom of speech and have public comment; that is what Commissioner Smith did with the policy, he just tightened it up about how the Board interacts with the public which should have been rewritten two years ago; and she thinks that is most of the Board's problems in the chambers.

Commissioner Lober stated looking at Section IV, Subsection old f, new g, his only concern with that is that the Chair shall liberally permit response to inaccurate information; his concern goes back to limiting anyone's ability to express themselves he is fine having to go through the Chair, but he thinks there needs to be something incentivizing the Chair of suggesting it is incumbent beyond the Chair to allow inaccurate information to be rebutted; if that is in there, there is nothing that stands out to him to be a deal breaker; and he would in all likelihood be willing to support this.

Commissioner Tobia stated he is confused as far as the public policy on Section D, when he was in the legislature a strike-through generally means that is what the policy is right now and a strike through means it is being rid of; the underlining means that is what is being added; and he inquired if that is same policy here.

Attorney Bentley advised it is the same.

Commissioner Tobia pointed out he is correct, not the other Commissioner that five minutes is what is in policy right now; and he asked if that is a fair assessment.

Attorney Bentley advised that is correct in this policy but there is a Resolution with Board procedures and there is some confusion between when a card is put in for a Board Item and when a card is for Public Comment section designated as G. and K.; there have been multiple Chairs who have moved to limit the Agenda Items to three minutes; it has gone back and forth; this was in an effort to pull everything together and make it the same; however, if the Board wants a different time frame it is easily done.

Commissioner Tobia questioned if there is a Policy that says one thing and a Resolution that

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says something else.

Attorney Bentley affirmed it. She stated the Board always has the ability to lengthen or shorten.

Commissioner Lober stated in terms of the duration he does not care if it is three or five minutes; he does have a concern if there are differing times based upon someone coming before the Board in Public Comment versus Agenda Items; it just encourages people to game the system and go to the item where there is a greater allotment of time for; however, he thinks it ought to be standardized.

Chair Isnardi advised she thinks it has always been three and five minutes for quasi-judicial; a lot of times people will leave because they cannot sit here for seven hours; the three minutes is not to stifle discussion it is to give people a chance to speak before they have to leave it is in the interest to make sure people have the chance to speak; and otherwise she has cards where the people have already left. She explained a lot of what Commissioner Smith has brought forward this evening is language clarification; she obviously feels she made her position pretty clear; she does not want to do anything that will stifle debate, stifle discussion, or stifle the public or Commission; and she mentioned if someone were to bring something forward and it meets the criteria, not just to make sure the meeting is in order, then she does not have a problem with it, she just does not want to give the perception of doing anything that is going to stifle open and free debate. She inquired what Commissioner Tobia was planning on doing with this Item.

Commissioner Tobia advised it is very clear that the votes are not on this one; and he does not want to put anyone in the position to have to vote on the record for this one.

The Board considered and discussed legislative intent and permission to advertise a civility ordinance and a policy, which addresses civility and decorum, but took no formal action.

\*The Board recessed at 12:53 p.m. and reconvened at 1:12 p.m.

#### **ITEM J.1., APPROVAL AND RESOLUTION TO TERMINATE INCENTIVE AGREEMENT AND APPROVE SALE OF INDUSTRIAL PROPERTY**

Troy Post, North Brevard Economic Development Zone (NBEDZ) Director, stated he is requesting the adoption of a resolution that will do two things; it will terminate an economic incentive agreement that they have with Project Eagle; it also asks the Board to approve the sale of a piece of property in Spaceport Commerce Park which is located in Titusville, to Project Eagle per a ground lease that was executed back in 2015; back in 2015 there was a project brought to them by the State; they worked with the EDC and created an economic development incentive package to attract them; the project which was called Eagle at the time was later found out to be Embraer; and they were doing a seating manufacturing purchase, a company that exists on the West Coast. He continued the intent of the company at that time was they were looking to either expand in their California location or maybe moving to an adjoining state out west; Governor Rick Scott really wanted the DEO and local partners to try to recruit the company to move the operations here; that was the incentive which asked for two different things, one was to provide \$2.2 million in economic assistant grants to help defray the cost of the building; and then there would be a provision of a piece of land, a 15 acre site, in the Commerce Park which they have prepared to rough grade and the company would then take it over from there and finish doing site activities and build the facilities. He went on to say they were able to extend the first part of this assistance to the company which was \$1.1 million; once they were able to finish their site preparation activities and pour the pad for what they thought was going to be one building, and ended up being two buildings on the site; an additional \$550,000 was provided to the company once they finished the building and had it certified

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according to the Building Code standards in Titusville; and at this point they have extended to the company \$1.65 million. He mentioned the company has only created about 50 jobs, but recently he received word from the company that they would like to terminate the agreement; he talked with the County Attorney's Office and it was suggested if they did that it would be appropriate to have a written agreement that would be executed by the parties to protect the County so there would not be any further claim for the additional monies which could be due to the company if they were to create jobs; and before the Board, is the termination agreement that would also result in the return of the \$1.65 to NBEDZ that has been extended at this point. He advised that money came from the tax increment fund that is allocated to NBEDZ to do its development plan; that money would come back to that fund and be repurposed according to what NBEDZ and the County Commission wanted to do; for the sale of the property, they have a ground lease, they would want to go ahead and exercise the option to purchase the property that is in the ground lease; they can do that at \$25,000 per acre for the 15 acre lot which is \$375,000; with that sale, the money would go into a separate account where they deposit money from the sale of property in the Commerce Park and it can be used to do improvements in the park.

Commissioner Tobia stated he will be voting for this and he appreciates that it will provide \$1.65 million being received back; however he thinks this shows that companies do not rely on grants to make major business decisions such as where to locate a facility or a factory; and he believes Brevard is good enough to attract companies like Embraer without the handouts that the County provides.

Commissioner Pritchett advised before Brevard County got Embraer, they were going to settle in California or Arizona; and without the incentives they would have gone there; she is really glad that they have put claw backs in place; they hit the 50 employee mark but they were not hitting the next one; she thinks they have a lot of interesting things going on and they are still very successful; and she is thankful that there are things in place so that money is returned if they do abide by the contract they agreed to. She went on to say she thinks this is wonderful and good government.

The Board adopted Resolution No. 19-118; approved and executed Termination Agreement between North Brevard Development District, Brevard County, Embraer Aircraft Holding, Inc., and Embraer Aero Seating Technologies, LLC (together referred to the Company) for economic incentive, permitting the sale of land in the County-owned Spaceport Commerce Park to the Company for \$375,000 in accordance with an option-to-purchase clause provided for in the ground lease agreement; and approved and executed Contract for Sale and Purchase and Addendum with Embraer Aero Seating Technologies, LLC.

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|------------------|---|
| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>SECONDER:</b> | Rita Pritchett, Commissioner District 1         |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

**ITEM J.2., BOARD DIRECTION, RE: BREVARD CULTURAL ALLIANCE CONTRACT WITH THE TOURISM DEVELOPMENT OFFICE FOR FISCAL YEAR 2019-20**

Commissioner Pritchett advised this could a lengthy conversation and she is requesting that it be tabled until August; at one of the meetings, the Board asked Brevard Cultural Alliance (BCA) to come back with a proposal; she thinks this is a little premature; and she thinks this should come back for the big discussion at that time.

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Commissioner Tobia asked if tabled what would the impacts be for the TDC.

Peter Crannis, Tourist Development Office Director, stated this Item is the 2019/2020 contract with Brevard Cultural Alliance (BCA) and the Tourist Development Office; it was based on the Tourist Development Council's (TDC) recommendation placing \$50,000 in the contract to provide to them; and at this point the budget has been submitted, but they could certainly make adjustments as there is plenty of time for that.

Commissioner Tobia inquired if the submitted budget had \$50,000 as a placeholder in it.

Frank Abbate, County Manager, stated that is correct; and he advised they used the recommendation they received from the TDC and the tentative budget proposal.

Commissioner Tobia noted his concern would be with the lack of a contract, none of the monies would be expended if the Board were to table this without the monies that have already been expended without a contract.

Mr. Abbate advised that would be for the next fiscal year, so if tabled there is still two months to get that contract in place.

Commissioner Lober pointed out he was inclined to go for Option 3 to modify the requirement for room numbers per BCA suggestion and then funding them if the TDC recommended level; obviously if there is something that comes up between now and when this comes back, that is essentially where he is at on this; and in all likelihood it is where he will remain.

Commissioner Tobia stated he has some duck tales that come off this.

Chair Isnardi inquired if this has to do with this specific Item or the tabling.

Commissioner Tobia stated this is dealing with the space issue the County has found itself in; and he inquired if the County Manager has received any requests for space at the Viera Government Center.

Frank Abbate, County Manager, advised he has.

Commissioner Tobia inquired if he could use the space currently used by the BCA for those purposes.

Mr. Abbate stated their current lease agreement is until September 30, 2020, but there is a 60-day provision in it; the request he received is one that was anticipating the Supervisor of Elections has a need for all three of the County's conference rooms from early spring of 2020 through the end of 2020 for the presidential primary election and all the elections in 2020; and they will be using the Florida Room, the Atlantic Room, and the Space Coast Room which basically provides no conference or meeting rooms like where the Citizen's Oversight Committee meets and a lot of other meetings occur. He noted if space were available the County could use it for that purpose; there is a part of the budget that has a proposal for six additional staff for Planning and Development; that will require a reconfiguration because they do not have the space over there for that; and those are the two outstanding needs they have right now that are the most pressing.

Commissioner Tobia stated the lease he was referring to was a nominal lease of \$1 for 2,728 square feet currently in the building; by a 4:1 vote the County has determined the property located at the Brevard County Government Center is not needed by the County; however it certainly sounds like that has changed; and when the Board does take up the BCA, it looks as

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though it will need to make a tough decision as to whether or not elections are more important, should more space not become available. He mentioned he will be bringing up the lease issue then; the second part is the fact that there is 70,000 in general revenue, and whether or not that can be repurposed outside of that BCA Contract; and while he will vote for tabling this, he hopes the Board will look at those two items when it come back before it.

Commissioner Lober stated he knows the State Department of Health (DOH) is in the process of moving out of the Merritt Island Service Complex so that will free up a tremendous amount of space; whether placing needed folks in Merritt Island or the BCA, he does not know that space is at such a premium at this point where the Board would really have to kick them out in order to accommodate someone else; and he thinks people can be accommodated in the Merritt Island building.

Mr. Abbate stated there is Guardian Ad Litem who will be consolidating and moving to Merritt Island so there will be additional space; the space in Merritt Island would not meet the Supervisors needs or the County's relative to the meeting space because they have televised meetings; it may meet BCA if that is something the Board wants him to be looking at; and he mentioned he does not have the specific numbers but he knows there is a substantial amount of space and all of it will not be needed by Guardian Ad Litem, so there will be opportunity for moving someone in there if that is something the Board wants him to look at.

Commissioner Lober stated if need be he would be happy to accommodate them if it is a necessary change, but he hopes it will not be.

Tom Powers stated he is on the TDC's Cultural Programs Committee; he is going to try to shed some light on why they have made major adjustments in the BCA's budget; this is a brief summary of the Tourist Development Tax provides for regarding cultural organizations; it goes for visual arts and performing arts and under those are the subcategories; and to keep himself honest he has provided a copy of the ordinance to the Board with the appropriate paragraph highlighted in blue; but more importantly this graph shows the amount of money that was available from the tax this past year and it shows how that money was spent; and it shows over half of that money went to the BCA and the rest went to the TDC Committee in which he serves, as well as the TDC Marketing Program, and the Fun Guide. He explained the portion that went to the BCA, well over 50 percent of it was spent within the BCA where the purpose was to go to the arts; only 33 percent went to the arts as grants; he does not think if someone was putting money into a not for profit that 33 percent would be a good program percentage; and the amount of money that went to the committee he serves on eventually went to the arts 100 percent; they did not have any administrative cost at all; and the proposed budget shows they have greatly reduced the money going to the BCA primarily because they did not feel it was sufficient in getting the money to the arts. He mentioned it has been claimed that his committee is anti-art when in fact the diagram clearly shows the purpose of the new budget is to place more money into the arts rather than less; the budget to the arts increases by 100 percent; and his whole purpose is to justify the fact that they have reduced the BCA budget and the reasoning behind it.

The Board tabled consideration regarding contract and funding of the Brevard Cultural Alliance for Fiscal Year 2019-2020, to the August 20, 2019, Board meeting.

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

### **ITEM J.3., INFORMATION TECHNOLOGY SECURITY LIAISON**

Jeff McKnight, Information Technology (IT) Director, stated there have been a lot of data breaches that have gotten a lot of local and national attention recently; there has been desires to openly discuss what the Brevard County security measures are and what is being done to prevent this County from being the next victim; obviously he prefers not to discuss some things publicly so he spoke with the County Manager and the County Attorney to see what he could confidentially; however, statutorily there is no provision to allow that. He advised they have an Audit Committee; there is an audit company that does internal audits on the IT Department for security purposes; those audit findings are given to the Audit Committee chair only; after the findings are summarized, there is a meeting with the County Manager, the Audit Committee Chair, the Auditor, and himself where those findings are discussed; otherwise they are confidential and not subject to public record. He went on to say the desire for the Board to discuss this among themselves is a very difficult thing to do; he could discuss anything one on one and the County Manager could do that as well; this is a remedy to get around that so at least one Board Member could be privy to more details about this; and that is if the Board wants to appoint someone to participate in that meeting that occurs; and he advised that meetings is provided for statutorily.

Commissioner Lober inquired if all the Board Members have been briefed on what led to this Item being placed on the Agenda; and he noted he does not know if Mr. McKnight or Mr. Abbate have a preference in terms of who they would be inclined to have serve, but he is certainly inclined to work with them on this.

Mr. McKnight stated it is the Board's discretion.

Chair Isnardi stated she thinks Commissioner Lober just volunteered.

Commissioner Smith stated he thinks Commissioner Lober would be a great choice.

The Board appointed Commissioner Lober to serve as a security liaison between the Board and the County Manager's Office/Information Technology Department.

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

### **ITEM J.4., SYKES CREEK BRIDGE REPAIR**

Commissioner Lober stated Sykes Creek Bridge is still currently closed; the plans involve having a reopening no earlier than spring of 2021; it is objectively hurting the businesses that are out there; one has put in a speaker card and has gathered over 1,500 signatures encouraging the Board to do anything possible to get this expedited; and essentially he would

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like to draft one or more letters to the Legislative Delegation in Brevard County, Florida Department of Transportation (FDOT), and/or the Federal Emergency Management Agency (FEMA) to encourage the reopening process be expedited to whatever degree is possible so these constituents can get their businesses more accessible as they once were.

The Board authorized Commissioner Lober to draft and send one or more letters to the Brevard County Legislative Delegation, Florida Department of Transportation (FDOT), and/or Federal Emergency Management Agency (FEMA) in order to encourage that the reopening process of the Sykes Creek Bridge be expedited, to whatever degree is possible, so that the constituents can get their businesses more accessible.

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

**ITEM J.5., RESOLUTION FOR FINDING OF CRITICAL NEEDS, LAW ENFORCEMENT MUNICIPAL SERVICE TAXING UNIT**

Sheriff Ivey, Brevard County Sheriff's Office (BCSO), stated he knows the Board has the critical needs documents in front of them and has a chance to go over them; and he asked that the Board permit him to go over some of them specifically with a PowerPoint presentation.

Commissioner Tobia stated Resolution No. 14-219, Section 10.1, presentations are to be limited to no longer than five minutes and must be reviewed by the County production staff and the County Manager no less than 24 hours prior to the meeting; and he asked the County Manager if he has reviewed this presentation 24 hours prior to according to Policy 14-219.

Frank Abbate, County Manager, stated he had the opportunity to review it this morning, but not 24 hours ago.

Commissioner Tobia stated he would like to make a motion to waive Resolution No. 14-219, for the Sheriff.

The Board waived Policy 14-219, allowing the Sheriff to continue with his PowerPoint presentation without the County Manager having reviewed it 24 hours in advance.

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

Sheriff Ivey stated that everyone knows that he strongly believes that government's first responsibility is to protect its citizens and then as an elected official to be a good shepherd of the taxpayers' dollars; he would like to go over the operating costs of BCSO; they continue to operate as one of the lowest and cost efficient agencies in the Central Florida area; although the Sheriff's Office's calls for service have increased from 411,246 to 476,749 between 2014 and 2018 which is almost a 16 percent increase; and the crime rate has continued to plummet, since 2012 it has dropped 29 percent. He added he just received the latest statistics from the analyst team and for the first half of this year, they have seen another five percent reduction in the crime

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rate; and he thinks that is a great testament to the partnerships BCSO has created in the community, as well as to the partnerships they have created with the community, where the citizens are aware of how to prevent crime so that crime rate continues to go down. He went on to say this slide shows comparison of per capita for Polk, Seminole, Orange, Osceola, and Indian River Counties; BCSO operates much more efficiently than of the other agencies when compared per capita; he thinks the numbers speak very well of his team, the job that they do to make sure their being as efficient as possible in not only preparing the budget but administering it as well; on the operation side, the current slide shows how the jail operates and in the same comparisons, BCSO is considerably less per capita, per cost per taxpayer and still able to do the job with the 29 percent reduction in the crime rate with increased costs; and with a list of critical needs, he would like to go over some of those with the Board and give an explanation as to why they are so important to the agency and its continued success in protecting the citizens. He continued the first one is the attrition rate, as seen on the screen since January 2016, 226 sworn positions within his office have been vacated; 123 are actually or 54 percent of those have left due to retirement or to seek employment with other agencies with more competitive salaries; that turnover rate results in increased costs to the agency not only from the recruiting perspective but a training perspective and a continued education perspective of the retraining that the deputies are required to do, giving an increased investment of \$9,642 to each person BCSO loses; when they have to bring someone else in to facilitate the training to replace that person they are already sitting at that almost \$10,000 deficit; to a matter of point BCSO has not requested any increases to overtime funding, yet as a direct result of the deficiencies they have in their patrol members, they have to have increased overtime which is very taxing on the budget and it makes it difficult to get their job done; and according to the Brevard County Comprehensive Plan, BCSO shall have two deputies per 1,000 residents and currently there is a 60 deputy deficit of compliance within that Plan and design. He stated looking forward at the projections of 2020 and the population estimates, that deficit will grow to 80 deputies; the last time anyone stood before the Board and asked for an increase in deputy funding was in 2004, and it was for 32 deputies; on to school safety, everyone in the room is certainly aware of what took place at Parkland, the horrific nature of that incident and everything that happened as a result; the legislators went to work and issued mandates for the schools to be the safest schools in the country; the Statute mandates school security; and BCSO's partnership with the School Board is to make sure every student, teacher, visitor, and every faculty member on campus is safe and protected to the best of their abilities. He mentioned BCSO had 10 resource school deputies prior to the Parkland incident; as the school year starts there will be 40 school resource deputies on campus; he feels that was a great testament to the BCSO team in Human Resources and the recruiters as they are making sure to put the best of the best in the school campuses; he will not sit idly by and not let the school be protected; and he has made a commitment to make sure everybody is safe and the children are the most precious citizens. He continued the school reimbursement program fund is a portion of the financial impact, \$2,423,000 with an unfunded fiscal impact of just over \$1 million; that does not included the \$650,000 in associated equipment and vehicle costs which in itself is very taxing on the agency, but it is paramount that BCSO provide that service to the community; continuing with the BCSO need justification, is the fleet; there are currently 850 vehicles in the fleet and there is a deficit of 280 replacement vehicles due to funding availability; as a direct result, the utilization of high mileage and less reliable vehicles, the agency is experiencing significant cost increases in maintenance and repairs; and one example is they operate an inmate transportation to and from all three courthouses with Brevard County and they are currently doing that with a 1997 Bluebird bus, and it has an excess of 200,000 miles on it and they rely on it to get people to and from their court hearings, but also not wanting to break down on the side of the road which puts everybody at risk. He added they have to do something in that arena as well as the overall maintenance arena. He went on to say the tasers, one of their intermediate weapons, are carried by the deputies and sworn members and are a great tool for them that not only protect the deputies but also protect the citizens in their deployment in a lot different threat matrixes that BCSO has; as of today BCSO utilizes less lethal equipment commonly known as tasers, and

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there are currently 586 of them in operation; 75 percent of them are nine years of age or older and all of them are out of the five-year warranty and the replacement batteries and cartridges have been discontinued; and this recurring fiscal impact to replace them is \$412,544. He noted when he says it is a critical need he means it is an absolute vital need to the safety of the deputies and the safety of the citizens that the deputies are out there protecting each and every day; this is a must have, they can no longer be relied upon to work with the antiquated system they have; everyone who is aware of the benefits of an Automated External Defibrillator (AED), it is seen all too often where they are utilized to save someone's life; recently an athlete was saved with the use of an AED; the deputies carry them and there are currently 588 AEDs in operation; 90 percent of those are six years of age or older; all of them are out of the five year warranty; and the annual recurring physical impact to upgrade operate is \$32,000. He noted when he says something is out of warranty it is also lends to them being out of the ability for the organization or company to repair them or find parts for them and they are a very vital part of the job to protect the citizens. He pointed out on May 1, 2019, BCSO took off one of the biggest opioid organizations this County has ever seen; there were over 100 people arrested for distribution of opioids and in that one case alone, the BCSO team removed enough Fentanyl off the streets, if it was put into a single dose form it would have been enough to kill everyone in Brevard County; that is what his team is facing out there each and every day; in addition, they have to look at how they can help those who are addicted to the substance; when they consider how many times they have to deploy Narcan, it is an absolute tool to have; and the total recurring financial impact for BCSO is \$42,000. He mentioned there are 3,737 Brevard County jail inmates who during 2018 required medical treatment for opioid addiction, and the investigative cost relating to overdose deaths; in the last 24 months there have been 172 overdose deaths in Brevard County; Narcan is a vital tool for the deputies to carry; and unfortunately there is an associated cost with it, but he does not think anyone could put any type of price on saving people's lives. He stated as true fiscal partners with the Board he would like to commend the County Manager and the Budget Office Director for their work on the budget and working with him to make this happen, they have been great partners and BCSO tries to be great partners as well; BCSO is providing solutions and funding for critical operational capabilities, adequate space needs, infrastructure upgrades, and repair needs in the form of \$542,000 to almost \$737,000 annually since fiscal year 2007; that debt is for debt payments on the acquisition and construction of the North Precinct, the aviation hangar at the Merritt Island Airport, the purchase of the criminal investigations building, and most recently, the CAD/RMS/JMS System; the system they had prior to that was 25 years old and built in house, it was antiquated, and to say everything has a shelf live, its shelf live had long since expired; they were innovative working their then CFO, Greg Pelham, and the Chief Deputy who worked out a mechanism where they could get the new system, be able to work to support the citizens, and they have provided \$7.7 million in debt payments to the Board; and in trying to be good partners they do all of the labor using inmate labor with the work crews for the lawn care maintenance for all County Government Facilities which includes 28 properties, 362 acres, and it is done at no expense to the Board. He advised the annual Board savings for this is \$200,000 for that program BCSO facilitates. He went on to say an additional \$152,000 is required when BCSO is addressing a Parkway Complex Communication Center, a 800MHz radio tower that requires structural repair and upgrades; they have to have this as it allows for microwave connectivity to the 800MHz system; the generator that operates during the course of a power failure and also the dedicated data circuits; BCSO with Brevard County Fire Rescue (BCFR), also offers a very unique opportunity to share the IT servers and upgrade their Tiburon CAD system which is also at the end of its shelf life; the option was accepted by this Board, and allows for BCFR to upgrade to Tyler New World CAD platform bringing tremendous value to the operational effectiveness of the Fire Department; and that would not have been possible had BCSO not gotten the RMS CAD system and finding the funds to make that happen. He continued when looking across the board at the different things BCSO is paying for and trying to be innovative in funding, the different things they are trying to do in partnership, he thinks the Board will find, they are one of the few Constitutional Officers that does that and has the ability to do that; they

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continue to be good partners in the community; other critical needs that BCSO has identified are not in the critical need resolution, but are certainly things they have to have on their radar; the West Precinct with the anticipated growth of Viera is already bursting at the seams and they do not have any more space; originally they had more of that building but by the same measure the Public Defender was bursting at the seams so the County worked it out with them to make sure that they had more room and that they had what they needed at the time; and that worked for the time being but, with the growth of Viera, they will have to address a new West Precinct. He stated in the evidence unit, housed in Titusville, they will have to make accommodations; they have purged every piece of evidence they legally can and they are still bursting at the seams; it is also in the north end of the County at the Titusville complex so a deputy from the Palm Bay area, if going to court, would have to travel to Titusville to check out the evidence and drive back to as far as Melbourne, if that is where court was taking place and then drive back to Titusville to resubmit the evidence which is very taxing on the agency; the biggest concern is that they are bursting at the seams; BCSO utilizes the Brevard County radio 800MHz network for public safety communications; currently the agency operates 1,645 mobile, portable, and base station radios on the network; and he noted this network has been going through its own struggles and the major upgrades that will be taking place and then they will be migrating to a Statewide mandatory radio standard in 2023. He continued with the current radio inventory needing to be replaced over the next four budget cycles, a total fiscal impact of \$6 million plus in radio replacement equipment will be realized; he reiterated that is not in the resolution before the Board but it is something BCSO will have to look at in the five-year plan and make sure the County Manager and his team are aware of the agencies needs will be; those are the primary things he wanted to point out; and he will answer any questions the Board may have.

Commissioner Pritchett stated she was listening to the Sheriff go through the Agenda Item; he stated he was down 280 vehicles; and she inquired how many deputy vacancies BCSO has right now.

Sheriff Ivey advised today they have 36.

Commissioner Pritchett inquired if he needs 36 more deputies.

Sheriff Ivey responded that is just the positions they are short; they also have the school resource positions they have filled; however, they have to replace those positions on the road, to respond to calls.

Commissioner Pritchett inquired if the space growth has impacted the deputy situation.

Sheriff Ivey responded it has; it has impacted them in a way that he does not think anyone could have imagined; they are losing personnel to their security teams out there; they are losing personnel to IT type positions; and it is great to see the Space Center as it grows and revitalizes, but it is making an impact on his agency because they pay significantly more for those positions.

Commissioner Pritchett questioned if there has been an increase in service needs over a period of time and how does BCSO measure this.

Sheriff Ivey explained in the very first slide they talked about there being an almost 16 percent increase in services; they are looking at an increase in calls and he believes those calls are taking place for a number of reasons; one the population continues to fortunately increase and secondly, cell phones have added to a number of calls because people are right on scene and able to make those calls immediately; what they do is try to maintain their partnerships; BCSO has put huge emphasize on lowering the crime rate and making sure the citizens know what crime trends are happening so they can be the first line of defense for themselves, their families,

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and their homes; and they are working with their partners throughout the Country with local, State, and Federal partners. He added they just took off an individual in June who was just indicted this past week; this person was actively seeking online to abuse a child; one of his undercover agents assigned to the task force was able to communicate with that person; that individual actually facilitated it and came to Brevard County with the hopes of abusing a child; and if not for their partnerships with the federal partners, they would not be able to do the things they do.

Commissioner Pritchett inquired when was the last time a Sheriff asked for an increase for a Municipal Service Taxation Unit (MSTU) roll back or charter cap increase over the millage rate.

Sheriff Ivey responded if he is not mistaken it was 2004, that was the last time that any request for MSTU has been asked for.

Commissioner Pritchett advised then this is not an everyday occurrence, it is very specific to the day.

Sheriff Ivey stated he thinks it is important to understand that his team, and to add Greg Pelham to the list as he was the CFO but he has left to go to the Property Appraiser as their CFO, he did a great job at managing the budget along with the Chief, has kicked the can as far down the road as they possibly can; they continue to kick it down the road on some bigger items, but some of these are staring them right in the face; and if they do not take action now, they are going to be in a bad way.

Commissioner Smith stated he has to be honest, he has had people on the street and people come to his office saying to vote no because the Sheriff is always looking for more money; he did some digging, and as most people know Brevard is the ninth largest County in the third largest State, and then he thought about not only the population, but they are dealing with as safety officers, hundreds of thousands of tourists that come here; there are a lot of people who BCSO is charged with keeping safe; the fact that there is the huge swell in population due to great things like the zoo, USSSA, and the Spaceport, and the County depends on BCSO to keep all these people safe; and with the leadership of Sheriff Ivey and more digging he discovered Brevard County is ranked in the bottom tenth of counties in per capita spending, which blows him away. He added he also found out that Brevard County is the 61st out of the 67 counties so that means 60 other counties in this State have higher spending per capita than Brevard does and that includes a lot of smaller counties; and his question is how BCSO accomplishes all this while keeping a lid on spending.

Sheriff Ivey advised his office identifies their wants and their needs; for example everyone has wants and needs in their lives and his analogy is he wants a Rolex, but he needs a watch; his team does a great job at evaluating how they are spending their money and while their first job is protecting the citizens, they also have a responsibility to protect the taxpayers; they try to create partnerships; he thinks one of the most significant things he's done that has helped lower the crime rate is creating a partnership with the citizens, they are the ones preventing the crimes and that is how to truly lower the crime rate, by preventing the crime; his team can investigate and make the arrest but that is still a number in the box that goes towards the crime rate; and he mentioned through their partnerships, through being innovative in its ways to finance and pay for things, such as the CAD system and everything else, he thinks those are speaks most favorably to his team. He commented an amazing team surrounds him and he is smart enough to stay out of their way.

Commissioner Lober stated during the April 9th Commission meeting, the County Manager was authorized to prepare in the tentative budget for fiscal year 19/20 multiple options for ad valorem tax rates including an option that exceed the aggregate roll back rate in order to provide funding

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for critical needs identified by the Sheriff while maintaining existing service levels elsewhere, as well as an option that may reduce service levels in the aggregate roll back rate while still maintaining the most urgent critical needs identified by the Sheriff; and he asked if it accurate to say that the aggregate is the total of all individual pieces or portions that make up the tax assessed by the County including Departments and MSTUs, for example Public Works, Law Enforcement, and Mosquito Control.

Frank Abbate, County Manager, replied yes, that aggregate is the 20 operating tax districts, the General Revenue, Road and Bridge MSTUs, Law Enforcement, Fire Control, Mosquito Control, Parks and Recreation, and the Library Districts.

Commissioner Lober stated now that people understand what aggregate means, he asked what it means when talking about the aggregate roll back rate.

Mr. Abbate stated that it is a statutorily provided-for calculation and it is regulated by Florida Truth in Millage (TRIM); essentially the roll back rate is the tax rate that would generate the same amount of property tax revenues as approved in the prior year; however, taking out consideration for new construction as well as prior year TIF payments for areas that are within those dedicated increment areas.

Commissioner Lober inquired if the option presented to the Board right now exceeds the aggregate roll back rate.

Mr. Abbate advised it is equal to the roll back rate.

Commissioner Lober asked if the proposed 2019/2020 budget require the advertisement of a proposed tax increase.

Mr. Abbate advised it only requires notice of a budget hearing, not a proposed tax increase.

Commissioner Lober inquired why the proposed 2019/2020 budget require advertisement of a proposed tax increase.

Mr. Abbate explained it is because the County is not above the aggregate rate, which would trigger a proposed tax increase under Florida Statute.

Commissioner Lober inquired if the aggregate includes the Law Enforcement MSTU.

Jill Hayes, Budget Office Director, responded affirmatively.

Commissioner Lober asked if the aggregate percent change during the 2018/2019 was actually a -7.62 percent.

Ms. Hayes responded that is correct.

Commissioner Lober inquired if it would be fair or far more accurate to say that taxes are going down by 7.62 percent, were this approved, rather than there being an increase by any amount.

Ms. Hayes explained they have reduced the tax rates for all of the operating taxing districts with the exception of the Law Enforcement MSTU.

Commissioner Lober commented the aggregate, as already has been established, is not going up; a year ago he stated he was going to prioritize public safety, infrastructure, and the Lagoon as his top priorities, and he hopes today the County Commission will take steps to do just that,

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thankfully without raising taxes; this is absolutely critical; the County cannot have a bus with over 200,000 miles being the only one in the BCSO fleet; there needs to be officers that are recruited, trained, and equipped to do the job that they are being asked to do; and given that it has been many, many years he does not see how in good conscience he could fail to support something like this just as he would support anything along these lines for the Fire Fighters and EMTs, he has to extend that same stance because this is all public safety. He added Law Enforcement is a very critical function that is one of the very few core functions of government; therefore, he will be supporting this.

Commissioner Tobia stated the Sheriff mentioned that the MSTU has not increased, and he asked if a more fair comment would have been that the MSTU has not increased over the last number of years above the Consumer Price Index (CPI).

Ms. Hayes responded Commissioner Tobia is correct.

Commissioner Tobia questioned if Ms. Hayes had what the CPI aggregate had increased over those number of years.

Ms. Hayes advised last year for the current adopted budget, the change in CPI was 2.1, three percent, so whatever the charter cap rate that would have generated is what was adopted.

Commissioner Tobia stated he is a little confused because the Sheriff mentioned the last time there had been a statement of critical needs was 2008.

Ms. Hayes corrected him and advised the Sheriff stated 2004.

Commissioner Tobia continued he is looking at a 2016 resolution that asked for a critical need; and he inquired if that one did not pass or if in fact the last time a critical need was declared for Law Enforcement was just three or four years ago.

Ms. Hayes noted that in fiscal year 2016/2017 there was a finding of critical need; that was on the General Fund to Road and Bridge District MSTUs; and it did not apply to the Law Enforcement MSTU.

Commissioner Tobia questioned if the critical need statement was struck.

Ms. Hayes inquired if he is speaking about 2016/2017.

Commissioner Tobia confirmed.

Ms. Hayes noted she does not have that resolution in front of her, but it was applicable to the General Fund, and if it addressed public safety, it was not on the Law Enforcement MSTU.

Commissioner Tobia inquired if a more fair assessment looking at increases in the budget, would be looking at MSTU increases plus the General Fund.

Ms. Hayes responded BCSO receives General Fund dollars and MSTU dollars.

Commissioner Tobia asked if there is an increase in the percentage of General Fund dollars going to BCSO this year over last year.

Mr. Abbate confirmed there would be.

Commissioner Tobia inquired if Mr. Abbate knows what that increase would be.

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Mr. Abbate replied it is below three percent.

Commissioner Pritchett stated the County has a General Fund budget and MSTUs; out of this General Fund budget the County has to fund the Supervisor of Elections; they have to do a General Fund item; they have to fund the Clerk of Courts, and all the constitutional offices to work through; she is impressed that the County Manager and the Budget Office Director came up with a budget that is at aggregate because she thinks people have to have money to do their jobs and she advised she will be supporting the Sheriff today; part of that is because the change in the MSTU per household; a \$1,000 home is only \$5.13 a year; and when there is homestead exemption it goes down a whole lot more. She went on to say this is just pennies for a homeowner to create extra safety for the community; she does not know about anyone else, but it is high priority to her as she has eight grandchildren and six children and she wants them to grow up having the ability to live a life like she has; and it is odd and crazy now-a-days, so public safety is one of her top things as well. She noted in the midst of the General Fund budget that was put together, the Supervisor of Elections has increased her budget by over \$1.2 million because she has to bring security to all of her offices and do bilingual ballots; the Clerk of Courts, who is very frugal, has increased his budget by \$1.5 million in the next two years; and this is all being absorbed by the General Fund. She noted she is thankful the County has an MSTU that it can put this in because otherwise the public fusses at the Board saying it is not being frugal; the Board has all of these different aspects of County that it has to help take care of, and they are all important; as far as saying this Board still does certain things it should not do, this Board has very responsibly started weeding out a lot of items that were in the budget a few years ago; and there is one that will be gone pretty soon that the County has put substantial funds into. She mentioned she is not going to apologize for the weaning thing because she does not want to pull the carpet out from anybody that past Commissions promised them funds; she appreciates what this Board has done; she thinks this is a good budget; she is impressed that the Board asked for the budget to come back as aggregate and it did; and she realized looking at BSCO's needs that there was going to have to be a bump in the MSTU, there is no way around it. She stated she is glad it went to where it was supposed to, it is not going to come into the County so it can mess with the funds, it is going right into Law Enforcement; and she always prefers that because the voters know exactly where the money is going to. She reiterated if someone owns a \$100,000 home and they receive the two \$50,000 rights, it will be \$2.50 more per year per household to give the Sheriff more officers, automobiles, and to keep the officers in the schools, she thinks it is a great budget and thankful the Sheriff came up with this. She noted also appreciates staff for coming up with a way to make it happen without affecting road funds, infrastructure funds, and the water drainage issues that there is a lot of; and she thinks this is a good budget, the County is in a season of growth, and that the Board is being very responsible so she will be supporting this today.

Mr. Abbate noted he has one comment before he gets a call from the Clerk, there is an extra \$750,000 that was put in General Government; it is for the purpose of the Clerk for software Case Management System, but it was not added to his budget, the County has it; and when the Clerk purchases it, they pay for it and in the second year the County will pay the second \$750,000. He mentioned he did not want the Clerk to write an email indicating that the County raised his budget by \$750,000.

Commissioner Pritchett stated if Mr. Ellis is listening, she thinks he is extremely frugal and does a good job.

Chet Ellsworth stated his concerns are about the technical legitimacy of this tax, the critical needs tax and the \$1 billion budget that has been proposed; his concern comes from a number reasons one of which is the powers that have been put in the Sheriff's car out there to threaten him on his property that the County wants to tax; the 18th Judicial District has been sent to terrorize him off the property that he wants taxed; and the Board has censored his public safety

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request for the last six months for the investigation of these matters. He wants to address the misinformation for campaign that Commissioner Lober and the County Attorney have been putting on with the newspaper; it is misinformation concerning the First Amendment rights to get around the fact that the Board has never looked at the audit of the last \$1 billion; on it, it states that the Board has no controls; the Board is out of control and now it is asking for another \$1 billion and a tax on it; part of these unoccupied Brevard County accounts is St. Patrick Shores and the Board knows what is going on out there, as does he; and that is why he is being attacked. He went on to say it is because of the banks, they do not want the value to go down with those Cancer victims out there, SunTrust Bank and Wells Fargo; those concerns should be dealt with by the Board, not kicked down the road to the Environmental Protection Agency (EPA) because the EPA does not want any of those people out there lowering the value of that \$1 billion; it will go down in a hurry if it is known that the Board is snookering a public safety matter that affects the safety of hundreds of thousands of people in this are; and he objects to the tax, it is technically illegitimate at this time.

Lois Lacoste advised she is asking the Board to vote no on this resolution because this is a five percent raise to BCSO that will break the tax cap that 73 percent of Brevard County voted for; the citizens, voters, property owners of Brevard County voiced their opinion when the tax cap was voted on in the 2008 election; their voices and votes for the tax cap should mean something to the Board; this also is not, from her understanding, a one-year, one-time issue as this raise will occur over and over again according to the collective bargaining contract; and this will set precedent for the next two years and beyond. She added her concern is that this goes against the will of the residents, setting a dangerous precedent for Fire Fighters, Emergency Medical, and all other Departments, some of which have asked to break the cap in the past; BCSO does an excellent job protecting all of Brevard County, but the answer to the request for additional funds is always the property owners that are hit with increased property taxes to fund the request for additional funds which is especially hard and unfair to all retired homeowners living on a fixed income; she greatly admires, respects, and appreciates Sheriff Ivey and all of his men and women of BSCO; however, she does not support breaking the tax cap to honor their request, therefore, she would respectfully ask the Board to vote no on this resolution and not raise property taxes above the legal cap.

Diana Schommer stated she is really proud, she knows the Board thinks it is bad that the County comes in fifth or tenth with what it spends for what it gets, but she is really proud of the Sheriff for what he does with the money; she thinks he manages it better than all the other people do; not that he should be given so much more, but she thinks his request should be met; she thinks the money should come from things the County does not need rather than over raising it; the County should not have to raise the taxes to pay for it; there are things like Community Redevelopment Agencies (CRA's) that suck up \$30 million a year; and if the Board did away with them and quit giving grants to businesses, then that money could be used for things the County really needs like roads, infrastructure, and the BCSO. She noted there are places like that where there are funds that the County does not need to be meddling; she does not think the County needs to be giving businesses grants; she had a business for years and no one ever painted her front door, so she does not really feel inclined to do it for someone else; she does not think giving monies to charities is the business of the government; she thinks the first business of government is to do with money what needs to be done; and if there is a surplus then fine, but if not, take care of the real needs first.

Mary Jane Nail stated she loves Sheriff Ivey; she thinks he is doing a great job; Sheriff Ivey and her love a lot of things together; they love animals, the First Amendment, the Second Amendment, and she thought they loved the low to no taxes, but she is starting to wonder; here is the situation, for example this purse is her family budget, there is only a limited amount of money in this budget and right now it is just her husband and herself, so she wants a walk-in tub and asks her husband, he says that is great, let us take a look at the budget and see where to

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cut it so she can have that walk-in tub; and she asked if anyone has thought of that novel idea. She recommended the Board think of where it can cut, if it cannot think of any ideas she has some ideas; she said how about selling some of the useless property that no one is using that is County-owned and County-maintained and keeps maintaining and there are probably a lot of other areas; when she supported candidates for County Commission, they told her they would always look where they could cut in order to spend; she has not heard any of this in the dialogue today; and she asked where it is going to cut and when it is going to cut. She stressed she wants the cuts before the Board spends because she does not really trust that the Board will do that; she does not trust the Board because it is going against what she voted for; she voted for a tax cap; and she thinks 73 percent of the population at that time voted for it too. She went on to say John Jr. Kennedy said when asked if he became President what would be the first thing he would do, and he said, he would do the same thing his dad did, he would give the working men and women of America a tax cut.

Robert Burns stated he fully supports Law Enforcement; most of his neighbors are Law Enforcement and his immediate neighbors are Law Enforcement, there are probably 15 Sheriff deputies that live in his subdivision; he also supports fiscal responsibility and what he does not see in the proposal is cuts and revenue statements where these funds would actually be going; he sees the request for critical needs; and he asked what is actually a critical need, he thinks that may be something that is subjective. He continued in his household, like Sheriff Ivey mentioned, they have needs and wants; needs in his opinion are things that are required, if it is not a requirement, then it is a want; if it is not required then it is not a need, let alone a critical need; and he noted if he has critical needs in his household the first thing he has to do is get rid of the things they do not need in order to pay for those critical needs. He went on to say he reviewed BCSO website this morning on the job tabs and there was only one vacancy for a deputy; it sounds like recruitment is not too much of a problem; retention may be because of salary, but he does not know if salary compared to salaries is a critical need; if that is a critical need, then across the street he thinks there are a couple thousand teachers that would argue they are also in a critical need for a salary increase; and he thinks that public safety is a direct correlation of education and if the County invested in the education as much as it invests in Law Enforcement and other things, that will drive down the crime rates. He explained he lives right next to Manatee Elementary, one of the best schools in the County, and it probably has the lowest crime rate in the County; however, where he grew up, next to Stone Junior High School, it was one of the lower rated schools with some of the highest crime rates in the County. He stated the need for increased population in this area, a low crime area, he is not sure how much more they need for that area, but when looking at cuts he looked at the Sheriff's Facebook page where there is a weekly cooking show that in his opinion seems to be a six to eight minute commercial for local small businesses, he does not know if the businesses pay for this or not, he assumes they do not, and wonders if that is a taxpayer-funded commercial for small businesses with an endorsement by the BCSO and 20 seconds of a mug shot of someone whom they are trying to find; he thinks if the Sheriff were to charge those businesses at a minimum of \$1,000, that would be a great deal being promoted on a Facebook page with \$111,000; he advised that is 52 commercials and \$52,000 a year just for that; and he thinks that would take care of some of that critical needs on the list.

Cheryl Lankes stated as a Brevard County taxpayer who lives in an unincorporated area, the Sheriff's huge budget impacts her and taxpayers like her the most; she is told that it is about 11 percent more in MSTUs; the BCSO resolution asks for the Board to vote yes to tax the people more than the current law allows; no matter how it is worded, exceeding roll back, adjusting MSTU, it is still an increase in the cash that come out of her budget; and since 2008, when 73 percent of the voters voted that County Commissioners could only raise their taxes as much as the CPI or three percent, whichever is lower. She mentioned Brevard County has flourished; she does not think any of the Board won elections by 73 percent; and to her that would be a number he would want to honor. She added the tax cap is also a selling point for realtors. She

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stated after requesting all the budget information available it became clear to her that the resolution does not really define a critical need; no one should have to pay for a population increase that has not happened yet; stating a rule of two Sheriff's per 1,000 residents and forecasting out to 2025 does not make a critical need today; when they move here they can pay taxes too; she applauds the Sheriff for doing such a great job keeping crime down, she has never had to call the Sheriff in the entire 30 years that she has lived there; some areas have higher crime rates but some have lower rates and she thinks manpower is allocated based on those trends; one critical need she does see is better planning or staggering of aging hard assets; and she thinks cars, tasers, and defibrillators should not be replaced all at one time, in her opinion. She continued to say she has checked the salaries on the website for Brevard County Sheriffs, Volusia County Sheriffs, and Pasco County Sheriffs because those Counties are about the same size as Brevard County and similar in demographics, and she found that Brevard is comparable to those other counties; there is also a signing bonus for experienced officers, \$3,000, so when that is factored in Brevard County actually pays more; and she wants to talk about the schools really quick. She went on to say there are 27 Resource Officers that the School Board pays \$52,000 a year for each one and in the summer they do not need them so to her she does not think that is a critical need; she thinks overturning the tax cap that the voters overwhelmingly supported without probable cause; the 2019/2020 budget allocates extra money, that was saved from other Departments, to the Sheriff's Department; and she feels like this is an internal problem that can be solved by the County working with the Sheriff. She noted overturning an overwhelmingly supported tax cap without probable cause does not really serve the public.

Matt Nye stated earlier he picked on a few of the Commissioners and now he is going to pick on the Sheriff; he is in attendance to speak in opposition to the critical needs request in breaking the millage cap; by all objective measures, Sheriff Ivey has done a phenomenal job since being elected; his track record for endorsing conservative Republicans and State House primaries, not so hot but that is a conversation for another day; as the Sheriff already mentioned the data shows crime is down and the data he pulled from FDLE led him to calculate a 33 percent decrease from 2012 to 2018, so he believes the Sheriff is being as little conservative with the 29 percent figure, but it is something he should be very proud of and rightly so. He noted during that same time period he pulled the head count for sworn law enforcement personnel and that increased from 821 in 2012 to 881 in 2018; that is a seven percent increase in sworn personnel; the head count for civilian personnel which he assumes are administrative support type positions, increased from 366 in 2012 to 480 in 2018 which is a 26 percent increase, or more than three and a half times the rate of increase in sworn personnel; he admits he is not an expert in law enforcement but it would seem if there is a fixed amount of funding and sworn law enforcement and officers are the priority, the Sheriff would slow the growth to the admin side to ensure they have the funding for the sworn personnel; however, what he finds most interesting about this whole conversation is that according to the *Florida TODAY* story he just read, the Board is being asked to break the charter millage cap approved by 73 percent of the voters back in 2008 because of what looked like roughly a million dollar variance, which is a fraction of the \$136 million budget. He noted Sheriff Ivey has blazed new trails by leveraging television and social media with his shows; and he hopes he can apply some of his creativity to his budget and get it to a place where he is not asking the Board to defy the will of the voters. He added in summary he finds it hard to believe that someone as talented, competent, and handsome as Sheriff Ivey cannot find a way to cut less than a million dollars from the budget to avoid declaring a critical need; he knows there are questions about what the new base line will be next year if this critical need request is approved, and knowing the Clerk as he does, he is fairly confident he will challenge the Scott Knox opinion stating this critical need will be the new millage base line; and he will do that in court so the taxpayers will be footing the bill for that litigation. He implored the Board to ask the Sheriff to rework his budget or for the Board to cut in other areas; even without the critical needs assessment, the Sheriff will get the largest budget ever proposed by that office; and for the record, the only time he has ever felt intimidated by the

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Sheriff was when he was caught between him and a dessert buffet at a political dinner.

Bob White stated with the whole "Cooking up Justice" thing he was reminded of the movie Moby Dick; in all seriousness on behalf of the Republican Liberty Caucus they highly value and have nothing but the utmost respect for all the men and women who serve BCSO; they do an outstanding job risking their lives on the citizens' behalf; the Sheriff has been a highly effective and passionate advocate on behalf of his Department; however, he is speaking in opposition of the finding of critical needs. He added it is not that he disputes any of the needs the Sheriff has put forth, what he is saying is he agrees 100 percent with the premise that public safety is the number one priority of this Board and of the County government, and right behind that comes infrastructure, not question about it; when getting beyond public safety and infrastructure, priorities decline and the relative value to the community from the other departments that are out there being funded by County government, the value declines pretty rapidly in some cases; he thinks it is incumbent upon the Board to find ways to fund those public safety needs, the legitimate needs that have been identified, working in conjunction with the Sheriff, by reducing the amount of money spent on other less valuable areas; and he mentioned in fact everyone knows the Board is funding some things that could not legitimately be described as an essential government function. He went on to say there are things in the County budget that simply do not meet the definition of being a legitimate government function; getting rid of all of that and applying the scalpel to some of the less valuable areas that are within the budget area, and come up with what money is needed to fund those needs; and maybe some of the needs, as critical as they are, could be acquired over two or three year or longer period of time to get to where the County needs to be. He asked the Board not to do anything that will bust that cap that 73 percent of the people when there are other opportunities to meet the legitimate needs.

Ralph Perrone, Sr. stated he is paying approximately \$200,000 per year in property taxes right now; he would suspect this would affect him quite a bit, but he is 150 percent in support of Sheriff Ivey's request; he asked if anyone could imagine going to a call and a deputy gets charged by a suspect or has to pull his taser and the taser does not fire; how about if a deputy is going to a call to save one of the Commissioner's loved ones and the car breaks down; and he mentioned these are real things that could happen. He continued if the Commissioners were to do a ride along for a week with a Brevard County Sheriff deputy or any other Law Enforcement Agency, they would have a great understanding of what these people do and how they put their lives on the line every single day; there are approximately 11 green uniform in the back of the room and if a criminal comes through that door there is not one of them who would not pull out there gun and do what they have to do to protect everyone in the room; if he has to pay a little more in taxes, it is not that important to him for his family's safety as well as those in the school system; that is far more important to him; and he noted he owns homes and multiple buildings and he is willing to pay it.

Charles Tovey stated he was offered 10 minutes to speak one time and if he thought that was enough time he would have gone ahead and taken care of it; the budget, while there are 11 deputies in the room right now, he wonders if they are all on the clock; that is a good start as to where the money is going and how it is being spent; he has nothing to lose; he has family members that law enforcement; and his great, great grand dad was the Sheriff of Brevard at one time. He commented a few years ago, it had to have been after 2009, Stockton Whitten put his pie chart and the Sheriff asked for a raise then; a major portion of Brevard spending was BCSO; and if crime is down, he asked why it needs more money. He went on to say he has no rights; they burned his house down, they shoot at him, beat on him, they attack him every day whether it is from anonymous phone calls or not, tell him he is not allow to sit on the sidewalk, and that he cannot do this or that; nobody in 10 ten years has spoken up against any of the wrong doings; but he will save that for another time. He continued he has nothing against the deputies or the Sheriff, it is the lack of not doing anything for him, his life, and his liberty; it is all gone and this is the best thing he can think of to do in his life besides pray to God and be true to him the

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best he can; he reiterated they burnt down his house; his neighbor did it and destroyed everything he had; then the Mayor comes along and puts Code Enforcement on everything; now he is stuck past his lifetime and several life times of sanctions and things all because of there being no 'No Trespassing' being put on the person taking his plants, no investigation, no nothing; and he does have a problem as soon as he the time and the voice one way of the other he will explain it all. He advised he does have witnesses and proof; he has videos; it is just unbelievable because no one is going to do anything, so it makes these people just as bad as the rest of them because they all know the malfeasance that goes along; they are going to turn the cheek; and that is selective enforcement.

Pam LaSalle stated a point that was not hit on that much is the School Resource Officers (SRO) comes out of the schools budget so she does not see why they are coming out of the Sheriff's budget that gets billed to the County; there is a clause with the School Board that the Sheriff is to be compensated for the SROs for salary, benefits, and associated costs; the taxpayers should not be paying for that twice; and she pointed out, during Sheriff Ivey's tenure, senior citizen's COLA increases have averaged 1.43 percent. She added Social Security is not that big anyway, but a lot of people have to live on that; the citizens need the County to hold the line on the tax cap; if the Board wants to give the Sheriff a five percent raise every year for three years to pay the deputies five percent raises, then that is fine, but find the money within the budget it has, do not come to the people busting the tax cap to do it; and she pointed out while listening to the discussion, she wonders why anyone even comes to speak because most of the Board has already voiced its opinion on how it is going to be voting on this issue. She noted it would be a step towards civility and respect if the Board would at least pretend to value what the people have to say.

Commissioner Lober stated one of the first speakers mentioned 73 percent of voters approved the tax cap; he believes it is also true that those voters also approved in that exact same vote a supermajority of the Commission being able to find a critical need and being able to exceed it; there is nothing remotely unlawful in not in keeping with what the voters intended, they certainly had that text on the actual vote that they went ahead and approved; therefore, the Board is not overturning a tax cap, it is operating within the framework that was approved by 73 percent of the voters. He noted Ms. Schommer mentioned that CRAs are an area where the Board can cut and he agrees; if someone wants to put the Palm Bay CRA on the chopping block, he can tell everybody where he would be with that, they are going to be nuked; there are some other CRAs where he may put them on the chopping block, one of which he believes may be progressing with the County Manager, but if it does not pan out he will be putting one of two of them up; and as far as grants to businesses, MIRA in particular has done some things that he is very displeased within respect to giving business grants; and he is in the process of determining whether or not they are going to do what needs to be done to clean up that process. He mentioned MIRA received from him stating what he would be doing to ensure what needs to be done so they are not essentially giving away money with no Return on Investment (ROI); he supports MIRA in a way that generates an ROI; however, what has done in the recent past, he has not been pleased with as far as with the business grants. He continued there is a legal reason the County is not advertising for a proposed tax increase because by the actual real definition, it is not increasing taxes; there is a reason that the County would ordinarily have to advertise a tax increase, but it is not happening here; he does not think there is anything wrong with County government or any business re-prioritizing where they spend money so to focus on those core obligations as Mr. White had mentioned; and he noted someone commented there was just deputy position on BCSO's website, so he pulled it up, and there is one spot for deputies to apply, but there is nothing stating there is only one spot open. He added there are also one spot for a variety of other positions which incidentally means someone can apply regardless; as far as overturning capita, that has been addressed; the Board is certainly not exceeding roll back; Mr. Nye stated crime is down greater than 29 percent, Mr. Tovey also mentioned that, and questioned with crime going down why more money, the simple answer to

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that is he does not want to punish the Sheriff for being efficient; and to suggest that crime going down is reason not to increase would incentivize him not to do his job. He explained one of the first jobs he had in college, he worked a cubical job and has his hours cut, he inquired if he was receiving a raise; his boss asked why he thought he would be getting a raise, and he asked why his hours were being cut; the response was he did not have to work eight hours to do what she had set for him to do, and he questioned if she was telling him that she was punishing him for being efficient and making good use of her time; and he noted he left that job and could guarantee they paid someone to sit there the entire eight hours and who was not trying to be as efficient as he was. He went on to say Mr. Perrone mentioned the possibility of a taser not working in a domestic violence situation; to take that one step further, if the taser does not fire, then the deputy may have to shoot and kill someone, so he would prefer to provide the non-lethal option rather than kill people; as far as the Cooking up Justice, the same folks who are critical of that, he wonders if they would just as critical if the Sheriff did not do community outreach; it appears that whether he walks to the left or to the right, there are some folks who would be displeased regardless; and beyond that he wants everyone to know he certainly respects public opinion. He stated as to Ms. LaSalle's comment that the Board should pretend to care, he does care but he has had so many people contact his office and he has been briefed to such an extent by the County Manager and the Budget Office Director, truth be told, there was very little additional content that he has heard here that he had not heard prior to the meeting; had someone come up with something novel or unique, it absolutely could have swayed where he was at on this; it is not in stone, he did not sign in blood, and he did not take an oath that he would support this so had someone brought forth a compelling reason not to do this, he would not have; where he was when he started he is still in essentially the same spot; and he is not going to take up any more time.

Commissioner Pritchett stated she likes Ms. LaSalle and she threw that out early so people have a chance to change her mind; she does listen very intently to what she has to say; she thinks people need to understand she thinks the Board has been really tight on the budget; 2010 to 2016 the County went through a huge economic crisis, property values dropped and the County and cities lost a lot of money; those years were all cut, cut, and cut; and she is not even sure the County has re-established staff levels to where they were in 2009. She went on to say 2016 to 2018 the County stabilized but did not increase; they were able to add some staff back, property values went up, and this year the County is still stable in the budget; to actually take into consideration with what they have had to do with the Supervisor of Elections and the other constituents offices; and the County is probably doing some more cuts this year in the General Fund. She continued the Sheriff needs extra funding at this time the same as the Supervisor of Elections, the same as the Clerk of the Court, because they need these items; the cool thing is that there is an MSTU and it can be applied to that directly; she understands it is over that amount, but anyone who has a \$100,000 home and it is homesteaded it is \$2.50 per year more; it is minimal compared to the service; and the Sheriff is pretty frugal with his items. She stated she believes it is a critical need for BCSO or the Board would not be doing this; she does not think there is any more money to take out of the General Fund; the Board talked about things that everybody thinks is not necessarily should be there, but the Board made a decision and it is weaning those things off, the CBOs may not even be on the budget this year and if they are it may be the last year; this has been a very responsible Board; and she reiterated she believes this is a critical need and she is glad it is going into the MSTU so people can see exactly where their tax dollars are going, it is not coming to the Board. She mentioned she has not heard anything that changed her mind on that so far because the accounting aspect of this makes sense.

Commissioner Tobia stated he does not think this is purposely made complicated but it is a little complicated; he will explain it as best as he understands it; the Sheriff's budget is going up and yet there is not going to be any tax increase; on top of that, there will actually be money for the roads in the budget; there are 62 miles as opposed to few more miles less than there were last

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year; and he has come up two reasons how to accomplish the Sheriff getting more money, no tax increases, and prioritizing roads. He mentioned that the County Manager has done some great work along with the Budget Office Director; the second reason is this budget is larger than last year's even though the millage rate is the same, the property values have gone up, so it has gone up more than \$10 million of the money the County had last year, and on top of that there is new construction; and the County is getting by this time. He noted what he is worried about is that the Sheriff still has future critical needs and that may not be balanced off with this new revenue; all economies are cyclical, the economist, Amy Baker who works for the legislature, says the economy is going to see a dip in the next 18 to 24 months; this perfect storm is going to be coming up with the Sheriff needing more resources and less funds; and that gives the Board one of two decision to make potentially as soon as next year. He stated the first decision, and he has heard that many of his fellow Commissioners are against this, is increasing taxes; he apologized to Ms. LaSalle and let her know he is not going to vote to raise her taxes no matter what anyone says; the second part is the Board is going to have to make cuts which this Board generally does not do, from large cuts to small cuts; last time it was the Historical Commission that does not know what year Brevard County became a County; that little \$1,300 is not a lot of money but it is more than what the County has today and comes out of General Fund; if the Board were to cut \$1,300 per meeting it would be a heck of a lot better than what it is currently in; and the challenge he is going to make making forward, the writing is on the wall, new construction cannot last forever, the Sheriff has been extremely honest saying BCSO is busting at the seams and is going to have more needs whether it gets the opinion back that the new base line is going to be at the current rate with the MSTU or whether it is rolled back, the County is going to face some challenges. He advised he has brought forth numerous cuts and they have gone down many times without a second; he encouraged the rest of the Commission, so it is not in the same position, he would ideally like to be able to fund the Sheriff from the General Fund where he would not have to come ask for a critical need because the County would already have those funds, to take a tough look at the budget and say maybe some things do not belong and get the ball rolling; the BCA in the budget has \$70,000 that could otherwise go to fulfill Sheriff Ivey's critical need for 2021; he remarked he would be voting against this one; he respects the Sheriff and all the work his deputies do; however, he thinks the Board needs to sharpen its pencils a little more and make sure it does not put the Sheriff in that position again.

Chair Isnardi stated she finds it interesting that often times the Board does not have intelligent conversations, that it becomes very political; whether this be an ad valorem tax, a user fee on people's property tax bills, or a solid waste fee; for instance Commissioner Tobia was okay with raising, in the past to include the Melbourne-Tillman user fee that sits on the property tax bill, apparently solid waste fees and Melbourne-Tillman fees are okay to raise but not for Law Enforcement; unfortunately, this is something the County needs because it is a service that protects the residents; and whether anyone agrees with the Sheriff having a cooking show or a wheel of fugitive, and whether people think that is right, it returns results. She mentioned she would much rather have the Sheriff spend 10 minutes behind a video camera than to send four deputies out to try and locate somebody who is a dangerous criminal or someone who has violated probation, or someone who is harassing someone, or someone who has a warrant out for their arrest; she would much rather social media be used as a platform and people view law enforcement as sometimes having fun like cooking at a business and someone who is approachable as to being intimidating; those videos of the officers not doing the right thing tend to go more viral than the fun ones of Sheriff Ivey playing around in his car chasing down old people and doing all kinds of funny stuff; and she thinks it makes Sheriff Ivey appear more human and she can appreciate that. She commented the Board can argue about who is more conservative or who is not going to vote to raises taxes, but is okay with raising fees and solid waste rates; she thinks that is kind of disingenuous to say such a thing, and are quoted in a newspaper saying the Board is paying for lighthouses when knowing full well the lighthouse that was passed by the Board, the money could not have been used out of the General Fund, it is TDC money; and that is not the same thing.

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The Board adopted Resolution No. 19-119, providing for the ultimate facts supporting an increase in the Law Enforcement MSTU Ad Valorem Tax over the cap set forth in Section 2.9.3.1 of the Brevard County Charter; and granted permission to the County Attorney's Office to correct a scrivener's error in the Resolution.

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

#### **ITEM J.6., DICUSSION RE: TITUSVILLE-COCOA AIRPORT AUTHORITY (TICO)**

Commissioner Lober stated that in abundance of respect for folk's time, he is allowing people to speak since they showed up and have waited so long.

Chair Isnardi advised the Board is going to table the Item, so Mr. Sansom can come up and comment if he would like.

Commissioner Lober stated he did not want to cut anybody off and not give him the opportunity to speak since he has been there for six hours.

Jerry Sansom stated he is a practitioner of government just like the Board, so he does what he has to do to get good government done; has no idea what the conversation is going to be about today so he put in a card just in case he might have something to say; and he can answer any questions the Board may have. He added he is happy to say they are not in the County budget for the 13th consecutive year as an ad valorem item, having to compete with Libraries and so forth; they are very self-sufficient; and he noted they do have one at-large position coming up in August and he would hope the Board would reappoint Dr. Dave Hosely as he is a very valuable asset to them and he has been a very good member of the TICO board.

The Board tabled consideration of discussion regarding selection of an at-large TICO board member, to the August 6, 2019, Board meeting.

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

#### **ITEM K. PUBLIC COMMENTS**

Janice Crisp stated there were some things said here today that she would like to clear up; Commissioner Lober was accused of threatening someone's job and there were issues talked about that were said off line about speaking badly to a women; she would like people to know, and she hopes this ends this, but this issue started long before that; the lady started attacking Commissioner Lober online while he was at a Habit for Humanity event that he was asked for so that this Habit for Humanity could receive \$100,000 for women's veterans; he was specifically asked to be there and she knows there were many, many volunteers there that helped make this happen; and this lady after seeing him there took a picture, posted it online, and her words

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were, "Yep that is the hypocrite who showed up at habitat shovel ceremony acting like he gives a crap about our project." She continued to say that later on the woman said in the same feed, "I will apologize for my profanity even though I get to the point only after extreme frustration when the good people of this County are not elected and people like you are simply because of tribalism and unfortunate demographics. So here's my hope, that you will prove us all wrong and magically become a kind and honest and generous person. I am going to try now to be kind to you going forward, but please know that again, it is because of people like Mel, Jake, and Alex, but idle threats to my employer, that I do so, peace out;" then she brought it to the Board and made up this big deal about threats that she considered idle, so it was not really considered a threat to her; she is also the one who said it was tribalism and that it was Commissioner Lober's election that she was frustrated so that is why this has been dealt with for months; and she wanted the record to be clear.

Karen Colby stated she just wanted to wrap up a couple things and thank the Board for the time it has spent for the County today and two weeks ago, that is a good 11 hours; she appreciates each Board Member; she thinks the County has come together better as she has not hear any profanity coming from the audience, or any organized coughing; and this has been a nice experience compared to last time. She added she never had a voice until she became a mom then she felt she had to talk about anything. She continued with the Commissioner Lober thing, she was involved with the post; she got upset when she saw something mentioning having to deal with two white men being the final people on a docket for the Democratic party; that pushed her over the edge; when that was shared in a post for discussion, that went on and on and on, and ended in the snow plow and the Ford F150 comment that Commissioner Lober was blamed for, he did not do any of that; it was all caused in the beginning by the two white men statement; and she does not think that is funny or fair. She went on to say she does not think anyone should talk like that and then come to the podium and say the certain people have to moderate what they want to say; she took that comment as this person can say what he or she wants but the other side cannot; any time someone has a comment that others do not agree with, they start throwing insults; and she appreciates the fact there were no insults thrown today, that was nice. She mentioned there were two things she heard though; one had to do with the snow plow; she explained that had to do with a woman who made a comment about watching out for a Charger, but that had to do with Sheriff Ivey's cars; if any of the Anti-First Amendment (ANTIFA) people come her, she is not scared because Brevard County has Sheriff Ivey and he has Chargers, they are four-door, the two-door ones are Challengers; and she is the one who said if you miss one with the snow plow back up and do it again. She noted she was talking about splashing as she is a mom of six; she will splash anybody, no harm, no foul; when she saw that trouble was coming, like some not very intelligent people making nasty comments, she pulled her post, Commissioner Lober did not pull that post to hide, she pulled because people lost their minds; and she wanted to make it clear that Commissioner Lober never pulled any posts to hide, she did it because by removing her post, it removed his.

Judy Koons stated she needs to address again the First Amendment issues and the civility ordinance; one of the important goals of what people were doing there was to educate the people about First Amendment rights and standards, and the different standards for public speech and elected official speech; that was one of the goals, unfortunately that goal was met at all; there was massive confusion; and she believes Commissioner Lober made misleading comments about the standards and his line of inquiry to the County Attorney. She noted Commissioner Lober cited cases that did not deal with elected officials speech, he cited cases that dealt with members of the public wearing jackets with profane statements on them and that sort of thing; unfortunately, the public has come away from this thinking that everyone has the same First Amendment right, it is not true, the Board is held to a higher standard; and there is a link between the speech that is made by the Board here on the dais, in social media, and the uptick in violence that is happening across the United states. She went on to say people are afraid to come before the Board, they are afraid for their jobs, they are afraid for their

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reputations, they are afraid to be humiliated; and to recognize the Board is held to a much greater standard and that the trust of the public rests on this Board; the Board is a model; and she believes that everyone has behaved themselves today except for some of Commissioner Lober's statements. She advised if Commissioner Lober were to go into a court of law making those statements he would have been censured; the judge never would have allowed circuit cases that dealt with private speech to be used in an elected officials situation; and she really objects to that and hopes this differential standard is completely understood by the members of the Board as well as members of the public, there is no equivalence here.

Melissa Martin stated she appreciates the Board's deliberate thought and endurance through this whole thing and the level of professionalism that everyone could have with this very awkward subject matter; she will duck tale off of Ms. Koons comments because that is the crux of this issue; she thinks there is a continuing point of confusion regarding what the law actually says; she hopes instead of going forth with any other measures, policy statements, or ordinances she thinks it would be beautiful to simple go back to what was suggested along the way, to request a legal opinion from the County Attorney about the First Amendment rights, the legal and ethical duties of elected officials, and where that meets with the public's right to speech and expectations of the public officials in and outside of Commission Chambers; and she thinks once that is clarified for everyone concerned a lot of the problems will fall away.

Sanjay Patel stated he thinks it is really important to make sure that the facts are brought forth; two individuals have spoken, so for the record he wants to set something straight, this is in regards to Commissioner Lober's snow plow comments; the original verbiage, the first comment said "Word of wisdom to the protesters, beware of the Dodge Chargers;" the next comment which came from someone in attendance today was, "If you hit one, back up and go again, Just Kidding;" it is to that comment which Commissioner Lober replies, "I wouldn't recommend using a snow plow, it might look intentional;" anyone who would read a thread like that, he has a couple questions because Commissioner Lober stated he thought it referred to Law Enforcement, so did those individuals in the audience; did they mean the deputies were going to hit the protesters with their cars; the next comment, "back up and go again" and Commissioner Lober's comment, "I wouldn't recommend using a snow plow, it might look intentional; and he asked Commissioner Lober what might look intentional, hitting someone with a snow plow. He noted to everyone in the room it is extremely clear what is being talked about and people are not going to stand by while folks try to back themselves out of it; it is completely deceitful and dishonest; own the comments that were made because what was said was very clear; and he just wanted that added to the record.

Commissioner Lober stated everyone has an entitlement to respond to folks who are making false accusations.

Commissioner Smith noted he is sure Commissioner Lober is not going to say anything people have not heard before.

Commissioner Lober stated he does not know.

Commissioner Smith went on to say people know what Commissioner Lober is going to say; he is going to disavow what they say and he will say what he means and what they said does not mean what he said; and it is the same place the Board was before.

Commissioner Lober commented not necessarily.

Commissioner Smith asked if Commissioner Lober thinks what he is about to say will be productive or if it is just going to make him feel better.

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Commissioner Lober responded he would certainly afford him the opportunity to say something in response, if something was incorrectly said about him; and he would not criticize him for trying to do it.

Commissioner Smith stated he would expect Commissioner Lober to do that because he has not taken up hours and hours of his time with those kind of comments; and he would hope he would have one opportunity to say something.

Commissioner Lober stated that Commissioner Smith has not been attacked to the degree he has.

Commissioner Smith noted he just does not agree that Commissioner Lober should take the time out of everyone's day because he has a personal problem with what he said and how he said it.

Commissioner Lober advised he does not have a problem with anything he said, he has a personal problem with folks saying something that is defamatory and untrue.

Chair Isnardi advised people cannot speak out from the audience as Public Comment is closed; and she asked Commissioner Lober as to the interest of time, if he would please keep it short.

Commissioner Lober commented he would try to keep it short. He stated with respect to the quote Ms. Crisp had read, he does believe he may be incorrect after a six and half hour meeting, that there was even worse language that was edited out, but his recollection was there was even worse language in there; with respect to the other point he never ever reached out to that persons employer; she lied about who employed her and any contention to the contrary is simply inadequate; that person came up and lied at the podium and Ms. Martin interestingly enough confirmed it; and as far as the snow plow comment from Mr. Patel, he can apparently read his mind and explain what comment he was referring to. He mentioned he does not know how long Mr. Patel has been using Facebook, but when someone clicks reply it generally puts that person's name in blue; Ms. Colby's name was not in blue because he was not replying to her comment; he knows he can describe ill motives to other individuals just because they are on the other side of the fence; and he respects his right to do that, but he is dead incorrect. He went on to say he believes that last time Ms. Koons was here she was threatening to sue the County with respect to the Diamond Square Community Redevelopment Agency (CRA); she came to the dais and said she was going to educate the people on the First Amendment rights, that is absolutely laughable; and regarding misleading statements to the County Attorney, he inquired if he was in any way misleading, and if he was he will give ample opportunity to her to suggest whatever may have been added to in terms of context or to correct anything that he may have misstated.

Eden Bentley, County Attorney, stated Commissioner Lober asked whether certain cases had certain language in them and they did; those cases dealt with the ejection of meetings and false arrest of individuals so they were not comparable situations to the proposed ordinance; the censure that was discussed was within the Board parameters of who would be Chair in letters to the Governor, so they were very different situations; and she believes that was what Ms. Koons was talking about when she said misleading, but that is case law.

Commissioner Lober stated he is obligated to deal with only those items in which there exists case law given that everything is a novel compilation of facts; and he asked if the County Attorney would agree that those cases were relevant to the propositions in which he brought them up for.

Attorney Bentley advised they were First Amendment cases, but they were not on all fours

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because they dealt with ejection of the public from a meeting; and this Board is dealing with Board Members and a policy, which there is case law saying that there can be content-neutral Board procedural rules.

Commissioner Lober stated he does not believe he has ever suggested otherwise; he simply suggested that the application of those rules might be problematic; in terms of the local courts that Ms. Koons suggested that a judge would never allow him to use any of the court cases he cited, he asked the County Attorney if she thought that was a correct statement and that he would be censured for that.

Attorney Bentley responded she cannot answer that one.

Commissioner Lober went on to say it would not have been County business had it not been brought up. He commented he does not know what "I won't stand for it" means but he has had every strike at the apple and he has not accomplished anything other than having wasted time; if he would like to continue to waste taxpayer dollars he can come back and do the same thing again; otherwise, he would like to get back to County business.

#### **ITEM L.5., JOHN TOBIA, COMMISSIONER DISTRICT 3**

Commissioner Tobia stated he thought Commissioner Pritchett would handle this for him because she could do it so much better; he hopes going forward whether it be in this Boardroom or it be after everyone leaves, that everyone can be nicer to one another; he hopes there is no more of this tit for tat because everyone is a loser in those types of situations, along with the hurt feelings; the fact that people may disagree on policy does not make the other person bad one way or another; and sometimes people just have to turn the other cheek and move on. He noted sometimes it makes the other person more mad to kill them with kindness; he mentioned he is not the rational person on this Board; but he does not think any of this is a waste of time because it is good to talk through these things; and he reiterated he hopes everyone can move forward and this can be put in the past to get to County business. He advised people to think for a second about this Board spending three hours on civility and only three minutes on \$1.3 billion; putting that into perspective, it is a little disconcerting; and he is not assessing blame, he just asked that everyone be kind to one another.

#### **EXECUTIVE SESSION**

The Board recessed for an Executive Session for Williamson, et al v. Brevard County, 11th Circuit Court of Appeals; Case No. 17-15769, DC Case No. 6:15CV01098JADCI.

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|------------------|---|
| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>SECONDER:</b> | Rita Pritchett, Commissioner District 1         |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

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Upon consensus of the Board, the meeting was adjourned at 3:32 p.m.

ATTEST:



*Scott Ellis*  
SCOTT ELLIS, CLERK

*Kristine Isnardi*  
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KRISTINE ISNARDI, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

Approved by Board September 17, 2019.