

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, December 5, 2023

5:00 PM

Regular

Commission Chambers

A. CALL TO ORDER 5:00 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, Commissioner District 4 Rob Feltner, and Commissioner District 5 Jason Steele

C. PLEDGE OF ALLEGIANCE

Commissioner Feltner led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

The Board approved the October 10, 2023 Regular, October 24, 2023 Regular, and November 2, 2023, Zoning Meeting Minutes.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

E.1. Presentation by Mr. Vince Dyer, Program Manager, Re: Best Foot Forward Pedestrian Safety Initiative

Vince Dyer, Program Manager, Bike Walk Central Florida, a non-profit organization, stated they are trying to make communities more walkable, bikeable, and rollable; with the help of Florida Department of Transportation (FDOT), they are hopefully expanding in Brevard, Volusia, and Marion Counties; this is a part of the Target Zero initiative, which many of the Board Members are probably already very familiar with; they are trying to reduce deaths in Florida related to transportation to zero; and they are part of that initiative, in terms of pedestrian safety. He went on to say the Best Foot Forward Program is based off of studies right here in Florida; in 2013, the University of Gainesville, as well as in 1998, St. Petersburg, they took a multi-faceted approach, research from Dr. Ron Van Houten, combined engineering, education, and enforcement together to try to make pedestrian crosswalks safer; this study has been repeated multiple times; Ann Arbor, Michigan, and St. Paul, Minnesota, in 2018, was successful in showing that the yield rate of drivers to pedestrians in crosswalks can be increased following that method; their motto is if they can get more drivers to stop for pedestrians in crosswalks, then pedestrians will want to use crosswalks; and they see pedestrians all of the time crossing wherever they want to cross. He advised they were asked why they want to cross in a particular place, and to use a crosswalk; they say they do not feel like the crosswalk is any safer, so they are trying to change that mentality, and their focus is on driver yield rates; driver yield rates is going to be the number one thing that is going to cause pedestrians to want to use these crosswalks; they have had a bunch of success over time; right now they have a footprint in Orange, Osceola, and Seminole Counties; they have seen increases, 17, 18, and 19 percent there, depending on the type of neighborhood they are in; and their success is something they are always trying to tout in terms of what they can do for the community. He commented on crosswalks that are less than 40 miles per hour, when they started in 2012, only 17 percent of drivers were yielding; right now at program crosswalks, it is up to 52 percent; roads at 40 miles per hour or higher when they started is up to 43 percent now, so massive amounts of improvements, in terms of pedestrian safety, in the areas that they service; what they are seeking today is a resolution of support from the Board; they want to build a coalition, schedule workshops with their partners right here in Brevard County, have steering committee meetings, do their baseline reports, so that way the engineers right here can get the data they are looking

for in terms of how safe their crosswalks are and whether or not any interventions need to be had; their 4E approach, which he mentioned earlier, is evaluate; they set up a dilemma zone based on the speed limit; and they put a flag ahead of the crosswalk based on the speed limit. He pointed out it is a very forgiving amount; as a car is coming up to the crossing, if they have already passed it, it is not counted; they want to ensure it is safe for drivers and for the data collectors; they will take baseline data at these crosswalks and count the amount of drivers that are yielding versus not yielding; and they will report back to their engineering partners on the progress of those locations to see if there is any kind of upgrades they would like to make in those areas. He stated they also do enforcement operations, so they will get with the Sheriff's Office for high-visibility enforcements; they help create media visibility, they get in contact with local news media, they are on the news regularly as they do this every quarter, and they will put out big social media blitz trying to get the word out about the crosswalks, so that way no one is surprised; they are not trying to trick anyone, they want them to know this is happening; they have seen massive improvements just from enforcement alone; and then when the enforcement changes are added on top of that, it is where they get the biggest bang for the buck. He continued by saying the engineering would be the step after enforcement; they recommend a number of different road markings and signs that could improve the intersection of those crosswalks, so it is not a one-size fits all type of solution; it has to do with the speed limit, the number of lanes, if it is mixed residential use, commercial use, et cetera, so they recommend those changes, that way their partners are getting some feedback of what they are seeing out in the field; they will do a number of outreach; they do a number of schools, tabling events, presentations for neighborhood Homestead Associations (HOA) for businesses, and that way they can spread the message both to pedestrians and drivers; and they will also create digital feedback for everybody on their social media and their website. He explained they are not asking for money from the County tonight as they have already been funded by FDOT for two years, so all they are looking for today is just the Board's approval for them being here and doing the work to keep the community safer; they will be doing this for two years here in Brevard County; if at that time, Brevard County likes the work they are doing, then it will be able to choose to continue funding, which could come through a variety of sources; and some of their partners pay through engineering, others through enforcement, and others through government enforcement.

Chair Steele asked if the Board needs to make a motion to approve them to continue doing business here.

Morris Richardson, County Attorney, asked if Mr. Dyer is looking for a resolution from the Board.

Mr. Dyer replied not today, but yes, that is what they are looking for.

Chair Steele expressed his appreciation to Mr. Dyer for coming tonight; and he stated the Board appreciated the input.

The Board acknowledged Best Foot Forward Pedestrian Safety Initiative Presentation given by Vince Dyer, Program Manager.

ITEMS PULLED FROM THE CONSENT AGENDA

Commissioner Tobia stated he wants to pull Item F.12., Approval of Funding Recommendations for Listed FY 2023-24 Cycle 2 Sports Grants, from the Agenda for discussion.

F.12. Approval, Re: Funding Recommendations for Listed FY 2023-24 Cycle 2 Sports Grants

Commissioner Tobia explained the funds for sports grants come from the marketing section of the Tourist Development funds; one applicant does not even include one marketing expense whatsoever; six applicants have a recommendation grant amount that is somewhere between two and 17 times higher than the events entire marketing budget; while this may be consistent with the guidelines, it is probably not the best use of marketing funds; and second of all, just because the Sports Subcommittee and the Tourist Development Council (TDC) vote to approve does not necessarily mean that this Board should make the same mistake that those advisory committees have made. He continued by saying the budget was miscalculated by more than \$100,000, received an average score of 7.8 of 10 by those committees, including two perfect scores of 10; normally he would just vote no on these, but reviewing these budgets a little bit more in depth, he thinks some are so bad that there is an opportunity to convince some of the Board to join him in denying some of these sports grants; he has done an outline of the sports grants; and the numerous issues, the basic budgetary issues, that are located in here, any of which he would be more than willing to go over. He noted the one that he was referring to with the \$100,000 miscalculation, the Space Coast Spring Games Softball Tournament, their profit is somewhere between \$2,000 and \$101,000, depending on which numbers are used back there; a person can see they have an actual revenue of \$215,000, an estimated expense of \$116,000, yet they show a profit of \$2,000; he is not very good at math but he knows when a person takes \$116,000 out of \$215,000, it ends up being a little bit more than \$2,000; there is another one he thought was interesting, the Smooth Runnings, LLC, which has two grants on here totaling \$18,000; remember, the Board asked for their budgets; and this gentleman provided the Board with his expenses, but when questioned, he replied that his revenue was "proprietary". He commented he is not certain that this Board, or any board, should be giving public dollars to an entity that determines that their calculations are proprietary; just to be clear, this is a triathlon; he does not know how revenue at a triathlon is proprietary; and if it is, he does not think the Board should probably be going forward with that. He stated the Space Coast Class Soccer Tournament is showing a profit of almost \$40,000, yet this Board is giving \$12,000 to increase that profit; the East Coast ESA Southern Regional Surf Competition, a not-for-profit, are also not so good at math; based on their numbers, they are showing a negative profit of \$2,325 or a positive profit of \$675, or as much as \$15,675; by looking at the first entry line, he or she will see, he is disappointed that it made it all the way to the Board, but they have 250 estimated admissions for a total of \$44,000; but the total of that decreases to \$26,000; and he does not know where that money went, but none of these numbers here add up to anything. He pointed out he does not know that the County should be using its resources to fund bad math; some of these are worse than others, these are just the highlights, and the Board can go over any of those in detail; he reiterated this is what he came up with; and he wants to see where the rest of the Board is on the ones that are proprietary, those that have bad math, or even the ones that the math actually adds up.

Chair Steele asked if any of the Board Members, Peter Cranis, Tourism Development Director, or any organizations that are present would like to address the Board.

Mr. Cranis advised he knows there are some people in the audience from some of these events; a lot of these event organizers are from out of State, so they unfortunately could not make it; but he reiterated there are some here; and if there are specific questions on a specific event, he can see if they are here.

Chair Steele asked if the County received a letter from Mr. Varnes saying he could not be here; and he asked if Mitch Varnes is present tonight.

Frank Abbate, County Manager, explained there was a letter sent to Mr. Cranis, but he does not know if it was provided to the Board.

Mr. Cranis advised the letter did go to the Board.

Chair Steele asked Mr. Cranis if he would read the letter from Mr. Varnes.

Mr. Cranis stated this was sent to all of the Commissioners; and he commented Mr. Varnes says, "I am a Satellite Beach resident, native Brevardian, and writing to you and other Commissioners ahead of Tuesday's Commission meeting. I have two events, April 14th, Cocoa Beach Triathlon and Duathlon, and April 28, 2024, USA Beach Running Championships. They have been approved and tentatively awarded grants by the TDC Sports Committee. I was notified today that the TDC, a Commissioner has requested a copy of the Cocoa Beach Triathlon P&L for the last three years. I have been producing significant sporting events all over the Space Coast close to 20 years. I personally have never heard of such a request. Contracts with my sponsors, and in some cases contractors, are proprietary information, and my agreements and contractors with them specify such. It has always been my understanding that tourism grants are awarded based on out of area attendees, room nights, and positive economic impact to, and the marketing of, Space Coast communities. These are standards, which have met or exceeded, based on my pre-event projections at every event, which I have ever applied for, or received, a Tourist Development Council (TDC) grant. The Cocoa Beach Triathlon is a prime example as it annually draws several hundred out of towners to our hotels, restaurants, stores, et cetera for a weekend at the beach or elsewhere around the County. I believe any profits or losses of an event should have little bearing on tourism grants. The pandemic was particularly hard on live event producers, and many sporting events are still below what their pre-pandemic numbers were. Any grants I have previously received have been justified, valued, and always an important part of mission success. I will be traveling out of country, et cetera, et cetera, but I am writing to say personally that I am unable to attend. I am writing to express my concerns and thoughts to you now."

Commissioner Pritchett stated just as a time limit before the Board had the new Commissioners, it sent major sports events back to the people who were applying for grants so they would give the Board better data, and this data is really lacking; she had Mr. Cranis pull some numbers together; a lot of them put revenues down thinking it was income, and it was just messy; she is going to recommend these be sent back, because these are not small grants, these are major; they may be classified under sports, but they are large grants; and she gets that they are tourism dollars, but they are still tax dollars. She went on to say it is the Board's job to look over these and make sure they are getting good information; she likes what Mr. Varnes does; but if he wants to get \$25,000 in grant funds, a person has to put it in; it is all right to make money if the organization is putting heads in the beds; the softball one is bringing in 3,400 room nights; and they have to get better data to the Board. She advised she completely understands Commissioner Tobia's position; she would vote to table this, having them come back with better information; and there was an operating expense that was so high, like a miscellaneous expense to throw everything in so no one asks. She commented if the Board does these, and the Board talked about it on the large events, that instead of doing all of these reimbursements that the County just pays for the advertising outside of the area, then it is actually accomplishing what it is trying to do; if the Board wants to send this back, she would support them doing a little bit more work so the Board will be able to look at it; but she is not going to vote this through; she thinks it was not enough time spent on the people who were applying for it; and it might be the County's problem because it did not specify this to them, but it did do it for the large events, so that is going to be her request.

Commissioner Tobia pointed out he does not know these activities well enough to question the numbers; what he is questioning is the third grade math here that was presented to the committee and the Board; the math is absolutely atrocious to turn around and have a body of eight ask the Board for \$100,000; he wants them to make sure the math adds up; and he cannot in good conscious use tax dollars to an entity that says revenue is proprietary, so whether it adds up or not, it is missing half of the budget as far as he is concerned.

She asked Mr. Cranis to give the applicants the format the Board gave him for large events so they can come back with that data for the Board.

The Board tabled consideration of the funding recommendations for the listed Fiscal Year 2023-24 Cycle 2 Sports Grants for the Tourism Development Office Director to bring back better information to the December 19, 2023, Board meeting.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.1. Stormwater Program Interlocal Agreement, Re: Town of Malabar

The Board authorized the Chair to sign the Stormwater Program Interlocal Agreement; and delegated authority to the County Manager to sign future renewals and amendments for the Stormwater Program Interlocal Agreement with the Town of Malabar.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.2. Waiver of Subdivision Perimeter Buffer, Re: Outback Preserve (19SD00011) (22WV00013) Developer: DRMP, Inc.

The Board approved the Waiver of Subdivision Perimeter Buffer for Outback Preserve – Developer: DRMP, Inc. to Section 62-2883(d), of the subdivision requirements to allow improvements to be made to stormwater system that will encroach into the required 15-foot buffer for Outback Preserve.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.3. Preliminary Development Plan Amendments, Re: Health First Planned Unit Development (PUD) Minor Amendment #1

The Board confirmed the proposed amendments to the Health First PUD that are not considered substantial and are within the administrative approval authority provided to the Zoning Official by Brevard County Code of Ordinances.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.4. Approval, Re: Dedication of Sidewalk Easement from the City of Melbourne for the Canova Beach Pump Station Improvements Project

The Board accepted the Sidewalk Easement from the City of Melbourne for the Canova Beach Pump Station Improvements Project.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.5. Approval, Re: Donation of Right of Way by Warranty Deed from First Baptist Church of Merritt Island, Florida, for the South Tropical Trail Sidewalk Project Osteen Park to Magnolia Avenue

The Board approved and accepted donation of right-of-way by Warranty Deed from First Baptist Church of Merritt Island, Florida, for the South Tropical Trail Sidewalk Project Osteen Park to Magnolia Avenue.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.6. Approval, Re: Dedication of Right of Way by Warranty Deed and Sidewalk Easement from SHJ Development, LLC for the Tidal Wave Car Wash Project

The Board approved Dedication of Right-of-Way by Warranty Deed and Sidewalk Easement from SHJ Development, LLC, for the Tidal Wave Car Wash Project.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.7. Resolution and Release Performance Bond, Re: Stadium Parkway, Segment E Developer: The Viera Company

The Board adopted and authorized the Chair to sign Resolution No. 23-143, in accordance with Section 62-2844(b), releasing the Contract and Surety Performance Bond dated October 21, 2021, for the Stadium Parkway Segment E – Developer: The Viera Company.

Result: Adopted
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.8. Approval, Re: Encroachment Agreement with the Florida Gas Transmission Company, LLC for the US192 Solid Waste Management Facility Construction Project

The Board approved and authorized the Chair to execute the Encroachment Agreement between FGT Company, LLC, and the Board of County Commissioners of Brevard County, granting Brevard County conditional permission to construct within the area of the gas transmission easement on the US 192 property.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.9. Proposed 3M Corporation Class Action Settlement, Re: Per and Polyfluorinated Substances (PFAS) Public Water System

The Board authorized staff to file claims in the 3M Company class action settlement related to potential PFAS contamination.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.10. Accept and Permission for County Manager to Execute, Re: Florida Department of Environmental Protection (FDEP) Grant Agreement Associated with the North Brevard Water Treatment Plant Expansion and Potable Water Wells - Design & Permitting Phase

The Board accepted the mentioned FDEP grant for the North Brevard Water Treatment Plant Expansion and Potable Water Wells; and authorized the County Manager to execute and submit required Budget Change Request (BCR), amending the five-year Capital Improvements Plan (CIP) as it relates to this project, and any documents, reimbursement requests, amendments, or other administrative actions to the grant contract.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.11. Accept and Permission for County Manager to Execute, Re: Florida Department of Environmental Protection (FDEP) Grant Agreement Associated with the South Brevard Wastewater Treatment Plant - Design & Permitting Phase

The Board accepted the mentioned FDEP grant for the South Brevard Wastewater Treatment; and authorized the County Manager to execute and submit required Budget Change Request (BCR), amend the five-year Capital Improvements Plan (CIP) as it relates to this project, and any documents, reimbursement requests, amendments, or other administrative actions to the grant contract.

Result: Approved
Mover: John Tobia
Seconders: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.13. Approval, Re: Group Health Insurance Stop Loss (Excess Insurance) Placement CY2024

The Board approved the renewal of Stop Loss Insurance with Symetra Financial for the self-insured group health insurance program; and authorized the Human Resources Director to execute all documents necessary to bind this coverage effective January 1, 2024.

Result: Approved
Mover: John Tobia
Seconders: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.14. Resolution, Re: Setting Forth the Findings and Conclusions of the Board of County Commissioners the Denial of a Request for a Conditional Use Permit (CUP) on Property Owned by Hope Episcopal Church, Inc.

The Board adopted Resolution No. 23-144, setting forth the findings of fact and conclusions of the Board pertaining to the denial of a request for a CUP for Wireless Telecommunications Facilities and Broadcast Towers in a Planned Unit Development (PUD) zoning classification on property owned by Hope Episcopal Church, Inc.

Result: Adopted
Mover: John Tobia
Seconders: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.15. Appointment(s)/Reappointment(s), Re: Citizen Advisory Boards

The Board appointed/reappointed **Stephen Simmons** to the Audit Committee, with term expiring December 31, 2025; **Kevin McCann** to the Board of Adjustment, with term expiring December 31, 2025; **Mark Broms** to the Brevard County Library System Advisory Board, with term expiring December 31, 2025; **Bruce Moia** to the Building and Construction Advisory Committee, with term expiring December 31, 2025; **Paul Kolarik** to the Central and South Brevard Public Library Advisory Board, with term expiring December 31, 2025; **John Colaiacovo** to the Citizen Budget Review Committee, with term expiring December 31, 2025; **Jeri Blanco** to the Community Development Block Grant (CDBG) Citizens Advisory Committee, with term expiring December 31, 2025; **Clifford Barber**, **Brian Fleis**, and **Albert Underwood** to the Contractor's Licensing Board, with terms expiring December 31, 2025; **Rich Sutter** to the Economic Development Commission of the Space Coast, with term expiring December 31, 2024; **Janette Gianella** and **Carol Richardson** to the Employee Benefits and Insurance Advisory Committee, with terms expiring December 31, 2024; **Judy Gizinski** to the Health Facilities Authority, with term expiring December 31, 2027; **Jane Beach** and **Walter Young** to the Historical Commission, with terms expiring December 31, 2025; **Daniel Ciuro** to the Investment Committee, with term expiring December 31, 2025; **Kelly Cover-Haugh**, **John Mongioi**, and **John "Jay" Woltering** to the Marine Advisory Council, with terms expiring December 31, 2025; **Joe Denaro** and **Jessica Cassone-Devine**, SHRM-CP to the Personnel Council, with terms expiring December 31, 2025; **Bruce Moia** and **Robert M. Sullivan** to the Planning and Zoning Board, with terms expiring December 31, 2025; **Harry Taylor** to the South/Central Brevard Parks and Recreation Advisory Board, with term expiring December 31,

2025; **Mark Grainger** to the Titusville-Cocoa Airport Authority, with term expiring December 31, 2025; **Samir Patel** to the Tourist Development Council, with term expiring October 7, 2025; and **Martin Lamb** to the Transportation Planning Organization (TPO) Citizens Advisory Committee, with term expiring December 31, 2025.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.16. Acknowledge Receipt, Re: Bill Folder

The Board acknowledged receipt of the Bill Folder, as submitted.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.17. Approval, Re: Precinct Boundaries - Altered and Added (Chapter 101.011(1) F.S.)

The Board approved the revised precinct boundaries due to annexations by the Cities of Palm Bay and West Melbourne.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.18. Approval, Re: Brevard County Sheriff's Office P.O. Carry Forward Request

The Board approved the reallocation of funds and subsequent budget adjustment of \$867.969 for FY23 Purchase Orders (PO) that were not received prior to September 30, 2023, as planned.

Result: Approved

Mover: John Tobia

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.19. Board Approval, Re: 2023-2024 Board Liaison Appointments

The Board appointed Commissioner Rita Pritchett as Commissioner Liaison to Florida Association of Counties (FAC), Affordable Housing Advisory Committee, Transportation Planning Organization (TPO), and Value Adjustment Board (VAB) for 2024; appointed Commissioner Tom Goodson as Commissioner Liaison to Central Florida Expressway Authority, East Central Florida Regional Planning Council (ECFRPC), Election Canvassing Board, FAC, FAC Board of Directors for District 19, Indian River Lagoon Council (Alternate), and TPO for 2024; appointed Commissioner John Tobia as Commissioner Liaison to FAC, TPO, and VAB for 2024; appointed Commissioner Rob Feltner as Commissioner Liaison to the ECFRPC, FAC, Indian River Lagoon Council, Public Safety Coordinating Council, and TPO for 2024; and Commissioner Jason Steele as Commissioner Liaison to Economic Development Council (EDC), FAC, Tourism Development Council (TDC), and TPO for 2024.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.1. Public Hearing, Re: Amendments to Chapter 122, Waterways, Anchoring Limitation Areas

Chair Steele called for a public hearing to consider amendments to Chapter 122, Waterways, regarding Anchoring Limitation Areas.

Amanda Elmore, Natural Resources Management Deputy Director, stated this is a public hearing for amendments for Chapter 122 entitled Waterways to allow for the establishment of four Anchoring Limitation Areas near the Eau Gallie and Melbourne Causeways, and the expenditure of up to \$10,000 of Brevard Boating Improvement Funds for the installation of markers and buoys; and she is happy to answer any questions the Board may have.

There being no comments or objections, the Board adopted Ordinance No. 23-30, pertaining to Anchoring Limitation Areas in Brevard County; amending Chapter 122 Waterways and creating Division 2, Anchoring Limitation Areas, of Article II, Boats and Water Safety, of Chapter 122, Waterways, creating Section 122-40 Definitions, creating Section 122-41 Official Anchoring Limitation Areas Maps, creating Section 122-42 Designated Anchoring Limitation Areas, creating Section 122-43 Enforcement, and creating Section 122-44 Exemptions of the Brevard County Code of Ordinances; establishing Anchoring Limitation Areas within Brevard County adjacent to the City of Melbourne, Florida; providing for severability, conflicts, area encompassed, an effective date, and inclusion in Code.

Result: Adopted
Mover: Rita Pritchett
Second: John Tobia
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.2. Public Hearing, Re: Ordinance Amending Chapter 82, Brevard County Code of Ordinances, to Mandate Criminal History Record Checks for Specified Positions of Employment or by Certain Outside Contractors for services or Vendors

Chair Steele called for a public hearing to consider amending Chapter 82, Brevard County Code of Ordinances, to mandate criminal history record checks for specified positions of employment or by certain outside contractors for service or vendors.

Melissa Powers, Human Resources Deputy Director, stated this is a public hearing to adopt a new section of Chapter 82 of the County Code mandating criminal history record checks; the ordinance is required to request a Florida Originating Agency Identifier (ORI) number from the Federal Bureau of Investigation (FBI) for the FL9 system and continue with criminal history checks in accordance with County Policy; since legislative intent was passed by the Board in October, she has been working with Florida Department of Law Enforcement (FDLE) on the ordinance language, which was attached to the Agenda Report for the Board's review; and it is requested that the Board adopt the amendment to Chapter 82 of the Brevard County Code of Ordinances creating a new section 82-17 mandating State and Federal criminal history record checks as stated.

There being no comments or objections, the Board adopted Ordinance No.23-31, mandating State and Federal criminal history record checks for specified positions of employment by Brevard County or by certain outside contractors, or vendors.

Result: Adopted

Mover: Rita Pritchett

Seconded: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

H.1. Resolution, Re: Approving the Issuance by Brevard County Housing Finance Authority of Multi-Family Housing Revenue Bonds (The Venue at Heritage Oaks Project), in an Amount not to Exceed \$16,750,000

Chair Steele stated the Board appreciates the people being here; everyone will be able to speak; the time has been limited, since there are so many of them, to two minutes; but everyone will have the opportunity to speak tonight; he knows City Councilman John Dittmore is here; he knows Mr. Dittmore is another appointment he needs to get to; he is going to move him up to the first comment; and then the Board will go the way people have signed in.

John Dittmore, City of West Melbourne City Council, stated he supports the Live Local Act initiative of the State Legislature, or at least in theory; however, he is concerned about the Live Local preemptions relating to the commercial and industrial zoned properties; Live Local as written can, and most likely will, systematically eradicate commercial and industrial zoning in communities, effectively removing their future economic value; the potential for business and job creation will be lost; and there are no caps on this program, all available commercial and industrial property is up for grabs. He went on to say two additional locations have already been identified by other developers in West Melbourne's prime commercial location; by the way, this just happened since the last Commission meeting; two of the three locations are now in District 5; once these prime commercial locations are gone, they cannot get them back, and the economic impact cannot be reversed; this developer on this project is asking for a \$16 million bond while only providing the minimum impact to families in need, 20 percent or 21 apartments in this case; and the other 80 percent are at the 120 percent Area Median Income (AMI). He noted impact on the public good is at the very minimum; 80 percent of the project targets seniors or retirees making a minimum income of \$77,000; the rental numbers are roughly the same as the market rate for a one-bedroom apartment in the City of West Melbourne; no attempt by the applicant to utilize the many multi-family zoned properties has taken place; this is not the spirit of the Live Local Act; although he knows the Board cannot address the Live Local Act of Senate Bill 102 here, as it has no control over that, he would just ask at this time for the Board to exercise its authority to deny the bond request; and the City of West Melbourne has an agenda item tonight for a moratorium for the Live Local Act until such time the Council can enact ordinances and policies related to that legislation. He commented should this pass at the City level, the City will address mixed-use requirements on other items related to Senate Bill 102.

Chair Steele advised he appreciates the enthusiasm of the audience, but he asked them not to have any applause, screaming, yelling, or hollering in favor of what people have to say, but to do it in an adult-like manner and try the best everyone can to get through this; he knows it is a very passionate issue; but he further asked if the audience can restrain from that, the Board would very much appreciate it.

Scott Culp, developer for the project, stated he provided the Board with a package very similar to the PowerPoint presentation they provided to the community at the meeting this past Thursday night, and he wanted to go through just a few of the items on that; the Venue at

Heritage Oaks is a community that they are proposing to be a senior's affordable housing community financed with the tax-exempt bonds allocated through the Brevard County Housing Finance Authority; they are proposing a building on a commercial parcel utilizing the Live Local Legislation that empowers them to be able to develop affordable housing on commercially-zoned properties; this picture before the Board is of a community they just opened this year with a very similar architectural style to what they are proposing for Venue at Heritage Oaks; he thinks everyone is aware of the site location, so he will not belabor that with them; but the site does have installed stormwater retention stub outs for water and sewer to the site on a four-lane divided roadway with a signalized intersection. He mentioned they are using a site plan that utilizes the existing permitted curb cuts and access points, the existing stormwater retention area that has been permitted, and a site plan they think will meet all of the Code requirements for the City of West Melbourne; the incomes, he thinks they made mention of, are governed by the bond regulations; 20 percent of the units will be at 50 percent of the median income, and the balance will have a maximum of 120 percent of median income; and the most important thing he thinks is to consider the demand for affordable housing in Brevard County.

Commissioner Goodson advised starting out at the last meeting, numerous things were said about affordable housing; but now they have changed, and this is just for senior citizens; and he asked if that is correct.

Mr. Culp replied they are, under the particular development plan that they have now; and they are proposing to restrict the occupancy of the community for seniors in accordance with the housing for the Older Persons Act.

Commissioner Goodson asked what the reasoning was for that.

Mr. Culp responded they encourage senior developments, they like senior developments; they think there is a demand; the demand analysis from the Shimberg Center shows that there is a strong demand for affordable senior housing; and they believe it is appropriate for this location.

Commissioner Goodson inquired if he has turned his site plan in yet.

Mr. Culp replied they have had a pre-application meeting with the City of West Melbourne; and they have not completed a formal site plan submittal application.

Commissioner Goodson asked when that will be done.

Mr. Culp responded they are proceeding with that immediately, so it is a matter of weeks, assuming they get the approval to move forward.

Patricia McWhirter stated she lives in the Eastwood Subdivision of Heritage Oaks; as of last year, she is retired; before that she spent 40 years working in the field of social work and social services; what she is asking for today is a no vote on this Venue at Heritage Oaks; the Senate Bill (SB) 102 preempts all of the local decision-making and enforcement; it also heavily favors the developers; and it allows the developers to bypass local building restrictions on building height, capacity, and zoning, so a no vote would send a message back to the lawmakers and also perhaps set a precedence for the rest of the State.

Robert Klimkowski stated SB 102 preemption, and he thinks the Board has to look at where that spirit really comes from, it is not right; he does not like preemption, he likes affordable housing; with this particular project, he thinks the biggest issue is the traffic; he asked the Board what it can do about the traffic as bonds are being talked about here; and he stated

these people are very passionate about this, and it makes him feel like the community is rising up. He continued by saying the Legislature is where to go to talk about this; he wishes there was more power here, or if more could be directed for willingness to SB 102 to be looked at next Legislative Session, and how that would be about the purview of this Board; he asked if that could be anything the Board could draft; they are having an issue with SB 102; they are having an issue with Florida Housing Finance Authority approving the bonds, and then people coming to the Board meeting; the next Item Commissioner Tobia is going to address that through a public hearing in that locality, because now it is mailed out to that area of Cocoa when it is not mailed out to the West Melbourne citizens; another option is to have an advisory board for West Melbourne, such as a housing and urban development center where they could have more public awareness about affordable housing; and he is for the project other than the traffic. He commented he thinks that 120 AMI, although high, it is what is under the law, and it is what the folks who represent democracy have voted for, people to vote for it; they vote for the people to get in; they vote for something; then vote for legislation in the Senate and the House in the State of Florida and then talk to them there; and if that is something the Board can do, he would love that.

Chair Steele advised the Board does not have any jurisdiction over the State Legislature; and what is going to have to happen is if he wants to change Senate Bill 102, they will have to find someone to run for the Florida Legislature or a State Representative now, and pass the glitch amendment or a new amendment.

Mr. Klimkowski asked if the Board can direct the County Attorney; and he has seen other counties and other cities direct their staff to write a letter.

Chair Steele replied no, sir, the Board cannot.

Larry Limbaugh stated Gemma is three years old; she loves Paw Patrol, Mack Queen, Abby Cadabby, and most of all she loves Elmo; she is pretty; she is as smart as Stephen Hawking; and he is her An Dada, and she is his only grandchild. He continued by saying he gets to see her as much as he wants to because he lives in a federally-funded, attractive housing complex that a person can see from outside in the yard; it is a two-bedroom, two-bath commodious apartment right here in Viera; the sunsets are an explosion of technicolor from the fourth floor; they have granite tabletops, they enjoy marble windowsills, double-paned glass, berber carpet, and here is the rub, An Dada, that is him, Ganni, and Gemma could not be all together were it not for this project here in Viera; keep the projects going wherever they are, either in Brevard County or elsewhere so that more An Dada's, more Ganni's, and more Gemma's can hug each other all they want because these building projects that the County is developing are not drawing in riffraff, they are drawing families together.

Chair Steele asked Mr. Limbaugh if he is in favor of passing the bond or opposed to it.

Mr. Limbaugh replied he got the red shirt memo a little too late.

Chair Steele noted the red shirt is a yes then.

Mr. Limbaugh responded affirmatively.

Sue Tindall commented she also lives at the Venue at Viera Senior Living Apartments; it is located at Windham Way and Stadium, a very busy area, but they have the privilege of living in this wonderful property across from multi-million dollar homes; they have beautiful scenery, and gorgeous apartments; she hopes she can reassure people that this is not riffraff, it is grandmas and grandpas; and it is just affordable housing that benefits all. She went on to say she does

not have any doubt at all that the Heritage Project is going to be any different; she knows they have traffic issues, but she is sure that will be laid to rest and something will happen with that; and she invites anyone to come out and look at the facility, it is just beautiful.

Chair Steele asked Ms. Tindall if she wants the Board to vote yes to continue the bond for affordable housing for seniors.

Ms. Tindall responded yes.

Aleisha Hickey explained she is very much in favor of this Heritage Oaks Project, because being able to come home to the serenity of her apartment at Venue at Viera is a benefit of living in the senior community; she does not have to deal with screaming kids or trash throughout the property; the affordability of the rent helps her with her ability to pay her other monthly bills, such as electricity or food; it also affords her the little luxuries of having cable and internet in her home; and living amongst people her own age and being able to share life stories over coffee or a glass of wine helps her to deal with the daily boredom. She reiterated she is very much in favor of a new senior housing project because it is very much needed in the County.

Nicholas Heckman mentioned the purpose of these meetings is Tax Equity and Fiscal Responsibility Act (TEFRA), and it is under a Federal Statute under the Tax Code to make sure that funding is used for the appropriate sources and the appropriate use to serve the need of the community; this is definitely a need of the community; it will definitely be served under Section 142 of the Code; and it will be bonds that will be used for a public need, and will serve affordability and attainable houses for the community as a whole.

Debra Sandberg expressed her appreciation to Commissioner Pritchett for pausing the approval of bonds until the developer could meet with the residents; she advised it was an excellent meeting; the developer had a venue that seated 45 people, and double that amount of people showed up; the residents are not against affordable housing; everyone knows it is needed; and the problem is the traffic in this particular location, that is all she is complaining of, and it seems to be the same for the majority of people who live in the close six subdivisions with 700-plus homes. She noted this developer showed them the site plan, and the traffic study that was presented was outdated; the Board said to the residents it was approving the proper presentation of the forms for it to vote on the bond; she just thinks the traffic study needs to be repeated at today's influx of new residents; and it has to be more than just two hours in the morning and two hours in the evening. She went on to say it really should have that black ticker thing that goes across the road and does a count to give an accurate study of what is going on, on this particular piece of property; again, she is for affordable housing; she may be there someday herself; but she is just saying it cannot be had if the roads do not support the traffic; and the problem with this particular site is that there is one exit on Minton Road, a tiny little exit and entrance that is shared with the Memory Center, and there is one on Heritage Oaks Boulevard, which is a closed road.

Justin Lauer stated he is here this evening because the Board has a decision to make; it was elected by the people of Brevard County; these people pay the Board's taxes, they pay its salaries, and they will be here for its votes; today everyone will find out if the Board is going to vote for the residents of Brevard County, or if it is going to vote for special interest dollars coming from outside of the County; those people are going to leave with their profits, they are not going to be here next November in 2024 to vote for the Commissioners, but the residents will; and the issues here have to do with what is going on the land. He continued by saying they want to put a four-story building that is not congruent with anything in that area; there are over 700 single-family homes connected to that road; although it may be legal and allowable, it is not

the right thing to do; there are bills that get passed all of the time; Obamacare passed; people had to read through it before they understood what the bill was; and then they realized the fallacies of it. He stated the Senate Bill just got passed; the residents found out what was in the Bill; now it needs to be corrected; if Governor Ron DeSantis does not correct it, he will get crushed in the primary; in the next six months the Governor will look at this and do the right thing, and make some adjustments in there; it is wrong that the State comes in and takes commercial property and bypasses all of the zoning of the local city to put it into effect; all of these cities have zoning boards and comprehensive plans that they worked on for years; and Senate Bill 102 is trying to circumvent all of that. He reiterated it is wrong, it is going to get exposed; the Congress person in Naples who put this forward is going to get exposed; he has confidence in the great State of Florida that this will get fixed in the upcoming months and get corrected; there just needs to be some time for this to happen; he asked the Board tonight to just vote no and be a leader in Brevard County by doing the right thing; other counties and other cities will join Brevard County; the residents need a no vote tonight to send a message; and if the Board does not vote no tonight, this Bill can preempt and take all of the commercial property from any county in the State of Florida.

Suzy Kedzierski stated the question before the Board tonight is whether to vote no to the bond; she believes the answer is no, and that there are some issues the Board should be thinking of; first, the Housing Finance Authority (HFA) resolution that approved the bond stated, "promotes the health and welfare of Brevard and will thereby serve the public purpose"; she believes that on the other hand the bond does not; second, as Chair Steele pointed out, were the papers filed properly; and again, she believes no. She remarked on the health and welfare of the public citizens, she contends that the bond does more harm than good, and therefore, does not benefit the public, and here is why; only 20 percent of the proposed 105 units are going to be set aside as affordable housing, the other 80 percent are not; in exchange, the Board is being asked to authorize approximately \$17 million in bonds; and she asked the Board is that a financially and fiscally responsible use of taxpayer dollars, dollars it helps to control. She inquired who it hurts; she explained at a minimum the 735 families in the five communities in Heritage Oaks; but it goes beyond those 735 families; approving the bond negatively impacts the entire City, as this 40 to 65-foot high building will forever mar the look and feel of the community of West Melbourne; as one of the Council Members put it to her, if they had wanted an apartment on that corner, it would have been approved when it was proposed last year; and that was just a three-story building. She advised moving on to the paperwork, she sent the Commissioners an email regarding the inconsistencies, namely that the HFA application asked if the developer or principal, and/or general partner had been found in non-compliance; the Board has the information; and she asked the Board to vote no.

Velma Decker advised she has rented for all but nine years of her life; as a 65-year old woman with a disabled pain condition, she embraces the use of the property off of Minton Road in West Melbourne for 55 and older apartment homes or assisted living facilities; but the proposal submitted by the Venue at Heritage Oaks is deeply flawed, and frankly rapacious; the incomplete, ambiguous, overly narrow submissions by the company do not demonstrate the long-term financial viability of the project; the memorandum of agreement forming a legal relationship between Brevard and the company does not provide any meaningful detail or financial controls to ensure the proposed transactions will have no negative financial impact on the County; do not let the company or its partners, Southern Affordable Services, pull at the Board's heartstrings; and they are presenting a bond proposal without specificity, but high risk. She went on to say on November 29th, the company stated it would not consider a two-story complex because it did not meet their price-point for the property; the company and its partners care only about money, they do not care about the community or seniors like her who would suffer a loss of personal property value after construction of a concrete monolith wildly out of keeping with an already welcoming and apartment-friendly community; the most significant flaw

on the incomplete financial submissions is the complete absence of a comprehensive maintenance plan and related specification of capital reserve requirements for the life of the building and housing project that should be 40 years not 15; and in the interest of time, she respectfully requests that her mere comments and concerns on the long-term financial viability of the proposal and its financial impacts to Brevard County be amended to the public record.

Sandra Sullivan asked the Board to reject the government bond so that the developer has to apply to the State for bonds; she stated in this way, it would give the City of West Melbourne the most opportunity to work with the developers to incentivize a better location via House Bill (HB) 1339 given the preemption for local rule for SB 102; she pointed out under SB 102, according to State law it still has to conform to concurrency, so the issues with traffic have not been resolved yet; when she looked up the owner, she thinks they actually do not own the property; and as a side, she finds SB 102 to be very egregious. She noted she understands it is a State law, but what she would urge the Board to do like the mandated vaccines that came from the Federal Government, they pushed up from the local level against over-reach of the Federal Government; this is the same thing here for the State Government, it is over-reach; when talking about affordable housing, a person thinks low-income; and this is middle America housing. She stated when looking at a 75 percent discount on property taxes, of course, there will be a lot of companies come to Brevard for this; she stated from a taxpayer, fiscal standpoint, the Board should be pushing back against these projects because somebody has to pay for fire, police, County services, impact fees; and the last affordable housing meeting, it was being proposed that the County staff doing exemptions on impact fees, so not only for services but now for infrastructure.

Ron Jurgutis advised what the citizens have brought up are good points; he does not live in the area, but traffic is an issue; traffic needs to be addressed; his biggest concern is that only 20 percent of the units, which equates to about 20 units, are going to be allowed for senior living; that was not discussed at the last meeting; but now it is 20 percent. He continued by saying he says \$16 million, reduce it down to 20 percent financing only for the 20 units; he asked who is going to pay for the infrastructure as far as roads and so forth; he stated as someone mentioned impact fees, he is frankly tired of paying, subsidizing people throughout the world here, not excluding this country, subsidizing everything for everyone when he had to do it the hard way; he got no subsidies; and his point is he is paying for everything here. He noted he is going to have to pay for the roads over there, for infrastructure improvements, fire, and so forth; someone said to him it is only a hamburger a week; that is not how it works, do not take his money; he reiterated he is tired of this, because it goes from one penny to the next and sneaker taxes; and he can afford it, but how many cannot. He stated this should not be done at this point; and there needs to be traffic studies and impact on people in the area.

Katie Delaney explained everyone agrees that there is a major housing crisis, but this SB 102 is a bad Bill; it is going to hurt the middle class; it is going to hurt the majority of people in the community; and it is going to frankly destroy the community if people are not careful. She noted it is people's jobs as citizens, County Commissioners, and city council members to push back on the higher levels of government when they over-reach; she is hoping the Board and the city governments around the State of Florida push back on the State, because that is what needs to happen; the Board Members are here to be the people's representatives, to be their voices, and to be their lobbyists; and the Board is not here to be a developer's lobbyist, it is not here for any other purpose than to serve the people's needs, and to spend the citizens' money wisely. She asked the Board to do what the citizens elected it to do, and to stand up for the people.

Peter Fusscas commented he actually does not have an opinion on this; the reason he is here is just curiosity; he is not here because of the Citizens Budget Review Committee, he is here as a citizen and taxpayer; in the interest of transparency, he wants the Board to know that he

has worked with Angela Abbott, Esquire, and PFM for 10 years or more; and they are highly professional and highly-abled professionals, so the Board can take comfort on what their recommendations are. He asked what the fiscal impact is to the community, municipalities, County, and eventually to the taxpayers; and has there been a fiscal impact study on this proposal.

Chair Steele replied he is sure they had to do one in Tallahassee; the County does not do one, as it is a State Legislation Bill, it is a State Statute; and the County would not do that here.

Mr. Fusscas pointed out if there is an impact, he thinks there is an Ordinance that says if there is a fiscal impact on any piece of Legislation, it has to have a fiscal impact statement.

Chair Steele stated this is not in the County's jurisdiction, this is in the jurisdiction in the City of West Melbourne; he thinks everybody knows that here; the Board has one obligation tonight and that is to vote on whether or not to approve the FHA bond; and that is all.

Disha Barua asked the Board to vote no, and that is why she is wearing a red shirt; she is an engineer; she noted if there is a proper study being done for that additional population, she is sure the result will be bad, and definitely not a good idea for the people as mentioned before; it will increase money needed for infrastructure, increased population, increased crime, and increased accidents; and overall, it is not a good decision. She went on to say there is a school, West Melbourne High School, where most of the people who live in the area kids go; she asked how safe is it for the kids; this is not New York, it is Florida; this is downtown; it is not safe for the residents already living there; and there are way better places around the town where it is safer for the population for the people who need this housing. She reiterated it is not a location, it is not safe for anyone, so overall she feels this is not for the right reasons; and she again asked the Board to vote no.

Mr. Culp advised the Board heard a lot about the concern for traffic; the City of West Melbourne has land development regulations and transportation concurrency that is governed by Florida Statutes; and they will have to comply with that, meet those requirements, and none of that is preempted by anything in Live Local.

Chair Steele stated he knows that.

Mr. Culp remarked there was some discussion about the legal sufficiency; the Board has in its package a legal sufficiency memo from the Brevard County Housing Finance Authority; there was some other mention from the public about the funding for the development; that \$16,750,000 in bonds are bonds they are purchasing and providing the funding for; and there is no public funding coming for that. He went on by saying there was a question about their ability to apply for these bonds at the State; they can do that; but currently there is no available bonding for the elderly at the State level.

Chair Steele explained that Mr. Culp is going to have to wrap it up.

Commissioner Pritchett stated the last meeting she let the Board know that this is a flow-through for funding for other people to buy bonds with tax exempt status, so the Board is not approving the project; the Board's vote tonight is just giving other people the opportunity for an investment; they are going to build the project; and she is very thankful they already had the community meeting. She continued by saying she would not have minded if they would have left it with young families as well, because she can see the need for that; but she can see where they made a little bit of adjustment there, probably for political purposes, for the people who are having concerns; it is a beautiful project; they do have to comply with traffic studies

and all of those things; and again, she is not voting on that project, she is just voting on the funding. She advised she is voting in favor of this tonight to approve the funding for it, because the Board has never not voted on that, and she does not think the Board has that ability; its affordable housing, it is not no income for people housing; it is people who have funds; people have their homes, and they do not get it with these young families trying to find a place to live; there is no place affordable; and the other options are going to be to add on rooms to their houses and help their children raise their families. She remarked it is getting quite disturbing; she sits on the Affordable Housing Board; these are discussions coming up consistently; it has been on the ballot here locally; it was voted through overwhelmingly to start a trust fund for affordable housing, so it is a situation; she does not know if she would have done it the same way the State did; but the citizens need to call their State Representatives because they are the ones who voted that part through with whatever adjustments that need to be made. She reiterated the Board is just approving the funding; and she pointed out she is going to be approving the funding tonight.

Motion by Commissioner Pritchett, seconded by Commissioner Steele, to approve the request by Brevard County Housing Finance Authority approving a resolution to allow the issuance by the Authority of multi-family housing revenue bonds to finance the acquisition, rehabilitation, equipping, and development of The Venue at Heritage Oaks.

Chair Steele stated he feels the pain of everyone in this room, he understands it; as the people know, the Board does not have jurisdiction over Senate Bill 102; he checked prior to the meeting tonight with the Chief of Staff, the Governor's Office, the Chief of Staff of the House office, and asked if there was any proposals or any amendments coming in; there may be amendments coming in later on the Live Local Bill; but at this particular point of time, no. He noted he would suggest the City of West Melbourne get together and do an ordinance to tighten up the Statutes; he is not an attorney and not going to tell them how to do that; but these folks that came out here tonight have a project that is going to create low income for a number of people, whether it is 20 percent, 30 percent, or seniors; the other side of the coin is affordable housing is extremely important; he has no idea how the rest of the Board is going to vote, so the Board is going to have to make a decision of what is in the best interest of the general public; and the Board has certainly heard the residents' side. He commented the Board has not asked the people who need this type of housing to be here tonight; if the Board did, it would have a giant room filled with conflicting wants and needs; he feels affordable housing is absolutely necessary; he is voting yes to approve the bond; and from there, he does not know what is going to happen. He expressed his appreciation to everyone who came out tonight; he stated he thinks the Board has been very fair in listening to everybody; and whatever happens, happens this evening.

Chair Steele called for a vote on the motion. The motion fails. Commissioners Goodson, Tobia, and Feltner voted nay.

The Board denied request by Brevard County Housing Finance Authority requesting that the Board approve a resolution to allow the issuance by the Authority of multi-family housing revenue bonds to finance the acquisition, rehabilitation, equipping, and development of The Venue at Heritage Oaks.

Result: Denied

Mover: Rita Pritchett

Seconded: Jason Steele

Ayes: Pritchett, and Steele

Nay: Goodson, Tobia, and Feltner

I.1. Legislative Intent and Permission to Advertise, Re: Ordinance for Housing Finance Authority TEFRA Hearing Notification and Municipal Participation Requirements

Morris Richardson, County Attorney, stated this came out of the previous Item at the Board's last meeting when it considered the Venue at Heritage Oaks bond approval request; the Board asked him to research whether it could impose additional notification requirements on bond finance issues because of the statements of some of the residents that came out and said they had not received the notice of the TEFRA hearing conducted by the Housing Finance Authority; he believes the Board can impose those additional notification requirements; he coordinated with the District 3 Commissioner; and this is a request for legislative intent and permission to advertise an ordinance that would come back to the Board at the December 19th meeting that would add additional notification requirements including notification of property owners within 500 feet of a proposed project, notification to a municipality if the project is within municipal borders, and also required to be placed on the County's public accessible website legal notices section.

Commissioner Feltner stated he has a friendly amendment for the Board to consider, that the hearing take place in a municipality or a zip code before going before the Board; he says that because obviously there are places in unincorporated Brevard County where these issues will come up, so he thinks it would be unfair to have it outside of that area; and he would like to amend that to take place in a municipality or a zip code before coming to the Board.

Ron Jurgutis stated the idea of having the meeting or notices to people in an area where the project is being developed is very important to have; he thinks there needs to be more work done on this; he believes there should be amendments added to this; he will speak to his District 4 representative going forward, so he gets the ear from him; and he will probably be informed about it as well.

The Board approved legislative intent and permission to advertise for an ordinance amending Chapter 2, Article VI, Division 3, of the Brevard County Code of Ordinances, pertaining to the Housing Finance Authority; directed staff to prepare an ordinance for additional TEFRA hearing notification and municipal participation requirements; and to include a hearing taking place in a municipality or a zip code before going to the Board of County Commissioners.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

I.2. Approval, Re: Lease Renewal for Nana's House

Kim Frodge, Volunteer Founder and Executive Director of Nana's Children's Home, also known as Nana's House; the County has supported them in the past 10 years; they currently have 18 families in Brevard County serving 70-something kids total within all of those families; and they continue to grow daily. She explained they provide safe, loving homes for neglected, abused, needy, or abandoned children in the community, and they do it with a 100 percent volunteer staff; they have no paid staff and no State funding; the reason she is here is to ask the Board if it would please renew their lease for the next five years; they need that building that the County donates to them; and if the Board has any questions, she is happy to answer them. She mentioned their gated community is located right down the road from that house, about two blocks; they built that gated community with 100 percent volunteer builders, about 98 percent donated contractors, and about 98 percent donated materials; they could not do what they do without the County; they are truly just an old fashioned charity where the community comes

together for those in need which happens to be neglected, abused kids; and she expressed her appreciation to the Board from the bottom of her heart for all it has done for them.

The Board adopted Resolution No. 23-145, and authorized the Chair to execute renewal of Lease Agreement, allowing the non-competitive lease of County property located at 4090 Minton Road, Palm Bay, to Nana's Children's Home; and authorized the County Manager to execute any and all no-cost contract-related documents contingent upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services.

Result: Adopted

Mover: Rob Feltner

Second: Rita Pritchett

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

I.3. Approval, Re: Tourist Development Council FY 2023-24 Major Event Grant Program Recommendations

Chair Steele asked if the person who runs the Brevard Renaissance Fair grant is here; he would like to ask him a few questions; and he would like the Tourism Development Office Director to introduce the Item.

Peter Cranis, Tourist Development Office Director, stated this is three major event grants coming from the Tourist Development Council (TDC); it is \$50,000 for Thunder on Cocoa Beach Boat Races, Brevard Renaissance Fair at \$25,000, and Space Coast State Fair at \$25,000.

Chair Steele stated he has gotten back a couple of reports from a couple of his vendors that they had not been paid; from what they tell him, it is a total of up to \$18,000 worth of unpaid invoices; it makes him a little nervous to move forward with giving him a \$25,000 grant; and he asked what Mr. Moolhuizen plans to do regarding those invoices.

Peter Moolhuizen, Brevard Renaissance Fair, replied he understands that; they had some struggles the last few years; they dealt with a couple of hurricanes, COVID, and they worked their tails off to keep the Renaissance Fair open; they also do a fair in Sarasota at the same time, so it was a struggle; last year they had an accounting error that showed its ugly face at the end of the event, which they did not catch; and it was a spreadsheet error that caught them by surprise after they had made investments, but they have already started to pay on those invoices. He noted the invoices should all be cleaned up by the first week of the Renaissance Fair.

Chair Steele asked what that date is.

Mr. Moolhuizen responded it starts the first week of January.

Chair Steele asked if his intentions are to get them paid as soon as possible.

Mr. Moolhuizen advised without a doubt.

Chair Steele pointed out Mr. Moolhuizen is putting that on the public record tonight.

Mr. Moolhuizen replied correct, and he remarked one he did not find out about until last week, so it caught him by surprise.

Chair Steele stated he thinks everyone understands problems; he just wanted to make sure it was put out to the public; he is not trying to embarrass anyone; and he just wants to make sure that if the County is going to be involved with Mr. Moolhuizen that he takes care of his responsibilities to his vendors.

Mr. Moolhuizen noted they do that, and have been doing that for nine years.

Commissioner Tobia advised that is news to him; he is looking at Mr. Moolhuizen's budget from last year, according to Mr. Moolhuizen's numbers not his, \$207,395 budget; and he asked if Mr. Moolhuizen can explain to the Board how he is deficient \$18,000 if he is showing a \$207,395 profit.

Mr. Moolhuizen explained that is when they discovered the error; the budgets were done prior to them discovering the error and mistake that was going on, on the spreadsheets; the budgets for this grant were done he believes in early April; they started to discover the errors on the spreadsheets, which they use to do their payments and manage their business; and they have done it that way for nine years. He advised it was discovered after-the-fact; they use Quick Books; and they use their Certified Public Accountant (CPA) to figure everything out.

Commissioner Tobia inquired if the budget he is looking at is completely false.

Mr. Moolhuizen commented he would not say it was false, it was accurate at the time it was put together; and it was the best they knew.

Commissioner Tobia asked if Mr. Moolhuizen has an update to share with the Board; it is being discussed to hand over \$25,000; and by his own admission, what he has handed over to the Board is not valid.

Mr. Moolhuizen mentioned it was the bottom profit line, there was costs that increased; and they had some vendor invoices that they did not know existed and they had some entertainment costs that were higher than what they had budgeted for that caught them by surprise, so that obviously reduced that bottom line number dramatically. He pointed out they did not end up with a profit for the year.

Commissioner Tobia asked if his numbers were more than \$200,000 off.

Mr. Moolhuizen responded affirmatively.

Commissioner Tobia asked if they are a for profit organization.

Mr. Moolhuizen replied they are a for profit corporation; and they also have a non-profit arm that they use, Brevard Renaissance Fair Charitable Foundation.

Commissioner Tobia stated 19 asks a whole bunch of revenue streams; he was quite detailed on that; he listed vendor fees, ticket sales, liquor sales, alcohol sales, some of which he may have had while at his event, games, percentage of food sales, package sales of mead, merchandise sales, camping fees, as well as all of his social media being monetized, so those are all revenue sources.

Mr. Moolhuizen stated those are all revenue streams.

Commissioner Tobia commented going back to his budget; they are not talking expense, they are talking revenue now, so all of the errors Mr. Moolhuizen was talking about were added expenses not added revenue; and he asked if that is correct.

Mr. Moolhuizen responded okay.

Commissioner Tobia stated his budget has under income, two lines; one is admission, which are people who move into the gate; but on 19 he listed nine.

Mr. Moolhuizen advised they do not give them the opportunity to list every item on there, he thinks they just give them one line to put income.

Commissioner Tobia explained lines can be added to income.

Mr. Moolhuizen stated he was not aware of that, they just used the one line to put in the total.

Commissioner Tobia asked what admission is; and is it people who move in through the gate.

Mr. Moolhuizen replied affirmatively.

Commissioner Tobia inquired if it is percentage of alcohol sales.

Mr. Moolhuizen responded it is all included, it was all inclusive in there; and he only saw the one line so he put the entire amount on the one line.

Commissioner Tobia pointed out he has contractor and service revenue, contributions from individuals, corporate contributions, government support, federal, state, local, foundation support, other income, subtotals, and also he can change, add, or subtract; he is wondering what of this document is accurate; by his own admission the expenses are far off; he asked what of the income is accurate; and he stated to remember Mr. Moolhuizen is asking taxpayers for \$25,000 here.

Mr. Moolhuizen remarked to promote Brevard.

Commissioner Tobia stated to promote Brevard.

Mr. Moolhuizen stated they use that money to promote Brevard, and to bring people from out of the County into the County.

Commissioner Tobia noted he does not have that here, by his own admission the document he gave the Board is incorrect, so he does not have those numbers; he appreciates Mr. Moolhuizen coming up here; there is no way he could come and ask people for \$25,000 when his budget was hundreds of thousands of dollars off, and he had left some vendors tens of thousands of dollars short, so kudos to Mr. Moolhuizen for showing up; and he has a better disposition than he would. He went on to say he will be down on this until at least he can get a budget that is somewhat accurate.

Commissioner Pritchett showed Mr. Moolhuizen a copy of what the boat show gives the Board now.

Mr. Moolhuizen stated he can generate a complete list.

Commissioner Pritchett stated last year he had 25,000; and she asked if this year he is projecting 100,000 people attending.

Mr. Moolhuizen responded they had 85,000 last year according to the numbers, and the goal this year is 100,000.

Commissioner Pritchett advised she agrees with Commissioner Tobia, and she cannot pass this either; Mr. Moolhuizen has total income listed and it makes it look like he is making \$1.4 million; he should get with his accountant and get that fixed; he just needs to get that turned in better; and he has a lot of work to do.

Mr. Moolhuizen stated they do the budget so many months in advance; they do not know what is going to happen down the road.

Commissioner Pritchett commented she does budgets all of the time; she can tell him what is going on her budget and why because she has learned how to do them; the \$180,000 in there and not what it is going to do; and this is not going to fly with her as she is an accountant. She continued by saying she is not going to vote for this.

Mr. Moolhuizen advised he only did that because of the costs, like the park increased 30 some percent on them this year.

Commissioner Pritchett reiterated she is just saying it is not going to work with her tonight; he has an opportunity to go back and fix it or she will vote no; it is up to him; but she is comfortable with the boat races, and the space coast fair, she loves what they do, but they have already done the project; and she is going to ask them to come back with the actuals on the budget before she is going to vote for that amount.

Commissioner Pritchett made a motion to approve Thunder on Cocoa Beach, and Commissioner Goodson seconded the motion.

Commissioner Tobia mentioned he had a couple of questions; and he asked if anyone was present from Thunder on Cocoa Beach; and he asked if Mr. Bartlett did not include the revenue estimate for 2024 in this submission.

Kerry Bartlett, Thunder on Cocoa Beach, responded he does not think they went out that far; and they have not submitted a budget for 2024 at this point.

Commissioner Tobia noted that is an issue to him because an estimate would have been nice; he does have a couple of questions for the Board, and this is more philosophy moving forward; it has nothing to do with Mr. Bartlett, because he did a very good job with most of the budget; he knows the Board asked for some improvements, and Mr. Bartlett went far beyond; those are just estimates, the Board is not holding him to it; but from his perspective, he would like to see it. He went on to say the County is providing a pretty big stipend to this, and yet the City of Cocoa Beach is actually a large beneficiary of this; the County is basically passing through more than \$18,000 to the City; it feels like the County is just subsidizing the cities, which causes a little bit of concern for him; and if it does not with the other Board Members, he will never bring it up again. He stated the County has the County park rental fees of \$1,500; this organization, a for-profit organization, then monetizes that; by Mr. Bartlett's numbers here, they make a little bit more than \$7,000 in parking fees; if the Board is okay with that, he will never bring it up again; but it seems a little weird that the Board allows them to use a park for 'X' and then they turn around and monetize it for four or five times more than that; and he reiterated if

the Board is okay with that, great, but if not, that is fine as well. He pointed out the larger one was that he would have liked to have seen the estimate for 2024.

Commissioner Pritchett expressed her appreciation to Commissioner Tobia, and noted she missed that; she does like the project; Mr. Bartlett went in the hole last year; she is going to support this when it comes back before the Board with the revenue, because the Board did it to him last year and he came back with all of those estimates; and she asked Mr. Bartlett to come back with the budgeted revenue as well.

Mr. Bartlett asked for 2024.

Commissioner Pritchett replied affirmatively; she stated he did a great job last year, and had a great product, he did what he said he was going to do; and she withdrew her motion and asked to have it come back before the Board.

Mr. Bartlett advised what they did in the past was to add approximately 10 to 15 percent, and it has been very close; and this is their 15th year of doing this.

Commissioner Pritchett stated if that is his statistics of what it increases, that would be good to bring it back once he has it written out; and the Board is trying to outline this for everybody coming in for these funds, so it has to stay true to form.

Mr. Bartlett commented if he could on the park issue, they give the parking revenue to the Rotary and the Kiwanis, they both share on the parking revenue, and the Freedom Fighters get to park.

Chair Steele remarked when he is at the bottom of a hole to quit digging; he is going to be all right if he just gets everything back here, gives the Board a new report, and he thinks the Board will pass this later on; and he asked if anyone else has comments.

Commissioner Goodson explained the Board has an opportunity tonight to really set a precedent; if it votes for this approval, Commissioner Tobia will never bring it up again; and he asked the Board Members to think about it. He asked Commissioner Tobia if his proposition will still stay in play when Mr. Bartlett comes back and the Board votes it through, or is it only tonight.

Commissioner Tobia responded he brought up a financial issue; if the Board is okay with setting up a mini Community Redevelopment Agency (CRA) paying more money to Cocoa Beach out of the County's tax dollars, he will not bring up that issue again; it is largely because of what Mr. Bartlett did this last time that the Board has a good template to work with; he really does appreciate the time and effort; and he is sure if it is only 10 or 15 percent, Mr. Bartlett will put it in there, and he is sure he will get it. He noted he did not see an expense to the Kiwanis Club or anything like that.

Mr. Bartlett commented it goes to the Freedom Fighters.

Commissioner Tobia asked where it is on the information provided to the Board; and he asked if that would be an expense.

Mr. Bartlett replied he does not have the budget on him; he does not do the budget; and it is a gentleman who owns a lot of restaurants here in town.

Commissioner Tobia pointed out the problem is Mr. Bartlett just added information, and the budget does not look like it is supporting it.

Mr. Bartlett advised it should be a line item for Freedom Fighters, a donation; and he thought it was \$17,000 last year, this past May.

Commissioner Tobia asked if Mr. Bartlett would look and make sure it balances out there; and Mr. Bartlett is paying the people to park the cars, which is more than what some of his counterparts did, so he appreciates that.

Mr. Bartlett remarked they do not do this for money.

Chair Steele asked when they bring the information back to be very thorough because there are Commissioners who have done a lot of research; and he can assure them they will be embarrassed if they do not cross all of their t's and dot all of their i's.

The Board requested Thunder on Cocoa Beach Boat Races, Brevard Renaissance Fair, and Space Coast State Fair to resubmit new data to the Tourism Development Director for the TDC funding recommendations for the FY 2023-24 Major Event Grant Program.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

I.4. Approval, Re: 2024 Board of County Commissioners' Meeting Schedule

Frank Abbate, County Manager, stated there are two options for the Board's consideration; the first option is one that would reduce the number, actually which would combine the zoning meetings from Thursday night with the Tuesday night meetings if the Board is interested in that, which is Option 1 in the Board's packet and part of the attachment to the Agenda; the second one is the traditional one that the County has used for several years type of schedule, and that is Option 2, also attached to the Agenda; and staff is looking for Board direction on that.

Commissioner Feltner advised he had a couple of thoughts on this; in the first option to combine the meetings, just strictly what might be saved in terms of money, he believes there are a couple Facilities folks here, there is the security out there for the third meeting, the metal detector and all that, always two members of Brevard County Sheriff's Office (BCSO), which is appreciated, and the County would save that if it did not have the third meeting; there is also the Space Coast Government Television (SCGTV) folks who stay here for the third meeting; it is hard to quantify this the number of County staff and directors who also stay here for these meetings; and by going with the first option, he thinks the County would save all of that money.

Commissioner Pritchett asked the Board to stay with the status quo, and here is the reason why; when she first came on the Board, it moved one of the morning meetings to night to give the public opportunity if they worked during the day to be able to make a night meeting; these meetings can get very, very long; when adding the people who want to change zonings on with the regular meetings it will add quite a late night for people waiting to get through all of those items; and another thing is she has kind of fit into this schedule for the past seven years, and she has a few other jobs she has to do. She noted she has to wake up very early on Wednesday mornings as she does a radio program at 6:30 a.m., so if the Board is out until 11:00 p.m., and she did that when she was at the City of Titusville and it was not a good

experience; by the time it gets that late, people just get mad at everyone and vote no to everything; she asked the Board to hang on another few months until it unloads her, and then figure it out again later; but it seems to be a good thing for the public; and she reiterated she would like to just stay with the status quo.

Commissioner Tobia explained while he does appreciate Commissioner Feltner's idea on savings and benefits to not only staff as well as the elected officials, combining meetings would provide one less opportunity for the public to make comments; secondly, it would cause citizens to endure extended hours of regular meetings before the zoning meetings would take place, or vice versa; the reason it is important, what comes first, is many citizens employ attorneys and are sitting out here while their attorney is burning hundreds of dollars an hour, so whether the citizens are waiting or whether a petitioner is waiting there with an attorney, there would certainly be some additional costs; and it is certainly a balancing act.

Commissioner Goodson pointed out after checking on this, the last nine zoning meetings were 10 minutes or less; he does not understand why the Board is doing this; if the Commissioners have a busy schedule, he can understand; but, he cannot imagine Commissioner Tobia would not want a cost savings; he is definitely for this; and it is a vote, which the Board will proceed on.

Commissioner Pritchett made a motion to proceed with Option 2, and Commissioner Tobia seconded the motion.

Commissioner Feltner stated he is going to yield to Commissioner Pritchett as he thinks he is the deciding vote; he will vote with her today; and then in one year, it can be revisited.

Chair Steele called for a vote on the motion. The Board reviewed Option 1 and Option 2 Board Meeting Schedules; and approved Option 2, to utilize the current meeting structure for the 2024 Board Meeting Schedule.

Result: Approved

Mover: Rita Pritchett

Second: John Tobia

Ayes: Pritchett, Tobia, and Feltner

Nay: Goodson, and Steele

J.5. Report, Re: John Tobia, Commissioner District 3

Chair Steele passed the gavel to Vice Chair Tobia.

Commissioner Tobia commented today is National Blue Jeans Day, which is kind of interesting; the useless Florida fact is with a \$1.4 trillion economy, Florida's economy is fourth largest in the country; if Florida were a sovereign nation, it would rank as the world's 16th largest economy according to International Monetary fund, ahead of Indonesia and just behind Mexico; this day in Florida history is on this day in 1945 a flight of the U.S. Navy aircraft known as Flight 19 consisted of 14 crew members, disappeared during a flight operation off of the coast of Florida; a pair of Patrol Bomber, Martin (PBM) marine flying boats off an air station north of Fort Lauderdale attempted to search for the missing craft; however, one of them seemed to follow Flight 19's lead by suddenly vanishing off of the radar; and unfortunately, the crew members were never found. He stated the County employee recognition is Jennifer Thompson, Environmental Specialist III, in the Natural Resources Management Department; Jennifer loves that her office is mostly outdoors; she spends her days conducting illicit environmental discharge pond inspections, water quality sampling, and analyzing data; she has been with the

County for five years; she was kissed by a Sea Lion when she was eight years old, and she became obsessed with Marine Biology; and she never looked back. He stated she loves scuba diving, roller skating, attending events and festivals, and watching comic book based movies; she is a passionate volunteer since moving to Brevard County in 1998, and is involved in organizations such as Keep Brevard Beautiful, Space Coast Science Education Alliance, Brevard County Public Schools, Indian River Lagoon, and A Day in the Life of the Lagoon; she chooses organizations with missions that directly improve the water quality in the area, or to educate residents about the science; Jennifer is also a TV star and was recently in Protect our Paradise and Flip my Florida Yard, which there are some pictures included in the PowerPoint presentation; and he expressed his appreciation to Jennifer for all she does for not only the County but for the environment people enjoy.

K. PUBLIC COMMENTS

Douglas Simon stated he is here to discuss the Rockledge Drive trees; he would like to maintain the status quo, as was decided by the Commissioners about two years ago; he does not know why it came up again; unlike the red shirt debate they just had, this should be a no-brainer; they are looking to save the County money; and he asked the Board not to do anything, as they do not want County money. He mentioned him and the Rockledge Drive Tree Coalition, and every resident of Rockledge Drive that he has ever spoken to, does not want the live Oak trees cut; they are beautiful canopies, they are unique; the City of Rockledge own the bulk of Rockledge Drive, and the City of Cocoa both support saving the trees; two years ago they went through this same thing; there were a whole list of reasons why the County wanted to cut the trees; and they were all invalid. He noted he received a letter recently from an employee of Natural Resources Management; it is Section 62-4332 of the Brevard County Code; it basically says a specimen tree cannot be cut; the definition of a specimen tree is exactly what these are, the size, age, rarity, special historic value, ecological significance right on the river, and unique; and the follow up after all this was to say that it does not apply as the trees are a little too small or a little too something.

Marshall Gilmore stated he was supposed to be on the Agenda tonight, but there was some miscommunication; the people out there in green, they had a lot more originally, and there would have been a lot more if he had a time certain on the Agenda so they would know exactly when he would be talking; he has a copies of petitions that were made, over 5,000 people contacted the Coalition saying they are in favor of preserving the street, not having the canopy cut unneeded; they are for a reasonable treatment of that whole drive; they are not asking for anything to be done; and they have some dead trees, but they want to have it done in a reasonable way. He provided the Board with the petitions; he stated it was ironic that the first two speakers tonight, the first was talking about pedestrian safety and the other one was talking about sporting events, and that is what goes on, on this drive; the County people managing the streets and roads of this County need to remember that those people are using that road, there is multiple uses on that road; he provided a copy of 23 U.S. Code 162; he explained this is the Federal Statute that would give them funding, would bring money into the County, and save Brevard County taxpayers money, because they can get money for grants if they can get it into National Scenic Byways; and on the bottom Section, there are certain things that if they do wrong on trimming trees, putting in sewer, whatever on the repairing area, they could disqualify that. He advised he knows his time is up, but they want to work in partnership with the County; and they are asking the County to respect that and to respond.

James Williams commented he is a disabled Army veteran with sustained hearing loss; due to his hearing loss he depends on an Askill Decibel Meter to assist him in complying with the Brevard County maximum allowable residential noise level of 60 decibels; from January 2021 to August of 2023, his neighbors filed 80 loud music complaints with the Brevard County Sheriff's

Office, and two loud music complaints with the Brevard County Code Enforcement; those County agencies measured the decibel level with an Askill Decibel Meter, and did not substantiate a violation of the Brevard County Ordinance; however, he was arrested three times and released on his own recognizance. He went on to say October 7, 2023, three Brevard County Sheriff's Deputies arrived at his home, and cited him for violating the Brevard County newly revised Noise Ordinance, Section 46-132, Noise Violation Based on the Plainly Audible Standard; the sound omitting from his vehicle was measured at 41 decibels; he asked the deputies if Brevard County changed their acceptable audible level, and he was told 60 decibel level does not apply to the plainly audible standard; law enforcement has devices which measure sound, just as they have devices which measure speed; and he asked where is the value added or logic with implementing primitive measures such as plainly audible. He asked how does a law abiding citizens comply with plainly audible; December 13, 2012, the State of Florida vs. Richard Calalino the Florida Supreme Court ruled that plainly audible standard is facially unconstitutional because it is overbroad; it invites arbitrary and discriminatory enforcement and impediments on their First Amendment rights; and in closing, he requested the Board of County Commissioners remove the plainly audible standard from the County Noise Ordinance.

Chris Erner remarked in a court-filed affidavit, Mr. Steve Braden stated he had been working continuously with the County Commissioner and east precinct Brevard County Sheriff's Office (BCSO) as they try to remedy the neighborhood impact created by Mr. Williams; he believes Mr. Braden has deceived the Commission into changing the Noise Ordinance to serve his own purposes and target a single individual; he will not repeat the 80 calls they have gotten from him and still never substantiate anything over 60 decibels; the Sheriff's Deputies could not cite Mr. Williams under the old law; but with the new Ordinance they were able to give him a warning and cite him under the plainly audible clause. He continued by saying at the time Mr. Williams was cited, a video was recorded in which a person could not hear the music from approximately 175 feet over the conversation between Mr. Williams and BCSO; letting the Deputies be the arbiter over what is or is not too loud is like getting a speeding ticket from an officer standing on the side of the road; if they did not have to use a radar gun to determine a person's speed, they would not if they do not have to use a decibel meter to determine sound level, they will not; and the Ordinance says if they do not have a meter, they can use plainly audible, so he believes the decibel meter will never again be carried by or in the vehicle of a Brevard County Sheriff's Office Deputy because it may prove that the citizens are not actually breaking the Ordinance.

Sandra Sullivan stated she changed out what she was going to talk about because they only get two minutes instead of three minutes under Public Comments; she wants to talk about Senate Bill 102 as the Agenda 2030 bill, the 'you will own nothing and be happy law'; as a result of the housing crisis in 2008, and because of taking away local rule for short-term rentals, they are having a situation where private equity firms already purchased up to about 30 percent of real estate in Florida, which in 2021, 30 percent of Orange County, 25 percent of Jacksonville, 25 percent of Tampa, and 20 percent of Brevard County, so the County is half way to Agenda 2030; a person can say it sounds like a conspiracy theory; but Brevard County is halfway there. She commented what SB 102 does is incentivize the developers to come to the County for projects that are not low-income, not really affordable housing, they are the middle America dream of a person owning his own home and raising their kids, the very essence of what is American, along with capitalism; this is not American; all of the Board Members have the Governor's ear and each one has access to State Representatives, and he or she needs to lean on them; the ones who will be harmed in this are the people; and when taking the largest real estate market, the people will have higher taxes.

Maryanne Sauer advised she is here to speak about James Williams; she wants to speak about the new County Ordinance Section 46-132; she asked how a person with hearing loss can comply with this Ordinance; she pointed out when James Williams was first approached by the Brevard County Sheriff's Deputies about a noise complaint, he purchased this decibel meter, so as to be compliant; when he turns on his music outside of his home, he gets a reading and sets the volume at about 50 decibels, because he cannot, with his hearing loss, tell if the noise is too loud; and in August of this year, the Commission changed the Noise Ordinance to allow Deputies to use plainly audible standard. She mentioned Mr. Williams is a disabled Army veteran; he is accustomed to following orders and rules; but the rules and orders have to be defined and measurable; this Ordinance leaves the sound level to the discretion of the Sheriff's Deputies; it would be like putting a maximum weight of garbage cans at 70 pounds and later changing the standard to the discretion of the garbage man by saying he feels it is too heavy; and she asked how does he have the right to charge the homeowner.

Ron Jurgutis explained people have been here since 5:00 p.m.; it is 7:00 p.m.; he knows there were people in the audience, perhaps there needs to be a different method as to how many speakers there are on an issue; two minutes is unacceptable; that is why he asked for a point of order; however, he was overruled and almost kicked out. He remarked he does not appreciate that; if the Board wants order, it can have order; he is not going any further on that; another topic is there is Legislation that is going on as far as the State; the Board Members are representatives; they know the people that are in there; and they should be contacted. He went on to say what he is appalled about is the Elvis impersonation of a star who worked very, very hard to accomplish his goals; at that point, he was upset for the fact that, and now it is reaffirmed, his insurance premium went up by 57 percent; he asked what is going on here; are people here for laughs, bologna, or what; the Board should be in front of that Cape Canaveral thing saying 57 percent is intolerable, that is disgusting; and there is something going on in this State that is not right.

Robert Klimkowski stated he is sorry, the Board just threw him off; he talked about the two minutes and BCC-97, Section 3; it says there must be a Board vote; there was not under Roberts Rules a Board vote, the Chair told everybody there would be two minutes; and Roberts Rules does not dictate fully, but BCC-97 does.

Chair Steele advised he has the discretion to overrule.

Mr. Klimkowski pointed out this is his time.

Chair Steele stated okay, but Mr. Klimkowski does not need to preach to the Board about Roberts Rules of Order; and he asked what his point is.

Mr. Klimkowski replied his point is not Roberts Rules, it is BCC-97; it says every person addressing the Board shall have three minutes; although it says the Chair may override it; it goes to a period, not a coma or subjugated by legal writing, but a period, it says the Board may vote to amend time limits on public hearings; and this was a continuance of a public hearing, so if it was a continuance of a public hearing, he believes the three minutes would still be right, because it gives the public time to speak. He again said he was sorry, but Chair Steele is a little bit different than the other Chairs as he is more to the point; but he thinks it should be three minutes under this section where it says the Board may vote to amend time limits on public hearings; and the Board did not do that.

Chair Steele noted he appreciates what Mr. Klimkowski is saying; and he asked if the Board would have given them three minutes instead of two minutes would the outcome have been different.

Mr. Klimkowski responded he does not think any which way other than what BCC-97 says.

Chair Steele stated he is just asking him a question, because people have two minutes, and the outcome came out exactly what they wanted it to, so he guesses Mr. Klimkowski's point is that he made the decision to go with two minutes because there were so many people there; that is his choice and he made that decision; and he appreciates Mr. Klimkowski giving him a lecture on Roberts Rules of Order.

Mr. Klimkowski advised this is not Roberts Rules of Order, it is BCC-97; he expressed his apologies as he knows it is a new position for Chair Steele; and he stated he is not trying to say anything about that.

Chair Steele explained Mr. Klimkowski has another minute and 13 seconds; and he asked what it is he has to say.

Mr. Klimkowski commented he has actually been to a Florida Housing Association meeting; by looking at the addresses on the letter, there are two addresses; this is different than where it was held; that is another issue, so talking about public meetings and having them presented to the public in a certain way, that is probably another issue; the Giblin Nickerson memo for that specific bond is the same attorney that is there; he asked if they were ones that were hired, or how that worked; are questions asked of them because they are the Florida Housing Finance Authority attorneys; and he stated he just did not understand that part, how that was done. He stated he did try to call Chair Steele's office to understand this better, because he does not want to come to a public forum to ask this stuff; and he did not get a call back.

Chair Steele stated if Mr. Klimkowski called his office, he would have known about it, and he would have returned his call; and he will check on the log.

Mr. Klimkowski pointed out it was Friday at 4:00; and he called the Tallahassee office and State office.

Chair Steele exclaimed he called the law office.

Mr. Klimkowski advised he called the local office for the Commission Office District 5.

Chair Steele expressed his apologies as he did not get the message; and he asked Mr. Klimkowski to see him after the meeting and he will give him his cell phone number.

Commissioner Goodson explained the attorney that said he tried to get on the Agenda but did not get on the Agenda kind of implied that he was involved in that; there is a certain criteria that has to be met to get on the Agenda; they tried to explain it to him, he was even sent to the County Attorney to get him to explain; but he does not want to listen. He asked the Public Works Director to come up and tell the Board about the Heritage Highway that he is proposing; he stated if a person knows anything about it, it takes two years to even be considered; the attorney has not mentioned a thing about the sewer line the County is proposing to clean up the Lagoon; he has not mentioned that the County is not going out there raping, pillaging, plundering; and even under the Highway Act it says the responsibility is the County's.

Marc Bernath, Public Works Director, stated as Commissioner Goodson mentioned, it does fall back to the County, but specifically, he alluded to the fact that he could bring in money and grants, and that is not specifically accurate; in order for the Federal Government to consider it, it first needs to be considered by Florida Department of Transportation (FDOT); and he has fully-researched the issue and spoke with the leads for Federal Highway Administration

(FHWA) and FDOT, and neither one of them are interested in including Rockledge Drive at this time.

Commissioner Goodson advised if they were they would only help them with billboards and maybe buildings too close to the road right-of-way; and he asked if that is correct.

Mr. Bernath replied that is correct; he stated trees and transportation issues are not subject to, if it were actually approved, billboards are the primary exemption.

Commissioner Goodson stated there are 5,000 who signed a petition; and he asked if there are 5,000 people up and down that road; but he stated he guessed he could go to Washington or Alabama to get people to sign that they want this.

Frank Abbate, County Manager, responded he has no way to verify where any of those signatures came from.

Commissioner Goodson noted he would like to have a copy of them, and he can take them to his staff to count them to see how many of them are local or how many are in the State of Florida; he asked should the County be concerned about putting a sewer line on River Road to help the pollution of the Indian River Lagoon, or just say that more trees are more important, and the people living on River Road are special; he stated he would like staff to get with the attorney and give him the breakdown of how to register to be before the Board; he reiterated it sounds like it is all his fault, but it is not; they gave him instructions, he does not want to listen to them; and he would like for that to occur.

Commissioner Tobia explained he is disappointed, he was hoping Commissioner Goodson kept him off; if he is going to sue the County, that is fine, but he should not be up here wasting the Board's time; he does not know what the Board would give extra time to someone that is threatening to potentially sue the County one way or another; and he will fully-support Commissioner Goodson in any way possible.

Commissioner Goodson pointed out if a person knows anything about hiring an attorney, he or she would pick someone who is very well-known and powerful in Brevard County, they do not pick someone who just moved here from Washington.

Scott Hochstetter stated there has been a great injustice in this County; he is here for James Williams; he does not want to play the race card, but he will play the race card; this is not the 1960's; this is clearly audible, he does not have any faith in that being changed here; he does not really care for legal ease or lawyers; Mr. Williams' father last year had to move away from Brevard County because a man was saying racist rants and firing gunshots; there were over 80 police calls; this man does not deserve this; and his father saw crosses burning. He stated Sergeant Jennings said Mr. Williams personally plays the music five decibels under the legal limit, and say that is assault or that he is terrorizing his neighbors; he served this country; he is facing a 25 count frivolous lawsuit; last year during Hurricane Ian, they took boulders and blocked him in his driveway and took his easement; they went to the deeds office; and that is his easement. He stated emergency vehicles cannot get to his house because they put boulders there; this is unacceptable; he does not know if he is for or against the Board; but he hopes whoever is speaking with Steve Braden and helped change that audible level to clearly audible, he hopes there is an title 42 deprivation of civil rights, because this man does not deserve this; Mr. Williams is square as a person can be, he is a rule follower; he is the exact opposite; this should not be happening; he is here to bring awareness to the situation; they are doing it under #operationjaybird, which can be found on Google or YouTube; they are trying to make some noise; and they are trying to bring some awareness to what is going on.

Chair Steele asked who they are.

Mr. Hochstetter replied about five neighbors around him in the White Ibis Lane area.

Chair Steele expressed his appreciation to Mr. Williams for his service to this country; he stated he does not know why this is happening to him, but the Board has been fully-informed tonight; he does not know if anyone else has been informed before, but his ears are all opened; and he will look into it himself. He explained the reason for the Noise Ordinance does not have anything to do with Mr. Williams, it has to do with short-term rentals; the County is having a major short-term rental problem with music that goes 10 times louder than Mr. Williams would ever think of, and the cars with the loud music; and he understands what everyone is saying; all he can do is look into it; and he will do that.

Upon motion and vote, the Board adjourned at 7:20 p.m.

Result: Approved

Mover: Tom Goodson

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

ATTEST:



RACHEL M. SADOFF, CLERK



JASON STEELE, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the Board on February 20, 2024.