

April 16, 2020

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, April 16, 2020

12:00 PM

Special Meeting

Commission Chambers

I. CALL TO ORDER 12:00 p.m.

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

II.B. Non-Congregate Sheltering Plans

Chair Lober requested a motion for Item II.B.

The Board recommended the Policy Group approve the non-congregate sheltering framework and subsequent renewal or modification as operationally necessary and to authorize the County Manager to execute any corresponding contracts and budget change requests.

Result: Approved

Mover: Rita Pritchett

Second: John Tobia

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

II. Discuss Corona Virus Related Reports/Information and Take Responsive Actions

Maria Stahl, Administrator for Florida Department of Health (DOH) in Brevard, stated she did not start with the updates and she did not know who has had a chance to see the dashboard this morning; she stated on the 11:00 a.m. dashboard, there are 187 cases which is an increase of 14 cases since last night; this continues at about a 4.6 positivity rate in Brevard County, and the State overall is about 10 percent; there are 10 cases in long-term care which includes residents and staff, and there are six deaths; and the hospitals are fairly stable with 12 positives in all of Brevard's hospitals, eight cases are in ICU, and five are on ventilators. She stated currently the Health Department is following the Surgeon General's priority steps and she has not spelled it out as much until now so she will be doing that; step one is the messaging for the social distancing, keeping six feet between yourself and others, avoiding hugs, handshakes, large gatherings, close quarters, keep crowds at less than 10 which is imperative to decrease transmission; step two is testing and currently DOH is testing those in category two, a person should call their physician first and if the physician cannot do the testing, those that meet priority two can call for an appointment at 321-454-7141; priority two includes those who have symptoms, health care workers, first responders, those over 65 years of age, and those with underlying health conditions; and non-symptomatic individuals can be referred to a walk-in clinic, urgent care, private doctor, or Omni, all of which are doing third priority and asymptomatic testing. She stated the third priority are elderly and vulnerable populations, which is one of the top priorities of the DOH at this point; DOH staff is calling the 200 long-term care facilities in Brevard County every other day to make sure things are going okay, and answering questions; if they need any supplies, they are referring them to Emergency Management; in addition, if there are any concerns, staff is making visits to the long-term care facilities and evaluating individuals that need to be assessed or just to answer questions; and step four is preparing the health care facilities, DOH checks the census twice a day to make sure things are going okay, contacting them every other day, and working with Emergency Management on surge plans if need be. She continued by saying the fifth priority is to stop the introduction of Covid 19 into Florida checkpoints, which does not affect Brevard County, just the Interstate 10 and Interstate 95 borders, and screening individuals at the airport; and she stated that was her report for the morning and asked if there were any questions.

Commissioner Isnardi asked Ms. Stahl to talk about what kind of screening is being done at the borders because, obviously, it may not be close to Brevard County, but the concern amongst

people is about the people coming in from up north; and she asked her to talk about the criteria from what she knows and what exactly the screening process is for individuals traveling inside of the State of Florida and what is required of them.

Ms. Stahl replied that the screening is at the borders done by State teams who are stopping everyone, asking about symptoms, and providing information about the 14 day quarantine; they are checking at Interstate 10, coming from Louisiana, and Interstate 95, coming from the Tri-State area, and at the airports, direct flights coming from New York; and Florida Highway Patrol (FHP) is involved with that, the local Health Department is not involved with monitoring those individuals but they are told to self-isolate, or quarantine where they are going.

Commissioner Isnardi asked if there was any follow-up with them after that self-isolation or if they are self-certifying.

Ms. Stahl replied there is not unless there is a problem.

Chair Lober stated there is an FDOH form for folks coming in from out of state and it essentially has them select the purpose of their visit, list family members that come with them, description of the trip, and things of that nature; one of the items that is coming up in today's meeting is whether it is appropriate to modify the lodging order that the Policy Group put in place recently to more closely mimic what FDOH did, but his concern is whether or not people can be relied upon to self-certify; the end result that is on the agenda today, is substantially identical to what FDOH put out; for purpose of trip, it allows business, medical, or personal instead of the smaller set of categories; and he asked if Ms. Stahl knows if FDOH has had any success in enforcing or following up with what people select on the form to determine if it is truthful or not.

Ms. Stahl replied she does not think FDOH is following up, she thinks it is left to individuals to report if an issue is seen, like someone with New York tags going into a hotel, but there is no active monitoring.

II.A. Recommendation to Policy Group to Revisit the Limitation on Tourism Order - Proposed Revisions to Order

Chair Lober stated he is happy to address it however is wanted, and he can go over the concerns he has or have staff introduce it.

Commissioner Pritchett remarked that it did not matter, she was just hoping to get a consensus from the Board as she has a Policy Group meeting at 1:30 p.m. and she wanted to know what she is taking from the Board to the Policy Group as far as what is being done for policy.

Chair Lober stated he liked this a lot better than what was being discussed before, but still thinks this is a solution searching for a problem; his concern is with purpose of trip on the form, the rest of the form he is happy with; he does not care whether it is a second degree misdemeanor or a third degree felony in terms of the ramifications if someone lies; he thinks, and Cocoa Beach may have been on this page earlier in the negotiations as well, where for medical or for business purposes, some type of documentation needed to be seen, but if someone came in as a domestic violence victim, for instance, it would not be expected from them; and he thinks if it is done that way, there would be a built-in disincentive for people to lie, based on the fact that if someone indicates they are staying as a result of domestic violence, it is highly likely that the hotelier is going to call the police, who would have at least a reasonable suspicion to request the form and do an investigation which may actually save that person's life down the road. He stated his original concern that he expressed a week ago, having someone self-certify for anything under the sun, concerns him, especially when there is a category as

broad as personal; to him, personal means that a person does not want to state a reason so personal is selected; and he likes everything else about it, and does not have a problem with using this form, but thinks the checklist of criteria that he had gotten from one of the hoteliers in Rockledge, might be a better starting point for purpose of trip; the bigger concern is having people produce documentation, people that really should be able to produce documentation, without requiring that of folks where the situation would not warrant it.

Commissioner Pritchett asked Chair Lober if he would feel comfortable if under the personal spot were things that are considered as being personal in nature that are applicable.

Chair Lober responded that if that were done and still required a note for business purposes, he would be much happier with it and would be happy to support it with that.

Commissioner Pritchett replied okay.

Commissioner Tobia stated he had a couple quick questions and said that from his understanding the note requirement was an or and not an and.

Chair Lober apologized for not understanding the question.

Commissioner Tobia reiterated Chair Lober had stated if a person checked that and they have a note from the doctor or an employer, but is it not that they fill out the form or have a note from a doctor or employer.

Chair Lober stated he would correct that, if the person checked medical or business, he would expect them to have a note from a doctor or an employer, if another item was checked, where they would not ordinarily be expected to have a note, then he would not expect the note.

Commissioner Tobia thanked Chair Lober for the clarification; he asked Eden Bentley, County Attorney, if she could tell him, since she did a great deal of work on this with the stakeholders on the Policy Group, where it is with this stuff and give an update so Commissioner Pritchett knows what she is going into.

Attorney Bentley stated when starting, the direction from the Board was to come up with a self-certification that contained perjury consequences, and also asked that the domestic violence victims not be required to self-identify, in other words, it would be a smooth check-in for them so that there would be no reason for them to have to say they are a domestic violence victim, and that was the first thing that was addressed; the attorneys from the Sheriff and from Cocoa Beach both suggested using the self-certification format as an alternative so there were three options for people checking in; that is what was suggested, and it met the requirements of the Board at that time; and she asked if that answered the question.

Commissioner Tobia replied that he thought so but was hesitant for any changes now, but he questioned if that would cause more concern than what it would solve.

Attorney Bentley responded she thinks the attorney would have to go back and renegotiate and get their input; she does not know how long that would take, she thinks a significant period, but they were trying to make it simpler to check-in.

Commissioner Tobia stated he understood, but to be clear, he asked if Attorney Bentley would run by the Board one more time who she got the buy-in with, which groups.

Attorney Bentley stated it was the Sheriff's attorney and the attorney for the City of Cocoa

Beach because both the Cocoa Beach City Manager and the Sheriff had asked for time to let their legal counsel review it and provide input and they were very cooperative, very helpful, and spent a great deal of time on this.

Chair Lober stated he had a couple questions for Attorney Bentley in terms of the input given from both of the attorneys, was there substantial input in terms of the purpose of the trip, because he sees that several pieces were struck through and reworded in the actual proposed order itself; and his only concern is with the purpose of the trip specifically in that section and he asked if there was extended discussion with respect to that.

Attorney Bentley replied no.

Chair Lober stated it does not seem to be something that would be a tremendous order and it has to go through the Policy Group regardless; he mentioned he wanted to read something that he received from a hotelier in his district, and he read "got done watching this last meeting, my two cents, domestic violence victims rarely enter hotels on their own as they usually don't have the funds to do so, more often than not, they are set up at a hotel via a third party, shelters, church, a friend, etcetera, the reservations are made using an alias to protect their identity, usually a Jane Doe or a John Doe, in the rare event law enforcement needs to talk to them, the law enforcement officer (LEO) is directed to speak with the party that made the reservation on their behalf to ensure the victim's safety and hidden location." He thinks this is something that is a solution in search of a problem, but he does not foresee or understand why there is concern having folks that are here for other purposes, having to evidence why they are here; anyone can say that they are here for medical or business purposes and would like for anyone to tell him how, even hypothetically, it could be enforced; he asked, for the Policy Group discussion, if the vast majority of this is wanting to be adopted, to go for it, but he thinks for medical and business, the person really needs to be able to produce something; he has yet to hear any argument as to how that is burdensome, unfair, or otherwise; he thinks it is at a point where it is all hashed out unless either Commissioners Isnardi or Commissioner Smith have something to add; and he asked if someone would make a motion and Call the Question.

Commissioner Isnardi stated she thinks this horse has been beaten to death; she thinks everyone's intentions are pure and if the self-certification and form is good enough for the State, then it should be good enough for the County as well, especially considering that many hotels are closed across the State; a big misconception is that the hotels were closed and the County reopened them and that is not the case; it is obviously about messaging and who gets that message out, but the County is closed to tourists and that needs to be the message; and she thinks there should be more faith in people who self-certify.

Commissioner Smith stated he thinks Commissioner Isnardi said that very well and he agrees with her 100 percent.

Chair Lober stated his last thought on it, as far as having faith in people, he generally does, but his concern is what would any of the Board members or someone on the line do, if their family were in a situation where they would have to lie on a form to keep them alive, he cannot say that he would not lie on that form; if he were in New York and all of his neighbors had the Corona Virus and he could come to Florida by saying he was here for personal purposes or circle business or medical, if it kept his family alive, he cannot say he would not do it.

Commissioner Pritchett stated there was a list before of what was considered personal, which was house renovations, something happening to a home, and unsafe situation for someone, and asked Attorney Bentley if the form could list medical, business, personal, and then list those things out, just so a person would know when they are signing it, that it is not for vacation.

Attorney Bentley mentioned that in Item J., it says medical or health care providers requiring sheltering in place, were living in Brevard County on April 1, to provide bonafide health or medical assistance.

Commissioner Pritchett interjected this is the form that would be given to fill out.

Attorney Bentley replied yes, and it will have attachment A as well.

Commissioner Pritchett stated okay, so those things are going to be listed.

Attorney Bentley replied they are not listed now but the list could be included on the form.

Commissioner Pritchett stated she thought that might help, so personal could not be a personal vacation, which narrows it to the Board's intent; and the box would not have to be checked, but it would be in the category.

Commissioner Tobia stated it does not sound like a major change but he is not an attorney and did not enter into negotiations with the Sheriff's attorney and the Cocoa Beach attorney and he asked Attorney Bentley, in her opinion, if she thought that will cause...

Attorney Bentley interjected she did not think it would cause a problem, having talked to them, of course, they always have the right to make their own representations, but from what she knows of the discussion, it would not cause them a problem; and she will try to call them before the Policy Group meeting.

Commissioner Tobia stated he just did not want to hang Commissioner Pritchett out to dry if there is a change and have to call another special meeting.

Attorney Bentley stated Frank Abbate, County Manager, wanted to make sure that she had clearly explained that there are three ways to check-in, doctor's note, employer's letter, or the self-certification statement.

Commissioner Pritchett asked for a motion if all were on the same consensus, and she would see if she could get that definition put into the application, and if it is not comfortable, then she would move forward with this, but would like to try to make that caveat.

Chair Lober asked, in terms of the medical or business, if Commissioner Pritchett was categorically opposed to having folks still have to produce the note for those two items.

Commissioner Pritchett replied she is not necessarily opposed to it, but she is listening to other Commissioners right now.

Chair Lober interjected to say that if the Policy Group does not want to do it, they do not want to do it, but he is happy to support it and she would probably get a 5:0 vote if those two fields required it or at least to try to lobby for that with the Policy Group.

Commissioner Pritchett asked Attorney Bentley if that would be difficult.

Attorney Bentley replied she did not know how they would feel about requiring the note or letter as opposed to having the three alternatives.

Chair Lober stated in his understanding, Cocoa Beach specifically wanted that in the beginning and the reason they were okay with this was because this was something that was asked by

the Commission to have it this way with the self-certification, not that they specifically wanted it; in fact, it seemed like they wanted it the other way around; if he is misunderstanding that, he apologized, but it could be found out in about an hour at the Policy Group meeting; and he knows that Jim McKnight, Cocoa Beach City Manager, is on every one of the calls, so Mr. McKnight could say better than he could.

Commissioner Pritchett stated if the Board would make a motion, the Policy Group could do what is expedient for what is wanted by the Board; if the Policy Group changes the definition that is already in agreement with the Policy, just on the form, it would be good; and she asked Chair Lober to ask the Board what they want to do as far as that, and she will take what it wants her to.

Chair Lober stated, if it was ok with Commissioner Pritchett, would she make a motion to request that the Policy Group consider implementing the changes that were suggested associated with this Agenda Item, revisiting whether or not the purpose of trip needs to be adjusted and whether or not there needs to be documentation for certain purposes.

Commissioner Pritchett stated she does not mind if the Commission agrees to it.

Commissioner Tobia stated he thinks it should be kept as close to what has already been negotiated, since they agreed on this; the more it is changed, the more likelihood that there is no consensus and it has to come back to the Board; and he imagines it is very difficult and she may not get a 5:0 vote, but maybe a 4:0 vote.

Chair Lober stated that is true but it does not necessarily have to come back to the Board; and the Policy Group can decide it if it understands what the direction from the Commission is.

Commissioner Pritchett stated she wanted to hear from Commissioner Smith and Commissioner Isnardi as to what they want since she is representing the Board.

Commissioner Smith stated he agrees with Commissioner Tobia and does not want to complicate it anymore, it has already been beaten to death.

Commissioner Isnardi stated she also agrees that it has been negotiated, and the discussion about people coming from New York, if they are getting through the State checkpoint on self-certification, they have already made it across the border; she thinks this is a negotiated deal that the Sheriff, hoteliers, and all involved, is comfortable with; and she is okay with moving forward.

Commissioner Pritchett stated the Board can always come back if another problem arises, to make changes.

Chair Lober mentioned to keep in mind, this was presented to the Board about a week ago as something that could not wait a day or two and it has waited close to ten times that long at this point.

Commissioner Pritchett stated she thinks everyone wanted it passed and changed but the Sheriff decided to put a little hesitation there so he can get a better thought moving forward; and she asked for a motion.

Commissioner Tobia made a motion to accept the agreement as provided.

Commissioner Pritchett stated this is for her being able to ask for definitions if the Board is okay, and asked if that is correct.

Commissioner Tobia replied yes, and he was sorry for the lack of clarity.

The Board recommended to send to the Policy group the Limitation on tourism Order – Proposed Revisions to Order, with the definitions described in Attachment “A” inserted into the form at Attachment “B”.

Result: Recommended for Approval

Mover: John Tobia

Second: Curt Smith

Ayes: Pritchett, Tobia, Smith, and Isnardi

Nay: Lober

3. Rita Pritchett, Commissioner District 1, Re: Board Report

Commissioner Pritchett stated she has been trying to get used to the process here with items coming and she thinks the Board is starting to get a groove of what it needs to do as far as this; she mentioned that Chair Lober got it through the all the hard stuff; and she asked if the Commission would grant her the privilege to call a special meeting if needed as far as the Policy Group, that way it could get rid of the underlying ones, and then if something comes up, she could just call a Board meeting.

Chair Lober stated respectfully, Commissioner Pritchett already has it for the Policy Group; with respect to the Board, he will let Mr. Abbate, County Manager, know now that if Commissioner Pritchett wanted a meeting, he can be considered the second Commissioner on it; and obviously, the Board would need 24-hour notice.

Mr. Abbate stated he would go ahead and cancel the current notices for the daily meetings.

Chair Lober stated he would defer to his colleagues on that and follow the will of the Board.

Commissioner Tobia stated it sounded like a good idea.

Commissioner Isnardi stated she is fine with it.

Commissioner Smith stated he is as well.

Chair Lober stated to go ahead and do that since that is what the Board wants to do at this point; if Commissioner Pritchett wants to call a meeting to deal with anything pertaining to the Policy Group, any recommendations to or from the Policy Group, and please interpret that pretty broadly, consider him the second; and he will leave that standing until the local State of Emergency is concluded.

Commissioner Pritchett stated her goal will be to get the Board all the information well-ahead so that the meeting should not be more than five or ten minutes.

6. Curt Smith, Commissioner District 4, Re: Board Report

Commissioner Smith stated he wanted to throw out an idea that he had; he mentioned going to local restaurants that are doing take-out and get a meal for six or eight people and take that to the different fire stations and police stations, and if the public would do that, it would be an easy

way for the public to show their appreciation for the first responders.

Chair Lober suggested to maybe order delivery from the restaurants instead of picking it up to keep people safe.

Commissioner Smith stated that would be fine, whatever the people decide.

7. Kristine Isnardi, Commissioner District 5, Re: Board Report

Commissioner Isnardi stated she wanted to bring up an issue; she has had some calls and feedback from some concerned constituents; in the beginning, people were going to their primary care providers, all being new to this, and she had patients coming in to get testing done and were referred to Department of Health (DOH) for testing; what has now been done has, sort of, promoted a private company to do additional testing and her concern there, why she did not really want to get involved with it, was that there was an issue with the testing; and she noted, she is sure that Omni had no intentions of causing harm to anyone, but her concern is that, as a government, the County is now linked with a private entity and there was a failure which caused the numbers to be skewed, caused people to be upset, and people being retested unnecessarily because of an outside lab that was used, at least that is the explanation she saw. She went on to say she has a concern about the County partnering with any private entity and she is not sure how the Board feels about it, but she thinks it should be very careful because it has been, sort of, given the stamp of approval or recommendation to go to this entity and get tested, and when the testing fails, it comes back on the County; she stated she is sure there was no ill intent on anyone's part, everybody just wanted more people to have access to testing and everybody had great intentions; and she thinks this is a risk that was taken that probably should not be looked at or considered in the future.

Chair Lober stated he did not know that the County was officially linked or partnered with them; he thinks the information was made available to the public, but he knows to the folks that asked him specifically about Omni, he replied that he did not know what type of tests were being run, whether a Polymerase Chain Reaction (PCR) test, Immunoglobulin G (IGG), or Immunoglobulin M (IGM) test and told the person to find out, to their degree of comfort, what type of test is being run and make a decision as to whether or not that is sufficient to address their concern; the folks that have asked him specific questions, he has told them essentially to do their own due diligence; he does not know that the County or FDOH has partnered with any of these private entities; and he thinks people need to do their own research whether talking about Omni, MedFast, Health First, or any of them.

Commissioner Isnardi stated she is not saying that Chair Lober has done anything personally, what she is saying is that the County was giving out that information about Omni testing; she is sure the intention was pure, but then the County owns it when they fail or there is a failure in the system; she does not want that to happen again and wants the County to stick with government agencies, and allow the private entities to do their own testing and promotion of their own testing because she had people upset because the Health Department testing was free, and now there is a charge at the private entity, which it has every right to do, and asking why it was costing money and a co-pay, and why are they not covering people without insurance; then the County becomes in the mix based on the private entities rules of business and how they are collecting money and going through insurance; and she does not want the County, as a government, whether it be through Facebook, or County messaging, to be promoting testing from private businesses.

Chair Lober stated duly noted; and he mentioned Don Walker, Space Coast Government Television Director, was in the second row and he thinks he heard that and obviously he will

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take those concerns into account when messages go out; and he thanked staff for working on the proposed amendment to the lodging order, even though it was not precisely what he was looking for, it is a lot better than it was and he appreciates the work that went into that.

Upon consensus of the Board, the meeting adjourned at 12:33 p.m.

ATTEST:

A handwritten signature in cursive script, reading "Scott Ellis".

SCOTT ELLIS, CLERK

A handwritten signature in cursive script, reading "Bryan Andrew Lober".

BRYAN ANDREW LOBER, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by Board July 7, 2020.