

January 7, 2020

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Tuesday, January 7, 2020

5:00 PM

Regular

Commission Chambers

A. CALL TO ORDER 5:00 PM

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

B. MOMENT OF SILENCE

Chair Lober called for a moment of silence.

C. PLEDGE OF ALLEGIANCE: Commissioner Kristine Isnardi, District 5

Commissioner Isnardi led the assembly in the pledge of allegiance.

J.7. OPIOID LITIGATION

Chair Lober stated he would like to move one Item up at the request of outside counsel; that is Item J.7., the opioid litigation; he does not know if folks have had a chance to review that, but he would entertain at any point in time a motion to approve the recommended action of the Board's outside counsel, Steve Sharpentier, who is available to speak should anyone desire.

Commissioner Pritchett made a motion to approve this Item.

Eden Bentley, County Attorney chimed in that is Option 1 in the Agenda Report.

The Board directed staff to proceed with Option 1, accepting the Bankruptcy Liquidation Plan which requires a 3rd party release for Insys Therapeutics, Inc.

Result: Adopted

Mover: Rita Pritchett

Second: Bryan Lober

Ayes: Pritchett, Lober, Tobia, and Isnardi

Nay: Smith

E.1. Resolution Acknowledging Shane Austin Layman for Obtaining the Rank of Eagle Scout

Shane Austin Layman expressed his thanks to the Board for the recognition; he is excited to be a part of Scouts; it has been a dream since he joined Cub Scouts, to eventually become an Eagle Scout, it has been a long journey; and he thinks the Eagle project was really fun, it taught him a lot of things about how to lead, how to become a stronger leader, and how to be more confident in himself. He added it has been a great experience; he is really excited to see the garden is finally going to be opening up for the citizens to be able to grow their own foods; and it is for a good cause.

Commissioner Pritchett stated she is always amazed with the young men that hit this level of Eagle Scout; there are not a lot of them; a lot of America's Presidents were Eagle Scouts; and she thinks he is really cool.

Commissioner Smith read aloud and the Board adopted Resolution No. 20-001, recognizing

and congratulating Shane Austin Layman for achieving the rank of Eagle Scout.

Result: Adopted

Mover: Curt Smith

Second: Bryan Lober

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

F.1. Approval Re: Temporary Construction Easement from The School Board of Brevard County, Florida, for the C01 Lift Station Rehabilitation Project

The Board approved and accepted the Temporary Construction Easement for the C01 Lift Station Rehabilitation Project located in Section 23, Township 24 South, Range 36 East, on the north side of Mustang Way at Merritt Island High School.

Result: Approved

Mover: Rita Pritchett

Second: Kristine Isnardi

F.2. Adopt Resolution and Release Performance Bond: Trasona at Addison Village, Phase 9 - Developer: The Viera Company

The Board adopted Resolution No. 20-002, releasing the Contract and Surety Performance Bond dated February 12, 2019, for Trasona at Addison Village, Phase 9.

Result: Adopted

Mover: Rita Pritchett

Second: Kristine Isnardi

F.3. Approval Re: Right-of-Way Use Agreement for the Modern Duran District with The Viera Company

The Board authorized the Chair to execute the Right-of-Way Use Agreement with The Viera Company to permit improvements to be installed and maintained in the Modern Duran District.

Result: Approved

Mover: Rita Pritchett

Second: Kristine Isnardi

F.4. Approval Re: Amended and Restated Right-of-Way Use Agreement for the Viera Town Center with The Viera Company

The Board authorized the Chair to execute the Right-of-Way Use Agreement with The Viera Company to permit improvements to be installed and maintained in the Viera Town Center.

Result: Approved

Mover: Rita Pritchett

Second: Kristine Isnardi

F.5. Legislative Intent and Permission to Advertise an Ordinance to create the North Merritt Island Transmission System - Phase 2 Capital Recovery Fee

The Board approved legislative intent and granted permission to advertise an ordinance creating the North Merritt Island Transmission System – Phase 2 Capital Recovery Fee.

Result: Approved
Mover: Rita Pritchett
Seconder: Kristine Isnardi

F.6. Approval of Budget Change Requests

The Board approved budget change requests as submitted.

Result: Approved
Mover: Rita Pritchett
Seconder: Kristine Isnardi

F.7. BCC - 25 Procurement Policy Revisions

The Board approved amended BCC-25, Procurement Policy.

Result: Approved
Mover: Rita Pritchett
Seconder: Kristine Isnardi

F.8. Permission to extend the existing Contract for Special Magistrate Services for Code Violation, Vested Rights, and Unlicensed Contractor Hearings While the Request for Qualifications is Re-advertised

The Board granted a 60-day extension to the existing Contract for Special Magistrate Services for Code Violation, Vested Rights, and Unlicensed Contractor Hearings; and authorized the Chair to execute Contract Extension upon review by the County Attorney and Risk Management.

Result: Approved
Mover: Rita Pritchett
Seconder: Kristine Isnardi

F.9. Approval of Single/Sole Source Justification Form replacing Robinson Equipment Company with Florida Coast Equipment Company for procurement of Kubota Equipment and Service

The Board approved the Single/Sole Source Justification; and authorized the Chair to execute the Single/Sole Source Justification and Approval Form upon review and approval of the County Attorney's Office and Risk Management.

Result: Approved
Mover: Rita Pritchett
Seconder: Kristine Isnardi

F.10. Uninterruptible Power Supply and Direct Current Power Systems 800-Megahertz Sites Service Agreement Rejection of Quotes Received

The Board rejected all proposals received in response to Request for Quote Q-7-20-03, Uninterruptible Power Supply (UPS) and Direct Current (DC) Power Systems – 800 MHz Sites Service Agreement; and provided notice of intent to reissue an RFQ for these services.

Result: Denied
Mover: Rita Pritchett
Second: Kristine Isnardi

F.12. Resolution acknowledging Viera High School Athletic Hall of Fame Inductees

The Board adopted Resolution No. 20-003 acknowledging Viera High School Athletic Hall of Fame Inductees.

Result: Adopted
Mover: Rita Pritchett
Second: Kristine Isnardi

F.11. Appointments / Re-Appointments

Chair Lober stated he was slow to the draw, he was putting together his Planning and Zoning (P&Z) appointees, and he remembered Commissioner Smith stated a couple meetings ago that he needed one; he did not know if they would be on this Agenda or not, so he left his off to address this; and it looks like Commissioner Smith has a P&Z appointee. He added he has two that he will be appointing himself, as well as an alternate that he was going to appoint that he had available, but if Commissioner Smith needed the appointee as a full member, then he would let him use that appointee; and one of them is Harry Carswell, whom he would like to appoint, another is Brian Rodgers, and his alternate is Kevin Markee who is an attorney in Merritt Island, just north of where Commissioner Smith's District begins. He went on to say beyond that, he would like to bring up Bruce Moia, who was on the F.11. Item as an appointee for Commissioner Isnardi; he does not have an issue with it, but he does know he has been on long enough that it would contemplate the term limit that has recently been imposed; and if the Board would like, it can approve him notwithstanding that, but he did want to call attention to it.

Commissioner Isnardi stated normally if Mr. Moia was not a value to the board, and if she had a single resident that was interested in that board, she has had openings on that Board even for the alternate, and she has had zero response; and the one time she had an appointment, they ended up leaving because they were not making the meetings. She pointed out it is difficult sometimes to find appointments for some of the boards; she added there are some boards that citizens will reach out to their Commissioner for, but again, she believes he brings value; and until someone else expresses an interest, she would like to keep him on the board.

Chair Lober stated that is fair enough, and he is not going to argue.

Commissioner Tobia stated he was willing to vote for all of these, however, with checking out some of these appointees, he found that two of Commissioner Smith's appointees potentially have some criminal background issues, and he would be more than willing to vote for all of these except his recommendation to P&Z, as well as the Historical Commission, just because of some charges that are pretty serious; and if he would like to look at those, or there was more information, that would be okay, but in good conscience, after doing a brief background check, he does not feel comfortable.

Commissioner Smith asked how that works, if he can look them over before the Board votes on them.

Attorney Bentley replied he can pull them from the Agenda and bring them back.

Commissioner Smith stated he would do that.

Chair Lober stated he would ask the Board to not have a motion to appoint Kevin Markee as his alternate, just in case Commissioner Smith needs him; if he does not, and is satisfied with his choices that are in the current Agenda, he will add him again as an alternate at the next meeting verbally. He asked that the Board approve the Item, less the two that Commissioner Smith is pulling that were identified by Commissioner Tobia.

Commissioner Smith inquired if he gets to a point of needing someone for a Board, if Chair Lober can give Kevin Markee's information to him so he can speak to him.

Eden Bentley, County Attorney, replied staff would get it for him.

Chair Lober stated he certainly understands, he has had a conversation with him in person at his office that he could be Commissioner Smith's appointee, his, or no one's appointee depending on how it works; and he is flexible with it. He added to confirm that the Board is on the same page, as to the ones he is asking to have included in the motion, Harry Carswell, Planning and Zoning Board, Brian Hodggers, reappointment to the Planning and Zoning Board, he is not taking any action as to Kevin Markee; he noted Mr. Moia has been addressed; and the last item Commissioner Tobia pointed out pertains to the Transportation Planning Organization Advisory Committee. He noted he sees that Don Keager was an alternate for District 2, and that there is a vacancy; he has prepared, if Commissioner Tobia would like to appoint him, he has the appointment form so he could appoint him if he would like; and if he does not want to, and he does not have to.

Commissioner Tobia expressed his thanks; he added he would be more than willing to look it over, but he would like to do the same due diligence that he does for everyone else for an appointee for his District; and he would absolutely give that person full consideration.

Chair Lober stated just to avoid any Sunshine Law issues, his number is, if Commissioner Tobia would like to call him afterwards, is 321-724-9542.

Commissioner Tobia stated he is sure that Mr. Keager appreciates that.

Chair Lober inquired if the Board is on the same page in terms of what it is moving to do; and that it is looking good.

Commissioner Isnardi suggested giving Commissioner Tobia all of the information for his office, since he is stating publicly that he is doing that, it is probably not a sunshine violation.

Chair Lober inquired if he could hand Don Keager's information to Commissioner Tobia.

Attorney Bentley replied yes.

Chair Lober stated if that works as well, he also has the appointment information for Mr. Markee as well that he will pass over to Commissioner Smith. He asked for a motion with the changes that have been indicated.

The Board appointed **Margaret Goudelock, George Kistner, Martha Loss, Jack Ratterman, Henry U. Parrish III, and Molly Thomas** to the Historical Commission; appointed **Ronnie McClellan, Harry Carswell, Brian Hodggers, and Joe Buchanan (alternate)** to the Planning and Zoning Board; **Ritch Workman, Marcia Newell, and Kika Golan** to the Employee Benefits and Insurance Advisory Committee; appointed **Darlene Hunt** to the Art in Public Places Advisory Committee; **Scott Carswell** to the Building and Construction Advisory Committee;

Zack Parker, to the Community Action Board; **Jeri Blanco**, and **Luella King**, to the Community Development Block Grant Advisory Board; **Bud Crisafulli**, and **Roger Drabky**, to the Contractors' Licensing Board; **Ilene Davis** to the Citizens Budget Review Committee; **Micah Nix** to the Economic Development Commission of the Space Coast; **Robert L. Socks**, to the Investment Committee; **Tom McGill** to the Library Board; **Frank Golan**, and **Kelly Cover-Haugh**, to the Marine Advisory Council; **Tony Sasso**, and **Bill Vollmer**, to the Transportation Planning Organization Citizens Advisory Committee; **Michael Hartman** to the Board of Adjustment; **Wendy Ellis** to the Merritt Island Redevelopment Agency; and **Loretta Wilson**, and **Jean Morgan**, to the Central Brevard Library and Reference Center Advisory Board.

Result: Approved

Mover: Kristine Isnardi

Seconder: Bryan Lober

G. PUBLIC COMMENTS

Charles Tovey stated he is glad everyone is safe and sound after the holidays, and he wished the Board a Happy New Year; he pointed out they need to make a community motion for a day of kindness, if there is not a day for the day of kindness set aside for Brevard County; he noted random acts of kindness done anonymously to people; and he rescinded some of his comment about taxes going up because he read that Frank Abbate, County Manager, helped assist in lowering the taxes in Merritt Island. He went on to say there are no new taxes in Satellite Beach and Indian Harbor; he pointed out he has a gift and he speaks what he feels is right; and he has ideas and thoughts, he speaks almost prophecy if one has not seen it, but he can make a list, and he would do it at another time, he is short because of the holidays and such. He added he would like to include that Judge Torpy passed away this weekend, Fifth District Court of Appeals, and also for the girl in Satellite Beach that got involved in things, God Bless them all; and that was what he was going to include in his speaking about the speed bumps on Tropical Trail. He explained had anything been done about that, they had another accident, it was a hit and run after he just made the statement; and in the book he has there are all kinds of speed bumps for several hundred dollars. He explained some of them are temporary, some of them are permanent; he would also like to do this with the Designated Environmental Recharge Areas (DERA), they do not have to be permanent, they just need to be there for a time until that area, whether it be organic or synthetic construction until it has time to heal; if this was a sanctuary county, Brevard County could start recognizing and saving spots for wildlife and animals that nobody cares about, they are part of the people and part of people's continuation; and it is just like the black bears and all the other things, it is something people can look forward to instead of having the problem hit all at once. He stated there is one other thing he was going to say; he was not going to speak tonight, but he does not like to break habits if they are positive on his behalf; and there are springs in his area that come out of the ground and they are going to the river and they are being ignored.

Chair Lober stated he thought Mr. Tovey was going a different direction with the sanctuary county item, and he appreciated the clarification with that; and as to the day of kindness, he would have to go back and review the minutes to see exactly what it was that was addressed in the Resolution. He pointed out there was an elementary school in District 2 that had a kindness symbol that was approved by the Board as Brevard County's official kindness symbol; he does not know if that was tied to a particular day or date, he would need to take a look at it, because he does not know either way, but that is a good idea; and he expressed his thanks.

Peter Carnesdale stated they are still searching for that turn lane going into Viera Boulevard, as one is headed east; it is an accident waiting to happen; and it has nothing to do with how much

traffic, or how little traffic goes through that area. He added there is a lane that is now a through lane where the people now have to stop or almost stop, because as they come around that bend, they cannot see until they reach the corner; therefore, they are coming to five miles an hour or less in a 40 mile per hour zone; and sooner or later someone will rear-end them, it is just a matter of time. He reiterated regardless of what amount of cars it is it makes no difference, it could be 10 cars or 80 cars, the opportunity for the accident is there; the other part is golf cart crossing over I95; right now there are a number of people on the east side of I95 that go to the schools that are on the west side of I95; and when looking at the parking lots they are filled with golf carts, yet there is not a single road that they are allowed to use to get there. He went on to say the law now states that they cannot use Murrell Road, Viera Boulevard, any road that has a 40 mile per hour speed limit or more, it is illegal for a golf cart to be in use; they have no way of getting to school; and parents are driving them to get them there, but it is putting a lot of people out of whack while one half of the neighborhood is allowed and the other half is not in terms of the golf cart access. He added it should be all are allowed or none are allowed to use golf carts to get to school; he added where Chair Lober thought the speaker before him was talking about some other kind of sanctuary county, he was probably thinking in terms of the gun control, he is not bringing that up, but he thinks that is where his mind was going; and he will not cover that as far as going into any detail.

Chair Lober asked if there was any update as to the letter that went out to the Department of Transportation (DOT) regarding the crosswalks on that diverging diamond interchange for the overpass; and was curious if the Board has heard back from any of that.

John Denninghoff, Assistant County Manager, stated staff did receive a response from DOT; they basically rejected the suggestion that was made about one way on one side and one way on the other side for golf carts; he added staff expected that, but they did respond that way; and they had a couple other suggestions there for the Board to consider, but by and large, as far as they are concerned it is not a permissible situation.

H.1. Adoption of Animal Abuse Registry Ordinance

Chair Lober called for a public hearing creating a new article in Chapter 14, Article IV, entitled "Animal Abuse Registry", establishing the Brevard County Animal Abuse Registry. He added with respect to his, is when he phrased this as a registry, he probably did folks a disservice in doing that, and he really should have called this a database. He went on to say a registry might suggest to folks that there is a requirement that someone register, this is simply automatic so they are not putting any burden insofar as registration is concerned; he did get, for the first time, not just one, but a slew of emails proposing this; he presumed that all of the emails that he received were sent with maybe a name change and the salutation to all of the other Commissioners, he does not know that, but at least 13 of them that he saw were literally copied and pasted complete with the same grammatical imperfections with nothing other than the name, address, city and state, and zip code being changed; and he would like to address some of the comments that he has in respect to this. He advised he would not go through absolutely everything, unless someone wants him to, but essentially there were two distinct emails that were received despite the number of people that sent the same thing; he added this is one of them, if other if folks have concerns about it he is happy to address them, but if it looks like he has support anyway, he will save everyone the time; and he read a part of the email and stated he would give his comment with respect to it. He stated these came from people that are residents, some from his District, some from other Districts; they are urging the Board to vote no on the proposal to establish a local animal abuser registry, and it starts out by saying, "I am an animal lover and want Brevard County to do everything it can to prevent animal cruelty"; and the comment he made to this, he apologized if it came across as facetious at all, but it sounds exactly like something folks would say prior to saying something anti-second amendment,

saying that they support the second amendment. He reported everything that follows the statement that they are animal lovers and want the County to do everything possible to prevent animal cruelty, everything following that is not compatible with that qualifier. He noted it talks about the cost to set up and maintain an animal abuse registry and that it would be a wasted investment; he added nearly all of the difficult IT work has already been done, most of it they have certainly had a little bit done on the County side, but most of it has been done as a pro-bono, goodwill, public outreach gesture from the Clerk's office; it is done there at no cost to incur, the Board did not have a cost with that, it was done as a courtesy to him; and the cost at this point is diminimus, probably under \$100, and that is on the high end. He explained the cost to maintain it since the email talked about maintenance as well is negligible; he says that because exportation of the update data would be done programmatically with exceedingly little human involvement, so the programming to do that is already in place at the Clerk's Office; they did it for free, as a courtesy, which is excellent on their part, and he respects and applauds them; County Information Technology has already informed him that the format will work for them, so that all the records can be updated in batch programmatically; it is not that someone has a case and a human being has to do anything with respect to that, otherwise they would not be doing it; and the letter goes on and talks about particularly when a registry would likely have the unintended consequence of leaving animals more vulnerable to abuse, and all he can say to that is it is speculation totally unsupported by the facts. He stated it goes on to state "for example, by imposing the punishment of registry listing on offenders, the proposal could have the effect of encouraging prosecutors and courts who often see registry listings as an additional punishment to reduce or dismiss cruelty charges resulting in fewer convicted abusers. It could also set a precedent that may lead to fewer prosecutions of animal cruelty in other areas as well". He stated that is wrong on all counts and in every possible respect as to the proposition that courts, namely judges, the judiciary, would reduce or dismiss charges either directly or for that matter indirectly on account of the implementation of this registry, or really, database, it is simply false; and the courts, the judges, the judiciary do not have any discretion whatsoever to do any such thing. He advised he has taught criminal litigation and an ABA approved program, he has almost a decade of experience practicing law in this County, and all of that tells him this is not something that is even theoretically possible, it is absolutely 100 percent wrong; and in fact, a judge that would do that or could do that, not only could, but likely would be disciplined by the State doing that. He noted there is no mechanism for a judge to reduce or dismiss charges on account of the registry as there is no lawful mechanism that permits it, it is simply not something that exists; and as to the proposition that the prosecutors, the State Attorney's Office in this part, would potentially take a similar act; he pointed out the duly elected State Attorney advised him in writing in pertinent part as follows: "I received your email regarding the suggestions made by many persons contacting you that being added to an animal abuser database or registry would somehow negatively influence our prosecution of animal cruelty cases, I can assure you that is not going to happen"; and he went on to add, "The existence of a registry is not going to have any impact on the filing decisions. In addition if someone is already on that database or registry and commits a new offense, we would most certainly consider that as a reason to request a more harsh sentence upon conviction for the new offence." He explained the reality is that the Board is really dealing with the opposite of what is being suggested in this copied and pasted chain email; he added the email goes on and says, "There are other, far better ways for Brevard County to allocate its limited resources to prevent animal cruelty, such as including pets and orders for protection and allotting funds toward better enforcement of no contact orders." He noted that is wrong again. He went on to say if one tried to get everything wrong, they did a good job of putting this email together; he thinks it was put together by someone out-of-state as best as he can tell; he explained it is up to the judiciary, not the Board of County Commissioners, to determine whether to include pets in injunctions, as there is already permitted by laws that were enacted by State Legislature, previously provided was a tremendous increase in funding to the Sheriff's Office in large part to increase the number of patrol or road deputies that are out there on the streets; and that will

serve to allow for better enforcement of no contact orders regardless of what is contained within the order. He went on to say the implementation of the registry is not mutually exclusive with anything that would suggest that and it does absolutely nothing to preclude any other act or actions which might serve to disincentivize animal abuse; in short, there is absolutely nothing that was correct in this email; he does believe that the folks that sent it were probably well intentioned; and he thinks it is unfortunate that they relied on incorrect information from someone who may have a political motivation that is beyond his knowledge or care to speculate, to put this together. He explained as to the other email that was received from the ASPCA, he thinks some of the concerns were addressed in this email; the only other thing in the interest of time, unless it does not look like he will have support for this, in which case he can rebut it point by point, is they talk about a prohibitive cost in the hundreds of thousands of dollars; he thinks there was an article that went up on one of the local television stations saying \$200,000, there was something else that may have said one-half of \$1 million; and he explained they are not just off by multiple, they are off exponentially. He clarified they are probably dealing with something in the magnitude of one-one thousandth of the cost of what they are suggesting, probably on a bad day; the resources that he is talking about truly are negligible; for the folks that have had occasion to talk to either the County IT Department, or to the Clerk's IT Department he thinks everyone is on the same page with respect to this being diminimus in terms of an additional burden on the County; with respect to that, he does know that Joe Hellebrand, Director of Animal Services, came at his invitation, and he appreciates that, to be available to answer any questions that may come up; and he also asked Teresa Clifton to come out to chime in on this, he would certainly be happy to hear from her.

Teresa Clifton, Executive Director of Brevard Humane Society, stated that this registry would be a resource for animal shelters, not just the County shelter, but for the other two animal shelters in Brevard County, as well as for people that are legally breeding and adopting out animals for rescues; she added to have one resource they can go to, to look and see would be a gold mine for people that are in that field; she does not have a wherewithal when it comes to taking care of people that are mistreating animals, she would leave that up to the professionals, but from where they are standing as an animal shelter, people that come to them are taken at their word, and they do have access to look on the court system for public records to see if people have been convicted of animal abuse or not; and amongst themselves, the animal shelters like the SPCA in Titusville, the Humane Society in Cocoa, share information with each other about incidents that happen within their organizations that may not necessarily be something that someone could be prosecuted for, but is animal abuse just the same. She pointed out they just had a dog named Daisy that someone found on the side of the road, they would never know who did that, but they would at least have some ability with people that are having issues with animals that they could have a place to go to utilize; all of the shelters share information as much as they can; but if there was one place to look it would be so much more beneficial to the community as a whole; she is very much in favor of the registry; and there are several other counties in Florida that already have it, and it works quite well for them. She encouraged the Board, speaking strictly for the animals in this community who the Board represent, to consider adopting this because they deserve to be seen as well as having someone speak for them; this animal abuse registry ordinance would at least give them something to go by to help the animals, and she apologized because she is passionate about it.

Chair Lober stated he is as well; he added his wife does not normally get involved in anything political that he has going on with the Board, and the other day she made the comment that his dog, Winks, would be proud of what he is doing; and that is probably the best compliment that he has ever received for anything he has done on the Board. He indicated he is happy to address any concerns anyone has, but if it looks like there is support for it, he would like to push through with it, and he would be happy to have a motion to entertain that however folks want to deal with it.

Commissioner Pritchett stated Chair Lober made all the changes that were requested, and she would motion to approve it.

Chair Lober stated he was getting ahead of himself; and he asked Attorney Bentley to speak.

Eden Bentley, County Attorney, stated a practical problem arose in the last day from the Clerk's Office; they were concerned with having to review convictions to determine if they addressed livestock, and it would be very easy to fix that problem; she directed the Board to page two of the ordinance, where there is a definition of animal, and it says: "Animals shall mean any living dumb creature as provided for in Section 828.27 Florida Statutes, as may be amended." She added if the sentence stops there and the Board strikes, "however, such definition shall exclude livestock as defined in this section", that would solve that problem; and logically the Board would also remove the definition of livestock if the Board would like to, she does not know how serious of a problem that is, they just raised it as a possible complication for them.

Chair Lober expressed his appreciation.

Commissioner Pritchett inquired if the Clerk's Office mentioned hearing of any livestock cases; she has not ever heard of any livestock cases either.

Attorney Bentley stated she does not know of any, but she has not looked through the record.

Chair Lober stated he sees Joe Hellebrand shaking his head in the negative; it also strikes him as something that would be exceedingly infrequent; and he has never come across something like that despite having practiced a good amount of criminal defense in the County over a period of years.

Commissioner Pritchett asked if that was the only recommendation Attorney Bentley had.

Attorney Bentley responded affirmatively.

There being no further comments or objection, the Board approved striking the wording "however, such definition shall exclude livestock as defined in this section" from the definitions of Animal, and removing the definition of "livestock"; and adopted Ordinance No. 20-01, an Ordinance of the Board of County Commissioners of Brevard County, Florida Amending Chapter 14 of the Brevard County Code of Ordinances, "Animals"; creating a new article on Chapter 14, Article IV, entitled, "Animal Abuse Registry", establishing the Brevard County Animal Abuse Registry; providing for the purpose and intent for the registry; providing for definitions; providing for the establishment and requirements of the registry; providing for an area encompassed; providing for inclusion in the Code; providing for conflicting provisions; providing for severability; providing for an effective date.

Result: Adopted

Mover: Rita Pritchett

Second: Bryan Lober

Ayes: Pritchett, Lober, Tobia, and Isnardi

Nay: Smith

J.1. Approval Re: Contract for Sale and Purchase and Form 8283 Noncash Charitable Contributions for the Kahler Parcel that is Necessary for the Accommodation of Global Positioning System Non-Precision Approach at Valkaria Airport

Chair Lober stated this deals with the non-precision approach at Valkaria Airport; he is happy to accept a motion with respect to this, or the Board can have staff go through and identify it.

Commissioner Tobia stated he would make a motion to approve it; and he expressed his thanks to the Kahler Family for their generous donation to accepting a lower value for this land.

The Board approved and authorized the Chair to execute the Contract for Sale and Purchase; and authorized the County Manager to execute Form 8283 for noncash charitable contributions.

Result: Approved

Mover: John Tobia

Second: Bryan Lober

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

J.2. Request for Executive Session: Scott Ellis, in his official capacity as Clerk of the Court and Comptroller v Board of County Commissioners of Brevard County, Florida, Case Number 05-2019-CA-058736-XXXX-XX

Eden Bentley, County Attorney, stated this is a request for permission to advertise for an Executive Session to discuss the case of Ellis v. Brevard County on the Charter Cap.

Commissioner Pritchett made a motion, seconded by Commissioner Isnardi, for permission to advertise for an Executive Session to discuss the case of Ellis V. Brevard County on the Charter Cap.

Commissioner Tobia stated he has a couple things on this Item; normally when a private party sues the County, the public has an interest in entering into this private executive session because the Board would be discussing strategies to protect their funds, many times against these illegitimate claims, however this case is distinguishable from those kinds of cases because this is a case brought by an office of government charged with ensuring financial responsibility and involves purely a question of law; this case is simply about how to interpret the Brevard County Charter; and he thinks anything that the Board does to discuss this should be done in front of citizens as they are on either side of this. He added as the Board moves forward he thinks this litigation would not be timely, it could be extremely drawn out, it could be expensive, and he would certainly entertain, he knows this is not here, and the Board may want to wait, but he would like to make a motion to direct the County Attorney's Office to enter into a settlement with the Clerk, accepting his interpretation of the Charter Cap in future fiscal years; this would potentially save legal fees, it would be a lot easier for budgeting in the future; and the last time the Board tangled with the Clerk's Office, he believes the County landed on the short end of the stick; and to put things nicely, they have a wonderful attorney on their side. Chair Lober stated she is beautiful as well.

Commissioner Tobia agreed, and added she is intelligent as well.

Chair Lober stated it is his wife just in case anyone thinks he is making and misogynistic comment.

Commissioner Tobia stated he would first like to make a motion for the County Attorney's Office to enter into a settlement agreement on the Clerk's interpretation.

Chair Lober stated he is happy to entertain the motion, but before he does, he believes there was a motion on the floor; and he added he would like to vote on the existing motion.

Commissioner Isnardi asked if the Board is still discussing this motion.

Chair Lober stated the Board can continue to discuss it if it would like.

Commissioner Tobia inquired if he could ask the County Attorney a quick question.

Chair Lober responded affirmatively.

Commissioner Tobia asked if this was to go through and the Board made a motion to enter into Executive Session, would it preclude discussion of entering a settlement agreement, and if they are mutually exclusive.

Attorney Bentley responded that the Board can go ahead and start discussing the settlement and bring it to the Board at the Executive Session; she added the Executive Session cannot be held until January 21; and asked if she was understanding Commissioner Tobia's question.

Commissioner Tobia stated if the Board made a motion to go to Executive Session his understanding was that all future discussion would be held in private.

Attorney Bentley responded affirmatively.

Commissioner Tobia stated he would be making a motion, the one he just made, to ask the County Attorney's Office to enter into a settlement agreement with the Clerk of the Courts interpretation, and he would like to know if he would be violating the Executive Session rules.

Attorney Bentley replied if the full Board voted to go that route there may not be a need for an Executive Session in the end.

Commissioner Tobia inquired if he could still bring up that motion.

Attorney Bentley stated he could at the Executive Session or later he could.

Chair Lober interjected he may have misheard something, but he may have to disagree with her, at least in her interpretation of all future discussion on this Item being confidential; he added his interpretation of this is only the discussion the Board has during that noticed, as it will be, meeting will be confidential.

Attorney Bentley confirmed that is what she meant.

Chair Lober stated Commissioner Tobia would like to discuss settlement outside of that the Board can do it today, or the next time there is a meeting, and he does not have any issue with that.

Attorney Bentley stated she does not disagree.

Chair Lober stated he just wanted to make sure everyone was on the same page, because he did not want there to be confusion on that front.

Commissioner Pritchett stated although she has great respect for Scott Ellis, Clerk of Court, she also has great respect for the County Attorney's Office; there is definitely a difference of opinions; and the County is being sued, and because the County is being sued, it needs to come together and hear all of the information to understand exactly what is going on. She noted she is not a lawyer, so those sessions are very important for her, because she is protecting tax dollars on both sides of it, so she thinks the Board needs to do it; this obviously has something to do with the Sheriff's Budget and the super-majority, so this is something that she thinks the Board needs to do due diligence to come together and have that discussion; and this is not that it does not come out completely in front of the public when it is settled. She explained it all comes forward with what the Board thinks it needs to move forward with; she thinks as far as legal strategy, it is definitely something the Board should do; and that is what the Board is appointed to do.

Chair Lober stated this is not to slight either Mr. Ellis or his legal counsel by any means, he does agree that he has had considerable success with respect to going after the County in the past, when there have been concerns on his front; Blue Origin and the bond validation was the one that he thinks everyone is thinking of; he was not on the County Commission at that time, he did agree with him on that particular item that he was in the right, but with respect to this, he respects Mr. Ellis immensely, but he does not agree with his interpretation of what the governing law means; and in essence, he will not get too far into this today, given the Board will be having an Executive Session it seems, the question he thinks really comes down to what the meaning of the finding of critical need being valid for only one year. He added his personal belief, in having read it, having looked at it, and trying to follow it in accordance with standard statutory interpretation is that that means that the finding itself is only valid for one year; that, to him, is just a normal reading of it; for instance, if the Board went on to this coming years budget, the baseline would be whatever the baseline was established based on the prior year, it does not mean that the Board would have to go through again to have the same vote it had in order to keep that baseline; and what he reads that to mean is if the Sheriff wanted a four and one-half percent raise this coming year, that the Board would have to find a critical need again because the preceding critical need finding only applied to the changes that were made when that critical need was found. He explained that in a nutshell is the most simplistic way that he can phrase the dispute; he respects him, he thinks there is an argument on his part, he does not think that either side is doing anything frivolous by any means, in the end it will all be decided in all likelihood by what a judge wants to do in a declaratory action, and it will be what it will be; and whomever is correct will be determined by the court so the Board could have great arguments, or he could have great arguments, but the fact is it will be the court in the end that determines it.

Commissioner Isnardi stated she is all for doing this in the public, but when the Board was served with the lawsuit, that was not done in the public, nor was it done for the world to see, so it was received by the legal team, and she thinks the Board needs to at least look at where it stands legally and make a decision from there; and she is happy to make sure all of the information is in the public, whether it be the Board making the justification of the critical need,

the Commissioners in their role as elected officials in the community, she feels it is their decision to make, but she is not going to argue the case on the dais. She added if the Board wanted it in the public, it should have been a discussion that was in front of the public before the County was served with a lawsuit; she thinks Mr. Ellis is brilliant, she considers him a dear friend, she thinks he has done a lot as a good watchdog of tax dollars, and she has bounced things off of him, but this was not discussed with her before the lawsuit was filed; and she is happy to go to Executive Session to figure out where the County stands first.

Commissioner Tobia stated it is clear the Board is looking at discussing this outside of the prying eye of the public; when Mr. Ellis had mentioned this, he mentioned it at least a couple of times in the *Florida TODAY*, that he would seek legal action; he does not know how Mr. Ellis would provide the Board with the suit in a more public fashion than the way he did; he was certainly given a head's up with the newspaper articles; and it does not matter where he stands on this, he is not on the side of the Board on this one as it moves forward, but he thinks it puts Attorney Bentley in a very difficult position as he moves forward with this. He added he hopes that the County Attorney's Office provides the Board with an option moving forward as a settlement, as he thinks that will save taxpayers money and undue legal fees that may arise with outside counsel for the Clerk's Office, the County, or anyone else that is potentially interested in that, whether that be the Sheriff's outside counsel or anything like that, not to mention costs that would be incurred for legal action; and that being said he will pull his motion off of the table, but he hopes the Board will see that as an option moving forward.

Commissioner Isnardi stated typically when the Board is sued, it does not litigate or discuss legal strategy in public, ever, because of the express interest in protecting County tax dollars, whether one agrees whether or not the Board voted to approve the critical needs increase it does not matter; the legal direction the Board was given, or at least the Board was not told otherwise that it could not do that then it has no choice but to protect itself no matter who is suing the Board, whether it be the Clerk's Office or the public, it does not matter, but it would be doing a disservice to discuss legal strategy out in the public when it will cost money on both fronts; and she thinks it is a silly argument to make, and kind of reckless in her opinion as far as using *Florida TODAY* as a source for news that is probably a discussion for another day, but she does not always believe everything she reads in the newspaper.

Commissioner Pritchett stated the Board is being sued, this is something it needs to have a discussion on; this is not even for something that the Board has done, it is something that is in the future that the Board may or may not do; she thinks they each need to be good Commissioners and sit together and have a discussion with the legal team to find out what the strategy is, because this is regarding millions of tax dollars.

Commissioner Tobia stated this is probably his fault, so he will apologize, but when the Board enters Executive Session it is usually the County versus an individual, so the taxpayers are generally on one side not the other during that individual or business or something like that; this is County taxpayers versus County taxpayers, in other words, there is going to be a loser here, and no matter which side with legal fees and court costs and all that stuff, the taxpayers are going to end up, no matter how this ends up; and he thinks in fairness to all of the constituents that may want to pay attention to this on either side, it should be done in public. He went on to say this is completely different, absolutely, abjectly different than any other Executive Session, which he has always supported when it is Brevard County versus x, y, z business or Brevard

County versus a, b, c citizen; this is a governmental entity that receives money from taxes versus another governmental entity that receives money from taxes, so either way this is 100 percent different from anything else; and that is why he thinks, again passed the other way, it should be done open. He added if he was not clear, he would also like to pull the motion, because that just puts everyone out here and legal staff in a tough position.

Chair Lober stated he is happy to call on Commissioner Isnardi next, but the Board is perhaps venturing on the circular realm of discussion, so with that said, Commissioner Isnardi can say her final thoughts.

Commissioner Isnardi stated it does not matter, it is one Constitutional Office suing the County on a decision that was made based on legal advice received from the County Attorney; nothing at all will be hidden from the public because even an Executive Session still comes out in the wash; and the Board may go to Executive Session and find out the Board was given bad legal advice to move forward. She went on to say it could be that something happened and the Board was not given the correct information, or that an expert tells the Board it needs to settle, but she thinks in the interest of protecting the County this is how the Board should move forward; and to suggest that the Board would want to hide anything from the public is disingenuous and crazy.

Chair Lober called upon Commissioner Tobia and asked that he keep it brief, truly last thoughts.

Commissioner Tobia stated he has a question for the County Attorney's Office; he asked how long it would take before the minutes of that Executive Session would be open to the public.

Attorney Bentley stated it would be when the case is resolved, the Executive Session is public.

Commissioner Tobia stated he has no idea how long; and he inquired what her guess was.

Chair Lober interjected that it could be months.

Attorney Bentley concurred that it could be months, possibly a year or two, depending on appeals, depending on the route the Board chooses.

Chair Lober stated he has reached out to one of the supervisors, not his wife, at Scott Ellis' Office to express his concern about either side appealing this depending upon the outcome and he asked that that be communicated to Scott; he is happy to have a conversation with him, although in all fairness, he does not know that he has mentioned to him specifically or directly; and that may be something for the Board to think about in advance what the Board would like to do regardless of how this pans out.

The Board approved the cost of advertising for, and the scheduling of a private session on January 21, 2020, at noon or at the conclusion of the Board meeting, whichever comes first, pursuant to Section 286.011(8), Florida Statutes for the purpose of discussing litigation strategy and settlement negotiations in the case of Scott Ellis, in his official capacity as Clerk of the Court and Comptroller v. Board of County Commissioners of Brevard County – Case Number 05-2019-CA-058736-XXXX-XX.

Result: Approved

Mover: Rita Pritchett

Seconded: Kristine Isnardi

Ayes: Pritchett, Lober, Smith, and Isnardi

Nay: Tobia

J.3. Board Direction regarding Public Records Policy/Procedure

Chair Lober stated the crux of this is that there has been a tremendous increase in the number of public records requests, and the Board is spending taxpayer dollars as the policy is currently written to benefit only a small handful of individuals relative to the taxpayers with their particular requests, so essentially, what this seeks to do is to get the County's expenses as close to neutral as the Board possibly can; and he is not looking for the County or anyone dealing with this to make a penny, he just wants to prevent the County from losing any money in dealing with these requests. He added all of the items that are in here, the County Attorney has had a chance to review them; he noted she had some suggested edits that he is perfectly happy incorporating in totality if Attorney Bentley would like to address those, or if someone would like to make a motion to pass this with all of them included, he will support it, and if there needs to be discussion, he is happy with that, too.

Eden Bentley, County Attorney, stated on page two of the Agenda there is a section discussing cumulative requests, and under the second circle there, it is indicia of a request being cumulative, staff would like to ask that the Board add a statement that says, "the application of the indicia of a request being cumulative shall be applied only insofar as allowed by existing law"; as to new records staff would like to ask that a clause be inserted where it says include language within AO-47 and BCC-22.

Chair Lober inquired if she was on page three.

Attorney Bentley responded yes, she moved to page three, where it says AO-27 and BCC-22, in that paragraph, staff would like to insert, "except where required by law, the staff and custodians shall not create new records"; she added there are some computer programs that would require staff to create records that normally would not be created, but software requires it be done that way, and there are a few exceptions to that particular rule; and that is all she has.

Chair Lober inquired if there was a third change.

Attorney Bentley replied there was only two.

Chair Lober stated if there needs to be any discussion he is happy to have it, otherwise he would welcome a motion and he would second it.

Commissioner Tobia stated he had a couple questions about the fees; he inquired if he has looked into whether or not there is a blended fee right now; he stated the last policy he saw, apparently there has been some changes here; but he would like to know if the Board would be sticking with that blended fee or if the Board was going for the cost of the individual that is getting collected.

Chair Lober stated what is being proposed is the cost of the individual that is actually fulfilling the request inclusive of their benefits, because the Board has a cost to pay their benefits, so this is the salary plus benefits.

Commissioner Tobia stated there are three people in an office, a manager, a director, and a temp, and all three could potentially fulfill that request; he inquired if he sees any issues with the County potentially or the department potentially giving the director, or whoever the highest rate is to make those records that much more expensive for the individual that wants to receive them.

Chair Lober stated nothing in this would cause that to be in place; his understanding is the existing policies suggest the opposite, but it really needs to be the lowest paid employee or the lowest compensated employee that is capable of handling the request; if there is a temp that is simply not able to handle the request that is a different matter and it will be bumped up to the next lowest level that is able to process that; and he added that is not what he is trying to do. He noted if Attorney Bentley would like to jump in if she has a different understanding or the same understanding it might be helpful.

Attorney Bentley stated she believes he stated it clearly, one cannot manipulate the system to increase the cost, and one must go with the lowest paid employee.

Chair Lober stated he thinks that is all anyone is looking for.

Commissioner Tobia inquired if the Board knows if that will increase the current cost or decrease the current cost that is being charged.

Chair Lober replied in some circumstances it will increase it; he cannot say if it will be an increase around the board; it will be dependent upon what those particular individuals make; and he can say he is aware of some where it would increase it, he cannot say that as a blanket statement though.

Commissioner Tobia inquired if he was worried if that would potentially cause less individuals to seek records and thus decreasing transparency in government.

Chair Lober stated he does not think it will decrease transparency by any means; there is a difference between bulk records that require a tremendous amount of time to be processed and to be produced; most of the records requests, to his understanding, are somewhat narrow where this would have a minimal impact; and the big records requests where one may be dealing with thousands of pages, that is where he sees this having more of an impact on the requestors, but for small requests it should not have a profound impact by any means.

Commissioner Tobia inquired if the Board is still switching the gratis portion from 30 minutes down to 15 minutes.

Chair Lober replied yes, and he thinks the thing to keep in mind is the Board is not doing this in any way to make money, it is trying to stem the hemorrhaging money; he analogized that if someone is bleeding, one puts pressure on the wound so they do not bleed as much; and he can advise that there is case law that he has spoken to Attorney Bentley about that indicated objectively, at least at the district Court of Appeal, and maybe a Supreme Court level case, that indicates 15 minutes is hunky dory by all accounts. He reiterated he has seen at least a couple cases that are very unambiguous that 15 minutes is fine; and he added less than 15 minutes may or may not be fine, he does not know, he has not seen any case law on it.

Commissioner Tobia asked if he could help explain, Chair Lober said "bleed", and he sees in the summary he has that the Board has an increase of 62 percent between 2016 and 2019.

Chair Lober responded it may be a little higher than 62 percent, that was at the time that this

was drafted at the end of 2019, it may even be a little bit more.

Commissioner Tobia inquired if that was the number of requests or the amount of time that has gone into those requests.

Chair Lober replied the number of requests.

Commissioner Tobia asked if it was fair to say that potentially the amount of time could have decreased through technology, yet the number has increased.

Chair Lober replied he cannot tell him to a certainty that is not the case, although he would say equally it would appear unlikely that is the case.

Commissioner Tobia stated he mentioned hemorrhaging money; and he inquired if he knew how much this is costing the County because he did not see that in the summary what the cost to fulfill these requests was above the amount that was collected.

Chair Lober responded he thought about putting that together then he realized the man hours that would be involved in even calculating that would be a waste of taxpayer funds.

Commissioner Tobia inquired if hemorrhaging would be a small number.

Chair Lober replied it is all relative to say small or large, it is all relative; he thinks when looking at the trend, and one sees that the trend is going a certain direction, it is important to try to get ahead of that curve before it really gets out of control.

Commissioner Tobia stated the trend could also be interpreted that more people are interested in finding information about government; that is the trend that he took; and it looks like he is interested if there is a follow-up, that eating into the 15 minutes, and asked if he could explain that to him.

Chair Lober stated he wanted to be careful of what he says, because until this is enacted, he does not want to expose loopholes that the County has that would cause staff to get abused if they make use of them in a way that really is not contemplated by anyone that originally put the policies in place that are in place, but he can say at some degree of risk without going through each and every loophole; if one lived on Main Street, and they live at 500 Main Street, and it goes from 1 Main Street to 1000 Main Street, if they send a public records request to the Board for any kind of record, it does not matter what, and they get a response saying it will be "x" number of dollars and they want to get it for free; and they could come back, and he believes this is a real concern as things have been narrowed in order to avoid paying, where it could be piece meal where they can say they do not need one through 1,000, and make a new records request for pages one through 100, 101 through 200, and so on, as a separate public records request so they do not go either over that 30 minutes that is in place now, or 15 as he proposed, or alternatively so that even if they do go over it they still have 30 comped as it is now over and over again which is at the expense of other things that the Board could be doing with the funds, or potentially not raising taxes, or potentially lowering taxes.

Commissioner Tobia asked if he believed that the very bad apples he speaks of are the people that understand the loopholes; and he added in Chair Lober's example a person could ask for different requests under different aliases, and this does not seem like a hidden loophole, this seems like a glaring loophole.

Chair Lober stated that is why he mentioned that one in particular; it is the same thing with security in the Information Technology (IT) Department, there are certain things he does not

think need to be discussed on the record; as far as the loopholes and the potential concerns that exist, what he can say is there are some loopholes that are much more obvious than others, he does think there is a segment of the population, hopefully a small segment, that seek to take advantage of those loopholes, but he thinks having those loopholes available and not patching them is a mistake, especially seeing the trend with the numbers increasing; and he appreciates Commissioner Tobia's concern, and he thinks what it comes down to is a balance between transparency and also being fiscally conservative and not wasting the taxpayer funds. He went on to say there is a subjective evaluation that takes place in everyone's mind as to what is the appropriate way to go with this is; he thinks there is a balance in what exists now and what he is proposing; the question is if it is the right balance; and it is totally a subjective question.

Commissioner Tobia expressed his appreciation for all of the work that went into all of this; he thinks the Board would be sacrificing transparency without a dollar figure; if this saves millions upon millions of dollars, as Chair Lober mentioned hemorrhaging, that would be something he would potentially look at, but the Board will without a doubt be sacrificing transparency for a number that the Board does not have; and until that number comes forward he does not think that he will be supporting this, but he greatly appreciates the time and effort put into it.

Chair Lober stated he appreciates his concerns as well with respect to it; and he believes Commissioner Smith made a motion.

Commissioner Smith stated he was in high school when he made it.

The Board discussed and approved the proposed changes to AO-47 and BCC-22, as detailed on the Agenda Report, with two amendments, as follows: Add a statement on Page 2, under the second circle, where it states indicia of a request being cumulative, a statement that says, 'The application of the indicia request being cumulative shall be applied only in so far as is allowed by existing law'; and as to new records on Page 3, to add a clause to be inserted where it says include language within AO-47 and BCC-22, 'except where required by law the staff and custodians shall not create new records'.

Result: Approved

Mover: Curt Smith

Second: Bryan Lober

Ayes: Pritchett, Lober, and Smith

Nay: Tobia, and Isnardi

J.4. County Attorney Succession Plan

Eden Bentley, County Attorney, stated this is a succession plan for the County Attorney's Office, the issue of transition for this office was raised in a newspaper article a couple months ago; she has summarized the steps underway in the County Attorney's Office to let the Board know that they are trying to be ready for a transition in a couple of years; and her goal is to provide the Board with maximum flexibility so that an external candidate can be hired, or if someone is available internally, and have a smooth transition either way. She went on to say if additional step need to be taken, or the Board would like a different approach, she would be happy to have that Board direction.

Commissioner Pritchett stated her hope would be that any Department Head that is in the County would already be training staff so there are no single points of failure regardless, but

when these items come up, the Board has already had to work through an attorney and a County Manager; she thinks the Board is kind of already doing that process; and if it is not, the Board needs to step up its game, but she thinks it is being done. She went on to say there is probably a very strong opportunity at that time to go out to find someone and bring them in as well; she would like to keep all of that open and not promise someone, even in-house, that they will be moving up; and she added when the Board comes to place these positions she would like the very best the Board can get for the County.

Chair Lober expressed his appreciation for this Item being added to the Agenda; as someone who has followed this process in the past when it has taken place, even outside of the organization, one of the things that comes to his mind for the Agenda Item is the second paragraph, the portion in the parenthesis where it talks about it may take months to secure and employ a suitable candidate, and he thinks that is a very true statement; he is not opposed down-the-road to bringing someone on board in house, or potentially advertising it; and he does not think the Board needs to spend the amount of money that was spent the last time in advertising it. He added he thinks that the people that are potentially interested can be reached for far less money; he does think that given the amount of litigation that has been going on, given the new litigation that the Board is coming across left and right for various reasons, that it might not be a bad idea to allow Jerry Visco, Human Resources Director, to work to put together some proposals in terms of how a transition would work; and he can say to step back a moment to the concern he has with respect to the amount of litigation that the Board is dealing with, he thinks it would be very wise, and he would support, having a lengthier than usual transition time where the Board has whichever candidate the Board selects to serve as the next County Attorney on staff along with Attorney Bentley, so that there can be enough of a training and adjustment period that the Board really has complete continuity or a ball drop that it could avoid by spending a little more money to keep someone on perhaps several months longer than ordinarily might be the course or the routine course of action.

Commissioner Tobia stated he went over a few of the points he was going to mention; he looked at the staff at the County Attorney's Office, and it looks as though six of the seven attorneys have less than five years' experience with Brevard County; the Board will be losing a great deal when it loses the County Attorney; he would also like to avoid getting a search firm in order to find someone else; and he would, whether it is Mr. Visco, or Attorney Bentley, he would like to request that either of them bring forward a list of job qualifications, so the Board is prepared to move forward as well as some suggestions of places the Board can advertise that opening while spending a few hundred dollars instead of spending \$20,000 or \$30,000 as the Board has in the past. He went on to say whether it is the Florida Association of Counties, if they have a job listing or something like that; he added he would like not only the qualification list, but with some suggested advertisement spots for that opening, at least try to spend a few hundred dollars to see before the Board makes a big decision to go with a search firm as the Board has done in the past.

Chair Lober stated he would have an opposition to spending a five digit number on this; if the Board can do it for a three digit number that would be great, but realistically it may be a four digit number, but that to him is more palatable than spending tens of thousands.

Commissioner Tobia stated he believes that money would be better spent with both attorneys working together than with a search firm; he did have a conversation with Human Resources and with County Finance to make sure the Board does have to have adequate reserves so the Board could have a lengthy transition and the Board is in good shape to accomplish that without having to funnel money away from something else that is a necessity at this point; and it is possible if the Board was to opt for option one to do that without feeling any pain so to speak.

Commissioner Pritchett inquired if Attorney Bentley was getting ready to retire.

Attorney Bentley replied she is not ready to retire yet.

Commissioner Pritchett stated she thinks the Board is jumping the gun; the Board had to do this when Scott Knox retired, he gave the Board about a year's warning, and Attorney Bentley was wonderful; and she thinks the reason the Board continued doing what it was doing was because there was an in-house person, and it was the same with Frank Abbate, County Manager. She went on to say she thinks the Board picked the cheapest search firm and the Board should not have done that, there was a better one the Board could have picked, but all said and done, the Board got the best County Manager one could have gotten out of it, and if he would have stepped up, he would have saved the Board that \$10,000; and she reiterated that she thinks the Board is jumping the gun. She explained she does not want to double up the County Attorney costs, these people are smart when they come in and the Board will have Chair Lober anyway; she reiterated she thinks the Board is jumping the gun; maybe it can be a discussion the Board has when Attorney Bentley is a year out from retiring; she would be on board with the discussion then; and she does not think that the Board should put staff moving in that direction yet or set aside funds for it just yet.

Chair Lober stated he would dovetail off of what Commissioner Pritchett said, and it makes a lot of sense, but he thinks the unique nature of what is contemplated and what is entailed serving as County Attorney, at least insofar as the items that have been brought to his attention from legal at this point is such that a short transition, even if it may be cheaper on the front end for taxpayers, it may be more expensive in the long run; he does not want anyone to get the impression that the Board, or any individual Commissioners, are trying to push Attorney Bentley out; she would love Attorney Bentley to stay on until November 1, 2021, but he really does think given everything that is going on that it would be wise to act earlier than the Board otherwise might.

Commissioner Pritchett stated a lot of times when the Board starts interviewing people for these positions, they have been working in government for a long time, so they typically already have a handle on how to run these types of governments, and one finds something compatible; and there may even be some city attorneys at that time that are ready to move up. She added they are well trained and versed, and again, she has no idea what will come along; she loves that the Board is pre-thinking this, but she really thinks the Board is jumping the gun.

Chair Lober stated she is spot on with respect to their being some city attorneys that might be able to move up; he is not saying the Board should use someone outside, the Board may be fine, there are a couple people in house, one of whom is not terribly far away from Attorney Bentley at this point who would probably do an excellent job by all measures and indications; and with that said, there were certain people, and this is one of those things where the Board is not going to get 600 applicants where they are really qualified. He explained Pete Sweeney used to be Deputy City Attorney, or Chief Deputy City Attorney for Palm Bay, and when Andy Lamb left the office, he thinks Mr. Sweeney took a job in South Florida, south of Brevard County, maybe Indian River County, and the concern is there may be people that are similarly qualified; and he does not know that he would even be in a position in his life where he could consider switching over; but there are people that are in different stages of their lives where there may be an opportunity that presents itself earlier; and if the Board is not in a rush, and it is not a good fit, the Board does not have to act. He added just because the Board advertises using perhaps hundreds of dollars, God willing, instead of tens of thousands, if the Board does not see anything it likes, it is not in a position where it has a gun to its head and something has to be done immediately; and with respect to the option that was presented, to direct Human Resources to being various proposals forth, there is nothing that says the Board has to act on

those instantaneously, it is just giving the Board options. He added he does agree, and he would oppose any effort to push Attorney Bentley out any sooner than she wants to leave, which he is hoping is still November 1, 2021; he reiterated he does not want anyone to get the impression that there is some ulterior motive to get her out by accelerating this, because that is not at all the case; and with that said, he would like to see which direction the Board would like to go.

Commissioner Isnardi stated she thinks the most responsible thing would be to have a succession plan; she likes the idea of the job description, because in the recent past the Board has made error that she is concerned about that in government, at least as far as legal advice goes, should not have happened; she would like to make sure those areas are covered with whoever does succeed Attorney Bentley; and she would like the Board to at least move forward in that direction, so the Board is ready.

Chair Lober stated he would like to apologize he just realized that sometimes things do not come out as well as one intends them to; he thinks he used the word probably when he addressed Abby Jorandby, he apologizes for saying that, he takes that back, and he does not mean any offense by that, he has had nothing but good interactions with Ms. Jorandby; and with that if there is a motion, he would ask that the Board clarify which of the options it is selecting, and make sure that it is sufficiently clear that it can be put down in the minutes appropriately.

The Board directed the Human Resources Director and/or the County Attorney to bring various proposals for a transition plan, including a job proposal and a list of sites with costs that could be used for advertising at a lower cost to the County, back to the Board.

Result: Approved

Mover: John Tobia

Second: Bryan Lober

Ayes: Lober, Tobia, Smith, and Isnardi

Nay: Pritchett

J.5. Funding Source Notification for Greeting Cards

Chair Lober stated before the Board gets into this, he did want to mention that he had a conversation very recently with Frank Abbate, County Manager, and he told him that the departments that he was aware of that went out and sent cards in any forms that are considered in bulk, that the people involved in that have already reimbursed the County for those costs, or are in process of reimbursing the County for those costs; he commends them for having done that or for doing that; he thinks this is something that essentially puts the County in a better position moving forward; and he will not call anyone out by name, so if someone wants to ask which departments or which employees, he will not do that, he does not think that is productive; and the goal with this is to keep trying to be fiscally conservative and responsible with County funds. He added if there is any discussion he is happy to have it, otherwise he will take a motion that the Board will go that way.

Commissioner Isnardi stated she will be a little selfish and say it was not District 5.

Chair Lober stated it was not District 2 either.

Commissioner Pritchett asked if this had anything to do with letters from County offices.

Chair Lober replied no, it does not.

The Board approved requiring that greeting cards sent from any County Department, office, employee, or elected official to more than 24 recipients include, in a 12-point or larger ADA-friendly font, on the cards themselves, a prominent notice reading, "THIS DOCUMENT PAID FOR WITH TAXPAYER FUNDS" whenever County funds have, in part or in whole, paid for the purchase of the cards, printing for the cards, and/or postage for the cards.

Result: Approved

Mover: Kristine Isnardi

Second: Bryan Lober

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

J.6. Letter to the Florida Department of Transportation Concerning A1A Crossovers

Chair Lober stated there are a number of Public Comment cards, and he would like to mention before this Item is introduced, and before Public Comment, there were some grammatical fixes for some typos that were in the Advanced Agenda that he was advised were fixed; and the ones that he is aware of, he thinks there was a typo in the word "rapid", and there were a few apostrophes that were misplaced, nothing horrible, but the Board is talking about it as it appears on the most recent Agenda with the grammatical errors having been fixed.

Commissioner Tobia stated he would not talk about the situation as it is extremely sad, however this is not his District; this happened to be where he grew up, but this would be Commissioner Smith's District; that is why he wanted to bring it forward because he read the *Florida TODAY*; and he greatly appreciates Commissioner Smith for his steadfast leadership on this issue. He went on to say he has constantly been a leader on traffic control issues; his accomplishment with the installation of the traffic light in Viera as one of the accomplishments; he did this extremely quickly to get it on the Agenda, and he apologizes for the typos; and other things that could be added to this as the Board moves forward would be to carbon copy the cities that these lights are currently installed or will be installed as well as obviously the legislative delegation in the House and the Senate. He mentioned because of Sunshine Law it precluded him from calling Commissioner Smith to say good job on his comments in the paper; he would like not only the delegation, but the cities to be aware that this is not necessarily just a Commissioner Smith priority, it should be a priority of the entire Board; and that was the intent of the letter, was to not only bring light to the issue, which Commissioner Smith has done a very good job, but to also to express his thanks for his leadership on this one.

Chair Lober echoed Commissioner Tobia's sentiments as he saw the comments as well; he stated he thinks it is good to have someone that cares about it; he apologized for the confusion, as he saw District 3 listed on the Agenda; and if it works, he would like to take Public Comment for the audience's benefit.

Daniel Willemin expressed his thanks to Commissioner Tobia and for Commissioner Smith's comments in the paper; he stated this is a situation that needs to be dealt with; he is really hoping it gets dealt with in the appropriate manner; he knows Commissioner Tobia wrote the letter very quickly and that he wanted to get this on the Agenda; and he thanked him for his dogged persistence. He added he would also like to make the Board aware that there is a system that has seen successful use elsewhere, Key West to name one place, it is called the HAWK System, and it stands for High-Intensity Activated Cross Walk; and the residents have been pushing for red lights to stop traffic, everyone knows when they see a red ball of light above the traffic it means to stop. He went on to say for going on almost a year now the residents have been saying the cross walks are dangerous; when Commissioner Smith brought

up those red lights, it immediately hit him that he should come to the meeting to mention this to the Board to make it aware of the HAWK System; and if the Board were to replace those flashing yellow lights with flashing red ones it would still be just as confusing. He added right now a lot of people can easily mistake those flashing yellow lights for the lights of a tow truck pulled over on the side of the road, and they do not extend across the entire roadway, but if someone was in the right-hand lane, and there is a big box truck right next to them, only the lights on the right-hand side can be seen; there could easily be mistakes; and aside from that it is confusing as it is. He explained they are new, no one really knows what they are; this is a tourist destination, there is going to be a huge hotel built not far from there soon with a lot more tourists who do not know what these things are; everyone knows when they see a red ball of light above the traffic that it means to stop; and that is what these HAWK Systems are, a mast that goes out over traffic with red and yellow lights that will illuminate yellow for a period of time indicating to drivers that they need to be prepared to stop, then after a few seconds it will illuminate red indicating they need to stop. He added during this time there is a "Don't Walk" signal for pedestrians; only after the lights turn red, are the pedestrians given a "Walk" signal, and that is an added measure of safety that he thinks the residents need; it is not only that, but the systems also provide an audible signal for people with visual impairments; and it makes a ticking noise to let the person know it is safe to cross. He reiterated the systems that are currently being used here do not have that; he would like to see as this letter goes out that it is amended to include a request for these HAWK Systems; he is behind the Board on the removal of those lights, they need to be replaced with something better; but he thinks the Board should include the request for the HAWK Systems as well, because he considers them to be something better.

Megan Naugle stated she is speaking on behalf of her husband Kyle Naugle and many locals in their community; herself and her husband are of the same mind about the crossovers sought after on A1A; she has a written, signed statement by her husband who could not be here due to a work obligation; she read aloud "Yesterday mid-morning I decided to take my seven-year old daughter for a bike ride, we rode up to a repair shop to drop off a piece of equipment and decided to take A1A Northbound on the way back to our house. We crossed the street, pausing in the center lane for safety reasons, then continued across the road. There was an intersection without a light to a street directly to our left which we considered pedestrians as my daughter and I got off our bikes to walk across. As I understand the law, we are allowed to cross at intersections without a crosswalk as pedestrians. After crossing, I saw an undercover police car flash its lights as an off-white/grey SUV pulled over and exited an officer that was plain-clothed, this officer immediately approached me with an air of superiority. He bulldogishly told me he was not there to scold me as he scolded me. He told me he was not there to call me a bad father, which is indeed a backhand way of calling someone a bad father. His agenda was clear. He was the law. As he was berating me an older lady crossed at the exact point I did, walked in front of the officer's car, and then went on her merry way. The officer didn't blink at her, backup, wasn't sent to accost her. I noted this to the officer and the officer asked me if I was a police officer and told me was dealing with me right now. His actions were indescribably condescending and rude. Two younger tweens and their mother hopped across the same spot before I went to the repair shop approximately 10 minutes before I was harassed on the side of the road. Nothing was said to them. There are surfers, wave checkers, and dog walkers always crossing A1A, and many refuse to use these unsafe crossovers that were installed. I couldn't say anything right, I was reduced to yes officer, no officer responses, as well as apologies, and I just wanted my license back and asked if I could leave. I didn't even want to ask the officer's name, as everything I said seemed to have upset him worse. The officer's agenda was to tell me I must use the killer crossovers and I was to know it and take his verbal abuse without reproach. I even told the officer I felt no matter what I said he'd take offense and I'd get in more trouble with him. The militaristic, authoritarian approach was noted and undeserved. I was visibly upset, my daughter asked me later why the police officer was yelling at me. My

seven-year old daughter's interaction with this officer has left much to be desired. I spoke with the repair shop personnel, the same officer has been seen doing the same things to individuals crossing A1A. He does it so loud and abrasively he can be heard across the street over the hum of cars on a four lane road. This officer has become infamous for his interactions with people in our small town. Until I could identify him, his name in my head was Officer Chip due to the huge chip on his shoulder. Even if I was jaywalking, which according to the law, I crossed a street as a pedestrian, had legal ability to do so. I would much rather have a ticket." She added this is basically about the crossovers; they even spoke to the Commander at the Police Station today, and he said that officer does need to have a security camera on him; they asked to find some type of evidence about the way they were treated; and they feel like they are being bullied to use these crossovers, even if they are teaching their children how to correctly cross a street. She added not everywhere in the world has a crossover or a crosswalk; she would like to teach her seven-year old to cross a road; and she should not be harassed to use them.

Chair Lober apologized for her and her husband having a bad experience; he advised he is not saying this will bring them total resolution to the issue, but they may want to bring it up to the City Council when they meet; the Board's ability to do anything with respect to Satellite Beach Police Department, it is very, very limited; not to stir up trouble, he did have a conversation with one of the individuals, and he will not say if it was an elected official or a staff member over there, regarding a concern that was actually brought to his attention by someone sitting in the audience at this point; essentially, he was politely told to stay in his own lane, so he does not know how much resolution she will get with the board; and he has concerns with respect to how certain things have been handled over there.

Mrs. Naugle stated if she had more time it was the other half about the crosswalks; and the issues are the crosswalks.

Commissioner Isnardi stated as a comment to that, usually she does not comment during Public Comment until the end; but, with that being said, she does not think anyone should be crossing anywhere there is not a crosswalk, whether one agrees with her or not, whether it is reality, and this is what people do; she thinks one is taking a large risk crossing the street anywhere there is not a designated light that is red that gives someone permission to cross; and she thinks that a person is taking a chance, whether it is right or wrong, or a good idea or bad idea, the reality of it all is that at that point someone is making the decision to take that risk. She added she would not recommend crossing the street anywhere there is not a crosswalk; as a mom, it is her own personal opinion; she is just suggesting it; she does not condone it; and if what she is saying is accurate and there is an officer out there that is bullying residents, it is terrible, but Satellite Beach has to take care of Satellite Beach Police Department, because the Board has zero authority over what they do over there. She noted the Board has to stay in its own lane; it cannot tell them what to do any more than they can come tell the Board what to do; and as one can tell, she is not a fan of these yellow beacon crossings.

Shawn Campbell stated her concern is more the position of where the crosswalk is; she lives in Indialantic, on Coral Way, and Coral Way is the only thru street from A1A to Riverside in the entire neighborhood; just from people that have called whoever they call to complain about it, her intent is the safety for her, for now, as a driver turning into her neighborhood; and the median is so far north, that in order for her to turn into her neighborhood, she has to slow down and do a quick merge to miss the median into the fast lane on A1A. She added she does not know how many feet north, and if there is someone already there, then she has to go straight and do a U-turn; that is the concern for most people in their neighborhood is that median is too far north and it does not give residents a chance to slow down in the fast lane of A1A if they are going northbound to turn into their neighborhood; and several people have almost been slammed in the rear by slowing down where people three cars behind are still going 46-60 miles

per hour. She indicated her concern is if someone could come out and check the measurements; she noted maybe the median needs to be moved several yards south to give the residents more space in the center so they do not have to slow down to make a quick merge in the speeding lane of A1A; and if one uses that median to cross over, the beach access is further north, so one still has to walk down the side of A1A to get to the beach access. She mentioned there are no sidewalks; there is a condo being built there, so she is not sure if sidewalks are going to be added; and she would like to have someone could come out and check the position of that specific median.

Chair Lober stated it is something she may also want to bring up to the Transportation Planning Organization (TPO), they are technically autonomous from the County, and they are in the Government Center in the building adjacent to the Commission Room; he noted Georganna Gillette is the Executive Director there, but really anyone there can help with respect to that; she may want to talk with them, because he believes the stretch she is talking about is totally a Florida Department of Transportation (FDOT) stretch, where FDOT would maintain it; and he asked Commissioner Smith if that was his understanding as well.

Commissioner Smith replied he believes so.

Chair Lober stated it is something he can tell her he has had concerns of a similar nature expressed by constituents in his District; he added he would give her a heads up, good, bad, or indifferent, the reality of it on the ground, typically is if there has not been a series of accidents at that particular intersection, he hates to be the bearer of bad news, but he is not saying not to try, he would still try; and they look at the crash statistics, and if they do not support essentially that there is an ongoing problem, even if there are many close calls it may not be enough. He went on to say he has even had constituents tell him they have video, front and back of their car, where people are almost slamming into them continuously, and if they miss by a millimeter, it may not be enough for FDOT, he is not saying it is right or wrong.

Ms. Campbell stated it is such a shame they are just waiting for more people to die; they are in a neighborhood where there are so many young families and children; and it is just her concern.

Chair Lober stated his advice to her is to go to TPO to see if they can put a request into FDOT, if it comes up; the Board serves on TPO, and he would be supportive of the request to have them evaluate it; what they determine in the evaluation is out of the Board's hands; and he reiterated that he would support it.

Commissioner Isnardi stated it sounds like that area has a specific problem with that median, so that may be something that may be an easy fix; the Board may not be able to solve all of them, but the safety on this is obviously important; she has someone here from her office, she can give them her information so they can follow-up with her; obviously everyone will know what they are doing, but that way she can stay informed on what is going on; and she has a couple of people on her staff that live in Indialantic.

Ms. Campbell stated they do not have poles up or anything like that, just the median, so she does not know if that is an issue; there are several people in the neighborhood who have called to complain.

Commissioner Isnardi reiterated to give her contact information to her assistant, they will keep her in the loop.

Patricia Hobby stated she has a couple concerns, one is with their neighborhood; there is Indialantic Elementary, Hoover Junior/Senior High School, and the First Baptist Church, so

both of those streets, Flug and Boskind, those exit their neighborhood, and their neighborhood is a cut-through; they have Health First there now, a Dunkin Donuts, so there is quite a bit of traffic coming in and out of those two exits; and where they place the medians and crosswalks gives the residents no landing spots for turning out of their neighborhood, no matter which street one uses. She went on to say one is a little better than the other, but one has no turning room onto A1A; the other concern is wherever they place the cross walks; from what she understands about them, they were placed there for people to get to beach access; the cross walks are not placed directly across from the beach access, so she will speak of the mobile one on Boskind; one walks across the street, and there is a long strip of sidewalk that is going south; the beach access is north; she is trying to make sense of why they made the sidewalk with the metal railing going to a private driveway of a home, they did not make it to the beach access; and the one located at Flug one walks across, and this one particularly has the three by three or two by two landing piece of cement, but one would have to come off of the grass to come onto A1A to walk to the beach access to get to it. She added she has a safety concern for those two places; she drove A1A and she looked at the majority of them, and two out of nine got directly to the beach access; some of them land in front of a condominium, one would have to walk down; she is thinking of herself when her children were young, they were dragging wagons, fishing poles, boogie boards, and one wants to get directly across the highway as quickly as possible; but these two particular ones that exit her neighborhood, they are not going directly to the beach accesses; and the other thing is the yellow flashing lights, everyone is taught that yellow means caution. She mentioned the HAWK Systems that the gentleman before her spoke about; she thinks would be a great solution; she knows it costs a little bit more money for the County, but it could save a lot of lives if these systems were put where the lights blink and to give drivers time to hesitate, then it would turn red and drivers would stop, and that is how drivers are taught; and she is guilty of this yellow flashing, because when they first installed the one in Melbourne on 192, she was picking her mother-in-law up and was driving, and her mother-in-law started yelling at her. She stated she asked why her mother-in-law was yelling at her and she said because the lights are flashing yellow and that she needed to stop; and she was not educated on that, she does not believe there was an education that was brought to residents before they were installed.

Commissioner Isnardi asked that Ms. Hobby give her contact information to staff so they can follow up with her.

Commissioner Smith stated he would like to broaden the subject matter.

Chair Lober stated with respect to this, he can say one of the things that came up at TPO, he does not have the numbers in front of him, but there was some information that suggested when certain indicator devices are put in out on the roadways, no matter what it is, it is tremendously effective in the short-term for those that are not used to seeing it, one sees it for the first or subsequent time, and the effectiveness decreases because people become desensitized to it if they are used to driving by it several times a day, or daily; he asked is if it would still be worthwhile to potentially changing that out given the fact that one is dealing with an area with a ton of tourists, and it will be brand new for them essentially all of the time; he stated he does not know what the crash data supports in terms of how many people were local versus how many people were visiting; and it is something to consider because he thinks that point may be brought up in the scope of this going through the Florida Department of Transportation (FDOT). He added he agrees that something needs to be done with respect to it, because the status quo is just not acceptable; he expressed his thanks to the speakers for coming out; and he advised with that, he is turning it over to the Board for discussion.

Commissioner Pritchett stated she had a couple of thoughts, this is an FDOT road, so it is really hard for the Board to do a lot other than make recommendations; she thinks Commissioner

Smith went before the TPO Board to make some changes, he would have the TPO support on that; she was thinking about something, and there is not one driver that wants to hit a pedestrian, and in her town they put these little flashy things out, and she just does not see them. She went on to say she cannot say how many times she has run through them because her eyes just do not catch them, especially when there is fast traffic going on a road, there is just no way that will do it, and those lights are just not going to work; and she does not want to hit anyone, but her head just does not grab the information. She added she really likes the idea of the HAWK System; she was going to recommend to the Board, at the bottom of the letter, it requests a traffic light to be installed and maybe start with a couple of roads to look at, but she thinks the HAWK Systems are a good idea; she added she just got back from Clearwater and they had them everywhere for testing pedestrian crossing; she noted it is easier to stop, because they are right in front of the driver; she is going to ask that the Board add that to the letter; and when the Board is ready, she requests that it approve this letter with the addition to ask FDOT if they would look at maybe putting in a HAWK Traffic light, and the Board can start with the corner of A1A and Elwood Avenue, maybe they can do an analysis on A1A.

Commissioner Smith stated he would like to start with a video, and the initial video shows and interview he did with Channel 2 News last week, and the Board will notice as the video continues, they actually had their camera in their truck when they approached the flashing yellow lights and the three cars in front of them did not slow down or stop, they also did not slow down or stop, so it is very, very telling; and then he will follow that up with a demonstration of the HAWK System; and he asked SCGTV to roll the video. He asked the Board after the video if it noticed the flashing lights, one car did hit their brakes briefly, but they just kept going, all three cars did, even the news truck; and he asked SCGTV to play the second video about the HAWK Systems. He noted he thinks the Board can agree that the HAWK System would be far more superior to the current system; his first encounter with them was in October 2017, he was traveling east on Post Road, and right by Sherwood Elementary School, there were flashing yellow lights, and as one of the speakers said, a person's brain cannot comprehend what that is if they have never seen them before; fortunately, he was far enough away that these kids started walking across the street, so obviously he stopped; and he called County staff to find out what this thing was, and staff informed him that it was a city road. He went on to say he called Mayor Meehan, she checked into it, and said it was an FDOT deal that she did not know anything about; he thought that it was really dumb, because he could not figure out what was being accomplished, because it was negative improvement from his estimation; two months later a little boy was killed there; and that was December 17 that he was killed, fast forward to December 19, and there is a similar situation occurring in Satellite Beach. He mentioned this is not just a Satellite Beach issue, this is a countywide issue, and a State issue; he added Sheriff Rick Ramsey from Monroe County, the Keys, he fought FDOT in 2016, because they had installed flashing lights in Key Largo, and there were several incidents there; and he finally got the HAWK Systems there. He explained Sarasota has done the same thing, they have HAWK Systems all over; someone mentioned Clearwater having them; he reiterated this is not just a Satellite Beach issue, even though the residents have discovered first-hand how terrible this can be; he reached out to Senator Debbie Mayfield, and they joined a conference call with a couple City leaders from Satellite Beach and FDOT last week; FDOT was very cordial, but they could not pin them down for any action; and the point being, they did years of study on A1A before construction was started. He added the crosswalks were originally installed with no lights, there was nothing; city leaders in Satellite Beach stated they needed some kind of lights, so they got the yellow lights, they did not want that particular type, but that is what they were given; he noted the city requested these HAWK Systems three years ago, and they were told the road did not qualify; and he does not know what qualifies, but it seems silly to him, so his impression is when they were on the phone with them, they kept trying to press them about when a speed limit reduction will be seen, or the lights replaced with the HAWK System, and all they got out of FDOT was that all options were on the table over and over again. He went on to say they asked

what that meant, if it meant it would be looked at in three months, three years, and they will get back to them; he thinks that the Board will have to push some buttons in Tallahassee; his first thought is through the legislature, which would be the Senators and the House of Representatives, and Commissioner Tobia certainly knows people in the legislature, so that would help; and the Board needs to reach out to the Governor, because he can tell FDOT what makes sense. He explained if the Board can appeal to him, he has a young child, and if the Board can appeal to him as a parent, as well as a Governor, he thinks the Board could get something done sooner rather than later; with regard to this letter, that the Board do another letter to Ron Book a lobbyist in Tallahassee to ask him to intercede on the Board's part and pass information on to the Governor; and he would love to sit with Attorney Bentley to compose that letter to bring it back to the Board for approval. He stated that is the deal, it is a tragedy waiting to happen; he feels terrible for these people that have suffered the loss, they are dealing with an emotional scarring that will probably never heal; not only the people that lost the little girl, but the woman that hit her as well, and she will have to live with that as well; and that would be his request and recommendation to the Board.

Chair Lober asked staff if they were clear on the actual motion.

Commissioner Pritchett stated she has a motion on the floor; and Commissioner Smith would like to send another letter to Mr. Book.

Commissioner Smith stated he would like to include his information in this letter, and he would like to compose a second letter to Mr. Book.

Chair Lober stated for clarity sake, the Board will deal with Commissioner Pritchett's motion as it was first phrased to approve this letter with the addendum at the bottom with respect to the HAWK System, and he will second it; and he asked if the Board was on board with what was being voted on at this point.

Commissioner Isnardi stated she would like to include the entire beachside because she is in agreement with Commissioner Smith; she thinks the intent was pure, most of these crosswalks came about because residents needed access to the beach and they wanted somewhere to safely cross; she reiterated the intent was pure however, the plan does not always work out in the best interest; and she thinks those yellow, flashing lights are absurd. She went on to say it gives people a false sense of security; Mrs. Hobby was correct, yellow lights absolutely mean to proceed with caution that is what it means in front of the fire stations, with a yellow blinking light when making a left-hand turn on a green.

Commissioner Smith stated it was seen on the video, there were all of those cars just passing those flashing lights.

Commissioner Isnardi stated one cannot even see those flashing yellow lights.

Commissioner Smith stated the other complaint that he has had regarding those flashing lights is when it is dark and people approach them, the lights actually blind the driver, so one cannot see anyone on the crosswalk.

Commissioner Isnardi stated she thinks crosswalks are a necessary thing because people are going to cross whether they should or should not, and whether it is safe to do so; maybe the happy medium is if they can only afford to put so many of those HAWK Systems in, or if that is their gripe, the Board can reduce the number and just do not have those other crosswalks; and she would be fully in support of a true and actual, legitimate crosswalk, but that would be the only way she would support any kind of crossing.

Commissioner Smith stated he agrees.

Commissioner Tobia stated he does not normally do this, but he would like to amend Commissioner Smith's motion, he mentioned bringing it back to the Board, he thinks this is a point of expediency; and he would like to give the authority to the Chair to sign on the Board's behalf so it can get done sooner rather than later.

Chair Lober stated he would work with staff to make sure it gets autographed as soon as it is available.

The Board approved and authorized Chair Lober to sign the Letter to the Florida Department of Transportation (FDOT) concerning the State Road A1A crossovers, with the addition of requesting FDOT to look at putting High-Intensity Activated Crosswalk (HAWK) traffic lights on S.R. A1A and Ellwood Avenue.

Result: Approved

Mover: Rita Pritchett

Second: Bryan Lober

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

The Board directed staff to send the FDOT Letter on a Letter to Governor Ron DeSantis and Brevard County Lobbyist Ron Book, on behalf of the Board, adding the request to expedite reducing the speed limit on S.R. A1A in the Cities of Indian Harbour Beach and Satellite Beach, and the Towns of Indialantic and Melbourne Beach; and authorized Chair Lober to sign the Letters to the Governor and Lobbyist Ron Book.

Result: Approved

Mover: Curt Smith

Second: Bryan Lober

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

L.2. Board Reports, Re: Eden Bentley, County Attorney

Eden Bentley, County Attorney, stated she has one request for clarification on J.3., the Board's BCC Policy and AO on Public Records; she asked if the Board would like her to make the revisions per the Agenda Item and present it to the Chair for execution, or if the Board would like her to bring it back under the Consent Agenda with the revisions.

Chair Lober stated he thinks the Board can execute it at this point unless someone has an objection, he is fine with it either way.

Commissioner Tobia stated he voted against it, but he would be amenable with the Chair executing it as it is.

L.3. Board Reports, Re: Rita Pritchett, Commissioner District 1, Vice Chair

Commissioner Pritchett stated this is just something for the Board to consider; it has been getting a couple of outlandish public records requests lately; some of this, she asked Eden Bentley, County Attorney, about it, she thinks when the public records item was put in at the State of Florida, the intent in that was wonderful, but there is some abuse of it, too; and she thinks there were some unintended consequences that came with it. She added when she

talked to Attorney Bentley, it is a good thing the Board does not have to tell them where the Board banks its money, it is getting so abusive; she does not know about her fellow Commissioners, but when she did this, she understood the rule that people know what the Board is doing as far as government business, but it is no one's business to know how old her spouse is.

Chair Lober interjected that if she has perhaps considered conversation separately with Attorney Bentley about this.

Commissioner Pritchett stated no, she would like to talk about this right now; her thought is, as a Board, she has talked to some of her Representatives, about maybe making some changes at the State level; she added Commissioner Tobia stated at one time when they do this, it does not have a lot of cost are a little bit easier for conversation; and she thinks if at least someone was a citizen of the United States to make a public records request. She explained these days one does not know who is requesting these things and why they are requesting them; she noted it may be more of a woman thing, but they grew up learning some comfort things of people not knowing their patterns and routines, and it is not appropriate; some of these requests coming through the Board can say no to the, but Commissioner Isnardi deals with the healthcare world, and there are strong HIPPA Laws there; and it is no one's business on what insurance they are taking and why either.

Commissioner Isnardi stated it should not matter which bank the direct deposit goes into.

Commissioner Pritchett stated Attorney Bentley has said that some of these things are very abstract; some of these things the Board may have to be ready if it comes up, because it is just some people doing things that maybe the Board may have to take on legally, but she does not know; and she requested that the Board reach out to the Representatives to see if they would consider putting into Florida Law that someone would have to be a citizen if the United States to make a public records request. She added she thinks the Board is helping a lot of bad people get a lot of information that they should not get if they are not a citizen; and that is just a request from her for the Board to think through that.

Chair Lober stated he thinks the request that is being referenced he was copied on as well, and it was from a Russian mail server, and it was a rather in depth request where he does not know that the information sought was really being sought for anything that anyone could consider a proper reason; it seemed to be information that could perhaps be used to assist someone to commit identity theft; he does not care why anyone wants information, if they are entitled to it, he will always give it to them, if there is a question, he will always give it to them, but when someone starts asking things along the lines of what was identified with respect to where someone deposits their paycheck, he does not know that is in the public's interest to have that information out there; and he does not know that is what anyone has contemplated in Tallahassee when they passed the laws pertaining to public records. He went on to say he does not necessarily have a firm opinion one way or the other as to having to be a United States citizen, he does not have a problem treating U.S. Citizens differently in certain respects where it is appropriate within the confines of the law; he does not know if that is something that would be challenged, and more importantly, whether if it is challenged, if it would be successfully challenged, but he does share the concerns with respect to some of these very specific and peculiar requests the Commissioners have received; he wanted to clarify that the Item that was on the Agenda earlier dealing with Public Records Requests, the request that is being referenced he does not think the Board had received it at that point in time when he put his request on the Agenda; and he explained it is not that it did not have a part to play in that Agenda Item, it could not have because the Board did not receive it at that point in time when it was added to the Agenda.

L.5. Board Reports, Re: John Tobia, Commissioner District 3

Commissioner Tobia stated he wished he had better news, but he is passing along information from Amy Baker, she is the head of the office of Economic and Demographic Research, she is pretty spot-on having worked with the State for quite some time; yesterday she said property tax rates would face a near turn, in her words "intense slow down"; and as the Board moves forward to make policy decisions, she points out that tax revenue through sales tax will continue to increase, but ad valorem revenue is going to slow down by the end of 2020, and be flat by 2021. He added the Board has some tough decisions as it moves forward with no more money, but essentially about the same revenue it cannot expect a bump as it has in the past; Ms. Baker highlights mainly new construction Statewide that their forecasting will not continue to grow; and that is just an unfortunate warning the Board has to look forward to as it makes policy decisions.

L.7. Board Reports, Re: Kristine Isnardi, Commissioner District 5

Commissioner Isnardi stated she hates to put Assistant County Manager Denninghoff on the spot, but she has a question regarding the Intersection at Babcock Street and the permits regarding the Parkway hookup; she inquired why the County has not issued permits yet; there seems to be a different story than what the City of Palm Bay, or some of its representatives are telling the public about the County's role in this; and she just wanted Assistant County Manager Denninghoff to give a good clarification on that. She added she does not mean to put him on the spot; she should probably have warned him before the meeting that she was going to ask this; and she thinks there needs to be some clarity other than from another elected official on what is occurring with that intersection and where the County is at.

John Denninghoff, Assistant County Manager, stated as the Board is aware, in the last several months or longer, staff has been attempting to work with the City of Palm Bay staff to arrive at a construction plan for the intersection improvements for this new intersection on Babcock Street; and staff eventually arrived at a plan that was acceptable. He explained they had discussed permitting conditions which would be associated with that plan extensively; it was predicated on the idea that County staff would have would have an interlocal agreement with the City that would spell out a number of conditions that the City would commit to; as it turns out, the City did not consider, or make any subsequent suggested modifications to a draft interlocal agreement; and staff attempted to come up with some conditions for a permit that would just go on the face of the permit, and their response to that was essentially to provide the County with a letter. He added he cannot recall the exact date, he believes it was December 10, 2019; in that letter, essentially they rejected the conditions; two days later he sent the City a letter which indicated that the County was denying the permit because they were not complying with those conditions; and to be very clear, those conditions were the same conditions that staff had spelled out for months and months and months that were discussed with City staff.

Commissioner Isnardi asked if the City had no problem with those conditions before.

Mr. Denninghoff replied they did not indicate they had any problems with them up to that point in time with the exception that they were not real keen on the idea of committing impact fees.

Commissioner Isnardi interjected they were not keen on taking over the ownership or maintenance of the intersection, which is what every other City has done considering it is the City's impact to that road, and the need for that improved intersection because of that development.

Mr. Denninghoff stated staff had not expressed any objections to that, but when staff had

considered it the day before or the night before that the Board was to consider the \$1.5 million and the options on what to do with it, the council did indicate they had concerns about it, and they decided to wait to see what the Board was going to do the following day; and a couple weeks after that is when staff received the letter regarding the permit conditions.

Commissioner Isnardi expressed her appreciation to staff; she did not intend to put Mr. Denninghoff on the spot without at least a heads up; she added she wanted it on the record, and heard from staff from someone who has been with the County for a long time; and she inquired how long Mr. Denninghoff had been with the County. Mr. Denninghoff replied 23 years.

Chair Lober stated she really put him on the spot there.

Commissioner Isnardi agreed that she did, but she wanted an unbiased non-politician opinion, because she feels like she is battling the narrative that the City of Palm Bay is releasing because people are upset because the interchange is there and it is closed; and the City is saying the County needs to release the permit. She went on to say that is not correct, it is misinformation; she was told that the intersection was inadequate with what was last provided, because it has to be safe, the intersection has to be safe.

Mr. Denninghoff stated the proposed initial construction on their part would have an under-capacity condition that would exist with it on the very first day that it opens; they had not committed to building the full version of the plan; and as staff understands it at this point in time, they do not have the funds available to build it.

Commissioner Isnardi stated that is what she was told by a councilmember, but if it is a public safety issue that is what the Board just dealt with for an hour earlier; if the County was to release a permit for an unsafe build of an intersection, the County would be the one that is liable as well; and she added never mind that it is reckless and dangerous, she thinks the Board is doing the right thing, it is not being stubborn, if it was being stubborn it would have pulled the money from that intersection a long time ago; it is very frustrating to her being the person in District 5 getting the little shots across the bow that the County will not release the permit when that is actually not true; and she explained the County will not release the permit only because of safety issues.

Mr. Denninghoff stated one of the conditions, or one of the concerns that staff have is that the City, once the road is there, the City would be able to issue permits, or what are called development orders, which will drive the current capacity situation on Babcock Street from currently acceptable to unacceptable, in other words deficient; and without a commitment on their part to either control those development orders, or to participate in the solution, which would be the widening and the future for Babcock Street; and then there would be a major concern.

Commissioner Isnardi stated he stated that much more eloquently than she would because she is angry about it; she noted it is irresponsible growth; Babcock Street is bad enough as it is; and the Board is doing the best it can on its end, but one cannot overload the road.

Mr. Denninghoff stated one last item on this to the Board and anyone else, this is not a new situation; he added the Board has been dealing with this situation for perhaps 10 years, it is pretty close to that; he has been asked dozens of times through meetings, telephone calls, with a variety of people, developers, city staff, councilmembers, etcetera as to what was to be expected of the County, and he has been very, very consistent about it; and so the Board is aware, he advised the City repeatedly that if the Board could not get a participation agreement in a reasonable amount of time that the County might find the \$1.5 million to be reallocated to a different project.

Commissioner Isnardi stated the \$1.5 million, just to go back a little bit for anyone that is hearing this for the first time; the \$1.5 million was originally allocated by Commissioner Anderson, and it was about five years ago, and that money sat there and has been sitting there for that long; and the County did not wait until the last minute. She added that intersection originally was going to be paid for 100 percent by the developer, then the developer was going to pay one-third of the intersection, and then the City said they did not have the money. She mentioned that was the last conversation she had with Councilman Santiago, he did not know where he was going to get the money from for the intersection; she has been on the Board for almost three years and there has been no movement on it, but it is not because of the County's fault, it is not because the County has not tried to come up with an interlocal agreement, it is because the City and the Board could not come to an agreement, and that money is wasted money sitting there; and that is why the Board is committed to three and one-half miles on Babcock Street.

Mr. Denninghoff stated that is correct; staff worked last night, they completed the first step for one lane, and he believes tonight they will be doing the other lane.

Commissioner Isnardi inquired if the information before that was correct.

Mr. Denninghoff replied that is correct.

Commissioner Isnardi stated she just wanted him to back her up because she is the politician, and he is the expert, or at least he has been here long enough to know the history; and she expressed her thanks to staff.

L.4. Board Reports, Re: Bryan Lober, Commissioner District 2, Chair

Chair Lober stated he would like to give the Board a head's up for something that will probably be on the very next Commission Agenda; he talked to the Sheriff about putting together a three or four, maybe five-hour public safety summit either here or somewhere near here; to include the Brevard County Sheriff's Office (BCSO), including Animal Services, Fire Rescue and Ocean Rescue, Mosquito Control, and if they would like, the Department of Health; and he would like them all to have a short opportunity to present on their particular operations and answer questions that come up frequently that a lot of people do not know the answers to. He went on to say the one that is recurring, he has heard the answer, and it makes a lot more sense that most people might think, but that questions is why there is County Fire Rescue trucks getting sent out on medical calls, and things like that; and he thinks a lot of people wonder. He added if a few hours could be set up, then these departments could come out to present and that could clear up a lot of misconceptions and educate the public in a way that they may not otherwise get; he does not think this is something that will require a ton of planning, because it is not terribly in-depth or time intensive, so he will work with staff, but he is probably going to propose shooting for the very end of March, or very beginning of April, to try to get this accomplished, unless there is something in one of the offices that would otherwise preclude that; and he suggested the Board keep on the lookout on the next Agenda. He asked the Clerk's Office staff, if there is ever anything that is ambiguous with the motions, because he knows the Board was getting a bit unruly today, for them to feel free to jump in the middle, because the Board is moving fast; and if there is something totally unclear that the Board has done, to let him know; and he will not take any offense to it, in fact he would rather everyone be on the same page.

January 7, 2020

Upon consensus of the Board, the meeting adjourned at 7:12 p.m.

ATTEST:


SCOTT ELLIS, CLERK



BRYAN LOBER, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FL

As approved by Board on March 24, 2020.

Christine Mulligan-Willey

From: Christine Mulligan-Willey
Sent: Thursday, March 12, 2020 2:16 PM
To: Lewis, Sally A
Subject: FW: Minutes of January 7, 2020
Attachments: January 7, 2020 - Legistar DRAFT.rtf

TO be approved @ 3/24/20 Regular Meeting.

Sally, can we put these on the next Regular Agenda? I forgot to add that in my previous email... ☺

From: Christine Mulligan-Willey
Sent: Thursday, March 12, 2020 2:02 PM
To: Lewis, Sally A <Sally.Lewis@brevardfl.gov>; 'Bentley, Eden' <Eden.Bentley@brevardfl.gov>
Cc: Commissioner Rita Pritchett <Rita.Pritchett@brevardfl.gov>; 'Lober, Bryan' <Bryan.Lober@brevardfl.gov>; Commissioner John Tobia <John.Tobia@brevardfl.gov>; Commissioner Curt Smith <Curt.Smith@BrevardFL.gov>; 'kristine.isnardi@brevardfl.gov' <kristine.isnardi@brevardfl.gov>
Subject: Minutes of January 7, 2020

Good afternoon:

Attached are the minutes from January 7, 2020.

Have a great afternoon.

Christy Mulligan-Willey
400 South Street
2nd Floor
Titusville, FL 32780
321-637-6523 (VAB)
321-637-2001 (Clerk to Board)
321-264-6972 (Fax)
Christine.mulligan@brevardclerk.us