

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Tuesday, May 3, 2022**

**5:00 PM**

**Regular**

**Commission Chambers**

**Present:** Commissioner District 1 Rita Pritchett, Commissioner District 3 John Tobia, Commissioner District 4 Curt Smith, and Commissioner District 5 Kristine Zonka

**A. CALL TO ORDER 5:02 PM**

**C. PLEDGE OF ALLEGIANCE**

Chair Zonka led the assembly in the Pledge of Allegiance.

**D. MINUTES FOR APPROVAL: January 11, 2022 Regular; February 22, 2022**

The Board approved the January 11, 2022 and the February 22, 2022 Regular Meeting Minutes.

**Result:** Approved

**Mover:** Rita Pritchett

**Second:** John Tobia

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

**E.1. Resolution, Re: Acknowledging A Day of Prayer in Brevard County 2022**

Commissioner Smith read aloud, and the Board adopted Resolution No. 22-038, acknowledging May 5, 2022, as A Day of Prayer in Brevard County.

Loretta Dozier, Dove Bible Club, expressed her appreciation to the Board for the Resolution; she stated it is the 71st year of the prayer going on for America, for the leaders; they are here representing as volunteers of the National Day of Prayer Task Force, helping to orchestrate and coordinate different prayer events throughout the County; and they have given each Board Member a bulletin with different prayer events occurring in Brevard County. She went on to introduce some of the pastors from the different churches.

Pastor Evvy stated they are praying for the Board; they thank God for each Commissioner; they thank the Board Members for bringing a blessing to all of the cities and the people by being willing to make this proclamation; God will bless each one for what he or she has done; and the blessings flow out to all of the County. She expressed her appreciation to the Board for having such open and willing hearts.

**Result:** Adopted

**Mover:** Curt Smith

**Second:** Rita Pritchett

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

**E.2. Presentation, Re: Winners of the 2022 Florida 4-H Public Speaking Program**

Andrea Lazzari, 4-H Youth Development Agent, advised they are present today to present the two 4-H Public Speaking Program contest winners; every year they do a public speaking competition for all of the youth in Brevard County; this year there were over 300 kids that participated all across Brevard County; they are able to learn public speaking and communication skills by researching, writing, and delivering a speech on a topic of their choice; and they compete at the class room, schools, and at the Countywide levels. She went on by

saying today she is excited to introduce the fifth and sixth grade winners, and they are here to share their speeches with the Board. She introduced Marla Nolting from R. L. Stevenson Elementary, the 4th and 5th grade competition 1st place winner and Lily Myers from R. L. Stevenson Elementary, the 6th grade competition 1st place winner, who will recite their speeches.

The Board acknowledged the presentation by the winners of the 2022 Florida 4-H Public Speaking Program Powered by Florida Power & Light (FPL).

**E.3. Resolution, Re: Recognizing the Late Llewellyn M. "Doc" Ehrhart**

Chair Zonka read aloud, and the Board adopted Resolution No. 22-039, recognizing the late Llewellyn M. "Doc" Ehrhart.

Dr. Chris Long stated Doc was part of conservation here in Brevard County for 50 years; he did so much for nature; he promoted nature and conservation so much; Doc would always say his legacy was his students; people like him learned so much from Doc such as, research skills and scientific skills, but they really learned how to be better people, humble, and hardworking; and that is really Doc's legacy. He expressed his appreciation to the Board for the Resolution; he stated the manifestation of Doc's legacy is still here, the sea turtles, the Lagoon, and re-nourishment of the beaches; and he hopes that legacy moves on into the future.

**Result:** Adopted

**Mover:** Curt Smith

**Second:** Rita Pritchett

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

**F.1. Final Plat and Contract Approval, Re: Cove at Morrow Place (21FM00014)  
Developer: D.R. Horton, Inc.**

The Board executed and granted final plat approval for Cove at Morrow Place Developer – D.R. Horton, Inc., subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits.

**Result:** Approved

**Mover:** Rita Pritchett

**Second:** John Tobia

**F.2. Acceptance, Re: Binding Development Plan with Norfolk Parkway, LLC**

The Board executed Binding Development Plan with Norfolk Parkway, LLC, for property located at a portion of the lands described in ORB 3277 page 924, of the Public Records of Brevard County, Florida, said lands lying in Section 13, Township 28S, and Range 36E.

**Result:** Approved

**Mover:** Rita Pritchett

**Second:** John Tobia

**F.3. Approval, Re: Dedication of Sidewalk Easement from City Electric Supply Company for Retail Storage Building**

The Board approved and accepted the Dedication of Sidewalk Easement from City Electric Supply Company for Retail Storage Building, on the north side of Fortenberry Road west of South Plumosa Street, Merritt Island.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.4. Resolution, Re: Implementing the North Merritt Island Transmission System - Phase 3 Capital Recovery Fee**

The Board executed and adopted Resolution No. 22-040, implementing the North Merritt Island Transmission System – Phase 3 Capital Recovery Fee of \$2,554.39 per Equivalent Residential Connection (ERC).

**Result:** Adopted

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.5. Legislative Intent and Permission to Advertise, Re: Amendment to North Merritt Island Wastewater Transmission System No. 1 - Ordinance 88-48**

The Board granted legislative intent and permission to advertise amendment to modify the boundary of Ordinance 88-48 for the North Merritt Island Wastewater Transmission System Phase 1.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.6. Confirmation, Re: New Member to the Board of Directors of Golf Brevard, Inc.**

The Board approved confirmation of Gail O. Myers, replacing Jeff Pearce, as a new member to the Board of Directors of Golf Brevard, Inc., with term expiring June 30, 2025.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.7. Request for Permission to Develop and Advertise, Re: Request for Proposals for Accela Support Services**

The Board authorized the development, advertisement, and award of a Request for Proposals for Accela Support Services to support the needs of multiple departments; approved the appointment of Selection and Negotiation Committees consisting of Keith Neterer, Support Services Manager, Planning and Development, Christine Verrett, Special Project Coordinator III, Public Works, Milon Enos, Business Analyst, Information Technology, Lois Boisseau, Assistant Director, Information Technology, and Elizabeth Swanke, Support Services Manager, Utility Services Department; and authorized the County Manager to execute all contracts,

contract renewals, contract amendments, and any necessary contract extensions, upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.8. Permission to Reject all Bids Received, Re: B-4-22-69 / Mulching & Disposal Services for Yard Trash & Vegetative Waste (Off Site)**

The Board approved the rejection of the bid received from Sole Bidder, Britton Industries, for B-4-22-69/Mulching and Disposal Services for Yard Trash and Vegetative Waste (Off Site).

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.9. Request for Permission to Reject all Bids Received, Re: Response to B-4-22-47/ Plumbing Services**

The Board authorized Purchasing Services to reject the bid submitted for B-4-22-47/Plumbing Services; and approved the usage of the Brevard County School Board Plumbing Services Award.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.10. Renewal, Re: Annual Property Insurance Program Effective 6/1/2022**

The Board authorized the Risk Manager to bind and secure placement of the County's property insurance coverage with an effective date of June 1, 2022, at a premium not to exceed \$2,772,594.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.11. Acknowledge Receipt, Re: FY 2020-2021 Redevelopment Agencies Annual Reports for the Fiscal Year Ending September 30, 2021**

The Board acknowledged receipt of the FY 2020-2021 Redevelopment Agencies Annual Reports for the Fiscal Year ending September 30, 2021.

**Result:** Approved

**Mover:** Rita Pritchett

**Seconder:** John Tobia

**F.12. Bill Folder**

The Board acknowledged receipt of the Bill Folder.

**Result:** Approved  
**Mover:** Rita Pritchett  
**Second:** John Tobia

## **G. PUBLIC COMMENTS**

Janice Scott stated she has been watching the taxing authorities in Brevard County for over 40 years; one taxing authority who has the right to tax their residents and also to give money away under the guise of valid public purpose; one taxing authority takes the money and gives it to another taxing authority; in this case, in particular, she wants truth in taxation about the School Board; and in particular, Central Area Parks maintain a lot of School Board property. She went on to say she would just like a line item; nothing will ever come of this, but just a recognition at the end of everybody's budget of what they are giving to other taxing authorities in the way of in-kind contributions like maintaining a property, doing some maintenance, or something of that sort; this comes to mind in particular because for the last 31 years, Cocoa Beach has maintained an Olympic pool and sports fields for the School Board; other people use them; there are some interesting local agreements; but this last year was the first time in 31 years that the School Board paid anything for those ballfields. She pointed out now that the School Board is adding to the ballot to increase the taxes again, it would be enlightening to show the public exactly how much maintaining schools and school activities in the County costs; Chair Zonka is such a great Chair; she should take a heavier hand on the gavel when some of the Board Members take it upon themselves to do a three-minute diatribe ad hominem attack of somebody in the audience; and they come to the public forum to discuss the issues not the personalities.

Dontavious Smith stated last week he sent a press release; he proposed a couple of ideas to the Charter Review Committee; it kind of got his blood flowing again as far as legislative language and articulating it for the future of Brevard County; next week he will be on vacation in Brazil; and he will not be at the Charter Review Commission meeting. He announced to the audience he did propose a change to Article 1, which would change the name of Brevard County, the voters will have the option to change the name of the County to either Blake County honoring the Honorable Richard 'Dick' Blake or Prosper County, which will allow citizens, guests, and tourists to understand when coming to Brevard County no matter if a person lives, works, or plays here, he or she will prosper; last but not least, Beach County, which illustrates the future Brevard County to the tourists because they are coming for the beach culture, not a space culture; number two is to change the legislative body from a Commission to a Mayor Commission seat form of government; the third proposal would modify the structure of the office advising the powers of the Mayor and the County Manager has and redistricting their duties and powers; and to recall any and all Charter-elected officials under Section 4.2 of the Charter. He noted the next proposal was coming from Sections 7.2 and 7.4, where it would allow the Charter Review Committee to meet every four years rather than every six years; the last proposal was a non-partisan election, making all Brevard County elections non-partisan; it should not matter if it is a Republican, Democrat, or a non-party affiliate; Brevard County should have a clean slate of good leadership with integrity, and have some kind of morals in the office; those proposals, which he will not be able to talk about next week, it gives him the opportunity now to illustrate his ideas for the next 50 years of Brevard County; and he thanked the Board for allowing him to speak. He stated going back to the previous speaker, Chair Zonka is a great Chair, she leads well; and he loves the rest of the Commissioners as each does his or her business.

Sandra Sullivan stated it was great to see Doc Ehrhart honored for all of his accomplishments; she has come up before the Board many times and talked about Sea Turtle nesting with the largest Logger Sea Turtle nesting in the world; Brevard is 50 percent of Greens in Florida; it is

key to both species survival; and they owe so much to Doc Ehrhart. She went on to add back in 1991 when the Federal Government came out with the Federal Recovery Plan, it was Doc's research that resulted in the County getting Archie Carr; not only that, but he helped to get High Tower; were it not for his research, that would not have been funded by the State; the dark line on the graft is the nesting at High Tower; and that is compared to the Central Brevard Study Area. She mentioned Doc said in his report, "Archie Carr is the most densely nested Loggerhead nesting beach in the western hemisphere. The numbers of nests of both species of turtles allow one to rank High Tower Beach with all of the very best nesting beaches in this Country. It is worth pointing out that the Green Turtle is an especially weary, easily frightened species. It requires dark, undisturbed stretches of beach such that when turtles have been seeking out that stretch of beach for years, it is clear that the acquisition and the preservation of natural attributes would make it a significant contribution to the recovery of both species;" she stated last week she went to Tallahassee because that beach is being threatened to be turned into a tourist destination when it has both State and Federal conservation status; and she passed out a letter to the Board. She advised Satellite Beach rewrote the management plan to take out the conditions of funding to remove the purpose of being a dark and undisturbed beach, to remove the limited human activity, and even to remove the project site of the former County park that would violate a Federal agreement the LW541, which has a survey built into it; when this preservation conservation area was created, Satellite Beach wrote the County to thank it for its foresight and creating this, and generations of Brevard County residents will be forever indebted to the County in partnering with the City to create this; this is now at risk; and this management plan will go back to the Florida Technical Commission (FTC) in August to determine whether they will pass it or not, and if they make these changes it will be just another regular park for tourism, which will not have conservation.

Barbara Perry stated she is homeless; she did not want to come here tonight and she struggled with it, because two weeks ago she was in the hospital, as her health is not very good; she was featured in a *Florida TODAY* article in January of this year; it tells a little bit more about her story; and she appointed herself as the unofficial face of homelessness in Brevard County. She explained she was reminded by a friend of hers who is also homeless and living in her car that she is her voice as well; she is 61 years old and a four-year cancer survivor; she has a Bachelor's Degree from Houston Florida State College; her graduate studies for her Master's Degree has been put on hold; and she has struggled with mental health, depression, Post-Traumatic Stress Disorder (PTSD), residual life-long side-effects from chemotherapy, and she is recently diagnosed with Chronic Obstructive Pulmonary Disease (COPD). She went on to say she was living in a rental property owned by an unscrupulous landlord in West Melbourne who refused to make repairs; she was going through breast cancer treatment and was very sick; there was a small leak in the roof that with the Florida rain caused that small leak to turn into a large hole the size of a small car; she had nowhere else to go but to live there; and then there was the pandemic. She noted she was living in unsafe, unstable conditions until July of last year when the County finally condemned the property; in November 2018 she could see things getting worse so she started reaching out; she called the 2-1-1 hotline; she was told before the pandemic that the homeless rate in Brevard County is so high, that there is really no help; after the pandemic, she called them again; and now they are the gateway to the assistance for housing. She stated she has called the Women's Center, the Salvation Army, Genesis House, Red Cross, Loving, multiple faith based agencies, Our Florida, the program launched by Department of Children and Families (DCF), and Help Florida; she has sent emails to Governor Ron DeSantis, Senator Debby Mayfield, and Thad Altman; and she is still homeless. She stated last week when they wanted to send her home on oxygen, she did not have a home to go to; Wickham Park does not even have any availability; in about a month, Florida will begin Hurricane season; the Governor declares a State of Emergency; and the homeless community is in a State of Emergency.



Anneke Charland stated she and her husband operate the Mrs. Mango and Company in Rockledge; they have been there 39 years, her grandmother started the business; last week they received a visit from a Code Enforcement Officer; after spending all day yesterday with Planning and Zoning and trying to figure out a way to keep the rescue animals on the property, they were told the land lot size was too small and there is no exemption they would qualify for; and the reason she is here is to try to get an exemption for the land lot size so she can get a Conditional Use Permit (CUP) so she can legally hold on to her rescue for potbelly pigs that have been there for a decade. She went on to say over the years they have taken the potbellied pigs in; she started a petition, and in less than 24 hours, they have 2,765 signatures; everyone who visits the property visits the animals; it is part of the charm of the business; and now it is public knowledge who made this report. She added it is a gentleman who has never been in their store; he lives in West Cocoa; his complaint was not about the animals, it was that they were on the front part of the property that was zoned commercial; they have no problem moving them to the back part of the property; and they just do not want to have to give up six of their pets. She stated they love them and they bring so much joy to the community; they are all fixed; they get fed and receive veterinary care; they are not hurting anybody; and to try to rehome six pigs is pretty impossible. She asked the Board for any help in keeping the pigs; and they do not want to get more pigs, they just want to let the ones they have to live out their lives, and to keep them as part of their business.

Commissioner Pritchett stated Suzette Maners, Legislative Aide, will get some information from Ms. Charland to see if they can figure anything out.

Ms. Charland advised she emailed Commissioner Smith last night, because this has all happened in the last four days.

Commissioner Pritchett asked if Commissioner Smith wants to assist Ms. Charland.

Commissioner Smith noted that process has already started.

**H.1. Proposed Amendment to Section 106-1, Brevard County Code, Re: Pertaining to the Safe Use of Public Streets, and the Creation of a New Article in Chapter 106 Entitled: "Article V. - Pedestrian Safety Ordinance;" Providing for Restrictions on Individuals Standing, Sitting, or Remaining Within Certain Areas Located Along the On and Off Ramps of Interstate 95 and Arterial and Collector Roads within Brevard County**

Chair Zonka called for a public hearing to consider an amendment to Section 106-1, Brevard County Code pertaining to use of public streets, and creation of a new article in Chapter 106 entitled: "Article V – Pedestrian Safety Ordinance;" providing for restrictions on individuals standing, sitting, or remaining within certain areas located along the on and off ramps of Interstate 95 and arterial and collector roads within Brevard County.

Abigail Jorandby, County Attorney, stated proposed amendment to 106-1, of the Brevard County Code, pertaining to the safe use of public streets and the creation of a new article in Chapter 106 entitled: "Article V, Pedestrian Safety Ordinance; this particular amendment to Chapter 106 makes it unlawful for a person to occupy a sidewalk, arterial or collector street, traffic median, crosswalk, biking, or any off ramp of I-95 that either interfere with, or impact the safe and efficient movement of vehicular traffic, or exchange any physical item with an operator occupant of any vehicle, that is within any lane of traffic, stopped at traffic control device, or at an intersection; this ordinance contains various exceptions to include vehicles rendering emergency assistance, vehicles removed from a traveled portion of a street or highway, activities between pedestrians and sidewalks, vehicles involved in crashes, individuals exchanging information from crash reports, rendering aid to at-large animals, permitted special



events, activities in residential districts, exiting or entering any bus or any transit system, and individuals conducting inspections, construction, maintenance, repairs, surveys, or legally authorized services; there is a first time violation will be a civil infraction or a fine not to exceed \$500; and a second or subsequent violation will be punishable as a second degree misdemeanor.

Laura Moody, on behalf of Sheriff Wayne Ivey and the men and women of the Brevard County Sheriff's Office, stated the streets in Brevard County are intended for SUV's and sedans, they are not safe places to stand, to sit, or to solicit; Florida Statutes even define streets as places where the purpose is of vehicular traffic; when looking at the numbers, and she knows the ordinance does a nice job of going through the numbers, but she just wanted to add a few; in Brevard, the Florida Highway Safety and Motor Vehicles Department reports that 259 pedestrian crashes have already happened between January 21, 2021 through December 31, 2021; and 28 of those in Brevard County were fatalities. She went on to say in the intersections where this is primarily the issue, between 2016 and 2020, there were almost 15,000 crashes in Brevard County, and those occurred at intersections specifically. She added that accounts for over 30 percent of the crashes that occur in Brevard County, and during that same time period, 45 fatal crashes occurred at intersections, not just on roadways; in Florida for the year of 2020, intersection crashes with fatalities incapacitating or non-incapacitating injuries affected a total of 82,323; she wants to clarify some information she has seen and heard, and she does not know how much the Board has seen and heard; first, what the ordinance does not do is important to note, this will not ban protests, it does not ban political sign waving, it does not ban car wash signs, it does not anywhere ban, prohibit, criminalize, or even mention panhandling that occurs in safe areas that are not in the arterial roadways, those are the highly-trafficked, high speed roadways or collector roads that lead to those arterial roads, the on ramps and off ramps of I-95 or places that are just too fundamentally dangerous for non-motorists; and it does not ban the tax service Statue of Liberty, Frankie's Mascot, Firehouse Subs sign waiver, which is what she is hearing from people, they are not going to be able to stand on roadways with these signs. She explained it is in no way intended to impede first amendment rights of free speech; most importantly, it does not eliminate better resources that Brevard County has for issues that are addressed by services like 2-1-1 and other resources that one of the other speakers spoke about; and, however, it creates a preventative law with goals of eliminating catastrophic injuries and death.

Rick Heffelfinger stated he has a letter here that he knows Commissioner Pritchett received from one of his neighbors; he thinks it is worthy to read into the record, because it addresses some of the concerns, not only for him, but for the guy who wrote this; and he read as follows: "I am writing as a constituent in Cocoa to ask you to strongly oppose the Agenda Item H.1., Amendment to Ordinance 106.1 that has falsely portrayed itself as a pedestrian safety measure. My business occupies me most of the time so I am generally unable to attend County Commission meetings to speak in person. However, I strongly agree with the points Commissioner Tobia raised on the first hearing of this ordinance and Commissioner Zonka's concurrence, and that my fellow Libertarian's, such as Chair Slusher, who I entrust to present my views. We stand for freedom of movement, freedom of expression, and do not believe people should be fined or locked in a cage by the Sheriff for non-violent actions. Law enforcement should be reserved for violent criminals harming other people. I reject the premise that an activist nanny-state government should act to protect people from themselves. That premise is neither conservative nor Libertarian. While I would be vehemently against this ordinance as presented and written even just on principle, I also believe it is being dishonestly presented. This ordinance is being proposed under pretenses of public safety, but this does not match up with all the official statistics available with the U. S. Department of Transportation, National Traffic Safety Administration, which for 2019, the most recent year in which the data is publicly available, Brevard County has a total of 16 pedestrian fatalities out of a County

population of 601,942. This is a .0026 percent of Brevard's population, and is roughly comparable to the pedestrian fatality rate in other Florida urban and suburban counties, such as Orange, Hillsborough, Duval, Broward, and so on. Alachua County was actually the highest outlier in this chart. It's unclear that any of these deaths would have been affected by the proposed ordinance. Speaking personally, I see people irresponsibly cross State Road (SR) 524 and SR 520 all of the time, and the SR 524 and Cocoa Road intersection appears particularly dangerous due to the high speed and frequent presence of commercial trucks. While every death is a tragedy, in perspective this is two orders of magnitude lower than the COVID-19 death rate in Brevard County. Passing a sweeping ordinance with broadly unintended consequences for such things would be grossly irresponsible and, in my opinion, simply an excuse to selectively jail the homeless and any other undesirables within a law written overly broad. It is already illegal under Florida Statute 316.2045 to impede the flow of traffic in public roads. Why is that not sufficient? Please vote against this measure." He mentioned he heard some specifics about traffic accidents, this is pedestrians.

Marilyn Loeffler stated she is here to address this because they do a flag wave in Titusville twice a week; it is not anything political; it is to take back the Country; she saw Sheriff Wayne Ivey and he explained it all to her; and she turned around and took her whole group out and he explained it to them again. She noted as far as their group of flag wavers, they are happy, but if one word gets changed in here from an and to an or, all bets are off; they will be watching the Commission, because Brevard County and Titusville is now awake and will be watching; they are not going to stand by as things go by anymore; she thanked Sheriff Ivey; and she stated her group has their eyes on him.

Lois Lacoste stated she is requesting clarification from Commissioner Smith regarding this proposed amendment; it is her understanding that this proposed amendment to Section 106-1, Article V, Pedestrian Safety, only pertains to panhandling; Sheriff Wayne Ivey is in support of this amendment, because it keeps panhandlers off street corners, out of traffic, and away from vehicles; Sheriff Ivey stressed to her that Brevard County has the highest rate of pedestrian deaths due to people on the streets and in traffic begging for money, food, and/or offering to clean a person's vehicle windshield; and he said it had nothing to do with restricting or banning flag waving on street corners, or along the side of streets, as long as a person is not in the street. She went on to say this amendment does, however, ban Fill the Boot charity because, again, they do not want citizens out in the street walking from car-to-car collecting donations for any organization, and the firefighters stopped doing Fill the Boot several years ago anyway; this amendment will only ban/restrict people from being in the street interacting with vehicles and traffic; as long as people are off the roadway, and/or on the sidewalk or curb, sign-waving is still allowed; because so many citizens are concerned the first amendment rights are being infringed upon by banning flag waving, she would appreciate it if the Board would clarify and state it is in agreement with Sheriff Ivey's interpretation regarding this proposed amendment being passed; and it is primarily to stop panhandling, and not an amendment to stop local flag-waving. She pointed out infringement on the First Amendment rights, which little by little, bit by bit, piece by piece, are being taken from the people; she asked the Board not to infringe upon free speech; she stated it was first taken away from the Brevard County School Board, only allowing parents to speak for one minute now rather than the usual three minutes; and she now hopes this proposed amendment does not infringe on the Brevard County Commissioners. She asked Commissioner Smith to clarify this for the people who are in attendance who are worried about their First Amendment rights being stepped on.

Nathan Slusher stated the first time this came up, he spoke on the possibilities of the unintended consequences of this ordinance, and he is still very concerned with those possibilities; he is concerned how it will affect people in five, 10, or 20 years; sometimes laws are passed, and sometimes they can be passed on good intent; however, when law are

interpreted and enforced in 10 years' time, the people reading the books do not get to see the intent of this room right now; and people do not get to see what it is trying to do or who it helps. He mentioned all those people see is word-for-word what is on their page and they have to interpret it; he wants to read to the Board a piece of what is in this Section 106-200, as follows: "Due to this threat, the Board finds it reasonable and necessary to prohibit all individuals from standing, sitting, or remaining in the areas located on I-95, and prohibit any non-exempt individuals from standing, sitting, and remaining in the areas around the collector and arterial roads." He went on by saying with this ordinance description, there is no description for the areas surrounding, and that is an issue for him; it is 100 percent subjective at that moment; he asked if that includes sidewalks, easements, is there a legal description for the area surrounding, which is in Section 106.200; he stated Section 106-203, Prohibited Acts, look at the word 'either' before the number one, and the word 'or' three words later; this either/or appears to create a double scenario which he believes someone can misinterpret or intentionally interpret, if they want, to create two situations for causes to be illegal; and first where it is illegal to impact safe and efficient movement, fair. He stated the second where it becomes illegal to interfere with vehicular traffic in any lane; when he is on the side of the road and he is doing business advertising or he is sign-waving, the point is to interfere with the driver so they can see you and you impact their lives for the rest of the day, and they think about what the goal is; if you are having an event like a car wash or car show, people want drivers to turn into where he or she is at; he has been blessed to only live without a designated home for about one month out of his entire life; and he had family who would give him a couch back then. He went on by saying not everyone has this; some through their choices, some through bad luck, have incurred a position where charity is beneficial; these are Brevard County citizens; taking away a source of income that is peaceful and consensual is both ethically wrong and unjustifiable in his opinion; he has never been in a position where he had to stand on a Brevard County corner and pay for a roof over his head as he heard from the last meeting, so he cannot speak to that experience; but what he does know is poverty cannot be legislated.

Robert Klimkowski stated he stands in opposition to proposed amendment Section 106 Brevard County Code pertaining to the safe use of public streets and the creation of a new article in Chapter 106 entitled Article 5 Pedestrian Safety Ordinance, providing for restrictions on individuals standing, sitting, or remaining in certain areas located along, on, and off ramps of Interstate 95 and arterial and collector roads within Brevard County; they started out today where District 4 announced today as A National Day of Prayer; it is not to that person, it is to give them alms, the person is in need to give; and in Brevard County, the audience just heard Ms. Barbara Perry speaking that she has a Bachelor's Degree from Eastern Florida State College, and she has fallen on hard times. He went on by adding it has been heard before, people fall on hard times and come here and say do not take this right away for them to earn money from a person who wants to give it to them; if he wants to give a dollar to someone on the street whether it be on a collector, arterial road, or Interlachen Road, he should be able to do it; that person should have a right to stay there and express his or her freedom of speech either through symbolic expression by holding up a sign or by saying he or she needs money, because the homeless population he believes is rising as they have seen through the COVID-19 pandemic; and this problem is not getting better, it is getting worse. He stated to fine someone up to \$500 when, obviously, they do not have the money, is wrong, unethical, and it needs to stop; leaders are held to a higher standard; the Board Members are leaders; and he asked the Board to stand against this in opposition.

Sandra Sullivan stated when reading the ordinance, she saw what was missing, which is data; there was a lot of data in here, it is just not relevant to what is being proposed; she has attended Transportation Planning Organization (TPO) meetings, as have the Commission; they have a vision of zero program to reduce pedestrian fatalities; she is not seeing here how much is related to people being near an intersection; but when this item was introduced, the Board

also said it prevents people from standing on the sidewalk. She asked how standing on a sidewalk causes an accident in an intersection; she stated it has been talked about intersection crashes; from her understanding, most of those are people running red lights; when an analysis is being done and information is being put down, it has to be relevant; it seems to her that this particular ordinance should have gone before TPO, as they collect all of the data; and there needs to be some analysis exactly pertaining to the risk in these areas. She noted where she lives beachside, their accidents are caused by, according to the TPO meetings, a lack of sidewalks, and then there is that issue with the midway crosswalks, which are still yellow when red means stop; the community has yelled and screamed and has even tried to put through State Legislation to change that; in reading this, most people have difficulty understanding the language of this, it is very confusing; and it gets into a gray area that she thinks a lot of people would get fines or be prosecuted and not knowing where they should be at any given point in time. She asked the Board to say no to this; it is very convoluted; it is hard to understand; and it is hard for the everyday person to know what the intent is.

Commissioner Tobia stated he is still a little bit concerned with the potential cost of this; in 2019 or 2020, the average nightly stay in jail was around \$66; with 60 days in jail, that goes up to about \$4,000, plus the cost of the Public Defender and potentially the State Attorney; and he asked in the past six weeks if Commissioner Smith has reached out to the Public Defender, State Attorney, or the Sheriff to get the Board what the costs would be for the taxpayers should the Board vote in favor of this.

Commissioner Smith replied he did not; and he asked if Commissioner Tobia did.

Commissioner Tobia pointed out he voted against it.

Commissioner Smith stated Commissioner Tobia could have done the same thing, so that is why he asked him if he reached out.

Commissioner Tobia advised he was working on other things, as the Board will see in the rest of this Agenda; Commissioner Smith mentioned it was safety; he got off of the panhandling and he went to the safety, and he went over the studies Commissioner Smith cited in the whereas clause; pedestrian fatalities by the State, signals for analytics by the Florida Traffic Safety Dashboard, and the Space Coast Transportation Planning Organization the state of the system report; and he asked if Commissioner Smith has read any of these reports.

Commissioner Smith noted he has glanced over them.

Commissioner Tobia inquired if the studies are accurate and if Commissioner Smith trusts the accuracy of the reports.

Commissioner Smith responded as far as they go, he has no reason to dispute them.

Commissioner Tobia asked how many of these reports or databases that Commissioner Smith cites offers the same suggestions to increase pedestrian safety that are actually mentioned in the ordinance.

Commissioner Smith advised he has no idea; and he asked Commissioner Tobia wants to ask the County Attorney as she is the one who primarily crafted the ordinance.

Commissioner Tobia inquired how many of these studies and reports cite pedestrian actions as the root cause of the problem. He went on to say the answer to both is zero. He asked if the ordinance penalizes the victim.



Commissioner Smith asked who Commissioner Tobia is claiming to be the victim.

Commissioner Tobia replied the people who are actually hit by the vehicles.

Commissioner Smith stated the roadways are made for cars; he has had these disputes with Florida Department of Transportation (FDOT) numerous times; they strive for zero fatalities, which then they will turn around and they will put a bicycle and a car on the same lane, and will have caricatures that a bicyclist is allowed in the lane; and that to him is absurd.

Commissioner Tobia stated as Commissioner Smith is aware, or not, depending on how much he studied these solutions to reduce pedestrian fatalities are enumerated in the very documents that he cites, pages 27-33; and he thought he would quote some of them and ask Commissioner Smith if they are in the presentation.

Commissioner Smith inquired what Commissioner Tobia's point is.

Commissioner Tobia responded the point is the various studies Commissioner Smith has, have solutions, and he wants to find out if the solutions and the studies that he cited are actually in the ordinance; he asked Commissioner Smith to help him to see if they are located here; the speed management appears to offer the greatest potential for pedestrian injury prevention; and he asked if speed management is mentioned in the ordinance.

Commissioner Smith replied he does not believe so.

Commissioner Tobia noted it is not; installation of modern roundabouts is on page 27; and he inquired if that is mentioned in the ordinance.

Commissioner Smith replied he does not believe that is either.

Commissioner Tobia stated traffic calming techniques such as lane narrowing adjustments in roadways, pedestrian refuge islands, and speed humps is mentioned in the ordinance.

Commissioner Smith inquired if Commissioner Tobia is suggesting he should petition for roundabouts.

Commissioner Tobia advised he is just going over the items cited by Commissioner Smith; this is all about safety; and this is what the experts are saying is safe, so he is seeing if these are actually located within the ordinance. He went on to say there is more, automatic traffic enforcement, speeds, and red light cameras; and he asked if that is mentioned. He stated asked if increased intensity of street lighting is included.

Commissioner Smith opined he has no idea about that.

Commissioner Tobia asked if adequately timed yellow and red light clearance on page 28 is mentioned.

Commissioner Smith responded that may be.

Commissioner Tobia advised no, it is not. He stated light trucks as well as passenger cars can be made safer by installing automatic emergency braking systems that can detect and brake for pedestrians, that is one page 28; and he asked if that is mentioned.

Commissioner Smith asked how that is relevant to this.

Commissioner Tobia explained these are relevant because these are the studies Commissioner Smith is citing, they give recommendations for safety; and this is what the experts are saying is safe.

Commissioner Smith asked how the automatic braking is installed into all these people's cars without costing the government a lot of money. He pointed out he is looking for a solution.

Commissioner Tobia stated Commissioner Smith has not given one by the experts that he cited.

Commissioner Smith asked how he would get anyone to do that, any of those; how would he, the Board, the County, or any of the representatives that represent this County, cause those things to be instituted to save a life; the Board can save lives doing all of this without getting into all that; and he asked Commissioner Tobia if that is true.

Commissioner Tobia mentioned he is not taking Commissioner Smith's word for it, he is going with what the experts say.

Commissioner Smith asked Commissioner Tobia to use some common sense.

Chair Zonka advised Commissioner Tobia to move on as he has probably made his point.

Commissioner Tobia stated he appreciates the correction being made on page seven by adding 'any bus or public transit system' as an exemption; he asked Commissioner Smith, as a successful businessman, did he ever think about private transportation.

Commissioner Smith inquired in regard to what.

Commissioner Tobia advised an exemption.

Commissioner Smith replied no, he left that up to the County Attorney; he saw an issue and he went to the County Attorney; the County Attorney worked with the Sheriff; and that is what was come up with.

Commissioner Tobia asked according to the draft ordinance, again, he has taken out getting on public transportation, but his question is private transportation, such as Uber, Lyft, or maybe a little old school, a taxicab, did he exempt out taxicabs.

Commissioner Smith asked from what; he pointed out they are talking about intersections with medians and people standing in the medians who are at risk; and what Commissioner Tobia is bringing up here has nothing to do with those people standing in the median.

Commissioner Tobia noted Commissioner Smith is 100 percent incorrect; he asked the County Attorney if the draft ordinance exempted out public transportation buses on page 7, 'any bus or transit system'; and he inquired if it is in there.

Abigail Jorandby, County Attorney, advised that is correct, it is based off of review they have done of other ordinances that have been enacted in the State of Florida; and that was one of the exemptions they saw in other entities do.

Commissioner Tobia inquired if Attorney Jorandby would agree that Uber or Lyft are private corporations.



Attorney Jorandby replied they are private corporations.

Commissioner Tobia stated publicly traded but private corporations.

Commissioner Tobia inquired if Uber or Lyft would be covered, or a limousine would that be covered.

Attorney Jorandby replied as long as they are not part of the public transit system or buses.

Commissioner Tobia asked Commissioner Smith if this was an intentional oversight.

Commissioner Smith responded it is not an oversight by him.

Commissioner Tobia pointed out Commissioner Smith brought this up, Attorney Jorandby cannot be blamed for this; and he asked if Commissioner Smith thinks there could be more oversights intentional or not.

Commissioner Smith asked if Commissioner Tobia is going to vote for this.

Commissioner Tobia replied he is not done yet; he stated clearly the experts have spoken, and Commissioner Smith has taken a completely different path on this; he has that ability as a policy-maker; and he asked if for some reason the experts are actually right and Commissioner Smith is wrong, and there is no impact on public safety, on the legislation that is located in this ordinance, is he willing to put a sunset on this so there will be no potential cost to taxpayers for the incarceration or prosecution of the folks that may run afoul of this ordinance.

Commissioner Smith inquired what Commissioner Tobia would suggest the sunset be for, in five years that it automatically goes away, or in five years if Commissioner Tobia is not happy with it, it goes away.

Commissioner Tobia explained he wants to be very clear that he is not very happy with it right now; he does not think Uber drivers are very happy; he does not think people who like the First Amendment are very happy; he does not think homeless people are happy; but, that is here nor there. He stated looking at the number of accidents that have happened, and Commissioner Smith has cited some of those accidents; assuming this passes, the Board looks to see if those numbers have decreased; he asked if those numbers have decreased, Commissioner Smith is absolutely correct, and the experts he cited are wrong; and if these changes are made that have financial costs, it is all about safety, and the number of fatalities does not go down, is Commissioner Smith willing to say maybe this ordinance is ill advised, it did not work, and maybe it should be sunset. He stated if the Board finds out something is not working maybe something else can be tried; and he asked if Commissioner Smith is willing to put a sunset on this ordinance.

Commissioner Smith replied he would consider it, but Commissioner Tobia's examples are far-fetched.

Commissioner Tobia advised they are not his, it is the experts Commissioner Smith noted.

Commissioner Smith stated a specific instance is being cited, they are concerned about the safety of people standing in medians; he inquired if no one dies, does that mean it does work or it does not work; he noted the chances of someone dying in an intersection are far greater if they are standing there than if they are standing on a corner or sidewalk; and he asked if Commissioner Tobia would agree with that.

Commissioner Tobia explained he is agreeing with the experts, Commissioner Smith is not an expert.

Commissioner Smith stated it is common sense.

Commissioner Tobia pointed out if Commissioner Smith used common sense, this would not have been brought up.

Commissioner Smith stated that is not true, his common sense may be.

Chair Zonka inquired if Commissioner Tobia does not vote for this and someone dies, is he liable or is it his fault because he did not put the ordinance in place; and she stated she is asking Commissioner Smith the same logic.

Commissioner Tobia asked Chair Zonka to say that again.

Chair Zonka asked if someone dies and he voted no on the ordinance, it does not pass, or whatever, if he bears some of that responsibility for not passing the ordinance.

Commissioner Tobia stated there is no evidence that this will solve the safety issues.

Chair Zonka advised that is how silly that some of his analogies are; and she asked if they studied people in the median.

Commissioner Tobia noted he is not looking at the study; this is the study that the author of this brought up.

Chair Zonka stated she gets it.

Commissioner Tobia pointed out that she may get it but the sponsor does not.

Commissioner Smith remarked he gets what Commissioner Tobia is going for, but he does not agree with it.

Commissioner Pritchett stated it is an honor to have Georganna Gillette, Transportation Planning Organization (TPO), and she was wondering if the Chair would allow her to come up and speak to the Board regarding some of the safety issues.

Georganna Gillette, Executive Director, TPO, stated she appreciates Commissioner Tobia bringing up some of those countermeasures, the roundabouts, and all of the things that are so important from an engineering standpoint, and he is absolutely right; their interest is with traffic safety; they do know pedestrians are the most vulnerable road users; many of the statistics are in the ordinance; Kim Smith, the Bicycle and Pedestrian Education and Safety Coordinator, has been doing this for many years; and they are shocked at times of how large these numbers are. She went on to say for just one road user, it may seem like a small percentage each year, but it is a large number of fatalities; in 2019 the TPO did adopt Vision Zero; it is something the governing board said the goal is zero serious injuries and fatalities; a lot of folks say that is absolutely impossible; the future makes everything possible; and safety is not just FDOT's problem to solve, everyone has to be pulling in the same direction. She mentioned it takes everyone such as the County and cities doing the right thing; there are times when the pedestrian is at fault; there are times when the motorist did something illegally, hit the pedestrian, and killed them; everyone has a personal responsibility to be doing the right thing and taking care of each other; and they do themselves a disservice for being on the top of the

national lists for pedestrian fatalities. She pointed out Florida was number one in the nation for several years; Brevard County was number three in the nation; but they have gotten better; she thinks Brevard County is number four now; and these are friends and family, and they are continuing to do everything they can. She expressed her appreciation to the law enforcement partners as they are a part of it; she stated putting in the right engineering solutions is important; education is important; and at the end of the day, the citizens are a big part of this as well.

Commissioner Smith asked if someone is standing in the middle of an intersection on the narrow median and someone gets distracted by their cellphone or are messing with the radio, and the person is an Uber driver who clips the person standing there, and kills that person versus someone who dropped a cigarette and reached for it, just an everyday person kills someone, is that person just as dead.

Ms. Gillette replied she would say so.

Commissioner Tobia asked if the solutions that Commissioner Smith has come to, are they located anywhere in the TPO plan.

Ms. Gillette responded they are not called out in the plan, no. She added the ordinance is about the statistics and the pedestrians, so it does not go into that level from the state of the system report that they produce every year.

Commissioner Tobia stated he thinks this is going to pass; and he asked if Ms. Gillette thinks in a years' time less fatalities will be seen because of this ordinance.

Ms. Gillette replied it is just impossible for her to answer that question, she does not know.

Commissioner Tobia inquired if she cannot say that this will lower the number of fatalities.

Ms. Gillette advised so many things are being done throughout the County on so many different levels, and to say that one thing would make a difference she hopes so, but it is impossible for her to say that 100 percent.

Commissioner Smith stated it is impossible for her to know if somebody was not killed; and he asked how she would know if this ordinance saved a life.

Ms. Gillette stated Commissioner Smith brings up a good point, the data has to be dug into; there is so much of these crash reports that it really has to be dug into; just this year they looked into a lot of statistics regarding distracted driving; people need to be paying attention to what they are doing; and if a pedestrian were to walk out in front of them, if they were paying attention to it, hopefully they would be able to react.

Commissioner Tobia stated she mentioned distracted driving as a cause to these pedestrian deaths.

Ms. Gillette noted it is one of them.

Commissioner Tobia stated he gets it, he is not arguing; and he asked why the pedestrians would be penalized when Ms. Gillette just said one of the causes was distracted drivers, and can she explain that inconsistency to him.

Ms. Gillette responded she will tell him it is both; there have been many reports they have looked at that a pedestrian is not doing what he or she is supposed to be doing; everyone has a responsibility, they walk out in the middle of the road, they jaywalk; and there is a lot going on.

Commissioner Tobia inquired if those are covered in Statute, jaywalking and such.

Ms. Gillette replied sure.

Commissioner Tobia asked again why some of the people are being penalized when they are the people she just said was the cause of this; and he stated this goes back to if the victim is being penalized.

Ms. Gillette pointed out their number one focus is safety; she personally is not advocating for or against this ordinance; she knows the Commissioners understand what the TPO is trying to do in regards to pedestrian safety; and it is another component for sure.

Commissioner Pritchett stated she thinks one of Ms. Gillette's experts would like to say a few things.

Kim Smith, Space Coast TPO Vision Zero Project Manager, stated she has a comment about 23 years of doing bicycle pedestrian education, one thing she does know is the chances of a pedestrian being hit greatly increases if they are in the road and if they linger in the road, those percentages and those chances only go up; and she thinks that is kind of the underlying intent of what is trying to happen here, trying to keep folks out of the road. She went on to say it does not matter if they are in the intersection; the more time spent in the roadway, the higher the chance he or she is going to get hit; and of all of the statistics that have been put out tonight, and she hates talking about statistics when talking about human lives because they are just numbers, for the last five years 1.8 percent of the crashes were pedestrians, 36 percent of the fatalities though, so they are only less than two percent of all of the crashes but they represent 36 percent of the fatalities.

Commissioner Smith stated a lot of people may not know what TPO is, it is Transportation Planning Organization; and he asked what some of the purposes are of TPO.

Ms. Smith responded long-range traffic planning, anywhere from when a new road is going to be built, widened, or improvements, everything up until construction, getting funding for those particular projects, and that is the basics, long-term traffic planning.

Commissioner Smith asked if she would say safety is part of that.

Ms. Smith responded safety is the number one priority.

Commissioner Tobia stated Ms. Smith said safety was the number one priority; and he asked if she, as a member of the TPO, endorses this ordinance for safety.

Ms. Smith replied she is not going to take a stance on the ordinance, they just want to save lives, and that takes everything that he has mentioned, all of the counter-measures, plus anything else that can be come up with.

Commissioner Pritchett stated when the Board first started looking at this, it was not to keep anyone from receiving charity or to block their freedom of speech; she asked Sheriff Ivey if

non-motorized vehicles are allowed on the roads, such as US 1 and I-95; and she stated she thought non-motorized vehicles were not allowed on the roads unless they were tagged.

Laura Moody, Brevard County Sheriff's Office, advised if she is talking about a bicycle, there could be bicycle lanes; depending on what area Commissioner Pritchett is talking about depends on what type of vehicle can travel on it; and there are certain roadways in Brevard County that people cannot take a motorized vehicle on, like an All-Terrain Vehicle (ATV) or golf cart.

Commissioner Pritchett inquired why it would be restricted.

Wayne Ivey, Brevard County Sheriff, replied they are trying to protect citizens; the whole question that just came up, she just answered up here; when looking at the percentages of people who are hit as a pedestrian, the longer they are in that intersection, the more chance of being hit; that summation is true; earlier it was talked about putting in roundabouts; and he thinks all know the costs associated with that and the difficulties of putting together the budget in Brevard County, trying to accomplish the things being done. He added the question came up what the costs are going to be at the jail; his question is what the cost of a human life is; and he asked can a dollar amount be put on that.

Commissioner Pritchett explained the Board can be either proactive or reactive; if this ordinance is sunset later because something did not work or to make some tweaks, she is fine with that as well; there are times she has driven down-the-road and seen people so close to the road; it is very dangerous the way she drives; it is uncomfortable; and as a female when she pulls up to an intersection and someone is approaching her that she knows can take her, it is not a comfortable feeling. She went on by saying she does not mind approaching people to give them stuff, but she does not like the guys coming towards her, so there are some things that protect everybody on this; and her sister hit someone accidentally while driving, and it took her forever to get over that.

Sheriff Ivey pointed out one thing that would be helpful for those who do have a concern about this, is if their legal advisor could actually say what the prohibitions are to this; should this ordinance pass, this is not immediate where it will be enforced tomorrow; there is going to be an education and awareness component that goes with this where they are educating the public of what this ordinance does, how it impacts both drivers, passengers, anybody in the intersection, and that type of thing; the education and awareness component will be vital in saving lives, it will be vital in making sure that it minimizes how much deputies have to actually enforce this ordinance; and they will be doing that as a part of this as they go along.

Commissioner Pritchett noted there are target areas where this is going to be enforced, so if it is in front of a shopping center it will not make any difference, because that is where people get picked up by the Uber's and not so much the Walmart intersection; she knows the intent and the heart of this; and she expressed her appreciation to Sheriff Ivey.

Ms. Moody stated she did speak to the City of Melbourne to see how their ordinance had been working, whether they found it beneficial; he did agree it was beneficial to the officers; it gives them tools to educate; they spent months just educating the public by handing out flyers they had produced explaining the dangers; they did not cite anyone; and since the ordinance has been in effect, which was August 2021, they have cited 12 pedestrians and two motorists. She went on to add their ordinance does allow for the citing of motorists but the County ordinance does not; of that, there have been five guilty verdicts in that; the State dropped five of the charges; there is one withhold of the judgement; and three of the cases are still pending. She advised a deputy is going to issue warnings and will not just take somebody to jail; it is a tool to



move people out of dangerous locations, those high traffic intersections, where speed is high, volume is high, and it creates this safety risk; this truly prohibits, and there is an 'and' there, a very important 'and' where people were confusing where it might be an 'or', but a person has to occupy the sidewalk, arterial or collector road, traffic median sidewalks, bicycles lanes are on or off the ramps of I-95; and a person then has to interfere with traffic that impacts the safe or efficient movement of vehicular traffic within any lane of the travel for any reason other than those exemptions that were discussed or if a person is exchanging any physical item. She stated that is the type of conduct that does create a safety risk that creates the distracted driver that was mentioned by the Commission, so it is narrowly tailored specifically to address just that very narrow conduct; certainly only a part of the tools to make the roads safer; but certainly an important part of the full puzzle to create safe roads in Brevard County; it is one way that is low cost and does not require constructing anything; and once people are educated, it is truly a preventative crime whereas some crimes are meant to be sort of punitive in nature, this is a preventative option that once the public understands what they cannot do, the goal would be that people do not participate in that conduct anymore.

Commissioner Tobia inquired if they are educating people by handing out flyers at intersections letting them know.

Ms. Moody responded that is what Melbourne did.

Commissioner Tobia asked if that is not the very act that she is trying to prevent.

Sheriff Ivey advised anyone they see in those capacities, they will have them get out of the intersection and go to a safe environment, safe for them and safe for the deputies, then they will try to do the education, give them the information, not out in the middle of the street; and that is the whole goal of this to get them out of the street.

Commissioner Tobia stated he is a big fan of Uber, although he does not own any shares; number nine of the ordinance specifically says, "Entering or exiting any bus or public transit system;" he asked in Ms. Moody's opinion, as an attorney, does this cover private companies, such as Lyft, Uber, and private limousines.

Ms. Moody replied as long as the pickup was not impeding the safe and efficient flow of traffic, she would say those are systems intended to transfer public people, generally strangers to each other if there is an Uber or Lyft driving picking a person up, so that is public transportation in a certain form; it is not publicly-funded transportation necessarily; but she does not believe the intent would be to criminalize getting into a vehicle as a public transit system.

Commissioner Tobia noted he understands the intent; and he asked if she believes this would exempt-out Uber drivers as either a bus or a public transit system, and is that her opinion as an attorney that Uber or limousine is a public transportation.

Ms. Moody advised she did not say that; and she said if a person is getting into a vehicle that is intended to transfer public citizens and they are not impeding the safe flow of traffic, that this ordinance would not apply to that type of situation.

Commissioner Tobia inquired why it would include a bus or public system anyway; he stated he knows Ms. Moody did not write this, but she is an attorney, and he is just trying to get her interpretation of this; and he asked why one would be included and not the other.

Sheriff Ivey asked if buses have a lot of signage on them, big flashing arrows that warn people there are pedestrians about; he stated that is how buses are designed to make the traffic



aware that they are stopping to pick up a passenger; he asked if Commissioner Tobia had ridden in a Lyft that has that; and he noted he is just curious as he never has. He inquired if Commissioner Tobia had ridden in a Lyft that has that kind of signage in the back of it, safety lights, and anything else; and he reiterated he has never ridden in anything like that.

Commissioner Tobia advised he typically does not take the public transit system, he is an Uber or a Lyft user.

Sheriff Ivey pointed out they are very safe; and that is why they have all of the signage on them to warn people the buses are coming to a stop and will be picking up passengers.

Commissioner Tobia mentioned it is Sheriff Ivey's interpretation that buses, because they have safety warnings, are okay, but Uber and Lyft, since they do not, as the Sheriff says, would not be okay.

Sheriff Ivey explained Commissioner Tobia was inquiring why buses were in the ordinance but not Ubers and Lyfts.

Commissioner Tobia inquired if by the Sheriff's interpretation he thinks buses are safer because they have signage so they are included; and he asked if they would want to include the ones that are less obvious as an exemption.

Ms. Moody stated as the Commission, this is its product, so she is just here to answer questions from a safety standpoint on behalf of the Sheriff's Office; as to the drafting, if that was something that he provided input for; and the key is any vehicle picking up an individual should certainly be following the safety of the roadways, traffic signals, and traffic signage, so if that cannot be achieved in a safe manner driving an Uber, she would think they should not pick up their passenger in the middle of an arterial, collector roadway, or intersection.

Commissioner Tobia noted that Chair Zonka has an electric vehicle that has the ability for something called smart summons, where the vehicle actually picks a person up; technology is an amazing thing; and he asked if he called his car to pick him up, and he would, in essence, be the driver of that car and the pedestrian.

Chair Zonka inquired if the car is going to pick Commissioner Tobia up in the intersection.

Ms. Moody noted she does not know why this car would be driving to one of the prohibited areas, a collector road, an arterial road; and she is not sure Chair Zonka would have gotten out to the middle of the off ramp or on-ramp of I-95 to have her car summoned to her there.

Chair Zonka exclaimed she is not sure how she got in the middle of this anyway; and she cannot summon her car, as she cannot afford \$12,000 in software.

Commissioner Tobia stated he does not know how they shoot rockets to space, but they do shoot rockets to space from this very county.

Sheriff Ivey advised it is not launched from the middle of an intersection.

Ms. Moody stated she does not find his scenario in the prohibited acts in this Statute, she does not see how that would occur.

Commissioner Smith pointed out when he spoke to Sheriff Ivey about this, he said this is a very important to save lives; Sheriff Ivey said, "This is our goal, not to drag folks off to jail;" he stated

people do not want to see them carried off to jail, and do not want to see folks killed or hit and injured; a person cannot argue with him that if someone bumps a person with a car, who is in the middle of an intersection, that person will not be hurt, hopefully he or she will only get hurt; and humans do not win very many battles when arguing with the front end or side of a car. He went on to say he is encouraged that Commissioner Tobia has leaned on the TPO, and he is not going to embarrass him and ask him how many times he has attended the TPO meetings, which he is a member of, in the last seven and one-half years.

Commissioner Tobia stated his last opponent in the last election lied and said he had only shown up to three TPO meetings, he had actually only shown up to one; clearly, there is good reason when the Board gets 200 pages of zero fatalities, but they do not do the work, or the Commissioner does not lean out to find out how to actually achieve that zero fatalities; the answer is one in six and one-half years; and he hopes to go another year and one-half and not make it.

Commissioner Smith noted Commissioner Tobia will last another year and one-half if he does not stand in a median.

Sheriff Ivey stated he trusts and values the information the TPO gives them; and the Board has the Sheriff's Office to rely on to keep people safe.

Chair Zonka asked Ms. Gillette if she believes this ordinance will make pedestrians safer.

Ms. Gillette replied sure, it is a good possibility.

Chair Zonka inquired if Ms. Gillette can give the Board some of her background.

Ms. Gillette responded she comes from the Florida Department of Transportation (FDOT); she worked for FDOT for 18 years; she came on to the Space Coast TPO in 2010; she replaced Bob Kamm as the Director in 2018; transportation has definitely been her life; and again, it is about saving lives, that is the number one thing they want to do. She went on by saying the other thing that is most important is bringing in the federal money to Brevard County; it is good for economics, safety, quality of life, and bringing in transportation dollars to the County; there needs to be a safe, multimodal transportation system; again, if everyone pulls in the same direction, putting in engineering improvements, the law enforcement is a tremendous partner, all of the cities, but especially Sheriff Ivey and his team; and she thinks they are going to really make strides in improving safety here in Brevard County.

Chair Zonka asked Ms. Gillette to state again the pedestrian fatalities, and Brevard County's ranking nationwide and Statewide.

Ms. Gillette advised for 2021 the fatalities were 102, 26 of those were pedestrians, and that is one of the largest numbers Brevard County has seen; and in 2022, she believes it is 26 fatalities, 11 of which are pedestrians, and that is 44 percent.

Commissioner Smith pointed out and that is in four months.

Ms. Smith stated 25 total fatalities and 11 pedestrians.

Ms. Gillette advised out of the 25 fatalities in 2022, 11 of them are pedestrians.

The Board conducted a public hearing and adopted Ordinance No. 22-12, amending Section 106-1, Brevard County Code, pertaining to the safe use of public streets; amending Section

106-1 definitions to incorporate additional definitions; creating a new article in Chapter 106 of the Code of Ordinances of Brevard County, Florida, entitled "Article V. – Pedestrian Safety Ordinance"; providing for restrictions on individuals standing, sitting, or remaining within certain areas located along the on-ramps and off ramps of Interstate 95, on arterial roads, collector roads, as such roads are defined by the Florida Statutes; providing for penalties; providing for area embraced and enforcement; providing for conflicting provisions; providing for inclusion in the Brevard County Code of Ordinances; providing for severability; and providing for an effective date and for other purposes.

**Result:** Adopted

**Mover:** Rita Pritchett

**Second:** Curt Smith

**Ayes:** Pritchett, Smith, and Zonka

**Nay:** Tobia

\*The Board recessed at 6:43 p.m. and reconvened at 6:51 p.m.

## **H.2. Development agreement - Cedar Lakes, LLC**

Chair Zonka called for a public hearing to conduct the first public hearing to consider the Development Agreement with SGS Cedar Lakes, LLC.

Edward Fontanin, Utility Services Director, stated this is the first public hearing for the Cedar Lakes, LLC, located in District 1, more specifically in Port St. John; the relevance of this agreement is, per the Ordinance under 62-608, the concurrency evaluation, whenever a treatment plant is at over 85 percent capacity any development coming in is required, in phases, do a development taking up no more than 25 percent of the remaining capacity; Cedar Lakes, LLC, requested that be waived in the sense that they can do the 144 developments all in one phase; in doing so, they developed a development agreement, which both sides are good with, however, this is the first of two meetings in order to go through the process.

Commissioner Pritchett stated the Board typically does not hear these, but it has to because it is already at 85 percent capacity.

Mr. Fontanin advised the rationale of this is them coming in for a site plan, they are limited on the 25 percent of the remaining capacity rule, so the purpose of this is to do a developer's agreement, which according to the rules, requires the two hearings and the public notices; and the attachments for the Agenda show the due diligence of staff following all of the State Laws.

Commissioner Pritchett asked if the Board would do this if it put it over capacity.

Mr. Fontanin replied no.

Danielle Langlois stated she is here out of concern; the audience listened to a lot about safety, human safety, basically traffic-wise, but her concern is human health safety; as she was reading through a lot of research, it has a lot to do with people's safety as far as health; there is increased symptoms with headaches, nervous system, tiredness, concentration, respiratory issues, skin disease, and mood swings; it is basically an aerosol; there are issues that present themselves to workers, that is upon them when they take their jobs, they get paid for that; but that is not an option for the residents. She went on to say this is just being dumped in their backyard, and they will be right there within the 500 feet that borders this plant; that is a lot of residents right there, a lot of elderly residents; and she believes it is quite a health risk for them. She asked the Board to take all this into consideration, because residents are not getting paid.

Judith Powell stated she does live there, she is 70 years old, and most who live on that street are elderly; she gets up at 4:00 a.m. and she goes to work every day; they have a power plant right on the left of them; now they want to put the water plant all the way around them; and they are already at risk with the power plant which extends all the way down the street. She went on by saying she worked hard for her property just like the Board did; she picked it because it was quiet and secluded; it seemed like a good place to live at the time; but now, the utilities keep coming in and taking more and more; and she asked what about the residents rights as people. She asked the Board to take that into consideration that maybe someday one of their parents will be in a position like this. She stated it is ridiculous and it is not fair; she understands the area has to grow; but there are a whole lot of other places that people are not living at; it seems like the Board is the only ones who can protect them; they are already under stress and probably severe medical issues from the electric company; the electric company just keeps expanding; and now they have the water company trying to put a water treatment plant in there, which causes a lot of medical issues.

Bruce Moia, Cedar Lakes, LLC, stated he wants to assure the public that they are not building a treatment plant here; they are not building a utilities plant; they are building a single-family residential development; they are requesting to connect to the public sewer, which is the safest option they have; and it will have no safety degrading of the area. He went on to state they are not going on septic tanks; they are connecting to the public sewer, which is extremely safe, so he thinks there may be some misunderstanding; he reiterated in no way, shape, or form are they building a utility plant; they just want to connect the entire project to the County sewer, which is why they have to have this agreement; and they are paying a lot of money up front to get the capacity that is available to ensure they can fully-develop this project that was approved by the Board. He reiterated it is a very simple agreement to connect to public sewer and to be allowed to exceed the 25 percent.

Commissioner Pritchett stated they are not going to let a treatment plant go on this property; the ladies received some bad information that there is a treatment plant going on right there; and she expressed her appreciation to Mr. Moia for hooking up to sewer and not putting in septic tanks.

Sandra Sullivan stated her concern is they have two plants that are at or near capacity; they have Port St. John that is at 85 percent; they have South Beach's Plant at 86 percent; the impact fees have not been updated in 15 years; and the burden of the costs for the added infrastructure is about \$50 million, and probably more now. She continued by saying that burden is going to be on the citizens of Brevard to do growth, without managed growth, and the way they are moving forward, it will burden the taxpayers the cost of that infrastructure; she has brought this point up about four times to the Board; she asked the Board to consider updating impact fees; things today costs much more than they did even a year ago; and to not have those impact fees not updated in 15 years or more, particularly transportation, which came to the Board in 2016, and it was rejected. She noted to do an impact fee study and find out what it will cost the County, and do proactive management versus reactive management, because the Board approves projects like this; these type of projects also impact the Lagoon; because of influx and infiltration when there is a storm event, that puts those plants over capacity when they are at 85, 86 percent; she asked to guess where those discharges go; and she stated 22 million gallons of sewage goes into the Indian River Lagoon. She pointed out the Board is burdening taxpayers to pay for Save the Lagoon, and it makes irresponsible decisions on the dais adding more capacity to sewage plants when they are at or near capacity.

The Board conducted the first public hearing to consider the Development Agreement with SGS Cedar Lakes, LLC, and continued to the second public hearing to be held May 17, 2022.



**Result:** Continued

**Mover:** Rita Pritchett

**Second:** John Tobia

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

- H.3. Proposed Amendment to Chapter 2, Administration at Article VI, Boards, Commissions and Authorities at Division 4, Uniform Advisory Board, Re: Amending Sections 2-212, 2-213 and 2-214; and the Creation of a New Section 2-215, Providing for Meeting Frequency, Time and Location; and the Creation of a New Section 2-216 Providing for Staff Time and Expenditures; and the Creation of a New Section 2-217 Providing for Annual Written Reports for Non-Mandatory Advisory Boards; and the Creation of a New Section 2-218 Providing for Financial Disclosures; and the Creation of a New Section 2-219 Providing for the Dissolution of Advisory Boards**

Chair Zonka called for a public hearing to consider proposed amendment to Chapter 2, administration at Article VI, Board, Commissions, and authorities at Division 4, Uniform Advisory Board, amending Sections 2-212, 2-213, and 2-214; the creation of a new Section 2-215, providing for meeting frequency, time and location; the creation of a new Section 2-216, providing for staff time and expenditures; the creation of a new Section 2-217, providing for annual written reports for non-mandatory advisory boards; the creation of a new Section 2-218, providing for financial disclosures; and the creation of a new Section 2-219, providing for the dissolution of advisory boards.

Abigail Jorandby, County Attorney, stated this is a proposed amendment to Chapter 2, of the Brevard County Code of Ordinances, regarding uniform advisory boards; in addition to the changes previously discussed at the prior Board meeting, pursuant to the Board's direction, revisions were made to the attendance requirements; and the ordinance now provides that any appointee who is absent 50 percent of any four consecutive advisory board meetings that take place after their appointment shall be dismissed from their appointment to the advisory board unless excused by the Board of County Commissioners.

Commissioner Pritchett stated she has one request of Commissioner Tobia; she ran this by the County Attorney; from what the Board talked about the other day, what she thinks would better serve it would be if it says, "Any appointee is absent one-half of the scheduled meetings for the calendar year"; that way it will begin as soon as they miss those meetings in the beginning, because there are going to be a couple of board's where the County Manager is going to allow them to meet six times instead of four; and if the Board is okay with that, she talked to the County Manager who helped her come up with the terminology. She reiterated instead of saying 50 percent of the first four meetings, it would say, "half of the scheduled meetings for the calendar year."

Commissioner Tobia advised he thinks it is better than what was presented, and he fully-supports that; it was a complete oversight on his part; and that is a definitely friendly amendment, which he hopes will get adopted.

Chair Zonka asked for clarification if it takes the sum of the entire years' meetings, it does not wait the entire year.

Commissioner Pritchett responded affirmatively.

Chair Zonka advised she knew what Commissioner Pritchett meant, she just wanted to clarify that.

Commissioner Pritchett stated if they have six meetings and they miss three through the half year.

Rosalie (Roz) Foster stated she has been a member of the Brevard County Historical Commission, a representative for District 1, since 1998; she thoroughly enjoys being on the Historical Commission; Brevard County Historical Commission is unique to other board's the Commissioners may be seeking to consolidate or dissolve; the Commission serves to comply with both the Federal and State Legislature, through the National Historic Preservation Act, which was established in 1969, and the State Historic Preservation Plan resulting in the Comprehensive State Historic Preservation Plan, which is Florida Statute 163.3177; and the guidelines for these acts are overseen by the State Historic Preservation Officer. She went on to say in the framework of the Brevard County Comprehensive Plan, Chapter 4, Preservation Elements, these mandates are addressed by the State Historic Preservation Office; the Brevard County Historic Commission has well-proven its worth in assisting the County in fulfilling these obligations; during the 50-plus years of existence, the Commission has many achievements that have preserved the diverse and rich history of Brevard County; among the achievements are several publications, the *History of Brevard County*, which is a three-volume book set, is available to purchase for the public and has been distributed to each of the Brevard County Libraries; and *Guide to Historic Landmarks of Brevard County*, which includes many of the landmarks in the *National Register of Historic Places*. She noted sites can be easily found through the GPS coordinates which are included, and they have done all this work; *The Indian River Journal* contains articles and photographs researched and written by Commission members, including herself, which she has written many, in documenting the richness of Brevard County; the Commission participates in the Florida Historical Marker Program, which is partially funded by the Tourist Development tax in recognition of the positive impact that historic preservation has upon tourism; Commission members research and write the text for each marker; and designation processes are also through the Commission. She advised in addition to processing the designation for each historic marker, Commission members also compile paperwork submitted for the master site file; the oral history program is one of her favorites; members propose to the Commission people of interest to interview, and arrangements are made for pre-interviews; they are all volunteers, but they do an awful lot to preserve the history of Brevard County; and they have worked with National Aeronautics and Space Administration (NASA), the National Parks Service, they have many writers from overseas, and many publications that get in touch with them to get information.

Jack Ratterman advised the State history goes back to about 10,000 BC; 100 gatherers came; up to present, they are trying to preserve that in the County; by looking at the last page of the document he distributed to the Board, there is a picture of the most recent marker they put in; it is the Dennis Sawyer Cemetery in Merritt Island; and it was a joint effort by the Historical Association, a couple of other companies that helped them out, Wayne Ivey, Sheriff of Brevard County, brought the chain gang in, and worked six guys about eight hours. He went on to state they provided pizza and cokes; they got all of the pepper trees out of there; they removed over 80 bags of garbage out of the cemetery; they can now see the graves; and the community was thrilled. He added the handsome guy is Harvey Jordan, the first all-state football player at Merritt Island High School; at that meeting he complained he had gained five pounds since graduation; he was thrilled this marker was put up, and another marker was put up for Mount Olive African Methodist Episcopal (AME) Church; if it was not for the Historical Association, it would have never been done; and there is no money for any of that, so the cement, picking up the huge amount of pepper trees they cut down, it was all done by private people. He stated he decided he would pay for that; he is a long-time member of Merritt Island; he thinks it is the



best there is, especially the African American community there; when they grew up, they all were friends and there were no problems, and it is still that way; and putting these two markers up meant a lot to him. He encouraged the Board to let the Historical Commission have a little bit of say because they meet once a month to get this stuff done; the time is 6:15 at the Cocoa Beach Public Library; and they are not using employees beyond their normal work hours.

Sandra Sullivan stated her concern with this ordinance is further impeding on transparency and accountability; one thing it does not address is having alternates; when someone does not show up and someone is gotten rid of, someone has not attended meetings and learned; for example, the Citizen Budget Review Committee; and there is a learning curve. She went on by saying the list of advisory boards does not say or specify who is on the advisory boards and their contact information so they can be reached out to; she had to do a records request to get that information for the Audit Committee; the minutes are not listed either; she had to do a public records request for the audit meeting last week to get the minutes; on page five, it says all requests of time or records documents shall be made through advisory board chair by a majority vote of County staff liaison; and that will slow down records requests a lot for somebody who is on the board. She continued they will have to wait until the next meeting and take a vote on it so they can get records they want; the one that bothers her the most under Section 2-218, Financial Disclosures, that language on Part B, "any members of advisory boards whose total budget appropriation" . . . is inconsistent as she reads Florida Statutes 112.312 is contrary to what is in that language.

Sarah Hodge asked the Board not to dissolve the advisory boards; she stated these are people who put in their time and donate it; it is a very low-cost way of knowing what the citizens want; it is a benefit to the Board, because the Commissioners are not able to be out in every community at all times to know what is going on; and she supports everyone who spoke here. She continued by saying her family has been here since the homestead days, they have a pioneer cemetery; and she reiterated by asking the Board not to dissolve the advisory boards.

Walter Young stated he is a lifelong resident of Brevard County; he thinks 2-219 is the best thing the Board has ever come up with; he understands they are wanting to shut down the Historical Commission; he wants the Board to shut down the Historical Commission; he does not want these people to know there were no roads in Brevard County and the only way to travel was to use a boat; and he does not want these people to know the boats had a grocery store on one side and a hardware store on the other, and that is where Travis Hardware got its start. He went on to say he does not want people to know that someone in Cocoa invented the turn signal on a car; Richard Stone, 1955, he actually patented; a lot of people do not know that; and he does not want them to know that. He advised there was a gentleman he came to a little area and bought an orange grove, expanded it, and it got so big the only way to get those oranges to the northern market was to have a steamship; he had to build a huge dock to get all the way out to the deep part of it; everyone asked to use his dock; he opened the dock to everyone who wanted to use it; and when people wanted to come up with a Post Office in his honor, they named it after him, Mr. Tillman. He stated the town was called Tillman; the Board has probably heard of the Melbourne-Tillman Canal; that little town changed its name to Palm Bay; he does not want these people to know the Town of Tillman is now Palm Bay; and he reiterated the Board should shut down the Historical Commission, as it is not needed.

Commissioner Tobia stated he wants to speak to Ms. Foster, Mr. Ratterman, Ms. Hodge, and Mr. Young; this ordinance is dealing with uniformity, there is no shutting down of any advisory boards in what the Board is about to vote on one way or another; whether those individuals support this or not, he completely understands; however, this action does not shut down the Historical Commission or any other advisory board; and he wants to be very clear on that as it

is not located in any of the language. He noted this is dealing with uniformity as a cost saving method, and that is merely what this does.

The Board conducted the public hearing and adopted Ordinance No. 22-13, amending Chapter 2, Administration, at Article VI, Board, Commissions and Authorities, at Division 4, Uniform Advisory Board; amending Section 2-212; definitions to provide for new and updated terms; amending Section 2-213, General Provisions, to provide for the requirements of the establishment of Advisory Boards; amending Section 2-214, open meetings, public comment, and agenda; creating new Section 2-215, providing for meeting frequency, time and location; creating new Section 2-216, providing for staff time and expenditures; creating new Section 2-217 providing for annual written reports; creating new Section 2-218, providing for financial disclosures; and creating new Section 219, providing for dissolution of Advisory Boards, providing for conflicting provisions, providing for severability, providing for area encompassed; and providing for an effective date and for other purposes.

**Result:** Adopted

**Mover:** John Tobia

**Seconded:** Rita Pritchett

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

**I.1. Resolution, Re: Creating the South/Central Brevard Parks and Recreation Advisory Board, Consolidating the Cocoa West Recreation Complex Advisory Committee, the Central Area Merritt Island/Beaches Recreation Advisory Board, and the Parks and Recreation Department South Area Advisory Board into the Newly Created South/Central Brevard Parks and Recreation Advisory Board, and Rescinding Resolutions 19-236, 19-071, 15-106, and 95-72**

Abigail Jorandby, County Attorney, stated this is a resolution creating the South/Central Brevard Parks and Recreation Advisory Board by consolidating the Cocoa West Recreation Complex Advisory Committee, the Central Area Merritt Island/Beaches Recreation Advisory Board, and the Parks and Recreation Department South Area Advisory Board into newly created advisory board, and rescinding all prior resolutions; and this particular board would have 10 members, and is currently proposed to have two members voted by Districts 2, District 3, District 4, and District 5, with two being appointed by any of those four County Commissioners.

Commissioner Pritchett stated she is going to support this resolution; she mentioned the West Cocoa Recreation Complex, they are a community center, so they are not really part of this, and plus, that was the area that did not vote any referendum funds; she asked if they could be carved out of this, as she does not think they are necessary in the other consolidated boards; she thinks he had that thought going, because under membership, she thinks District 2, 3, 4, and 5 were the ones putting the board members on; and it is just a community center that is in District 1.

Commissioner Tobia advised he does not understand carving out; this is consolidating; and he apologizes, but he is not following.

Commissioner Pritchett stated she called Frank Abbate, County Manager, today to ask him to help her out; the Central Merritt Island area, the beaches recreation, and the other recreation department are all part of Parks; this is a community center; it is a little bit different; and she asked Mr. Abbate to help her explain this.

Mr. Abbate explained those individuals are currently appointed by District 1; they only serve that very isolated community; District 1 would not have been represented on the board as it is on this particular consolidation; and Commissioner Pritchett is asking to keep that board which only functions for the community center, as an independent board under the current resolution.

Commissioner Pritchett pointed out the meetings can be cut down as well, but they do not have any of the referendum funds; all of the others voted them through, so they have limited funds as well; they have mostly the Community Development Block Grant (CDBG) funds; and this is a whole different personality than those other boards in those other areas.

Commissioner Tobia asked if they are breaking off from the North Brevard Commission on Parks and Recreation.

Commissioner Pritchett replied yes, if they can just become their own little entity, and they just do the community center.

Commissioner Tobia asked if 100 percent of the appointees for North Brevard Commission on Parks and Recreation already come from North Brevard Commission area; he just handed out a proposal; and by looking here, there are nine folks on there, with four appointees coming from District 1, four come from the City of Titusville, and one from the School Board.

Commissioner Pritchett noted that is the North Brevard Parks and Recreation one; and they are not included in this.

Attorney Jorandby advised the request is to remove the Cocoa West Recreation Complex Advisory Committee from this proposal and keep that independent, and to continue under its current resolution.

Commissioner Tobia stated so this is to create another board, not to consolidate.

Attorney Jorandby replied it already exists; and yes.

Commissioner Tobia mentioned North Brevard already has one.

Commissioner Pritchett stated the ones Commissioner Tobia provided to the Board was not in the packet he provided.

Mary Ann Donner, Parks and Recreation Director, advised the North Brevard Board would be a board, and that would stay; what Commissioner Pritchett is proposing is that Cocoa West stay as an independent board, not part of the North Brevard Board; the actual bylaws and regulations of the Cocoa West Board is that they make recommendations specifically to the Cocoa West Complex; and the South Board and the Merritt Island Board would be one board.

Commissioner Tobia asked if Cocoa West could be a subcommittee of the North Brevard Board.

Mr. Abbate stated this is about the South/Central Board, it is not about the North Board; and the South/Central Board does not have a District 1 appointment, those are in the North Board.

Commissioner Tobia stated his suggestion to that to get representation on that from District 1, it can be moved from the other section where there are two from any Districts 2-5, could change that representation into District 1, thus giving all Districts two representatives to that, so there would be representation; if this means that much to Commissioner Pritchett, he is willing

to donate one of his representatives; it was not meant as a slight; but the total can be changed on the other and add it to District 1.

Commissioner Pritchett explained there are no worries with that; she thought Commissioner Tobia may have done that on purpose and that he recognized it as a community center; she thought that was a good recommendation; the other boards have referendum funds and have more money, so when putting the community center in there, they do not have the same kinds of funds generated as the other places; and she inquired if she can have until Thursday to finish it up because she kind of studied another avenue.

Commissioner Tobia responded yes.

Janice Scott stated she serves on the Beach Advisory Board; she thought in the very beginning this was probably a good idea to have some reviews since Commissioner Tobia said that some of these boards had not met in 10 years; it would have been a great resolution to review what the boards are doing every five years, because it seems to be not of great importance of what these boards do; Brevard County is a very diverse County that is 75 miles long; and these opportunity costs about consolidating these boards go both ways. She continued the parks are very diverse; they go from the wooded areas of Malabar to the beaches; there are bird sanctuaries, picnic areas, showers, bathrooms at the beaches, boating areas, boat ramps, and fishing areas; the Board wants people from Malabar to know about the beaches; and those are opportunities the Board will lose in this consolidation. She noted she does not know how many people are going to end up on these boards; they are going from 15 members to maybe seven; she asked if the County is saving \$5,000 doing this or \$20,000; she advised she feels bad for the Historical Commission because they are confused; she is confused; and she does not think the Board has done a very good job of explaining this to the public or to the advisory board members what is being done. She pointed out there are people interested in soccer and sports, and there are others interested in surfing and being at the beach; the Board is taking those kinds of people with those types of interests who know a lot about one area of their interests, and combining them with completely opposite interest and knowledge in the County; and she asked the Board to take a better look at this and to explain it better to the public and to the people who serve on these boards.

Commissioner Tobia stated he does not know how the Board could do any better on this if a person is paying attention at all; not only is it explained in words, there are pictures in the packet explaining how the boards would be moved, and the maximum number of miles that someone would have to travel; the Board has done a great job, not only his office; this has been debated; Commissioner Pritchett has a new idea; and it deserves a little bit more time.

The Board discussed and tabled consideration of a resolution creating the South/Central Brevard Parks and Recreation Advisory Board, consolidating the Cocoa West Recreation Complex Advisory Committee, the Central Area Merritt Island/Beaches Recreation Advisory Board, and the Parks and Recreation Department South Area Advisory Board into the newly created South/Central Brevard Parks and Recreation Advisory Board, and rescinding Resolutions 19-236, 19-071, 15-106, and 95-72, to the May 17, 2022, Regular Board meeting.

**Result:** Tabled

**Mover:** John Tobia

**Second:** Rita Pritchett

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



**1.2. Resolution, Re: Creating the South/Central Brevard Public Library Advisory Board, consolidating the South Mainland/Micco Public Library Advisory Board, the West Melbourne Public Library Advisory Board, the Suntree/Viera Public Library Advisory Board, and the Melbourne Beach Public Library Advisory Board into the Newly Created South/Central Brevard Public Library Advisory Board, and Rescinding Resolutions 88-50, 92-271, 97-250, and 02-164**

Abigail Jorandby, County Attorney, stated this is adoption of a resolution creating the South/Central Brevard Public Library Advisory Board by consolidating the South Mainland/Micco Public Library Advisory Board, the West Melbourne Public Library Advisory Board, the Suntree/Viera Public Library Advisory Board, and the Melbourne Beach Public Library Advisory Board into the newly created advisory board, and rescinding all prior resolutions; and a proposal currently before the Board has 10 members, three being appointed by District 3, three being appointed by District 4, three being appointed by District 5, and one by any of those County Commissioners.

Commissioner Tobia stated he provided the Board with a spreadsheet similar to the prior Item's spreadsheet, looking at the board and how the representatives come from each District; he is more than willing to change this; he just wanted to put it out there; this is his suggestion to make it as equitable as possible; and if anyone has any concerns, he is willing to entertain them right now.

Commissioner Smith stated people who serve on these boards love being on them; he does not know of any members on any boards who are as passionate as library folks; he has not mentioned anything to these folks; but he asked if the Library Services Director has heard anything regarding this resolution.

Wendi Bost, Library Services Director, advised she has not really heard much from people regarding this, so she cannot really answer the question; the Historical Commission folks who showed up today, it was the first time she had heard them speak; she knows the Cocoa Board was concerned about the gift shop, but they found a way to maintain that for them; and that was the only concern.

Commissioner Pritchett asked if these boards could have 12 members instead of 10; and all the members can just serve on the boards, and all is good with these.

Commissioner Tobia replied done.

The Board considered and adopted Resolution No. 22-041, creating the South/Central Brevard Public Library Advisory Board, consolidating the South Mainland/Micco Public Library Advisory Board, the West Melbourne Public Library Advisory Board, the Suntree/Viera Public Library Advisory Board, and the Melbourne Beach Public Library Advisory board into the newly created South/Central Brevard Public Library Advisory Board, rescinding Resolutions 88-50, 92-271, 97-250, and 02-164; and increasing the total number of members/appointees from 10 to 12.

**Result:** Adopted

**Mover:** John Tobia

**Second:** Curt Smith

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

**I.3. Resolution, Re: Creating the North Brevard Public Library Advisory Board, Consolidating the Port St. John Public Library Advisory Board, Mims/Scottsmoor Public Library Advisory Board, and Catherine Schweinsberg Rood Central Library Advisory Board into the Newly Created North Brevard Public Library Advisory Board, and Rescinding Resolutions 90-081, 90-082, and 97-249**

Abigail Jorandby, County Attorney, stated this is an adoption of a resolution creating the North Brevard Public Library Advisory Board by consolidating the Port St. John Public Library Advisory Board, Mims/Scottsmoor Public Library Advisory Board, and Catherine Schweinsberg Rood Central Library Advisory Board into the newly created board and rescinding all resolutions; and currently the proposal before the Board has 10 members, five being selected by District 1 and five being selected by District 2.

Commissioner Pritchett asked Commissioner Tobia if the members can be increased to 12, so all the current members can serve on the board.

Commissioner Tobia replied yes.

The Board considered and adopted Resolution No. 22-042, creating the North Brevard Public Library Advisory Board, consolidating the Port St. John Public Library Advisory Board, Mims/Scottsmoor Public Library Advisory Board, and the Catherine Schweinsberg Rood Central Library Advisory Board into the newly created North Brevard Public Library Advisory Board; rescinding Resolutions 90-081, 90-082, and 97-249; and increasing the total number of members/appointees from 10 to 12.

**Result:** Adopted

**Mover:** John Tobia

**Second:** Rita Pritchett

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

**J.1. Discussion, Re: Brevard County Employee Cost of Living Adjustment**

Commissioner Tobia stated at the March 22, 2022, Commissioner Pritchett wisely stated, "I'd work more towards getting the staff rate up with the cost of living that's about to happen." He continued by saying the State passed its budget March 14, 2022; the County Budget Workshop was a couple of months prior to that on February 17, 2022; the State had a 5.38 percent increase for State employees; that figure was derived from economic and demographic research a national economic estimating conference in agreeance with the Consumer Price Index (CPI) agreed upon at said conference; and it was later adjusted from 5.4 to 5.38, hence the number he has. He pointed out the 5.38 increase is roughly half of that of the Brevard County Fire Rescue increase, which averaged 9.287 with the highest staff increases of 16.1905 percent; according to Career Source Brevard, Brevard County unemployment rate is at an all-time low of two and one-half percent; yet as of March 31st, the County has 433 vacancies; quite simply, Brevard needs competitive wages to keep and recruit employees; and current employees are already struggling. He went on to say Commissioner Smith has noted many times the impact of inflation on both businesses as well as individuals; at the March 22, 2022, meeting, he promised to come back with two things, a proposal, and a funding mechanism that did not raise taxes or cut existing services; at the budget workshop on February 17, 2022, the option of \$1 or three percent, whichever is larger, was suggested; his proposal is \$1 or 5.38 percent, whichever is larger, to match the State of Florida increase; and to be clear, the difference between these two figures, which came from the Budget Office, is \$941,394, however, the impact on the General Fund is just over \$500,000, to be exact \$517,767. He advised the other difference will come from Enterprise and Social Revenue Funds, including



Municipal Services Taxing Units (MSTU) which accounts for \$423,627; that is the cost for this; he asked where the Board gets this; he stated the Board has the ability to reallocate District 2 CARES Act funding in the total of \$481,000; and this was previously allocated by this Board for infrastructure projects, staff education, and indigent burials. He noted as always, the additional increase would not apply to Commissioners' salaries; so there is the plan, there is how much it costs, and there is the revenue source that will not cut existing services or raise taxes or fees; and he will be happy to entertain any questions the rest of the Board may have on this proposal.

Rick Heffelfinger stated that is good information, he did not know all of that stuff; a good question would be who is in this group; the CARES Act money funds it, but the salary increases do not go away; he asked if that gets the County through one year; and he stated he does not know what happens in the following years. He continued by saying he assumes this goes to Frank Abbate, County Manager, to look at salary and Human Resources (HR) costs; he asked will there be projected costs over the next few years when the Board bumps the salaries up; he stated if there are not a lot of people currently filling positions, it will not cost as much; he does not know what happens when the County is fully-staffed; and he did not know the County had that many unfilled positions. He added he imagines the level of service would be hurting with all of those unfilled positions; he asked if the CARES Act money is thrown at it, what happens in the following years, what are the long-term impacts; he stated this could be transitory inflation; and he does not want to throw a bunch of money towards something that is transitory.

Sandra Sullivan stated she would have liked to have seen a financial analysis uploaded to Legistar; she questions the financial impact of basically \$517,000; so this is from the budget meeting; it is proposing 5.38 percent cost of living increase; at a two percent Cost of Living Allocation (COLA) there is a two percent impact; at a three percent impact, there is a \$5 million impact; and she does not know where the half a million dollar impact comes from. She went on to say by Fiscal Year 26/27, with three percent, it is almost \$26 million; she would like to have seen a little bit more financial analysis to justify the point that says without raising taxes or cutting current level of service, to come back and show the actual fiscal costs of this and how it is going to be paid; she understands there is a problem with retention right now and that there is a lot of inflation; looking at a cost increase is appropriate; and she reiterated there needs to be a fiscal analysis done with projections and how the County is going to pay for it.

Commissioner Pritchett stated the County is in a highly competitive market right now; there was a meeting last night about the homeless situation; there are people right now not able to feed their families; the State of Florida upped the minimum wage, which sounds good but the problem with that is all of the expenses are going up as well; and the cost is rolled out to the consumer. She continued food, gas, and all these rates are going up; everyone is going to have to give raises because it is important to stay in the competitive market; it is hard to get people to fill positions because everyone is wanting to find the best jobs they can right now; she likes Commissioner Tobia's ideas of how to find the funds; she reiterated this is the County Manager's budget; and Mr. Abbate is supposed to find the ways to fulfill what is needed. She stated she thinks the County Manager is hearing the Board on this; she will support this if the County Manager can come back to the Board with the funds to do it; it is time to save money, work hard, and see what comes up in the future; and she is interested in seeing how the County Manager gets creative to find a way to fund this.

Commissioner Tobia stated Mr. Heffelfinger brought up a very good point about reoccurring versus non-reoccurring funds; yes, this is a Band-Aid for the first year; however, that difference is currently a half a million dollars, which he mentioned before; the County's budget sets around \$1.6 billion; and it is a small percentage. He went on by saying reoccurring funding will come from vacancies, as well as new construction, which is somewhere between \$3 and \$5 million

each and every year; as far as the groups, the Fire Union is with a collective bargaining agreement; as mentioned before, many of those folks received raises that are multiples of the one being discussed here; and to the best of his knowledge, there is another union here that has a clause that they would receive the same increase that the rest of the individuals that are not members of unions; and he reiterated this will not apply to any of the County Commissioners. He added Ms. Sullivan looked at stuff extremely superficially, which the Board Members do not have the luxury of doing; in order to understand what is going on here, and why the increase is not as simple as Ms. Sullivan would have appreciated it, a person must look at the number of employees who make less than a certain figure where the dollar increase is quite a bit larger than the 5.38 percent, so that is why the 5.38 as it gets larger has a less impact than what it has initially; this requires a lot more than superficially looking at it; that is why the County has staff spending quite a bit of time going over the difference between the two and three and what is now the 5.38 percent increase; and again, looking at one PowerPoint slide and not doing any independent looking is patently incorrect, as a great deal of work has gone into getting those numbers. He concluded by saying Commissioner Pritchett is 100 percent correct, Mr. Abbate has done an absolute wonderful job with the budgets; he has a great deal of faith in Mr. Abbate; if he comes back with a better way to do this, he will fully-support that; it was just a promise he made to this Board that he would come back with a number and a way to fund that without increasing taxes or decreasing the current level of service; and he reiterated if Mr. Abbate comes back with something, he will fully-support it assuming it meets those criteria. He advised he would like to give all County employees who are not union members a 16 percent increase, but it is just not feasible at this point.

Commissioner Smith stated Commissioner Tobia eluded to Mr. Abbate, and he thought it was pretty slick of him to come up with using District 2 money; and he asked what is going to be done in years going forward, if it will be a hardship or if it will be a piece of cake.

Mr. Abbate replied his responsibility is going to be, if the Board passes this motion, to look at what has previously been done; the \$1 an hour is somewhere between three and nine percent for a large portion of the Board's employees because of where their wages are currently; it is a way to start moving up; that is why the \$1 an hour was initially proposed because that will need to be done over several years to get to the \$15; and there are employees now who make \$10, \$11.50, so there are a lot of employees below \$15. He went on to say the \$1 an hour accomplishes two things, it helps the very lowest of employees, which are between the salary ranges he indicated on an hourly basis, and it gets them to somewhere between three and nine percent; it also helps get closer to the \$15 an hour; the three percent is where the County was; his understanding is to look at what needs to be done to raise all of the salaries of everyone else; if \$1 an hour is not more than 5.38 percent, then the other employees are going to get 5.38 percent; and for those that it is more, they are still going to get \$1 an hour. He pointed out it needs to be reoccurring in the longer term; when that is done, it is for this one year; obviously, if there are additional one-time dollars dedicated to the County, that does not solve the issue to him on the longer term because he has to be ready for the next year and what the impact of that will be; he will tell the Board that staff has an additional issue and that is the 433 plus vacancies; that is a very significant problem for the organization; and it is not unique for this organization as other organizations are going through similar problems in terms of the number of vacancies what they are having to do in order to fill vacancies, or retain employees. He stated the average vacancy rate organizationally, and he has been here a lot of years, it has usually been between eight and 10 percent, maybe in a bad year 12 percent; there are a lot of positions in the County that are between 20, 25, and 67 percent; that is not sustainable in the level of service the County is providing; some of them are in very critical areas, for example Solid Waste is having those problems in very key areas; something significant needs to be done; and the 5.38, if the Board approves it, is one step, but staff is planning to come to the Board asking for pay plan adjustments that are going to affect a variety of classifications where

currently the vacancy rate is at such a level that the County is not able to provide a service. He noted they would have normally between 174 and 220 vacancies during the course of the year at any particular time; the County is at 400 plus now; something needs to be done to stop the bleeding in that area, so staff is coming back with a pay plan; there is not additional monies to do it; he will be looking at the current level of service the County is able to provide; and when there are very long-term vacancies for extended periods of time, they will be looking for departments to use some of those vacancies to fund what needs to be done, that is a reoccurring cost that could take care of it. He mentioned staff will listen very closely to what the Board says; they are not going to cut the current level of service being provided, they are not going to look at anything to ask for additional funds beyond the three percent that could be part of the Charter Cap, which could be the normal increase; but they will look to fund what the Board approves tonight and what they will bring back to the Board by the end of the month before it goes on the June break, so they can be ready to have a budget, which is his responsibility, for next year that takes into account whatever the Board decides to approved; to let staff move forward on, so they can start doing some of the things they need to do in a variety of positions that they have very significant vacancies at this point; he appreciates the Board's confidence; he promises he and staff have already been looking at this; and they will come back and try to get the Board the best it can do to get it to the best future position they can in light of where funding is and direction the Board gives tonight.

Commissioner Smith stated he asked his Charter Review Commission appointees to consider a different benchmark instead of the CPI; the budget says CPI or three percent whichever is lower; the problem with CPI is it is a household measure; it takes into account eggs, bread, and peanut butter; it does not take into account large purchases like ambulances, firetrucks, the things the County spends \$500,000 on; and for example, he was looking at the producer price index yesterday and it went up 16 percent in the last month. He continued to say this is the struggle staff is dealing with, because the prices they are dealing with and the Board is responsible for are through the roof; trying to make this happen on three percent CPI was never realistic, and it is not even in the ballpark of being realistic now; he would encourage the Board Members, if he or she agrees with him, to look at a different type of index to move forward with; and the County is going backwards.

Chair Zonka stated things can be brought forward to the Board to go on a ballot if it does not make it through the Charter Review Commission. She asked if the District 2 money has already been allocated for infrastructure projects, so the CARES Act money that District 2 allocated is not coming from any social programs or aid that has already been provided or that is going to be provided in the future as far as the CARES Act money.

Mr. Abbate replied a number of funds were allocated; and he does not think many of those funds have been expended at this point, because it takes time.

Jill Hayes, Budget Office Director, stated none of the funds have been expended; there was about \$480,000 remaining; she believes \$60,000 of that went to education for employees, \$5,000 was indigent burials, and the rest was split for infrastructure for Utilities and Public Works projects.

Mr. Abbate noted the \$60,000 was tuition reimbursement Human Resources had.

Chair Zonka advised her point was they were not taking from the financial aid being provided for residents.

Ms. Hayes advised there is separate funding set aside in General Government Mandates for indigent burials as well.



Chair Zonka asked as far as rental and bill assistance, how much monies are still available approximately in that area.

James Liesenfeldt, Assistance County Manager, stated he does not have that in front of him.

Chair Zonka asked if it was millions.

Mr. Liesenfeldt replied it is somewhere around a million.

Mr. Abate advised there are a variety of funds that are out there, and he thinks it is significantly more than a million.

Commissioner Tobia advised the County was appropriated with about \$18 million in housing assistance, as he spoke with Ian Golden, Housing and Human Services Director, earlier; as of now, about 11.8 of that \$18 million has been allocated, so there is more than \$6 million floating around on top of that; there is an additional \$14 million in another funding source coming through; and his goal, and he thinks is a very good one, is to spend the first bit of resources before he tapped into the second one. He went on by saying he did say of that \$14 million, he has only received about one-third of it; so when the County receives all of it, just in rental assistance alone, he is talking about \$20 million of resources just for rental assistance; and again, those are numbers that were provided this morning by Mr. Golden.

The Board directed the County Manager to reallocate the remaining District 2 Coronavirus Aid, Relief, and Economic Security Act funds towards reaching the 5.38 percent cost of living pay increase for County employees and any additional dollars that would not decrease current service levels, unless another solution is found to bridge the gap.

**Result:** Approved

**Mover:** John Tobia

**Second:** Curt Smith

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

**J.2. Discussion, Re: Lease Agreements for Nance Park and Sunrise Park**

Commissioner Tobia pointed out this is an unusual one, and he has to go through a little bit of history of that; he asked the Board to bear with him for a couple of minutes; he stated currently Brevard County holds a lease agreement with the State for James H. Nance Park, as well as Sunrise Park in Indialantic; Brevard County then leases these parks to the Town of Indialantic; and here is the history of the two, and he will explain the direction he would like to potentially ask this Board to go and the reasons why is it best, not only for the County, the cities, and the residents who use those parks. He continued Sunrise and Nance Parks were purchased using funds from Brevard County's Beach and Riverfront Program and Save Our Coast Program; under this Program, the County provided approximately 50 percent of the purchase price, and the State provided the remaining amount; in exchange for 50 percent reimbursement the County transfers the title to the State and receives a long-term lease of that property; Brevard County purchased the property for James H. Nance Park at 5.42 acres in 1986; Brevard County then transferred the title to the State of Florida, which then leased the park back to the County; and that same year, Brevard County leased the property to the Town of Indialantic to manage and maintain. He went on to say under the lease agreement, the Town of Indialantic, at their expense, is responsible for development, maintenance, and operation of the park; the lease between Brevard County and the Town of Indialantic will expire in the year 2057; when

the lease expires or is terminated, the State maintains ownership of the property; also in 1986, Sunrise Park, 1.5 acres, was acquired and treated the same way as Nance Park; and in 2002, Brevard County leased the property to the Town of Indialantic to manage and maintain. He stated under the lease agreement, the Town of Indialantic is responsible for the construction, operation, and daily maintenance for the purpose of conducting recreational activities; the lease between Brevard County and the Town of Indialantic will expire in the year 2037; again, when the lease expires or is terminated, the State retains ownership of the property; basically, the County is the middleman here; and his goal is, as a Board, to get it out from the middle. He explained by getting the County out of the middle behooves not only the County but the City, as well as the residents; it is slightly different based on the agreements with the Town, the County, and the State for each park; he is starting with Sunrise Park; the reason the Town may like this is because the Town is required to get the approval by Brevard County before placing any personal property or equipment at the park, and to get approval from any plans and improvement for said park; and the reason the County may like it, the County indemnifies the State for any claims related to the County's use and management of the property, and the County is required to maintain insurance or self-insure against potential liability or property damage at the park, so the County has potential costs. He noted the reason he got into this is the Town of Indialantic charges for parking; while he is not suggesting the County get rid of it, that is a town's decision, and quite frankly he does not want to be associated with the charging of parking; the reason the Town may like James H. Nance Park is the County must approve any grant application or future development for plans to submission or commencement of work; the reason the County may like this is pursuant to the County's lease with the State, the County is responsible for security for protection of the park; and the County must notify the State prior to construction, removal of any building, or improvement of the park. He stated the County indemnifies the State for any claims or actions arising out of use and management of the park; the County is responsible for self-insuring or obtaining fire, public liability, and extend coverage insurance for the park; the County indemnifies the State for all liabilities, damages, and attorney's fees arising from the park; if a judgment is entered against the State related to the park, the County must satisfy said judgment; his personal reason again, is the Town charges for parking; and any charges for parking rates must be approved by the County. He stated the County has done a good job providing services and not charging for parking and the cities have not; he is just trying to get the County out of the middle; there are reasons this benefits all, not only the County, the Town, but the residents who use that park; these are the only two parks where the County serves as a mere pass through between the State and municipality; and it behooves everyone to get it off the books. He advised it would be conducive to remove the County from the equation, and let the Town lease it directly from the State; the motion would be to direct staff to explore options on transferring State lease agreements associated with James H. Nance Park and Sunrise Park from the County to the Town of Indialantic; this is not doing it, it is just directing staff to begin negotiations for the reasons that have been mentioned, getting the County out from subleasing the property; he is more than willing to answer any questions; but he thinks this is a win/win for everyone involved.

Chair Zonka stated this is her District; and she asked if Commissioner Tobia has spoken with the Mayor of Indialantic about it, or anyone in the Town.

Commissioner Tobia replied the Mayor of Indialantic spends quite a bit of time on Facebook, and he does not; the Mayor is not the greatest fan of his; he does appreciate raising taxes though over, and over, and over again; but regardless, there are clear benefits to the Town of Indialantic; and he does not think the Board should allow personal relationships to get in the way of good policy. He advised it gives them the ability to charge even more for parking.



Mary Ellen Donner, Parks and Recreation Director, stated she did mention to the Town Manager Michael Casey that this Item was going to be on the Agenda for consideration this evening.

Chair Zonka asked Ms. Donner's opinion as far as the County reaching out to the State; and does she think the State is likely going to be okay with that sort of arrangement.

Ms. Donner responded she does not think the County has ever approached the State to ask them if the County can be removed from the middle of the lease; and staff wanted to get some sort of direction from the Board before that conversation began.

Chair Zonka asked if it is the County's position that it would be in its best interest getting out from being the middleman.

Frank Abbate, County Manager, advised the Board heard from Commissioner Tobia what would be a liability from the County's perspective; staff will just be following the Board's direction on that, because the County is a pass-through; but there are certain liabilities that are there.

Commissioner Tobia pointed out he went through the agreements but the County Attorney's Office also went through the agreements, so those have all been verified by the County Attorney's Office.

Sandra Sullivan stated the High Tower and the Pelican were similar; there were State leases at the north and the south of High Tower; having reviewed those contracts from 1986 under the Save the Coast Program, in there is a provision that there be no differential in parking; the consideration should also be made of the sand re-nourishment the County does; and she has emails from Mike McGarry advising when they wanted to hand-over the lease to Satellite Beach for the High Tower property where the State lease is at the north and south of that property. She went on to say he made a list of the requirements that the City would need to agree with; and that is why there were covenants.

Chair Zonka asked if this is about this Item.

Ms. Sullivan replied affirmatively; she stated the lease agreements for Nance Park and Sunrise Park, so there is a State lease agreement on the north end of High Tower; the County has been through this process before; when the County released and handed over a lease, which took the County out of being the middleman, Mike McGarry wrote and legally advised the City that they had to agree to having no differential in fees as part of assuming that lease; she would urge the County to take a look at these lease agreements and not approve this today, but go back and read those, because under the Save the Coast Program, same timeframe, same leases with the State, there was a provision in there that there could be no differential in fees; and that ties into the County's responsibility in doing the sand re-nourishment as part of agreements with the State, so she would just look into those two aspects.

Chair Zonka stated perhaps if the County had any recommendations, it could send them on to the State as far as beach re-nourishment, and it could be included.

Mr. Abbate advised the State is going to have to determine the terms it wants in the lease agreements; if they are willing to let the County out, like Commissioner Tobia mentioned, there is a variety of potential liabilities; the County has deeper pockets than the City; and he does not know what the State is going to do in terms of letting the County out, but obviously the liabilities

are the risks the County has when it is not operating these two parks, the municipalities are in both instances.

The Board directed staff to explore options on transferring State lease agreements associated with James H. Nance Park and Sunrise Park from the County to the Town of Indialantic.

**Result:** Approved

**Mover:** John Tobia

**Second:** Curt Smith

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

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

Commissioner Pritchett mentioned that Mary Ellen Donner, Parks and Recreation Director, told her a Parks and Recreation employee saved a child today.

Mary Ellen Donner, Parks and Recreation Director, stated there was an issue in Manzo Park in District 1, and one of the County maintenance employees, Tony, was actually on the scene and pulled the child out of the water; the child was medivacked to Arnold Palmer; and Tony was on scene, recognized the emergency, and staff is very glad he was.

**L.4. John Tobia, Commissioner District 3, Re: Board Reports**

Commissioner Tobia stated the School Board voted for a millage increase to be put on the ballot; he has not spent the time looking at what that increase would entail; to be honest, the vote was 4:1; but there is a quirk here in State Statute, which is open to a little bit of interpretation; and it appears as though, potentially, the Board may need to vote to push that through. He continued by saying it is 1011.73; the School Board, pursuant to the resolution, adopted at a regular meeting, shall direct the County Commission to call an election; it depends on how a person determines direction of the Board; his interpretation is he does not need to vote on this; if someone else's interpretation is that he does need to vote on it, he has a choice; and his choice, should this come up, is very simple, he will not be voting to put a proposed increase of millage on the ballot. He stated he understands it may cause some concerns; he has spoken with Chairman Randy Fine; his interpretation is the same, he knows quite a bit more about the budget; however, should this come up, he will be voting against it; and he did not think it would be fair to do this at the last minute, and to blind side the rest of the Board and the School Board. He noted he applauds Matt Susin, School Board Member, for voting against this, and he will follow his lead, and to vote against this should it be decided the Board makes that determination.

Commissioner Smith asked the County Attorney for her perspective.

Abigail Jorandby, County Attorney, advised she has already spoken to the School Board Attorney; she knows they have adopted the resolution under Florida Statute 1011.73; it does essentially say that the School Board is to adopt resolution and it shall direct the County Commissioners to call an election for the electors to vote on this proposal, so they agreed that it is basically administrative, it is so they can actually have a referendum; they do not have the authority to do that, so the Board is used as the mechanism to do that; they had this item come up a couple of years ago as well; and it is basically direction from State Law as it is written right now.

Chair Zonka inquired if there is case law on this; and as Commissioner Tobia said, if the Board is given a choice as to whether something is put on the ballot, then why they would need the Board's vote at all.

Attorney Jorandby replied she did look at the cases, she did not find anything specifically if a County Commission declines to put something on the ballot.

**L.6. Kristine Zonka, Commissioner District 5, Chair, Re: Board Report**

Chair Zonka stated she is glad Commissioner Tobia brought that up; she does not think it is an Ethics Commission, it is more of an Attorney General Opinion; she knows the Board talked about the supermajority based on the vacancy, because depending on when reading certain ordinances the County has, it says vote of the majority of the Board; and there are two different versions of it, and she talked to former County Attorney Scott Knox about it a while back, and he said it could be interpreted two ways, because the Board has a vacancy. She stated she understands Attorney Jorandby thinks for a majority it will require all four votes, but she knows that is important.

Abigail Jorandby, County Attorney, stated on this item for the School Board, she does not think it requires a supermajority vote, she thinks it is a simple majority vote; as far as amending the Charter and the Board of County Commissioners, that language is contained in Section 7, Charter Amendment 7.31, it says, it has to be a concurrence of not less than four members; it depends on what is being accomplished; under that particular section, it says not less than four members; and as far as the Charter cap, it says by a supermajority of the Board.

Commissioner Pritchett asked if that would change if there are five members, she knows the four is in there, but there was five; and would that be anything that would be up for interpretation that would need to be checked on.

Attorney Jorandby responded she talked to the Attorney General yesterday on a completely unrelated matter, and she indicated it takes three to six months to get a response if the Board did submit something; and the deadline for getting a referendum right now, as she understands it from the Supervisor of Elections office, is August 22, 2022, so it may not potentially make that.

Chair Zonka asked if she could ask for an emergency ruling due to the time crunch, those dates could be specified; and she stated she would at least like to hear from them, just to be certain.

Attorney Jorandby asked if that is specifically regarding the supermajority.

Chair Zonka responded affirmatively; and she definitely wants to know about the School Board as well.

Attorney Jorandby advised she does not know if that opinion would be back in time to get it on the ballot.

Commissioner Pritchett stated it definitely puts a lot of responsibility on the Board, especially with the smaller Board it has right now; and she asked if it is two and two, what it means.

Chair Zonka stated three out of four, technically, is not a supermajority.

Commissioner Pritchett noted as an individual, Matt Susin not voting for it has her antennas up.

Chair Zonka mentioned if it is an administrative thing, she does not know why it needs to be voted upon.

Attorney Jorandby stated she thinks the way it was done before was the Board was basically acknowledging the resolution and calling for that election, essentially putting it on the referendum.

Commissioner Pritchett stated if the Board did not, it does not go on the referendum, so she does not like that responsibility either.

Chair Zonka stated that is something as a Board it has to figure out.

Commissioner Tobia inquired if it makes more sense to ask the Attorney General or vote no and let the School Board do what it may decide to do; and he stated he is open to either one.

Chair Zonka advised if there are two nays it will not pass.

Commissioner Smith stated he would vote nay.

Attorney Jorandby stated the item for the School Board will be put on the Agenda.

Frank Abbate, County Manager, stated he anticipates the School Board will be giving it to him to put on the Agenda at an upcoming Zoning Meeting when the four Commissioners are present.

Commissioner Tobia stated he does not want to hinder the County Manager from putting it on the Agenda; and if the Board is fundamentally against this, it should stand up and say no with the microphone in front of his or her face.

Chair Zonka stated if something comes from the Charter Review Commission, the Board is obligated to put it on the ballot unless it is unconstitutional or against State Law.

Mr. Abbate pointed out he would venture to say the School Board will be aware by tomorrow what the Board's position is tonight, so they will have the opportunity to prepare to do whatever they think they need to do.

Chair Zonka asked if something from the Charter Review Commission comes to the Board and a Commissioner has an item that contradicts what the Charter Review Commission brings to the Board at that point, what it means, because the Board has the ability to put things directly on the ballot as a Board.

Attorney Jorandby stated it does have that ability.

Chair Zonka inquired what if the items contradict, and if they both end up on the ballot.

Attorney Jorandby replied assuming it has already gone through the opinion review, at that point she believes it would be competing ballot language, so she would have to look into that; she knows the Board has that ability; and as far as the Charter Review Commission, they have that ability.

Chair Zonka stated she has not seen anything that strikes her as crazy-concerning necessarily; and she asked what if they wanted to do something that the Board might feel is harmful or misunderstood, and a Board Member came up with something that contradicted that language.

Attorney Jorandby reiterated she would have to look into having competing ballot items.

Chair Zonka inquired if that is three Board Members or four.

Mr. Abbate replied it would be four Board Members because it is specifically in the Charter that says a minimum of four Board Members are needed.


Attorney Jorandby asked if that is direction for her to get an Attorney General Opinion on the supermajority item; and she wants to clarify that.

Chair Zonka stated she does not know how the rest of the Board feels, but she would like to hear from the Attorney General, because the Board has a vacancy; and there is no option for the fifth.

Upon motion and vote, the Board adjourned at 8:33 p.m.

ATTEST:

  
RACHEL M. SADOFF, CLERK

  
KRISTINE ZONKA, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

As approved by Board July 19, 2022.