

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

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on April 9, 2019 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

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

MOMENT OF SILENCE

Chair Isnardi called for a moment of silence.

PLEDGE OF ALLEGIANCE

Chair Isnardi led the assembly in the Pledge of Allegiance.

MINUTES FOR APPROVAL

The Board approved the February 12, 2019 Regular Meeting Minutes and the February 21, 2019 Special Meeting Minutes.

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

ITEM E.1., RESOLUTION, RE: EARTH DAY

Commissioner Pritchett read aloud, and the Board adopted Resolution No. 19-050, proclaiming April 22, 2019, as Earth Day.

Christine Kane expressed her appreciation for the Resolution. She stated municipalities across the County are engaging in activities to celebrate Earth Day as are families and organizations; it is important for all of them to know the County recognizes the significance of Earth Day and encourages them to participate; Brevard County has many environmental organizations who are working to protect the environment in general and the Indian River Lagoon (IRL) in particular; the Board's recognition of their work is important not only to them but to the future of this County; these organizations are staffed with volunteers who dedicate their time and energy to

April 9, 2019

the environment and never expect anything in return; and she would like to think everyone has the same goal just different ways of getting there. She went on to say members of the community look to the County for leadership and she believes it is very important to all the residents in Brevard County to know, as the governing body, the Board is supportive of Earth Day, its programs, and its intent; there is just one planet that everyone calls home and people need to come to the realization that they have to do a better job in working together to protect it; and people cannot continue to use the oceans as trash cans, and destroy the air that they breathe.

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

ITEM E.3., RESOLUTION, RE: PROCLAIMING APRIL 14 THRU APRIL 20 AS NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

Commissioner Pritchett read aloud, and the Board adopted Resolution No. 19-051, recognizing April 14, 2019 through April 20, 2019, as National Public Safety Telecommunications Week.

Debbie Sands, Brevard County 9-1-1 System Manager, stated she is blessed with being able to support all the telecommunicators with the 9-1-1 technology; the public safety telecommunicators answered over 355,000 9-1-1 calls for assistance and over 400 text messages just since July 2018 when they went live; their professionalism, commitment, and dedication are what is honored during National Public Safety Telecommunications Week; these men and women deserve to be celebrated for the service they provide to the community and the field personnel that they dispatch; they deserve to be recognized for the sacrifices they make working holidays and weekends with little to know sleep, their resiliency, for birthdays, games, dinners, and the family gatherings they miss through the years to be there for strangers during their most difficult times; and she noted they are lifelines to those in their most critical moments. She commented they deserve to be lifted up for all the lives they have saved on the phone as well as the radio with their calm, reassuring voices needed to get them through their crisis; and she thanked the telecommunicators for their dedication.

Wayne Ivey, Brevard County Sheriff, added those in attendance are only a small percentage of those that are there every day and every night making sure the citizens of Brevard County are safe; they are the first line of defense for the citizens, the fire fighters, the law enforcement officers, and rescue teams; from the time they dispatch the call to the very time that it ends, they are on pins and needles because they are truly the life support system of the first responders; and for the Board to recognize them means the world to them.

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

April 9, 2019

ITEM E.4., RESOLUTION, RE: GRANDPARENTS RAISING GRANDCHILDREN

Commissioner Smith read aloud, and the Board adopted Resolution No. 19-052, recognizing Grandparents Raising Grandchildren.

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

ITEM E.5., RESOLUTION, RE: PROCLAIMING APRIL AS WATER CONSERVATION MONTH

Chair Isnardi read aloud, and the Board adopted Resolution No. 19-053, proclaiming April as Water Conservation Month.

A representative of the St. Johns River Water Management District (SJRWMD) expressed her appreciation for the Resolution.

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

ITEM E.6., RESOLUTION, RE: RECOGNIZING AND COMMENDING COLLIN BRADLEY WATKINS, EAGLE SCOUT

Commissioner Lober read aloud, and the Board adopted Resolution No. 19-054, recognizing and commending Collin Bradley Watkins as an Eagle Scout.

Collin Watkins expressed his appreciation for the Resolution.

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

ITEM E.7., RESOLUTION, RE: GOPHER TORTOISE DAY

Commissioner Smith read aloud, and the Board adopted Resolution No. 19-055, proclaiming April 10, 2019, as Gopher Tortoise Day in Brevard County.

Megan Lee, representative of Hundred Acres Hollows, stated their mission is to protect wildlife, restore the habitat, and engage the public; and she expressed her appreciation for the Resolution.

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

ITEM F.1., FINAL PLAT AND CONTRACT APPROVAL, RE: SIERRA COVE & SENDERO COVE AT ADDISON VILLAGE PHASE 1 (18SD00010)

The Board granted final plat approval, subject to minor engineering changes, as applicable, and developer responsible for obtaining all other necessary jurisdictional permits; and executed Subdivision Infrastructure Contract with The Viera Company for Sierra Cove and Sendero Cove at Addison Village Phase 1.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.2., APPROVAL, RE: DONATION OF WARRANTY DEED FROM POPLAR ASSOCIATES, LLC AND IRS FORM 8283 NON-CASH CHARITABLE CONTRIBUTIONS FOR PARCEL KNOWN AS MUD LAKE ARE

The Board accepted Warranty Deed from Poplar Associates, LLC; and authorized the County Manager to execute the IRS Form 8283 for Noncash Charitable Contributions for parcel known as Mud Lake Area.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.3., RESOLUTION, RE: GRANTING COUNTY MANAGER AUTHORIZATION TO SUBMIT AN APPLICATION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR FINANCIAL ASSISTANCE UNDER THE STATE REVOLVING FUND PROGRAM FOR THE RIVERSIDE DRIVE FORCE MAIN REPLACEMENT PROJECT

The Board adopted Resolution No. 19-056, granting authorization to the County Manager to submit an application to the Florida Department of Environmental Protection for financial assistance under the State Revolving Fund Program for the Riverside Drive Force Main Replacement Project, (project WW05113) as well as to provide assurances; authorized execution of loan agreement and to represent the County in carrying out responsibilities under the loan agreement; and authorized the budget changes necessary to implement this project.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.5., APPROVAL, RE: CONSTRUCTION MANAGER CONTRACT WITH IVEY'S CONSTRUCTION, INC. FOR RENOVATIONS TO THE GYMNASIUM AT GIBSON COMPLEX

The Board executed and approved the Construction Manager Contract with Ivey's Construction, Inc., for the renovations to the gymnasium at Gibson Complex; and authorized the County Manager to approve all the necessary budget change requests.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.6., APPROVAL, RE: CONTRACT WITH THE BREVARD COUNTY SCHOOL BOARD FOR THE SUMMER FOOD PROGRAM

The Board executed and approved the Contract with the Brevard County School Board to provide food service for the Summer Food Program at 12 summer camp sites, in accordance with the Sponsor Contract between the Board of County Commissioners and the Florida Department of Agriculture and Consumer Services Division of Food, Nutrition, and Wellness.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.7., BUDGET CHANGE REQUESTS

The Board approved the Budget Change Requests.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.8., ELECTRONIC ACCESSIBILITY POLICY (BCC-34)

The Board approved the new Board Policy BCC-34, Electronic Accessibility.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.9., SUPERVISOR OF ELECTIONS MATCH FUNDING REQUEST

The Board approved the request to match funding by the County in the amount \$8,102.66.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM F.10., APPOINTMENTS/REAPPOINTMENTS

The Board appointed **Donald E. Krieger** to the Transportation Planning Organization Citizens Advisory Committee, as an alternate, with said term expiring December 31, 2019; appointed **Trudie Infantini** to the Economic Development Commission of the Space Coast, with term expiring December 31, 2019; and reappointed **Michael Hartman** to the Housing Finance Authority, with term expiring May 24, 2023.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
AWAY:	Bryan Lober

ITEM G., PUBLIC COMMENTS

Charles Tovey stated he would like to apologize for his comment to Commissioner Smith; sometimes, he puts people to sleep because he talks too much and he mentioned that he takes power naps; he wants to let anybody and everybody who is concerned with the Lagoon to know he is almost half way through with what he does with the Lagoon; by May there should be continual improvements; no one else is doing it, and when he goes back it is the same way, so apparently no one cares about the things he has to share; one student that knows what he does, gave him a gift of a drawing she did, because she appreciates what he does; and he wanted Commissioner Lober to know there is a beautiful aquarium at Cesar's Palace, it is one of the best he has ever seen. He continued on to ask if anyone has taken into consideration the use of Atrazine 24D or glyphosphosphate as being part of the problem with the Lagoon and

seagrasses; if the County is concerned about the septs and the nutrients of fertilizer, but these other chemicals being poured or used without any kind of regulation or observance because no one likes to pull weeds, so they spray these chemicals that are carcinogenic as well as other things; he is going to keep this short and brief because he has his personal issues that he is still discontent with; he will maybe express them at the next meeting; and he noted he is almost half way done and if he does not get harassed by the Sheriff's Department or any other, he will be in Commissioner Pritchett's District soon. He mentioned he has done the south area; he was harassed everyday by the Brevard County Sheriff's Office (BCSO) South Precinct, Melbourne Police, and Indian Harbour Police who called him across the road and gave him a ticket for jay walking; they almost hit him on New Year's Eve and he gets a ticket for failing to recognize an emergency vehicle, meanwhile, someone is burning down his house and destroying everything he has, but that is all fine and good; yes he does have contentment about the things he has experienced; and everybody is just going to put it away under the carpet, nobody knows nothing. He advised he has video he tried to show Sheriff Ivey, Sheriff Parker; he has video, witnesses, and physical witnesses; and he will let it go at that. He wished everyone a happy Easter.

Chet Elsworth stated he is commenting on the Council on American-Islamic Relations (CAIR) open letter to all Commissioners from March 27, 2019, where there were comments asking the Board to refuse giving the Government Complex as a venue for certain events and to refuse attendance by any government elected officials to attend such bigoted events with ACT for America Director or staff; he would like to put forth a question to the Board that he believes has some merit; and he inquired if the letter was an attempt to aggregate the Board's rights to contract and if so was the letter a demonstration of Sharia Policy imposed as an element of Sharia Law. He inquired if the Board plans to approve putting a policy in place banning Sharia compliancy association and confederacy for all elected and appointed public officials as well as all attorney, judges, and politicians in Brevard County; he asked if the Board approves of mandatory disclosure of Sharia compliancy association and confederacy for all elected and appointed public officials as well as all attorneys, judges, and politicians; and he noted this goes back to whether the letter was signed of Sharia Policy, an influence in this County.

Robert Burns stated he is in attendance because Commissioner Lober asked him to come back at the last meeting to show proof of a single incident about his statement during the campaign that Commissioner Lober claimed that his father was retired from the military; he told him during the comments that there was a video stating that on *Space Coast Daily* from a debate; after the meeting he went home and he immediately posted the video of Commissioner Lober stating the following in response to a question from his opponent about her military service; and he quoted Commissioner Lober's response, "I'm actually the first generation in my family not to have some military affiliation or uniform on at some point. My dad retired as a Lieutenant Commander. My grandfather, who went to law school as his second career, was an enlisted guy in the army in Germany in World War II, and I have nothing but respect for that." He commented any person in that audience just meeting Commissioner Lober would come away with the understanding that his dad was retired from the military; Commissioner Lober never referenced anything about the public health service, the question was about the military, and his comments were about the military; Commissioner Lober stated on record to everyone, that he had questioned and insulted his father's public health service saying that it did not exist and proceeded to read a part of the Facebook comment from before he was elected to try and paint that picture; and what Commissioner Lober left out was the first part of his comments which were, "You said your dad was retired from the military, which Branch?" He added Commissioner Lober responded telling him to do his own research; and what was read after that was his comments saying that he could not research something that does not exist. He noted it is also important to mention that Commissioner Lober went and deleted all of his comments from that thread. He stated clearly he is speaking about Commissioner Lober's comments and what he claimed in a debate, and he is speaking only about military service; never did he question Commissioner Lober's father's

April 9, 2019

non-military service, but that is what Commissioner Lober inaccurately stated; whether he meant military service or public health service in his statement, it was still inaccurate because he said he retired as a Lieutenant Commander, and the fact is he did not retire from either the military and only served about 24 months in the public health service; he noted Commissioner Lober's statement was wrong and he questioned him about it; he believes that is completely fair and reasonable and in no way a personal attack on Commissioner Lober's family; and Commissioner Lober said anyone who attacks his family, he does not value and he is done with. He went on to ask Commissioner Lober to respect the public's comments and allow them to have their three minutes. He noted last evening he attended a civility meeting and in the spirit of that meeting, they are trying to work together on both sides of the aisles; and he asked the Board what he can do to work with it.

Commissioner Lober commented he has a few comments and he does not need Mr. Burns to stand at the podium because now it is his time. He noted he is going to pick up where Mr. Burns left off; Mr. Burns does not seem to understand simple English; what he read himself from that *Space Coast Daily* article, he is assuming he is correct, but he has not pulled it up because he did not anticipate that Mr. Burns would come back again; Mr. Burns said something along the lines that first generation of his family born in America not to have been in the military or to have put on a uniform or worn a uniform at some point; maybe Mr. Burns does not know but public health services also wear uniform service in the U.S; in terms of the hierarchy, folks including the branch Mr. Burns may have served in, are required to salute the officers in the public health service just the same; and if Mr. Burns incorrectly made an assumption, that falls on him. He continued Mr. Burns also mentioned, but failed to bring it up tonight, that there were numerous statements that he made on Facebook along those lines as well and curiously those are not here, therefore, Mr. Burns has not proven what he told him he would not be able to prove; in fact he has provided evidence to the contrary; when Mr. Burns asked which branch, he does have that, he did not erase anything, and the fact that he has those comments suggests that as well; he is not obligated to correct Mr. Burns perception, that is on him, if he wants to do opposition research; and what Mr. Burns fails to mention is that he is actually paid to do the social Media work for an individual who ran against him. He went on to say he also made the ridiculous comment that anyone in the legal profession that has ever dealt with him professionally would know instantaneously that it is nonsense, that he heard he does not represent minorities; and he asked Mr. Burns to go do something productive for the community aside from race baiting and coming to the meeting to stir up trouble.

ITEM E.8., RESOLUTION, RE: IVFMD

Commissioner Smith read aloud, and the Board adopted Resolution No. 19-057, recognizing and welcoming IVFMD in Brevard County.

Dr. Joelle Taylor stated she and Dr. Jenna McCarthy are thrilled to be in the Viera community; they try to bring their practice to the community instead of the community having to travel to see them; they are excited to be able to expand IVFMD this way; and they expressed their appreciation for the Resolution.

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

ITEM J.1., WAIVER REQUEST TO STORMWATER MANAGEMENT CRITERIA, RE: SPRENGERGARTON, LLC (19EV00003)

Corrina Gumm, Interim Public Works Director, stated this Item is a waiver request from Luke Miorelli, who is the engineering consultant representing the property owner, Sprengergarton, LLC, for development of property located on the south side of Eber Boulevard; the project is required to construct a turn lane on Eber Boulevard to access the proposed development; Mr. Miorelli is proposing shallow retention areas along the south side of Eber to capture the runoff from the new pavement widening; he is also proposing the installation of trench drains across two residential driveways and also the proposed development driveway; and this is in order to connect the retention areas and convey the runoff to an existing swale to the east. She continued he is requesting the waiver from the stormwater management to allow use of the trench drains in lieu of their required minimum 18 inch RCP storm drains, that would typically be constructed under a driveway connection; staff has a number of concerns with that; primarily there is an undue hardship placed on the property owner for the residential property with the ongoing higher level of maintenance that is going to be required with trench drains; the applicant has suggested that the developer could take on the maintenance that is required; however, there is no mechanism to enforce that. She went on to say Florida Department of Transportation (FDOT) discourages the use of trench drains, they are limited; she noted a typical application is different from what the applicant is proposing; there are safety concerns with pedestrians and cyclists traversing the grates that cover the trench drains; there is increased liability with that and potential for vehicle damage when not properly installed or maintained; staff believes there are reasonable alternative designs that do not require trench drains in this situation; therefore, staff does not recommend approving this request.

Luke Miorelli stated for the record he is a professional engineer and he has been recognized in State, Federal, and County Courts as an expert witness; that being said, the project is to build an event facility on Eber Road; it is a phased project and this is Phase 1; part of the problem is that there is a turn lane required and it is pretty marginal whether they need it; there will be 88 parking spaces; a turn lane of this magnitude for 88 parking spaces is pretty wild, but the owner said he would like to have the turn land so there is better access to the facility; and now he will try to explain the technical portion. He explained Eber Road right-of-way is 33 feet wide; the vast majority of Eber Road and what people think is the right-of-way is actually the Melbourne-Tillman drainage district, so that current configuration of Eber Road, the line of the County's right-of-way, is not quite at the center line but south of the center line of the existing pavement that is there; there is no space; because it is the Melbourne-Tillman, all of the drainage goes to the south on his client's property; and when trying to put the turn lane in, the edge of the turn lane will be nine to 10 inches below the north side with all of the 36 feet of water plus the sidewalk draining towards it, so there is a pretty good amount of water coming there. He went on to say they originally proposed putting in curb and gutter and piping it, but they got back from staff that they would need to treat the stormwater; in order to treat the stormwater the owner is going to provide an easement to the County to put the shallow dry retention ponds; the problem occurs just to the west of them; the owner's property wraps around a residential parcel that is owned by an elderly gentleman and is zoned commercial, because it is grand-fathered in; when they get in front of that property to put the turn lane in, they are left with about 12 feet between his property line and the edge of the pavement; and the Code says they have to go into the pond at no more than four to one slope and the backside can be a three to one which moves the center of the ditch back to about seven feet from the edge. He noted right at that location are power poles and a large manhole for AT&T that cannot be moved; they looked early on about moving the AT&T stuff and they were talking about over a quarter-million dollars just to move their equipment out of the way, so they had to give up on that one; if they were to put the pipes that the County was suggesting, that would work for a portion of it, but when they get down to the owners, the only thing they believe would work there is the trench drain because the water table is only 16-18 inches below the edge of the road so they cannot dig down and put these

pipes in; and County staff is suggesting that they put in two inlets on either side of the driveway, put a pipe that is fully submerged underneath it, and somehow that would be easier to clean than taking off the top of a trench drain. He advised that would work on those driveways but it will not work on the other ones; another problem is when they put those inlets in and the bottom of the ditch, they will be sticking up into the shallow swales where when someone goes off the road they would hit the concrete; and that is what they are up against. He explained he does not think this is a waiver, he thinks it is just asking the County to follow the County Code; the Code says in 62.3755 paragraph 4.5d, all drainage structures unless specifically detailed in these guidelines shall at a minimum conform with the latest addition of FDOT roadway and traffic design standards, and that is a separate book; they are referencing in their write up a manual that is not referenced in the Code, so he feels that manual does not apply; secondly, the Code states in paragraph 4.6a that the minimum pipe size shall be 18 inches or equivalent, they are not putting in a pipe so that is not applicable; it says any pipe that is put in the right-of-way needs to be 18 inches, so if they are not placing a pipe, how does he apply a standard for something that is not a pipe; and to do the engineering calculations of the trench drain versus an 18 inch pipe, the one they are proposing, the flow was actually higher in the trench drain than in the pipe.

Commissioner Tobia stated his understanding is a trench drain would potentially create a financial burden on the neighbor that Mr. Miorelli has referenced.

Ms. Gumm stated the financial burden on the home owner would be the ongoing higher level of maintenance after it is installed.

Commissioner Tobia asked Mr. Miorelli to address that. He stated the trench drain would cause a burden on the neighbor and he asked how he could ameliorate that.

Mr. Miorelli stated he does not know how that is a burden on the property owner; if a pipe is placed and submerged in the water of an inlet on each end so the pipe cannot be reached to clean it, then he asked how that would be harder to maintain than an 18-inch wide pipe with a 24-inch wide opening that when the grates come off, a back hoe or shovel would be needed to clean it out; he does not know how that is harder maintenance; and he digs holes all the time and he thinks that would be easier for him.

Commissioner Tobia stated while he appreciates that, as a Board member he has to defer to staff, as there are numerous professional engineers, and if there is even a possibility that the trench drain would cause added burden in any way on a neighbor, he does not think that would be a justifiable action to take; what he asked staff was about that 18 inch pipe; as far as a cost difference between the trench and the pipe, what he got was it would be in the neighborhood of 20-25 percent more, so that is about \$8,000; and he asked if that is correct.

Mr. Morelli stated the trenches are more expensive; they are actually about \$30,000; an 18-inch pipe runs about \$45 a foot; an inlet is about \$1,800; doing the math, the trenches are actually more expensive; this is not a method to save money, it is a physical constraint that they cannot get around; and the physical constraint cannot be moved. He continued they said move the poles, but when moving the telephone poles and the lines are not in a straight line, then there needs to be a backup; the back guy in this case would go towards the drive lane and that cannot be done; and they are finding out why no one has ever developed this piece, as they have been at this for two years trying to get permits and every time they come up something, someone has a simple, quick solution, but the solution is not fully thought out.

Commissioner Tobia stated the numbers he has, and there is no reason to doubt Mr. Miorelli, are substantially different than what he is providing; as a member of the Board he has to go with the information provided by staff; and for that reason he would be extremely leery to provide any

April 9, 2019

type of waiver that would place a burden on the neighbor. He inquired if Mr. Miorelli received a consent from the neighbor.

Mr. Miorelli stated the neighbor is 83 years old.

Commissioner Tobia advised an 83-year old can still give consent.

Mr. Miorelli explained he does not live there; he has no idea where to find him; the owner actually tried to buy the property but the guy did not want to sell it; they are stuck with this piece of property between them for the turn lane and they cannot get around it; he would love to pipe under the driveways and move them back; and he noted that would be a slam dunk, but there are too many things in the way.

Commissioner Tobia commented this would be a different situation if the Board or staff heard from the property owner; and he thinks it would be terrible of the Board to provide added costs to a neighbor who is unaware or without giving that individual the ability to object, or consent.

Mr. Miorelli commented he believes Commissioner Tobia is missing the point, this is not a waiver, it is what the Ordinance says; what is being proposed complies with the Ordinance of Brevard County; the conservative side of him is a little irked that he had to come before the Board to ask to enforce its own Ordinance; if it is ambiguous that is not something he did; and he noted the Ordinance says this is allowed.

Commissioner Tobia commented the conservative side of him says, as a property rights guy, when someone infringes upon someone else's right, that it is not all that conservative; normally this happens the other way, but if Mr. Miorelli is disappointed with staff and this Commission's decision, there is a way to handle that with the County Attorney; and that would be his next step. He advised without the consent of the neighbor, who this will cause an added burden on, he cannot consciously make that decision.

Mr. Miorelli explained the neighbor does not have a pipe right now; there is no culvert on any of the driveways there; no matter what they do, it will impose an added maintenance on him by doing the work in the right-of-way; there are no pipes, it is just flat; it is not like there is a pipe there now and they are doing something that needs to be maintained more; they are basically giving something that needs to be maintained no matter what they do because the County does not maintain the culverts for personal driveways which is fine because that has been the Policy; however, he does not have one now, so they will be giving him one. He asked which one they should give him.

Commissioner Tobia stated in reality when Mr. Miorelli's client purchased this, they should have done their due diligence prior to purchasing this property and the County would not be in this situation had the County gone through with this.

Mr. Miorelli noted they have owned this property for years.

Commissioner Tobia advised whether they owned it two years or 20 years, unless Ordinance has changed during that period of time, this is something that could have been dealt with.

Mr. Miorelli commented there is no ordinance that says there has to be an 18-inch pipe underneath a person's driveway; there are lots of driveways that were built without driveways; what the Ordinance says, is if someone puts in a pipe it has to be this size; it does not say that there has to be one; and it is really straight forward. He added that is what the Ordinance says; this was designed per the Ordinance; and there are some objections to it, but there is no ordinance that specifically states this is allowed.

April 9, 2019

Commissioner Tobia stated he will divert this to staff; his issue is Mr. Miorelli's next door neighbor; now with Facebook, Twitter, and My Space, people can pretty much contact anyone within a reasonable amount of time; should Mr. Miorelli get consent from the neighbor for that added cost on maintenance he would probably be on the other side of that, but until that takes place he cannot. He made a motion to deny the waiver as requested by staff.

Commissioner Smith stated he is torn; he does not know what the Ordinance says; and he inquired if what Mr. Miorelli says is true.

Ms. Gumm stated the stormwater management criteria, Section 4.6 on storm sewer or culvert design, does specifically state, talking about minimum pipe size, refers to 18 inches or equivalent elliptical pipe; it does not mention trench drains but it specifically talks about reinforced concrete pipe; and she added if the system were piped the distance is longer in order to get from the first retention area all the way to the east to where it is being conveyed to which is approximately 500 feet as compared to a much shorter section for a trench drain under the driveways. She mentioned when it turns into a roadway drainage system it is turned over to the County to maintain, the homeowner would not be maintaining the length of the pipe drainage system.

Commissioner Smith noted Mr. Miorelli stated it would be cheaper to do it that way.

Mr. Miorelli stated it would except he has a \$250,000 manhole that is right in the way; the manhole is directly on the corner of the property; associated with that manhole in the direction of drainage, which is on the west side of the proposed driveway, is a 20 by 30 AT&T easement that is filled with all sorts of equipment so he cannot pipe around the manhole because there is no place to go; he cannot go under the road because he cannot get the pipe deep enough; and if he does get the pipe deep enough to go under the road, the bottom of the pipe is below the ditch over at Americana. He commented he would love to be able to just throw a pipe in and a couple of mitered end sections and go home but the problem is if he puts the pipe in at the elevation where it is above the water, then his entrance is too steep and he has a tail dragger where the back of people's cars will drag because it is too steep coming up and that is using a class four pipe; it is not like they have not thought through this process; by process of elimination, this is the only thing they could come up with; if staff wants him to put this underneath the neighbor's driveway with two culverts there that is fine, but at his owners property he does not have room because of the AT&T equipment in the way; and he reiterated he cannot get a pipe in there and he cannot get an inlet in there.

Rachel Gerena, Public Works, stated if Mr. Miorelli did a whole pipe system, not just pipes under the driveway, with mitered ends, the entire pipe system could be inundated in the water, it does not have to be high because downstream at Americana it has depth to connect into; and she added he would have to put a structure into the lane of the road to be able to get around the AT&T box but it can be done, it just requires an additional structure.

Mr. Miorelli advised when they put the additional structure in and place it at the elevation, if they start at Americana and work north, which was the first thing they planned on doing, that pipe starts coming out of the ground; then the pipe would have insufficient cover per the County requirement to put it underneath the roadway; it is not a crowned road like people would normally see, it is a road that drains all the way to his side; his side is low and it keeps getting lower; to take the pipe to the existing edge of the payment he puts the cover on that is required, and the base and the sub base, then he is below the ditch at Americana; he has worked all those numbers; and he mentioned staff has made these suggestions and he has shown them why they will not work.

Chair Isnardi inquired if it is still staff's position that it will not work. She inquired if staff agrees

April 9, 2019

that it will not work.

Ms. Gerena responded staff believes it will work; she has not been shown that it will not work; the grades out there are very flat and the pipe will have to be very flat, but it will not place undue hardship on the neighbor; and it will be a better system as opposed to something that is higher maintenance and not recommended for permanent use.

Commissioner Pritchett stated she will second Commissioner Tobia's motion for discussion. She continued hearing the information she is going to have some questions; she does not feel comfortable giving a waiver if something else may need to be done; she has concerns that trench drains could pose public safety concerns, so that has her attention; it was also put in there that there are other reasonable alternative designs that will not require the trench drains; and she asked if it would be possible for Mr. Miorelli to get with staff for some other creative ideas or if staff thinks the pipe is the best idea to go with.

Ms. Gerena stated there are many ways to skin a cat; the pipe system was an alternative that staff came up with; they would definitely encourage any ideas that staff had not thought about; and they would evaluate those if they were provided.

Commissioner Lober inquired if it would be permissible under the Code to have them store the water on sight to some degree.

Ms. Gerena responded it is permissible; actually that was a suggestion by staff at some point; and it was conveyed to staff that they did not think the grades on sight would allow them to get the water to the ponds on sight.

Commissioner Smith asked Mr. Miorelli if he would reach out to the 83-year old gentleman.

Mr. Miorelli stated he is not certain; he can do what the County wants to do with the pop up structures; no matter what they do, this gentleman is going to have maintenance, there is no getting around it because they are now putting a swale across the front because the road all drains their way; there is no stormwater management whatsoever right now; the problem still comes down to the AT&T manhole that is located right in the center of the swale and the swale is the only place that it can be placed because there is not any other space to meet the requirements; and he cannot run a pipe through a manhole, if he runs out into the street to go around the manhole, he will not be deep enough.

Commissioner Smith asked if he does it per staff and it becomes a physical nightmare, whose problem would it be.

John Denninghoff, Assistant County Manager, stated if they install a pipe system that traverses over the frontage of a couple separate parcels, typically the County assumes the maintenance responsibility for those facilities; what he is proposing though is a modification to the driveway which is a privately owned facility and will remain a privately owned facility, and it will have a trench drain in it; he can tell from experience, trench drains are a high maintenance item, a high hazard item, they have had multiple suits over issues where trench drain grates become dislodged and vehicles fall into the trench drain which in turn becomes a law suit; and that is not a problem with pipes unless a pipe somehow collapses by developing a hole in it. He continued that is typically not in the immediate area where people drive.

Chair Isnardi pointed out Commissioner Smith's question was, if he does the pipe system as recommended by the County, is the County ultimately responsible; the County has an engineer as well and she does not discount what Mr. Miorelli is saying because he is also an engineer; and she asked if Mr. Miorelli believes it is not going to produce proper drainage, then is that

April 9, 2019

ultimately the County's responsibility because that is what the staff recommended.

Mr. Denninghoff pointed out staff has not seen evidence that supports what Mr. Miorelli is saying.

Chair Isnardi commented then the County should not worry about it.

Mr. Denninghoff reiterated he has not seen it, he has not shown the design that he is referring to; it has not been submitted to staff, it is not in a calculation, it has not been presented in any way, shape, or form, other than the statements he has made; and staff's look at it indicates that they do not think they have the problem that Mr. Miorelli is describing.

Chair Isnardi responded that is how she took it by the discussion.

Mr. Denninghoff noted it has been looked at and staff feels it can be done; he noted he is not discounting what Mr. Miorelli says, and if he can show them where there is a problem, then staff can try to work towards another solution; however, they are reluctant, as is FDOT, to use the trench drains as an option.

Chair Isnardi stated she does not think anyone is talking about trench drains any longer.

Mr. Miorelli advised that is not correct, they use FDOT trench drains at FDOT roads building Cumberland Farms on several locations and they have never had any problems with them; FDOT regularly approves them; and for example the Cumberland Farms at Highway 50 and U.S. 1 has trench drains at the driveway.

Commissioner Lober inquired if Mr. Denninghoff's belief is that those are essentially like the items put in place when no other option will suffice.

Mr. Denninghoff responded affirmatively.

Chair Isnardi pointed out that it appears Mr. Miorelli does not have the votes to move forward with the trench drains; and she inquired if he would be willing to work with staff.

Mr. Miorelli explained he has been working with staff for two years; some of these issues have come up and they continuously come up; he does not want to throw staff under the bus but they are looking at literally hundreds of projects; he has been living this project trying to solve these issues; and staff sits down for five minutes and comes up their latest.

Chair Isnardi advised perhaps he could sit down with Mr. Denninghoff because he has all the time in the world; but obviously this much time has been taken to talk about it; it is obviously something important for him to finish if it has taken two years; and she asked if Mr. Denninghoff would sit with Mr. Miorelli and figure this out.

Commissioner Pritchett stated she was going to recommend that Mr. Miorelli get with Commissioner Tobia and staff to work out something creative and bring it back to the Board.

Mr. Miorelli stated he did not know if it was proper to talk with the Commissioner beforehand, otherwise, he would have briefed the Commission.

Commissioner Pritchett commented she does that a lot in her District, they work things out.

Commissioner Tobia stated he would certainly be willing to sit in on that meeting with Mr. Denninghoff to help facilitate and maybe handle something administratively, but if not then bring

April 9, 2019

it back to the Board for consideration.

Chair Isnardi commented that sounds like a good solution.

Commissioner Tobia removed his motion.

The Board considered the waiver request to stormwater management criteria for Sprengergarton, LLC, but took no formal action.

ITEM 1.2., BOARD DISCUSSION, RE: BAREFOOT BAY RECREATION DISTRICT UTILIZATION OF UNIFORM TAX ASSESSMENTS

Commissioner Tobia advised he is not asking for a vote today, he is only asking for Board direction and what the Board thinks about this because it will require quite a bit of staff time and he did not want to burden staff before he has an opinion from the rest of the Board. He advised it was brought to his attention by a constituent that the Barefoot Bay Recreational District in District 3 collects their fees on the County Annual Tax Assessment; there is confusion in the District whether the County is responsible for these assessments; while the County is taking the steps to get out of the golf business, the Barefoot Bay course supported by this District is in a downward death spiral according to their official budget documents; at the same time it appears that the Special Assessment Rates have increased above the CPI over the past couple years; however, it may be possible to change the way this Special Assessment is collected. He explained this would prevent confusion as many residents see the tax assessed and believe it is approved by the Board and not surprisingly, since it is classified as a Recreational District Tax; this is not to say he knows all the factors leading to the Board of Trustees or what they are dealing with because he does not; the Board does not have any more say in what they do with their Special Assessment than they do with the Board; and he noted there could be a significant amount of work with the County Attorney's Office and that is why he is asking if the Board thinks it is in the best interest to separate and stop collecting this Special Assessment below the line for the Barefoot Bay Recreational District.

Reverend Earl Medlen stated he does not think it is the County's business to be collecting this tax because it gives them a shield to hide behind so they can arbitrarily raise the amount of fees any time they wish; then they have the real power of a government behind them to intimidate and force the residents into compliance with little trivial matters; in fact, they do not seem to understand this is not Monopoly money, it is real money coming from real people; and they seem to think if they need more money they can just reach deeper into the residents pockets, and if the residents do not like it they can find a soft spot and drop dead because they will spend the money any way they want to. He added now they have hired two full-time Code Enforcement officers to drive around 24/7, 365 days a year looking for trivial things to stick it to people and harass them, and this Board is helping them do it by allowing them to keep raising their rates. He continued he gave Commissioner Tobia a rundown on the past few years; there are people out there, he is 76, older than dirt and they do not see how it is raised like that; if the Board quits giving them a shield to hide behind and let them do their own business, when they start raising the fees for the privilege of living out there, people will start noticing it when they have to go to the office and write a check for it; then the people will have something to say about it; and other than that this Board is just allowing them to hide behind a real government. He noted however this was voted in to be able to do this, he would like the Board to find a way to vote it out and make them take care of their own business, and the Board can take care of its own.

Clifford Repperger stated he serves as general counsel to the Barefoot Bay Recreation District; prior to tonight's meeting he sent an email out to the Board describing the set up for the District

and the process by which the District assessment is collected; it has been that way for the past decade that the District has collected its assessment, in the same manner using statutory authority under 197 and 418 to utilize the services of the Tax Collector for purposes of tax collection; prior to the change in 2009, the District did collect its assessment in house; that was not an effective method of collection so in 2009 they moved it to the tax roll; and they have had no issues with regard to assessment collection since it was moved to the tax roll. He continued as far as the process itself, the process is extremely transparent so some of the things the speaker said confused him and he takes some issue with it because the process of the setting of the District's assessment is an extremely transparent process just like any other government entity; it goes through a budget cycle that begins with preparation of a budget in a hearing that starts in November and goes all the way to June, every year; the process includes a number of public hearings and workshop meetings which are noticed and every member of the public that is a resident of Barefoot Bay can attend and give public comment; the budget when it is prepared each June is mailed out each June prior to the public hearing that is on the budget and assessment rate; and he reiterated it is done every year and adopted at public meetings by resolution. He went on to say the Statutes allow the authority of the District to collect the assessment on the tax roll; he believes the charge they receive for that is like two percent of the assessment from the Tax Collector for providing that service, so it is an extremely cost effective method of collection for the District; it allows the District to track the revenues and it ensures the District receives 95 percent of its budgeted and assessed Special Assessment for the year; prior to 2009 he believes they were well below that, but he does not have a specific figure for that; and he advised he is available for any questions the Board may have.

Commissioner Lober stated quite frankly with anything pertaining to either taxation districts or property issues that are essentially limited to one District, the Commissioner to that District is the one who is going to have to live with either the happiness or the ire of their constituents; and he asked if this is something Commissioner Tobia believes his constituents want because if it is he will support it.

Commissioner Tobia advised he has not done any polling on this one way or another; he appreciates the citizens who get involved and he certainly wants to serve his function of bringing issues from his constituents; what this comes down to is, on the tax bill the ad valorem is at the top and the non-ad valorem is on the bottom, and the ad valorem is the greater portion of the tax bill; for many folks in Barefoot Bay, the ad valorem represents less than five percent of their entire tax responsibility, when they receive tax bills in excess of \$1,000, three-quarters of that is made up from the Barefoot Bay Recreation District; the Tax Collector is responsible for collecting that; however, his office receives phone calls from people wondering why their taxes have gone up and he has no control over it, it is a budget process by the Barefoot Bay Recreation District. He added it is transparent and it is open to the public; it is pretty confusing to many of these folks out there when they receive their tax bill; the responsible thing to do is call the County Commissioner and ask; he is more than willing to sit down and explain it, but he believes there are many residents who do not call; and the Reverend was correct when he said this becomes an issue when people do not pay, liens get put on the property by the County, which is a little confusing. He went on to say whether or not Barefoot Bay Recreation District does it or not, they have the ability to do it, but the Statute is clear and it allows the County to divulge the collection of those resources back to the Barefoot Bay Recreational District; he did not think the County had that authority but the County Attorney's Office and his staff corrected him; however, this does require quite a bit of work so before burdening staff with that he wanted to find out if this is something the Board has an appetite for. He noted if he hears from the Board that they think they could support this with some more information, he would certainly move forward on this.

Commissioner Pritchett commented she thought this was more like the Tax Collector almost being a flow through agent; they collect it for them and they roll it back into Barefoot Bay;

April 9, 2019

Barefoot Bay is making their own assessments from their meeting which they have legally set up where they are allowed to tax their community; she guesses if it was taken off the bill, it would still be collected, it would just go back to being a monthly fee rather than a yearly process on the Tax Collector; and she inquired if the County Attorney agrees.

Eden Bentley, County Attorney, stated that is what is anticipated, there may be a route for them to go back on the bill.

Commissioner Pritchett stated she thought so because the City of Titusville did that with the stormwater; it used to be on the city water bill every month but they moved it over on the tax bill so it is one big bill at the end of the year; and she noted they had an easier time with collection.

Attorney Bentley advised it is the uniformed method of taxation for Special Assessments.

Commissioner Pritchett commented whatever Commissioner Tobia thinks his citizens would want to do; she thinks it may be a little more of a burden because they would have to make a monthly payment instead on one; she does not think it will affect anyone outside of Commissioner Tobia's District; and she thinks he should establish what he would like to do for his citizens.

Commissioner Tobia commented this just came to his attention recently; he has not had the time to do an active poll on the citizens of Barefoot Bay; if the Board was universally against this he would stop it here; that being said, if they put it as a monthly fee, they would understand more likely who they could petition for change, whether they wanted to spend more and receive better services or spend less; however, his office does receive a number of phone calls where they explain to people that Barefoot Bay Recreational District is merely a pass through, and they can see the trustees on that one. He added it is confusing when this uniform collection of taxes, when one office is collecting for various governing bodies; he generally does not vote for tax increases so when many of these citizens get bills that have gone up more than the CPI, it is very understandably confusing; and if he is hearing no objection he would commit to holding a town hall meeting.

Commissioner Pritchett commented she thinks Commissioner Tobia should do what he thinks is best for his community.

Commissioner Tobia stated not hearing an objection, he will start drafting something up; he will hold a town hall meeting and report back; it will certainly be publicly noticed if anyone else wants to come down; and he wants the Board to have as much information before there is a vote on this at a later juncture.

Commissioner Lober inquired if a motion is needed.

Attorney Bentley responded this is sufficient.

The Board discussed Barefoot Bay Recreation District Utilization of Uniform Tax Assessments, but took no formal action.

ITEM H.1., APPROVAL, RE: THIRD QUARTER SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2018-2019

Chair Isnardi called for public hearing for the approval of a third quarter supplemental budget for Fiscal Year 2018-2019.

April 9, 2019

Jill Hayes, Budget Office Director, stated the primary purpose for this budget supplement is to adjust the budget to balance forward for the funds and the dollars being brought forward from the prior Fiscal Year into Fiscal Year 2018-2019; of course the adopted budget includes an estimated balance forward and then the first several months of the Fiscal Year the County is accruing revenues and expenses; then there is a final balance forward; then they work with the Departments and the County Manager's Office to put together this budget supplement; and this budget supplement increases the current budget by just under \$17.9 million, or 1.36 percent from the current budget. She pointed out that is less than last year's budget supplement which was around \$35.6 million or just under three percent; she stated the Agenda Package summarizes the total change per fund and also includes each individual budget change request; and she would happy to answer any questions the Board may have.

There being no further comments or objections, the Board adopted Resolution No. 19-058, approving a Supplemental Budget for the Third Quarter of Fiscal Year 2018-2019; and approved the budget changes and such actions as are necessary to implement the adopted changes.

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

ITEM H.2., AMENDMENT, RE: BREVARD COUNTY CODE OF ORDINANCES TO BAN THE RETAIL SALE OF DOGS AND CATS AT PET STORES UNLESS THE PETS ARE OBTAINED FROM SPECIFIED SOURCES

Chair Isnardi called for public hearing for amendment to the Brevard County Code of Ordinances to ban the retail sale of dogs and cats at pet stores unless the pets are obtained from specified sources.

Commissioner Lober asked that Commissioner Pritchett discuss what she just handed out; and asked the Chair if the Board could take five minutes to process it.

Chair Isnardi agreed with Commissioner Lober.

Commissioner Pritchett stated she went through the ordinance; she has a couple things for conversation; and she noted she did a couple definition changes. She stated on page two, the second whereas where it says dogs and cats, she thinks it should be omitted or all animals be added.

Commissioner Lober stated his concern is there are animals without question that are not sentient, for example sea urchins do not have brains, amoebas are technically animals and he does not believe they have a sense of self-awareness; and the Board, in a prior Resolution, has already adopted, he believes, that exact verbiage with respect to the Senate Bill put forth by Senator Gruters in a prior Commission meeting.

Commissioner Pritchett pointed out she thinks there may be some unforeseen consequences down-the-road with that; and she asked that he think about that.

Commissioner Lober stated if Commissioner Pritchett wants he can just let he go through it, but he thinks maybe it would be better to discuss it as she goes through it. He continued with respect to that, he thinks it is just in the recital so there is no legal teeth with respect to that; and

April 9, 2019

he does not know that there would be any consequence to that because whether it is right or wrong it is not going to change anything.

Commissioner Pritchett stated she just thinks there has been a lot of passion with this, so she is trying to be very careful with the wording; on page three, from his information, she wanted to throw in there that the USDA also said that part of the drop is due to advanced enforcement; and she does not think that would hurt the context, but give a little more oversight to that one sentence.

Commissioner Lober agreed to that.

Commissioner Pritchett stated on page five, she does not think that could be regulated on the animal shelters, so she thought maybe that should be left out; she does not think they were trying to do that with them necessarily on this; and on the definition of breeder, she thinks that can be omitted all together because it was already identified to breeders, hobby and licensed commercial, so she does not feel this is relative any longer.

Commissioner Lober noted his concern with respect to the animal shelters and the rescue organizations, he knows the reason that was specifically included was there was a concern where folks would be basically posing as legitimate organizations trying to make money above and beyond what it would cost to maintain their activity and that is why that language was there; and he knows folks on both sides of the equation both requested that so he would ask that be considered for keeping.

Commissioner Pritchett commented she is good with that, she just thought it would be kind of hard to regulate those two items.

Commissioner Lober stated with respect to the ability to regulate, he is just going by what the Sheriff's Office told him they were able or unable to enforce; as far as striking the definition of breeder, he would refer to the County Attorney, Eden Bentley, on whether that would have consequences and if so what those consequences would be; and if it is not clear, even if it is referenced someplace else, he would leave it because if it is not referenced it may not do much of anything.

Commissioner Pritchett stated she thinks it would be better to remove it because she thinks the ordinance is a little wordy and this makes it a little more pinpointed.

Attorney Bentley advised she thinks the Board could go either way on it.

Commissioner Lober inquired if the County Attorney does not see any unforeseen consequences on taking that out.

Attorney Bentley commented not at this time.

Commissioner Lober stated based on that representation he will agree to strike that, but leave the first two.

Commissioner Pritchett stated on page six, she had some calls from the Kennel Associations who asked to add in after hobby breeders, "who sell to pet stores to ensure they are hobby breeders or a hobby breeder."

Commissioner Lober agreed to it.

Commissioner Pritchett stated at the end of that paragraph, this was in one of the copies she

April 9, 2019

has, she thinks the County Attorney put it in and removed it, but she thinks it is a fairly good statement, "nothing in this section is intended to create new inspection requirements insofar as the hobby breeders are concerned."

Commissioner Lober stated the copy Commissioner Pritchett sent the language was already in there because he sees it in the black text and in the hand written green portion.

Commissioner Pritchett advised it sure is.

Commissioner Lober stated he will disregard that one.

Commissioner Pritchett stated on page seven she thinks there are some things like retail sale should be for any animal that takes place at the same time or location, so she thought they could get rid of the wording like, 'limited to' and those items because retail is retail sale; on the licensed agricultural breeders, she went ahead and used the USDA definition because she does not think the number of puppies can be enforced; and she thinks four or more breeding females after they have four more females they are just a commercial breeder.

Commissioner Lober stated he has spoken with the Sheriff about this; they had the discussion about limiting to a specific number or the alternative to tie it to the number of breeding females, or the parents of the puppies or kittens; the concern is they could have an unlimited number of puppies and where would the line be drawn; it also goes back and ties into the offset and picks up where hobby breeder left off going up to 48 and carries it over; and he would not care if the remainder of the ordinance were drafted that way, and the Sheriff thought he could enforce it that way more easily, but his impression from conversations he has had with him is such that it may be more difficult for him to enforce, not impossible, but more difficult. He added he knows what she is trying to do and it makes sense, but there is nothing in his estimation that precludes them, they are doing exactly that with hobby breeder, for instance, with using a different definition than the USDA uses solely for the purposes of this ordinance; the USDA definition of hobby breeder is night and day different from this definition; and in that sense there is not onus for this to tie into that.

Commissioner Pritchett just does not know if it can be enforced outside of that licensing if they do not go with their definition; and she asked him to think about that for a few minutes.

Commissioner Lober agreed to take a look at it.

Commissioner Pritchett pointed out on the very bottom part, she did some research and there are some different degrees of violations, so she thinks this needs to be changed to 'if they have lost their license'; she thinks that way it can be found; there could be very small violations or violations that are severe enough that the breeder loses their license.

Commissioner Lober stated he has to view that as a critical issue; if there is something that is truly trivial, he trusts Brevard County Sheriff's Office (BCSO), and by extension the State Attorney's Office, to use prosecutorial discretion and police discretion whether or not to enforce something that may be truly trivial; he does not think he is looking for folks who have some paperwork snafu, but he thinks when they go parsing through that there is going to be problems real quickly in terms of trying to include what they want and excluding what they want; and it was shown in his slide show that there are some horrendous activity that does not result in people being shut down so essentially if the Board were to do that, he thinks that would ruin the effect of the ordinance totally.

Commissioner Pritchett stated if it is left in as a violation of law she does not think she can do that; she works in a big church facility and the Fire Department will come along and hand out

April 9, 2019

violations, but it is not enough to shut them down, nor should it be; and since the Board has not determined degrees of violations, and it is going with USDA licensing, she thinks the only other way to do it is if they have done something and lost their license, which loses their privilege of selling to pet stores. She thinks just resting upon what they do and knowing they will pull a license is severe enough; she may be able to negotiate more months on that, but it is going to have to be if they have done something severe enough to have lost their license with the USDA, because they do pull them at times.

Commissioner Lober stated if that is where Commissioner Pritchett is at the ordinance is going to fail because that is one he will not budge on.

Commissioner Pritchett noted then there may be a real problem. She continued on page nine, they put the itemized fee for the adoptions, she thinks that could go out because it was in there when the Board was considering the monopoly situation without having licensed commercial breeders; she is still not sure if item f is necessary, so maybe they could make a decision on that; and G.1 instead of 'any pet store found to be in violation', she changed it to all found in violation of this section.

Commissioner Lober stated that is fine. He noted the only thing he can say with respect to the item on page eight is, aside from what he has already mentioned with respect to having prosecutorial and police discretion, it has to go through both of those, BCSO has to make an arrest and then after that intake, the State Attorney's Office has the discretion to file or not to file, so if it is because someone did not pay their light bill, that is not realistically ever going to be filed on; and if Commissioner Pritchett wants to limit it to laws or requirements pertaining to animal welfare that is fine, but beyond that he does not see watering it down anymore.

Commissioner Pritchett stated she is not sure she sees it that way with him; she thinks it is going to have to say violation with a degree and she has not found those; the only thing she could find to make the difference between the two is if they have done something that severe, they get their license taken away; she does not know how else to do this because there are so many minor violations; and to say that someone has had just a few minor violations, she does not agree with that.

Commissioner Lober noted he understands where Commissioner Pritchett is coming from, but with what has already been seen and what has already been presented, what it takes to have a license yanked is so far above and beyond what any ordinary pet owner or pet purchaser would be inclined to tolerate; essentially this is not regulating anything if it says that because if their license is yanked and they cannot sell why would they be regulated; and this 11-page ordinance would essentially be worthless.

Commissioner Pritchett stated she does not know about that; there are still some good points in it with the pet stores putting up where they got their animals; they are proving now that they received them from a USDA licensed pet store with the names and the breeds; she thinks there are still some good things in there; and she is just uncomfortable putting out an ordinance or writing a law that just has some areas with very bad consequences.

Commissioner Lober stated he thinks the compromise, if there is one, is the laws pertaining to animal welfare and treatment of animals so if it is something that rises to a level of there being a violation based on animal welfare that is what he is looking to shut down; the one store has indicated that he does not buy from any breeders with USDA violations; there was no discussion as to severity or level or anything of that sort; and he is just asking to hold him to his word.

Commissioner Pritchett stated she knows she has a different personality and there are lots of emotions, she tries to put them aside while doing this; she is trying to just think of the best and

April 9, 2019

worst case scenarios; and she thinks that could set them up without a definition. She noted if Commissioner Lober came back with a definition of degrees of violations maybe that would help her, this is just too ambiguous for just any violation.

Commissioner Lober inquired what the absolute minimum would be for Commissioner Pritchett.

Commissioner Pritchett commented she does not know; she tried to research different degrees of violations and she just could not find any; she did see where they do pull licenses from breeders if they are not abiding by what they should be doing; and that is why she was comfortable putting back in the licensed commercial breeder because there is at least some oversight and regulation. She continued she knows some people have bad thoughts with the USDA stuff, but some people have some very good thoughts with it too; she does not know if she is in a position where she can form that type of opinion whether to throw it all out or not; and as of right now she does not even think it can be enforced otherwise.

Commissioner Lober inquired if the County Attorney thought it could be enforceable.

Attorney Bentley stated she does believe it is enforceable as written.

Commissioner Lober asked Sheriff Ivey if he thought he could enforce it.

Commissioner Pritchett inquired what the degrees of violations are; she noted they have not been determined yet; they are not in the ordinance and she does not know who will set up the standard; and she does not even know who is qualified to do that.

Commissioner Lober pointed out there are none; it is up to the Sheriff to arrest someone for violating this; and if he does choose to do that, it goes to the State Attorney's Office.

Commissioner Pritchett interjected that she does trust the Sheriff, and she asked what if he is no longer the Sheriff.

Sheriff Wayne Ivey, BCSO, stated he can see both sides; he knows both Commissioner Lober and Commissioner Pritchett are strong on wanting to see the impact of this; to the side of whether this can be enforced, he believes it is enforceable as written; he sees where perhaps, maybe something can be added such as multiple violations or something of that nature; someone who is violating it are going to be caught by BCSO, that is the bottom line; and he reiterated he does believe it is enforceable where it stands right now.

Commission Pritchett advised the part she is talking about right now is where they get the puppies from and how they can buy them from a licensed commercial breeder; the problem is they do not know what violations these breeders have, but they can determine if they have had their license revoked; and this is just a different part of what she is trying to get set up for when they are buying the puppies from out of state. She noted it is hard to find online where any state puts their violations out there.

Sheriff Ivey mentioned his team whenever looking at something of that magnitude they will investigate it thoroughly by calling up on their partners in other parts of the country to help with it; he thinks what has to be looked at is what can the County do at this point to accomplish what was said at the beginning of this; looking at the language of this and how it is written, he thinks it is there from an enforcement standpoint; and when looking at what BCSO does every day, discretion is a part of that. He added one thing he tells people in every realm is that he would never take away officer discretion in the things they do; and he believes people have to rely on those officers to look at what has been leading up to something and see it from a big picture point of view not just a single isolated incident.

April 9, 2019

Commissioner Lober commented he knows Sheriff Ivey does not have any hypersensitive deputies that work for him, but hypothetically if he did and they wanted to cuff someone for violating some trivial law, is that the be all, end all or does it have to go to the State Attorney and the intake process and even if it is a misdemeanor it would still have to go to a trial attorney; that trial attorney has the ability to not charge or dismiss the charges; and he inquired if it has to go through several hands before it makes it to the point where it would impact someone.

Sheriff Ivey responded affirmatively.

Commissioner Lober clarified there is prosecutorial discretion in addition to law enforcement discretion.

Sheriff Ivey agreed with him.

Commissioner Pritchett noted this was written that anybody who has a documented violation, period; if someone left a wet towel in the corner and gets inspected, they could receive a violation for the wet towel in the corner; this does not have the degrees of violations here; she thinks that is a problem with what is written; if there were degrees of violations, which she could not find, she thinks this causes more harm than if there were violations where they lose their license; and that is some comfort to her, that this will shut down those ones because the violations were bad enough to do it. She reiterated her thing is she does not know the degrees of violations; and she explained, at the church she may have piggy-backed some extension cords and received a violation or she could have done something severe and the severe ones cause more problems, but they are still both violations.

Commissioner Lober repeated he would be happy to change it to say violations pertaining to any law or regulation pertaining in any way to animal welfare; and electrical cords would have nothing to do with it.

Commissioner Pritchett stated she is not talking about fire right now, they are talking about puppies; she does not know what that encompasses; and she mentioned she does not know the definition of that and what that means either.

Sheriff Ivey stated he assumes there are people who want to speak; he asked if the Board could give him a few minutes to get with his team and look at that aspect of the ordinance; and he commented he would then come back up.

* The Board recessed at 6:51 p.m. and reconvened at 7:07 p.m.

Commissioner Lober commented he does not know if the Board should just have Sheriff Ivey come back up real quick to determine what language he may propose.

Commissioner Pritchett stated she thinks she came up with an idea; she thinks the Board can work out the definition things; right now she would like to put this in and bring it back in six months, after the Sheriff and staff get together and come up with some levels of violations.

Commissioner Lober noted he is okay with that, he just wants to let the option known of what he and the Sheriff had discussed during the break.

Sheriff Ivey agreed. He stated to her point, BCSO would be happy to work with staff and come up with levels of violations in that regard; what he kicked around for language is, 'any violation of an applicable law, Ordinance, Statute, or administrative regulation that is reasonably deemed by the investigating agency to put animals' health or wellbeing at risk.'

April 9, 2019

Commissioner Pritchett stated that is probably like some of the stuff they will come back with; this can be passed because of the time limit; that will give time for the research to come back; and she thinks that is going to be a really important part of this.

Sheriff Ivey noted he is totally receptive to that; and his team will work very well with the attorney to put that together.

Commissioner Lober stated if it is anything along those lines he will support it whether it is now or in six months.

Commissioner Pritchett stated then they can figure out what causes harm and what is just minor things.

Commissioner Lober inquired if they went through all the changes that Commissioner Pritchett proposed.

Chair Isnardi advised page eight, item two was missed.

Commissioner Pritchett commented she just wanted to know if it was necessary because she thought it was wordy, but it can be left in there.

Commissioner Lober stated he would refer that to the County Attorney.

Attorney Bentley stated that would be up to the Board.

Commissioner Lober asked if there are any ramifications if it was taken out.

Attorney Bentley replied negatively.

Commissioner Lober noted he has no problem taking that out.

Commissioner Pritchett asked if Commissioner Lober has the ones on page nine where the italicized can come out now because she does not think it is necessary; and she is not sure 'f' is necessary at this point because they have just defined pet stores and they have to have a license to sell animals, but it can be left in there if Commissioner Lober wants it.

Commissioner Lober stated he would rather leave it under an abundance of caution, even though it does not seem to hurt anything; and he inquired what the County Attorney's thought was on it.

Attorney Bentley stated if there is any concern about retail sales in any location, this would need to stay in there.

Commissioner Pritchett inquired if they have to have a license to do retail sales.

Commissioner Lober inquired if she means a license in terms of a business tax receipt.

Commissioner Pritchett commented to sell in a public place; and she thinks people have to have a license to open a business and sell.

Chair Isnardi responded she does not think that is the case at a flea market.

Commissioner Lober stated he does not know one way or the other, but this should cover it either way.

April 9, 2019

Commissioner Pritchett stated 1.g.1 she thinks it should say, 'all found to be in violation of this section.'

Commissioner Lober agreed to that.

Commissioner Pritchett noted she thinks that is all she had, the others are just definitions.

Commissioner Lober commented he had one but was kind of afraid to propose any change; his is relatively trivial to clarify something; he thinks it reads this way anyhow, but to avoid some ambiguity it was brought up to him, page eight on both versions, c (1) between the words 'obtained' and 'from' he wanted to insert the word 'directly'; he already ran it past the County Attorney and it will not require re-advertisement or anything of that nature; he explained his concern with it is he does not want anyone to say the dog originated there but he received it from someone else, but that does not count because he got it from someone else; and he thinks that prohibits people from playing games to weasel around the regulation.

Commissioner Pritchett agreed.

Commissioner Smith asked what the issue was that Commissioner Lober took exception to that Commissioner Pritchett wanted to change.

Commissioner Lober advised it was limiting the commercial breeder or USDA licensed breeder only if they have lost their license; and in essence if they lose their license they cannot sell anyways so that would not regulate anything, at that point.

Commissioner Smith inquired if that had been resolved.

Commissioner Pritchett commented she is fine as long as they get the definitions of the violations. She noted she had some heartburn over the minor violations.

Commissioner Lober stated anyone can pull the record, the minutes, or the video and use it against him if he changes his tune down-the-road; what he is looking for, flat out, is the health and well-being of the animals; if it does not affect the health or well-being of an animal then he does not care for the purposes of this ordinance; if it does then he cares a lot; he does not want to draw a line where to say, if it is just one broken leg that does not rise to the level, there needs to be three or more broken bones; and that is what he is trying to avoid.

Commissioner Pritchett stated she knows that; she also knows when law is written not very well it can be abused or ignored; and she believes when the degrees of violations are defined it will be better.

Commissioner Lober pointed out since there is a 12-month grace period, and that the Board may want to come back in 18 months instead of six because he thinks nothing will happen for the first 12 months.

Commissioner Pritchett reminded him except for defining the violations.

Commissioner Lober noted he understands Commissioner Pritchett wants to do that prior to it and he agreed with the six months' time frame.

Bill Jacobson stated he has watched a number of pet stores open and close during his 22 years in business; it is called free-market enterprise; he trusts that most of the Commissioners appreciate the significance of that; this is a tough business and those that do not do things right are going to fail; and he mentioned current regulations and market conditions appear to work

pretty well, as they are. He added he often refers people to shelters, and he has no problem with people going to rescues, breed specific shelters, etcetera even though they are unregulated and not bound by the Florida Lemon Law, which essentially is 14-day pre-existing condition, or one-year debilitating hereditary defect, it is not lifetime insurance, he wishes it was; and he wishes he could guarantee health, but all he can do is his heartfelt best to guarantee health risks. He continued it is called freedom of choice, imagine having freedom of choice of where someone can purchase their puppy in the United States of America. He mentioned at 71 years of age, he does not know about the ordinance today but the prior ordinance would have forced him out of business after 22 years; six employees would lose their jobs, and the County would lose the tax revenue while enhancing opportunities for the unregulated market as is happening in other parts of the country; and he suggested the Board move on to County development projects and to stop this, either pass the ordinance or leave no restrictive ordinance. He noted with that, his business, his family, especially his son whom he planned to turn his business over to someday, and the employees' jobs are in the Board's hands.

Pam LaSalle stated she believes there are Florida Statutes that take care of animal welfare and she believes that is how the Sheriff could go in and examine the pet stores to start with; basically, she has the same position now that she had three months ago, this is the USDA's responsibility and the Board should let the USDA do what they do; there is no way there is going to be regulatory authority where the Sheriff can go to Ohio to stop bad dog breeders; she thinks people need to appreciate their organization of government and if citizens of the County are upset with the performance of a federal agency, perhaps the Board could reach out to the federal agencies and maybe the congressman and do something through them; and she noted she believes this is not the Board's purview. She added what goes on outside of this County is not the responsibility of this government; she wishes the Board would reconsider this; she believes what is being passed has so many unintended consequences; the Board goes on and on about all these minor violations; she explained a restaurant she eats at had some minor violations and they were closed down for a few hours, but now they are back in business and people can eat there again; and she is just saying she thinks there are a lot of unintended consequences. She mentioned there have been so many changes that she does not really know what the Board has come up with tonight; she knows the part where people can meet in the public to sell and the restrictions on that; she thinks there may be some issues there with public safety that people may not have contemplated; she would implore the Board to let the respective government have their control over these issues; and she noted the reason USDA has it is because it is an Interstate Commerce issue, not a Brevard County issue.

Commissioner Lober commented with respect to reaching out to USDA, if he believed there was a chance of that accomplishing anything he would be more than happy to do so, but he did reach out to them months ago with a Freedom of Information Act request; he called, they said to write to them, so he wrote to them, and he still does not have a response; that is why the Board is acting because USDA is not doing what they need to do; as far as Interstate Commerce, if this impacts Interstate Commerce then so does Chapter 828 of Florida Statutes because that regulates the welfare of animals, animal cruelty, and things of that nature; that has been on the books for years and years; and he noted this is no more of an impact on Interstate Commerce than 828 of the Florida Statutes, and that is certainly constitutional.

Diana Webb stated she came to support a total ban of retail sale of mill-bred puppies and kittens; hundreds of constituents not only believe this is going to be effective for not only the animals here in Brevard County but animals across the country in other states that are subjected to suffering due to horrific conditions; originally she came to speak about real statistics, the abysmal treatment of innocent animals, the countless complaints from local residents about their newly acquired family pet that they have gone through pain and anguish and countless thousands of dollars trying to save them from a lifelong life of misery or death all because they purchased their animal from a local business; and after giving it some thought she

decided she really did not want to speak about the ban, the Board has already been provided by its constituents and experts the factual information. She added the Board has been shown factual polling pictures of where animals come from and provided opinions by many voters on how important this subject is to them; now it is time for the Board, the appropriate officials, to make the ethical decisions its constituents requested; this Board was placed on the dais by the voters of Brevard County to make decisions and facilitate laws to benefit this community; most importantly this Board was put in place to do the will of the people; hundreds of voters have written to the Board members, called them, and contacted them on social media in support of a complete ban on retail sales of puppies and kittens, not some loophole filled agenda that is being served up here to the community; the current ban does not to support the will of the people, they want a ban that will actually stop the sale of these puppies and kittens; and she advised the Board is sitting up there not to cast personal opinions or disparage against the voters, but to do the will of the people. She commented the people have spoken loudly and overwhelmingly on this ban. She went on to say the voters have begged the Board, they have respectfully asked the Board, cajoled, pleaded, and it has gotten them nowhere; now they are coming before the Board to mandate that it follow the wishes of the taxpayers and the voters that put the Board Members in the position they are in, and paid for by these people; now is the time to step up, do what is right, do the job each of the Board Members were appointed to do, because everyone has seen what not doing the right thing has done in this County looking at the Lagoon and Lake Okeechobee; and she stated she is asking the Board to go back with this ban and revise it to reflect what the constituents and the taxpayers of this County have repeatedly asked for, and to do the honorable and ethical thing.

Michelle Chapman stated she is in attendance because her love of animals exceeds the County she lives in; she thanked Commissioner Lober, the County Attorney, and Sheriff Ivey and his staff for all the work they have done on the ordinance; having said that, she no longer supports this ordinance because the current language has moved too far from the original content; she has struggled with whether a weak ordinance is better than no ordinance at all, but her own experience as the owner of a puppy mill breeder dog compels her to ask the Board not to pass this ordinance in its current form; the current language of the ordinance will continue to allow puppy mills to supply their puppies to pet stores as they always have; and she asked the Board to understand that USDA licensed commercial breeders are puppy mills. She continued by allowing retail stores to source from commercial licensed breeders, aka puppy mills, puppy mill puppies will continue to be sold to the public through Brevard County pet stores; to suggest that there are varying degrees of violations to her means there are varying degrees of child abuse; she asked if someone should wait until the parental rights are terminated or should people step in and do something before it is too late; these animals are living in substandard conditions, which are approved by the USDA; and she noted these animals spend their lives in wire cages, and in some cases they never see the sky and never get any exercise. She added this is not acceptable and she cannot see the issue with this. She stated contrary to what others have suggested, 62 communities in the State have approved similar bans; the people have spoken and they want this; and she asked the Board to adopt the ban as originally proposed.

Barbara Gorin stated she is not in agreement with everything people are saying; she thinks if the rules and regulations are in place and there is a violation, then it needs to be taken care of; the animals need to be taken care of properly; she thinks this needs to go away, and the Board should just put in the regulations because this is getting out of hand; and puppy mills are supposed to be outlawed but they are not, they get recycled. She explained the puppies they cannot get rid of get recycled and go to a different group; if that group cannot get rid of them then they recycle them to a different group; and then they go to shelters and the shelters sell them for whatever amount of money they can get out of them. She stated she thinks this is just so monumental and that this is not something the Board needs to dig into here; and she feels this is going way out of the realm of taking care of one business.

April 9, 2019

Commissioner Lober pointed out one of the items the Board was discussing prior to going to public comment, pertaining to both animal rescue groups and animal shelters, there is language dealing with both of them that essentially says that while they are entitled to seek adoption fees to offset cost incurred for rehabilitating and caring for the animals, they are not otherwise entitled to seek to profit from the sales; therefore, he thinks there is a lot of misunderstanding about the shelters.

Ms. Gorin stated that is not true according to what she was reading; Humane Society of the United States (HSUS), People for the Ethical Treatment of Animals (PETA), and other different organizations, stated how puppy mills, when they do not get rid of the dogs, go through two other organizations and end up selling back to the original organization, who then give them to the shelters for a minimal amount of money; and the shelters can sell them for triple the amount.

Commissioner Lober advised that may happen permissibly at other localities but with the way this was drafted it is not permissible in Brevard County, or it will not be when this is put in place.

Ms. Gorin responded she is just saying that is what she read; and she stated this is getting out of hand.

Commissioner Lober stated he has received a lot of emails, not just with that but with other contentions that have been spread around where he believes there have been some misunderstandings with a lot of the aspects of this and what it would actually prevent and not prevent; when he started this process he originally drafted a more restrictive ordinance and essentially what took place whittled it down to something where now a retail pet store, if this were to be adopted, could get dogs from either rescue organizations, shelters, hobby breeders which is very broadly defined with up to 48 puppies per year, and over and above that, they can also get them from licensed USDA facilities provided they do not have violations within the preceding 48 months. He continued the one gentleman who originally came up, even in *Florida TODAY*, they noted an opinion piece published that he does not source from breeders that have violations; when that was demonstrated objectively beyond any ability of anyone to refute, that is not the case; essentially the fact now that the individual is still opposing it is showing people what is really being opposed is that he wants to, or the industry wants to essentially continue to be allowed to source from USDA licensed breeders that have violations; and to him he does not see this as prohibiting anyone from getting a dog from any organization or by and large with rare exception, any entity that is doing the right thing. He stated there may be some peculiar extenuating exception to it, but everything he has heard has failed to point out what an extenuating exception might be to preclude him or anyone else for that matter from buying a dog from essentially anywhere they want, provided it is not from someplace specifically disallowed. He stated he thinks the contention that has been spread is one that while restricted to these certain areas, people are failing to recognize the way it is presently drafted and the way it left the last time it came before the Commission; it included not just hobby breeders with a very expansive definition, but also the USDA licensed breeders provided they do not have violations, they can sell them at will; pet stores can get puppies from commercial breeders that have a 1,000 puppies that they are raising; the questions goes specific for the welfare of the animals, it is not one where the Board is trying to play games with impacting a legitimate business, but this is an industry that has proved over a very long time that it will not self-police or self-regulate just like the Sheriff said; just because it is a regulation does not mean it is bad, essentially everything that is a law is a regulation; the fact that something is a regulation just means it is a law; and he thinks a lot of folks came with a mistaken impression in terms of the contents of what is being proposed.

Rosa Bennett stated she would like to thank the Commissioners for even taking on this issue; she thinks what the Board has done is created an ordinance that will assist Sheriff Ivey and protect the welfare of animals better than it did before; that being said, she also believes there

April 9, 2019

should be a ban on hobby breeders; hobby breeders is just another way of saying puppy mills, at least in her opinion; and if 48 puppies are allowed from a hobby breeder that is way too much as one litter could be as much as 12 or 13 puppies, why not contain it to one litter, or restrict it much more than what it is. She went on if the Board is going to leave hobby breeders in this amendment, she would ask the Board to limit it to a reasonable number.

Glenda Stephenson stated she is the American Kennel Club delegate for Space Coast Kennel Club of Palm Bay; she is a licensed AKC judge; she travels all over the world showing dogs and judging dog shows; she finds exception to hobby breeders or a person like herself being called puppy mills, she is not; their job as breeders is to ensure the betterment of their breed to make sure their dogs are free from inherited diseases; and they find homes for their dogs that will keep their dogs forever. She went on to say and if they cannot keep their dog, she always asks them to please bring it back to her; when it comes to this ordinance she finds two exceptions; she does not like the term that is being used in that preamble section of it, referring to the HSUS; this is a non-profit organization that is not a government entity and in her opinion they are not an expert in anything that has to do with animal welfare; with that being said, she does believe that the ordinance has some benefits but it needs to be completely overworked; and she believes there is nothing in this ordinance that is going to protect a hobby breeder or make sure someone will not be banging on her door because she advertised her dog on Craigslist. She noted the minute she takes money from someone that is a retail sale; and people need to stop and think about what they are doing. She went on to say this ordinance needs to go away and let everything go back to the way it was; and it will be regulated by the ordinances that are already on the books.

Commissioner Lober stated he thinks, not just in this recent revision but in the prior revision, the regulations pertaining to hobby breeders only applies to the hobby breeders who sell to retail stores; in terms of protecting them, there is no regulation what so ever for hobby breeders who do not sell to retail stores; he understands the vast majority if not all the kennel clubs have it in their Code that it prohibits their members from selling to retail stores in the first place; and he noted he still has yet to hear from anyone from the AKC or otherwise what the specific concerns are insofar as there being some potential harm to them.

Commissioner Pritchett pointed out they added specifically the retail sale for hobby breeders on purpose, so it would not touch breeders such as Ms. Stephenson; she thinks Ms. Stephenson will find that nothing she is doing has changed unless she decides to sell to a pet store; and she feels Ms. Stephenson is pretty protected with this.

Andrea Shackles stated she had attended a previous meeting to talk about her little dog Savannah who she purchased from Puppies Plus in the mall in December 2010; she is a puppy mill dog and all she does is go in circles; she took her to the veterinarian and was told all she can do is medicate her and she would sleep 18 - 20 hours a day; she decided no medication, so they just deal with her going in circles; she has no regrets getting her; however, this is no life for a dog, but it is all she knows. She added she is the most lovable dog ever. She continued people like certain breeds; she likes Golden Retrievers and has had them all of her life; she thinks people should go to reputable Golden Retriever breeders to purchase them; she has gotten a Golden Retriever off of Craigslist that she rescued, and one from a reputable breeder in New York; she investigated and inspected the place, and there was nothing wrong; however, there are so many breeds out there in the shelters. She mentioned two weeks ago in Hillsborough County their shelter was overloaded with dogs; she does not know why they are over here in Brevard County protesting what this County is trying to do, when they themselves have shelters that were overloaded and giving away dogs for no adoption fees; she asked why they are not trying to promote those dogs to homes and try to rescue them; and she noted they do not even vote in this County and have no rights in the County. She stated as far as Puppies Plus in the mall, she had been there after she got Savannah and inspected as a potential buyer,

April 9, 2019

and she would never send anybody there; the dog crates are filthy, and very small; she was never told exactly where Savannah came from, they never gave her papers, and all they told her was she was AKC; she advised she is totally against this proposal because it does not protect the dogs; and she believes hobby breeders are a joke and that they are only in it for the money.

Greg Shackles stated he is amazed this is back again and the Board cannot agree; he can see that Commissioner Lober is still not comfortable with this; and he voted for Commissioner Isnardi and he knows where she sits on this. He continued this is just not working; he showed a report of a place that was closed down and the report has the names redacted so when putting in a request, nobody would be able to find the information; he does not know how people would be able to do research on a place where all the information available is redacted; and to him it just does not make sense. He noted he is against this ban totally; he asked how many people in the audience are against this ordinance; and he identified them all as voters who voted the Board Members into office. He went on to say as for the people from Hillsborough, here is the newspaper article, so go back home; he is aggravated; as far as Puppies Plus, it is not accredited with the Better Business Bureau (BBB); and he commented Yelp shows a two out of five, Google shows a 2.9 out of five, and it fits exactly with the puppy he got from the same place. He read an email between Michelle Lazaro and Commissioner Lober, "The short answer to this is that I am confident that even in its present form it will put a significant hurdle in Jacobson's ability to continue sourcing in the manner which he has"; basically the Board is writing a law to push an expectant to fail, where he has already failed, and Commissioner Lober has proven it; it is a dirty business and he asked what is it protecting; and in the short of it, he is against it and he thinks it either needs rewritten or to not be done at all.

Commissioner Tobia inquired if Mr. Shackles bought his puppy from Puppies Plus, and he inquired what the Yelp and Google reviews were.

Mr. Shackles responded in the affirmative and repeated the reviews.

Commissioner Tobia inquired why he had bought a puppy from a place with such low reviews.

Mr. Shackles advised these were recent reviews and he bought the puppy eight years ago.

Commissioner Tobia pointed out Google was around eight years ago.

Mr. Shackles stated he does not know what it was then, he is talking about an ordinance going in now and about one pet store.

Commissioner Tobia stated just to be clear is it his intent for the Board to vote against the ordinance.

Mr. Shackles responded yes as it is in place right now.

Thad Reep stated he is not here in favor of puppy mills; he is not here to try and put down a business; he is more worried about the overreach that is taking place; in the summary explanation it says the Board finds prohibiting the retail sale of dogs and cats in stores throughout the County to promote community awareness of the plight of animals and puppy mills; if that is the goal all anyone has to do is turn on the television because there are fifteen ads a day showing an animal suffering; and he does not think the Board is going to get there just by restricting. He continued another part is where the Board is saying 48 dogs, so 49 dogs a person is no longer a hobby breeder; the size of the dog determines the size of the litter; if someone has Great Danes and there are three litters, that 48 cap can be busted; he inquired what do these breeders do with that extra dog; he mentioned he thinks there are problems with

April 9, 2019

the wording in this; and he thinks something is happening here where the Board should be looking at getting regulations on puppy mills and not try to dictate where people pick their family members. He added he has family members that are pets and he does not want someone telling him it has to come from a rescue, or that the animal is going to be better because it came from a rescue, because he does not know that animal's history either; it is buyer beware, people should do their research, they should get their animals from reputable breeders, but if the Board is going to determine that it can only be sold through a retail store out of a rescue then there will be other problems such as small dogs; all that is left is pit mixes in the animal shelters; and for people who live in HOA's, there is a 20-pound restriction on animals. He went on to say he thinks the Board should allow people to choose their own pets; let them do their own due diligence and not regulate who can get what from where; he is also not in favor of anything that is cruel to animals; he just feels this is a little too far reaching; and he thinks the Board needs to work on it a little more.

Commissioner Lober inquired if he was in the room a few minutes ago when he spoke to Ms. Gorin.

Mr. Reep advised he was there.

Commissioner Lober stated he mentioned or implied it in his comments that essentially pet stores can only sell from rescues.

Mr. Reep advised it says in the wording that it has to be through rescues, at least in the one he was reading.

Commissioner Lober asked if Mr. Reep recalls him mentioning that they can be sourced from rescues, shelters, hobby breeders which are very broadly defined, and USDA licensed breeders with no violations; he thinks that is a far cry from only sourcing from rescues; and he asked if Mr. Reep agrees.

Mr. Reep stated he promotes that pet shops locally should be.

Commissioner Pritchett interjected that was removed.

Mr. Reep asked if it is totally out of it, and he stated he still cannot figure out what to do with the 49th puppy.

Commissioner Lober stated in terms of regulating the puppy mills, if Mr. Reep can tell him how to regulate out of state puppy mills and be enforceable, he will scrap this whole thing right now, just tell him how to do it.

Mr. Reep noted he does not have that answer; he does not think what the Board is doing gives the community that answer either; he thinks it is just restricting the citizens here; and it does not close down that puppy mill.

Commissioner Lober asked in what way it restricts the citizens here.

Mr. Reep stated because now the Board is telling the citizens what they can get and where.

Commissioner Lober inquired if Mr. Reep would rather get them from organizations with numerous violations.

Mr. Reep commented he is not seeking that; he is saying that the Board is determining who can do business and who can do commerce.

April 9, 2019

Chair Isnardi advised the two are probably not going to agree and this is not productive so move on.

Commissioner Lober stated okay he will agree to disagree.

Daniel Willemin stated he noticed there were some changes from the original; he feels like this ordinance is losing its teeth with the USDA inclusion; he has learned through the course of the meeting tonight that there is a stipulation that there be no violations; he is very happy about that; there were 17 pages of USDA violations from this breeder, where Mr. Jacobson got Bufford; and that is unacceptable as no dog should have to go through that having multiple violations over and over again before the license is pulled. He added he thinks there needs to be some language requiring due diligence, requiring the pet store owners to inspect places; and he noted he understands it is not feasible to fly out to these places, but this is the 21st Century and he offered a suggestion. He suggested, with everyone having a smart phone these days, or Facebook, Facebook Messenger supports live video; he asked how hard would it be to get on the phone with the breeder and ask them to get on Facebook Messenger and show them around; there does need to be some due diligence and he feels that should be a requirement; and he noted these animals are living creatures with beating hearts, they are not ordering parts from a catalog. He inquired how many pages of violations does one have to see before they get their license pulled; he is in support of this the way it is written right now because it seems that if there is a violation, they will not be able to source their puppies from that breeder; and he believes that is good because he does not think anyone should have to go through what he went through and no other dog should go through what Bufford went through.

Commissioner Lober inquired with respect to Facebook Live, Face Time, Skype, or anything equivalent, if that is something that could potentially be done because he has not considered that in the past; with tonight's ordinance it is more important for him to get it passed, knowing that it will be revisited; and he noted he does not have a problem looking into seeing if that is an option, he just does not know offhand.

Attorney Bentley responded she thinks that may need to come back at a later date because the ordinance previously did not contain that requirement which makes it a new requirement.

Commissioner Lober stated his thought is to buy while the offer is on the table and come back.

Mr. Willemin stated that could be included in a future amendment.

Commissioner Lober stated he promises to look into it and if it is possible the Board will certainly have the discussion; if for some reason it is unenforceable or otherwise problematic, the Board will not, but if there is some way to implement it, he will certainly look into it; and he will see if it is something the Board has a feel for. He went on to say he knows the discussion the Board had earlier did involve some talk about visiting breeders but the out of state ones are tough; and he reiterated the promise to look into it.

Theresa Clifton stated she is the Executive Director of the Brevard Humane Society; she was not happy how things took place this evening; this has to start somewhere and there has to be a foundation somehow; there has to be compromise because nobody is going to be happy with everything; it does make her happy that Brevard County will have something; and she feels the pet retail business is a dirty one. She continued this has to start somewhere; in a community where there is only one pet store in operation right now; she inquired what happens if the County gets two, four, or 10, because unfortunately that does happen; she noted most people do not open an animal shelter to make money; the Humane Society started in 1952 and it struggles annually, monthly; the money they receive from the adoption fees does not even cover the cost of how they take care them; and they are vetted, spayed or neutered, and well taken

April 9, 2019

care of; and they are regulated in a number of ways. She mentioned she does not have time to go into that right now but anyone is welcome to come to the facility and walk through any area at any time they are open; they will take animals in as best they can to help out; she is very proud to be part of this community; and this makes her happy to have the Board spending all of this time and carefully going over it. She noted the Humane Society is supportive of this because it is a foundation and something to get it started; since the Board started talking about this months ago, her adoption rates are up; she is finding homes for a lot of animals; she thanked the Board for making awareness in the community; and she thinks the sooner people understand that animals shelters are not full of just pits and pit mixes, they get some of the most beautiful animals, people just need to come see them to adopt. She added if there is something wrong with an animal that they adopt out, they will take them back and take care of them as best they can, as would any animal shelter. She stated she cannot speak for all of them but the Sheriff has been a wonderful example of that as has the SPCA; and she hopes this does pass because it is a start in the right direction.

Alexandria Julian mentioned it was discussed earlier that the business owner could be potentially arrested over the ordinance as being proposed; she has two questions to follow up with that; if this occurred then the business owners name would be drug through the mud and at that point the whistle cannot be unblown, so she feels they should try to prevent that from happening; and she inquired who would be paying the legal fees afterwards. She mentioned violations fall under two categories, direct and indirect; for example a direct violation is something that could hurt the dogs quality of life versus indirect which maybe there was a collar missing or a trash can left open; the definitions are in the USDA handbook so there is a way to identify which is which; a potential compromise to what the Board was saying would be maybe no direct violations in the last two years; and there is something in the Hillsborough County ordinance that says no more than four indirect in a 24-month period and no directs at all. She went on to explain four years would insinuate that a breeder could not improve if they had a violation four years ago or if a breeder sold their kennel and a new breeder got inspected, this breeder may be better than the last or whatever, that is why she thinks two years is a better number; she inquired what about new breeders who come into business, would they have to wait four years before they can source their animals to a pet store; she does not think there would be any issue with saying that there could not be any type of violations in the last two years; and she inquired if this is going to come back in six months can there be representatives from all parts of the industry, such as rescues, shelters, pet store owners, AKC, and the USDA or hobby breeders.

Commissioner Lober stated new breeders can sell instantaneously; something could be placed in there but he thinks that is just adding language for sake of adding language; essentially if they had not been in existence for the preceding four years they would not have any violations; it would depend on the nature of the meeting for her other question; if it involves everyone in here sitting down together at the same time, it would have to be noticed and anyone would be entitled to come as well as anyone else, with public comment; and that being said, it depends on the will of the Commission.

Ms. Julian explained she was talking about the meeting with the Sheriff and staff possibly talking about violations.

Commissioner Lober stated his thought was to have something basically back and forth through email or phone calls; being in the same building with the Sheriff one may just walk across the hall for a discussion; he was not envisioning something very formal; his thoughts are if Ms. Julian would email him or the Sheriff there is no reason they cannot email back and forth, the only folks he cannot communicate back and forth with are the Board Members; and he provided Sheriff Ivey's email address.

April 9, 2019

Commissioner Pritchett advised she did ask the Sheriff to get with Ms. Julian because she has learned a lot from her like the whole signage and the pets container came from her; she thinks Sheriff Ivey would sit with her so they could go through some of that; they will try to get the best definitions as far as the outline of those violations; and she thinks Ms. Julian has been doing this for a while and has some ideas that she did not even think of that could be pertinent to this.

Natalia Sanabria stated she and her campaigners for My Puppy My Choice have provided this Board with a lot of information over the last few months; they are happy to see an ordinance on the table that would further regulate the retail sale of pets rather than shut down local businesses; they believe this is a great dialogue for any County to have; it is refreshing to see that this Commission acknowledges that the issue is not black and white; in passing a regulation based ordinance it is taking a stand against puppy mills while not eliminating business owner's rights to operate or preventing the consumer's right to choose; and she thanked the Board for setting apart reputable breeders from the immoral and acknowledging that pet stores can operate a successful business without the use of puppy mills. She continued to thank the Board for acknowledging that while puppy mills do exist, that there are reputable commercial and hobby breeders out there. She went on to say everyone who has stood in front of this Board these last few months is doing what they feel is right; although not everyone will be happy with this regulation based ordinance, this is a huge compromise on everyone's part; after the ordinance passed in Hillsborough County so many great things have followed; they have built a strong relationship with the County shelter, through the process they have each found a new respect for each other's position in this very complex industry; now they work together to make sure all the animals are very well taken care of; and this ordinance also gave the breeders more incentive to go above and beyond, all while limiting the bad actors in a more accelerated rate. She stated alienating pet stores and labeling them as bad will not accomplish anything and she is glad this Commission recognizes this; there have been so many issues brought to light by doing these meetings; instead of everyone fighting against each other, everyone should be working together to come up with a better resolution; and like it was said before, this issue is not black and white, a regulation based model is a necessary step in the right direction.

Commissioner Lober inquired if Ms. Sanabria is happy with the ordinance now.

Ms. Sanabria responded it is better than nothing; if there could be some tweaks like Ms. Julian spoke of with the direct and the indirect violations, so stores are not being shut down that would be wonderful; and all in all something is better than nothing.

Commissioner Lober advised she get in contact with the Sheriff or his office, whatever the subject, it will be discussed.

John LaSalle stated this should have been a workshop with all the hours spent and all the comments, it would have been so much more efficient; he backs his initial view of this whole thing, there is a problem with abused animals in Ohio, they call them puppy mills, he calls them bad breeders; the Sheriff cannot go to Ohio, so what the Board will do is close down a long time, 22-year owned business and stop anybody else from coming in later; if people do not like this guy and they think he has messed up, fine, but do not let anybody else come in; this is not a solution to the problem; the problem is out of state and abused animals; and the USDA has been bad mouthed about being incompetent. He added he has contacted them and they can get two years of violations redacted because there are crazy people out there; and if they are not redacted people will harass and hurt people who have had violations. He continued puppy mills out of state and pet stores in the State are two different animals and he does not think anything will be accomplished by it; as he read it, if someone has a dog that has a litter and they keep the litter, but if they sell, trade, barter, or giveaway, people would be subject to inspection as a dog breeder; that means the Sheriff can knock on people's door; having puppies should not be making someone subject to inspection by law enforcement; and that is how it is written. He went

April 9, 2019

on to say it is easy to bad mouth federal inspectors; and there are some good and some bad.

Commissioner Lober noted he does have respect for Mr. LaSalle. He stated he wants to clarify one point because it is not in the way that it is written, something that still ought to be a concern, as far as subjecting folks to inspections based on selling one dog, he will confirm with the County Attorney; previously in the language of the proposed ordinance, nothing in the section is intended to create new inspection requirements insofar as hobby breeders are concerned; it was also added with an abundance of caution, with respect to the inspections by BCSO, it applies only to those who sell to pet stores to ensure they are hobby breeders only selling to retail; so people who want to have a litter or two and sell them can do that, they are not going to get a knock on the door by the Sheriff with some new inspection requirement created by this ordinance; he agrees that would not be reasonable; he believes it was discussed and addressed largely before but at this point it is abundantly clear there would not be additional restrictions; and with Mr. LaSalle's other points they will have to agree to disagree. He stated he thinks it is best to go through so the Board is sure it is addressing each of the Items that they intended are voted upon.

Commissioner Tobia stated there has been some substantive change here and his question would be the cost associated with the changes; he noted before he votes on this he wants to be cognizant; obviously the Sheriff will have more to inspect if the Board creates more violations; he assumes this will be turned over to the State Attorney's Office (SAO); it will then require the SAO to devote more man power to this; and he understands the intent here is for the wellness of puppies, but he questions the cost.

Commissioner Lober stated the short answer is it is impossible to determine until they see if folks are complaint; he can say that presently, there being only one store, he does not imagine the cost is going to be terribly great; that coupled with law enforcement discretion and prosecutorial discretion makes it impossible to put a solid irrefutable number on something involving unknown variables; and he reiterated he does not believe it will be terribly costly by any means. He continued what is more is when cases are resolved at the SAO; and typically as a resolution, when a case is Nolle Prosequi, one of the frequent conditions for that is payment cost of the investigation and cost of prosecution, so generally the costs are incurred by the defendant.

Commissioner Tobia stated Commissioner Lober mentioned prosecutorial discretion, and he asked him to explain whether he feels it is a good or bad thing.

Commissioner Lober responded it has the potential to be either; for example he had a women who was arrested for retail petty theft, she took some items from a big box store and exchanged them to try to buy food; to him that is where he would want to see prosecutorial discretion; does it always happen the way he would want it to, it does not; but it does to a degree; and he is not saying that can be counted on every single time but he thinks generally speaking they try to do the right thing. He went on to say there are some instances where he does not always agree with the decisions that are made, but this has to go through so many hands; it has to go through law enforcement then prosecutorial discretion; and if they are revisiting this in six months it may be a mute argument at that point.

Commissioner Tobia asked Commissioner Lober to explain if he as a defense attorney were working within Statutes that he has no control over, but as a County Commissioner he is writing the Statutes, how could he write a much clearer ordinance that does not leave prosecutorial discretion; and when this Board has the ability to write an ordinance that should be defined much more tightly, he inquired why it would it be left open.

Commissioner Lober stated that is kind of a faulty question in the sense that he would prefer to

April 9, 2019

have any and all violations be made unlawful and give BCSO the widest array of flexibility; that being said, there is not an appetite for that with this Board; and based on that lack of appetite, that is why he is where he is right now.

Attorney Bentley stated she thinks they have the inevitable electronic version discrepancies; in the Novus Agenda there is a clean version; there is also a handout from Commissioner Pritchett; she thinks there are two items in Commissioner Pritchett's item that are not in Novus that probably should have been in Novus; and she would like to get have those identified before they get started.

Commissioner Lober stated he just wants to make sure before everyone understands what is being voted on.

Attorney Bentley stated the clean version in Novus where there should be an addition is on page 6 a. in hobby breeder at the end, it should say "nothing in the section is intended to create new inspection requirements insofar as hobby breeders are concerned."

Commissioner Lober asked if everyone is happy with that.

Attorney Bentley continued the next one is on page eight of the Novus version, c.3., at the bottom, it talks about posting and reads, "the posting requirements apply regardless of the place of origin"; and she believes that was supposed to be in the original Novus version and it is not.

Commissioner Lober stated he is fine with including that. He asked if those were the only two discrepancies that she is aware of.

Attorney Bentley stated those were the only two discrepancies she could find.

Commissioner Lober stated if it is okay with Commissioner Pritchett, they will go with the Novus version with those two additions; and then make the modifications based upon that particular version so everyone is on the same page.

Commissioner Pritchett stated this is the one she said should be the correct one.

Commissioner Lober noted his thought is if those are the only two changes she has identified, then use the Novus one.

Commissioner Pritchett pointed out Attorney Bentley just said in the Novus this should have been the one in Novus as she printed it off of the Agenda.

Commissioner Lober asked if she is absolutely certain there are no other changes.

Attorney Bentley advised Commissioner Pritchett's version does contain both of the segments that they are trying to insert so the Board could use her version if it wants; and the Clerk does have a copy of that, it is the one that reads, Rita's version in green.

Commissioner Lober stated he just wants to make sure he is looking at the same one, because what he is looking at on Novus on Item h.2., there are three attachments, the first two of which are the pertinent ones; one reads D.2 ordinance modification 3-25-19 strike through; and the other is D.2 modification cleanup.

Commissioner Pritchett advised it might be faster to do this, because he already agreed to what the County Attorney said.

April 9, 2019

Commissioner Lober inquired if those were the only two changes.

Attorney Bentley responded affirmatively.

Commissioner Pritchett advised she hand wrote it in green.

Commissioner Lober stated on the top of page two, he would prefer to keep that whereas; and he thinks that was already visited and voted on with a prior resolution.

Commissioner Pritchett advised that was out of the information Commissioner Lober put in there, it just stated USDA and it also said the drop was due to revamped enforcement; and she thinks it gives a little balance to the resolution.

Commissioner Lober asked if the Clerk was on board with that.

Attorney Bentley responded at the end of that whereas she would add, 'and revamped enforcement.'

Commissioner Pritchett explained USDA also said drop was due to revamped enforcement.

Commissioner Lober continued, looking at five they said they would leave the first two that were highlighted, but to omit the definition of breeder altogether and just strike that entire paragraph.

Commissioner Pritchett responded affirmatively.

Commissioner Lober continued looking at six where it says, "The Brevard County Sheriff's Office shall be entitled to conduct inspection or inspections of hobby breeders", they will add 'who sell to pet stores'.

Commissioner Pritchett stated 'to ensure they are hobby breeders'.

Commissioner Lober inquired if that needs to be added.

Commissioner Pritchett advised the AKA was very happy with that sentence.

Commissioner Lober agreed to put that part in parens. He went on to say it already has the language where it reads nothing in this section is intended to create new inspection requirements, and it goes on, so that is fine to leave in; and page seven retail sale means a sale.

Commissioner Pritchett interjected she thinks if the Board strikes out the 'regardless of exchange of consideration' that it would help Ms. LaSalle with saying what if they just give away or barter, just keep it at sale.

Commissioner Lober inquired what the County Attorney thinks about that.

Attorney Bentley advised that is a fragment of a sentence; and it could say 'means of sale regardless of time or location.'

Commissioner Pritchett commented retail sale means the sale of an animal. She noted she understands what the County Attorney is saying.

Commissioner Lober stated to take out the part Commission Pritchett does not want and leave the rest; retail sale means the sale of an animal regardless of the time or location; and he noted

April 9, 2019

his concern includes but is not limited to what else there might be; and he inquired if there is anything else that might fall into that.

Attorney Bentley advised she is always cautious and used 'but not limited to' because she does not know what may be omitted.

Commissioner Lober asked for that to be left in under an abundance of caution.

Commissioner Pritchett inquired if they could strikeout giving away.

Commissioner Lober asked where that is located.

Commissioner Pritchett advised it is with 'sale, adoption, home exchange for compensation.' and it would get rid of giving away.

Commissioner Lober stated he is in agreement with that, however, he noted to leave in 'but not limited to' if that is okay.

Commissioner Pritchett agreed.

Commissioner Lober stated with the USDA licensed breeder, they have gone back and forth with that, he is okay with using either the Sheriff's newly proposed language or the original language; and they will revisit it.

Commissioner Pritchett stated they can keep the original, but she would like to revisit it in six months to define the levels of violations.

Commissioner Lober inquired if Commissioner Pritchett wants him to pick an evening meeting six months out and set it.

Commissioner Pritchett agreed to that or she stated the Sheriff can get with staff and they can get something together because they know what the Board is looking for now.

Commissioner Lober continued moving on to eight, Commissioner Pritchett wanted to strike everything in the latter portion of 2 at the very top, starting with "furthermore the Board finds," going on through "cost of the public of sheltering and euthanizing animals."

Commissioner Pritchett agreed with that. She added Commissioner Lober is putting in the word 'directly' after obtained in c.1.

Commissioner Lober clarified between the words, on the second line, under c.1, "unless the dog or cat was" insert the word 'directly', "obtained from an animal shelter" then it goes on to list other permissible entities. He stated moving on to nine, Commissioner Pritchett wanted to strike the last sentence in italics under e., so "an itemized fee statement will be stricken altogether;" he will leave in f. and for g.1 he is striking "any pet store" and inserting the word 'all' in its place; 10 is unchanged and 11 is unchanged; and he moved to approve with the changes as noted.

Commissioner Pritchett provided a second; she commented she really did not want to pass an ordinance on this because she is trying to protect businesses; hearing the Sheriff and Commissioner Lober's heart and some thoughts they had with protecting animals, it got her attention; she still struggles with it and after hearing the speakers it makes her struggle even more because the side that wanted something does not want this and the side that did not want something still does not want it; she is trusting Commissioner Lober that she is doing something good; and she noted the goal on this was never to shut down a pet store. She mentioned

April 9, 2019

whether people are mad at someone or not, there are going to people who love he or she just as much; as far as the people thinking that the Board is not representing the public, it is, there are just as many people calling with a different opinion; the Board is doing its best not to cause harm to people because that is the Board's duty; this is not going to wipeout puppy mills because there are still bad people who do bad things; she hears people say the USDA are doing it and people say the rescue people are doing it, she does not know; however, she feels this is the best this Board can do right now. She noted she does not think there should be drunk drivers on the road, but she is not going to make it so no one can drive at night, even though it would certainly take care of the problem; this cannot take care of the whole thing, but the Board can maybe do something that will help; and this might not be everything but it is a little wrench in the problem and it is fair. She added everyone is emotional and she does not know if she believes what everyone has to say about it but she listened; she tries to find facts on things and she believes that is what all the Commissioners do; she is very proud of this Commission for doing that; and this Board tries to find ways to bring things forward that will make good impacts on this community.

Commissioner Lober stated he thinks generally the most successful mediations are the ones where neither side leaves really thrilled, but those are probably the ones that end up being fair, where neither side gets 100 percent of what they wanted; he thinks this is a step in the right direction; he believes this is leaving it better off than it began even though it is not everything he set out to do in the beginning; and he believes it gets the County closer than what it was so he is certainly happy with it.

Chair Isnardi stated this is a tough subject; she thinks what differs as far as business regulation and all other types of business is this is dealing with living things that people purchase or adopt and expect to bring people comfort and make them parts of their family; not everyone will be pleased with this; she thinks there is a happy medium; and she expressed her admiration for Theresa Clifton. She stated she does not care whose business it is, they profit off of selling living things, so that does not necessarily make someone a bad person, but it requires he or she to be a good steward of the process; people have to take care of the animals they have; if they do not know where the animal is coming from or if they are coming from a broker and the business cannot identify whether or not the animal is coming from a puppy mill, then shame on them; she thinks that is the only reason she is okay with this ordinance is because they are animals; and she believes this is a happy medium. She added if everyone is doing the right thing, both the business and the community, then that will take care of the animals, and she will support this.

Commissioner Smith stated he cannot support this; from the beginning he was not happy with the idea; originally it was supposed to stop puppy mills, and this has not done anything for that; it does not demonstrate anything that will stop puppy mills; and he does not think it protects any animals. He noted he understands there are people who are very concerned on both sides; he does not believe this helps either side; he is concerned for some unintended consequences from this; and he believes the Board will be back here for another three hours with the unintended consequences. He reiterated this has no effect on puppy mills here or anywhere; he stated for him he is free market guy and market place generally determines the longevity of any business; if someone is doing a good job, they stay in business and this guy has been in business 22 years; if someone is not doing a good job their business goes by the wayside, that is just how it works; and he reiterated he is not going to support this.

There being no further comments or objections, the Board adopted Ordinance No. 19-07, amending Chapter 14 of the Brevard County Code of Ordinances, "Animals"; creating a new section in Article II of Chapter 14, Section 14-64, "Retail Sale of Dogs and Cats at Pet Stores"; prohibiting the retail sale of dogs and cats at pet stores unless the animal is from an animal shelter, animal rescue organization, hobby breeder, or United States Department of Agriculture

April 9, 2019

licensed commercial breeders; providing for definitions; providing for penalties; providing for record keeping and posting; providing for exemptions; providing for an area encompassed; providing for inclusion in the Code; providing for conflicting provisions; providing for severability; and providing for an effective date.

*The Board recessed at 8:33 p.m. and reconvened at 8:49 p.m.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Bryan Lober, Kristine Isnardi
NAYS:	John Tobia, Curt Smith

ITEM 1.1., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: SHIPPING CONTAINERS AS RESIDENTIAL ACCESSORY STORAGE STRUCTURES

Tad Calkins, Planning and Development Director, stated staff is seeking legislative intent and permission to advertise an amendment to the zoning regulations to allow or prohibit shipping containers as residential accessory structures; currently the Code does not specifically mention shipping containers; they have a Zoning interpretation that considers shipping containers as commercial equipment; and it does not allow them to be utilized on residential property because the residential Zoning Classification establishes characters that the land is devoted to single-family residential development and it stipulates that the accessory structures are compatible with the surrounding residential. He continued the Code also mentions semitrailer and tractor-trailers, step vans, and etcetera are considered commercial equipment; for this reason staff is seeking direction from the Board to see how it would like to regulate shipping containers; the first option is to codify the current interpretation which would prohibit them in residential and agricultural Zoning Classifications; the second option is to allow the shipping containers for the use of residential accessory storage buildings in all residential Zoning Classifications and residential agricultural Zoning Classifications as the County currently regulates accessory structures, and it would be the most permissive; the third option would be to allow the shipping containers as a residential accessory storage building in the Zoning Classifications but develop a set of criteria and conditions that would allow them to be permitted, and that information is included in the Agenda Report; and he will answer any questions the Board may have.

Commissioner Pritchett stated this Item was tabled a while ago; 95 percent of them are located in her District; there are a lot of these containers that people have been using for storage and small shops in their backyards; there were a lot of Code enforcements as well; she thinks she would like to go with Option 3 with some discussion; she thinks they are appropriate where they are, but she thinks there has to be some type of criteria as far as setbacks and how they are placed; and she wants to make sure they are regulated to keep from having junk yards. She reiterated she does like option three because it is the hybrid of the two but she does not think the size or lot requirements should be limited because she believes the setbacks will do that. She went on to say she thinks all of the other items listed are appropriate; she thinks staff should come back with some recommendations; her biggest concerns are most of these come from China and she does not know what type of paint is used on them or what types of materials; she thinks they could be a little risky; and she would be concerned about people moving their families into one of these. She recommended that the community proceed with some caution if they are using these.

Commissioner Lober stated based on his conversations with staff, there was a concern brought

April 9, 2019

up regarding shipping containers that have been altered to either put in windows or doors and that it eventually compromises the integrity; he is open to anything but he believes it needs to be discussed if the County is going to allow shipping containers without there being a particular size limit; he does not think they should be placed between the front entry of the house and the road; the other thing that the Board may want to discuss is precluding them from being visible from adjacent properties, whether it is wholly precluded or limited to a certain number of feet over an obstruction, whether it is a fence or a shrub; and if it ends up being something folks do not want that is fine, but he believes there should be some discussion on it.

Commissioner Tobia stated he thinks the Commissioners have touched on points of why Option 3 is terrible; the County is going to have so many restrictions on these things like they have to be at a 37 degree angle, and visible from the north star, or whatever; he understands the predicament that Commissioner Pritchett is in, and he thinks it can be handled with less red tape, and that is what Option 2 is; when people start adding regulations then there is a lot of redundancy, for example, prohibiting stacking of containers; he thinks that probably speaks to height requirements and every zoning class that these are in probably have some sort of requirements already; and Commissioner Pritchett mentioned some of these may look awful, he does not doubt that, but to drive through any District, there will be houses that look awful. He continued there was talk about advertisement on these, but are advertisements restricted on certain houses; this is going to turn into a 25-page document that is going to be extremely redundant and probably cause more problems than what is needed; he thinks Option 2 would have the same setbacks as any other structure, the same requirements as far as height and building standards; and he does not think these should be treated any differently because of where they are made, because his phone is made in China and it is barely out of his hands. He added he thinks when people start arbitrarily deciding where things are made, is probably not the best direction for this Board to go in; and he noted he would certainly side on Option 2 and if there are visual concerns or anything of that nature, then the Board should look at changing Code altogether not just specifically for this one type of structure.

Commissioner Pritchett stated she actually liked Option 2 until she started thinking about stacking them, where they could be two story residences and that is very dangerous; maybe the Board could choose Option 2 and add a few little safety modifications that would not necessarily be on a typical shed in a back yard; she hears what Commissioner Tobia is saying and she is with him; there does not need to be any undue regulations on anything that they would not normally do with a shed; and she stated with these things being so big and heavy, maybe the Board could choose Option 3 with all of Option 2 and add a few more safety items in place.

Commissioner Tobia inquired if the Board went with Option 2 and he decided to build a three level container shed out back, would there be any inspection process or could he just get a crane and stack three of them up.

Mr. Calkins explained when they looked at this from the Florida Building Code standpoint, they looked at the container in an unaltered state; when it is unaltered, they feel that it meets the Building Code; the requirement and the concern would be wind load and tying them down just like any shed or storage building; and once people start stacking them, he thinks that would be altering it and they would have to look at getting an engineer to certify that it meets the requirement of the Florida Building Code, similar to what they will do with tiny homes.

Commissioner Tobia inquired if that would be part of Option 2 and he would have to go through the same Building Codes just like he did when building a permanent structure on the back of his property, and he asked if he would need a professional engineer to sign off on it like he would with any other structure.

Mr. Calkins stated he thinks all the options except Option 1 would require some sort of

April 9, 2019

permitting that way staff could get the tie-down; with sheds they do an inspection so these would be handled similar to that; typically when someone gets a shed there is a Florida product approval included in that which demonstrates it meets the Florida Building Code; and that product information is given to the Building Department where they look at it and go from there.

Commissioner Tobia stated it would be completely arbitrary for him to say two is safe and three is not so safe; if the Board relied on the Planning and Development Department and the Florida Building Code, why would anything need to be added like three or four; he noted he is concerned about safety too; and he inquired if Option 2 would provide for safety if there was a permitting process. He inquired if staff would ever permit a structure that did not meet wind load requirements whether it was altered or unaltered.

Mr. Calkins advised that is what the permitting process would demonstrate whether it meets the Florida Building Code; he thinks when looking at the stacking and coming up with this, they were looking at the aesthetic and the impact on the neighborhood; he says that from the standpoint of today, they view these as commercial equipment; they have not been viewed as something that is customary to residential classifications; if the Board is looking at moving in that direction, then to limit that impact, it may want to take in the height consideration, perhaps some of the advertisements and colors that they have been painted, as a shipping container it may not be customary to the residential character of the neighborhood.

Commissioner Tobia stated to be very clear, all of that is aesthetic, it is not safety; assuming if the Board went through Option 2, Mr. Calkins would feel comfortable with the safety nature of those structures; and he inquired if that is fair to say.

Mr. Calkins commented if they were not altered, or altered, and there was an engineer's certification, he believes that would satisfy him.

Commissioner Tobia inquired if Mr. Calkins would sign off on that, but would not sign off if they were pleasing structures.

Mr. Calkins responded similar to tiny homes.

Commissioner Tobia inquired if Mr. Calkin's Department makes any of those determinations in any other type of building structures that it is pleasing to the eye or is he merely looking at safety and Code.

Mr. Calkins responded safety and Code.

Commissioner Pritchett stated typically people do not put up a shed and move in to it, so if it is classified as Option 2, then the Board will not have to worry about people moving into it without the right permitting at that point.

Mr. Calkins responded in the affirmative. He stated what they are looking at is modifying the accessory structure for storage; and they are not looking to allow these as accessory structures for living quarters.

Commissioner Pritchett asked if it was cool for the Board to choose Option 2.

Mr. Calkins stated in Option 2 staff would be looking at that same thing, it would just be storage; and in Option 2, it loses aesthetics or screening.

Commissioner Pritchett pointed out if they have HOA's they would have to comply with that anyways; and if they do not they can paint it how they want.

April 9, 2019

Mr. Calkins responded that would be up to the homeowners.

Chair Isnardi inquired if the Board chose Option 2 it could prohibit the stacking.

Mr. Calkins stated if they are looking at some other criteria, then it is in Option 3 where they are looking at permitted pieces of it.

Chair Isnardi inquired if Option 3 is all or nothing.

Mr. Calkins explained Option 3 is just the idea of what the Board may consider to lessen the impact if it so thought; if she is concerned about the stacking, that would be altering the container in some nature and they would have to get an engineer certification for that.

Frank Abbate, County Manager, stated really in Option 3 if any of the bullets were things the Board was interested in considering then he would suggest it be as broad as possible because it is for legislative intent; the Board could always narrow it, but it would not be able to be expanded without re-advertising; and he suggested the Board take into consideration any of the bullets from Option 3 that it may want.

Chair Isnardi noted she is not saying she has an issue with stacking, because she does not know if someone was stacking that they would be using it as accessory or storage; there is already the setback requirements permitted; the amount of regulations and details for tiny homes was crazy; and she does not think shipping containers should be like that.

Commissioner Lober invited the County Attorney to chime in if she has any legal concerns with this.

Eden Bentley, County Attorney, responded not yet, she thinks Mr. Abbate put the Board on the right track with the ad.

The Board approved Option 3, to approve legislative intent and permission to advertise an amendment to Chapter 62, Article VI, Zoning Regulations, to allow intermodal shipping containers for use as residential accessory storage buildings in residential and residential/agricultural zoning classifications with certain restrictions or conditions, and require permitting as required for any other accessory buildings; and directed staff to prepare necessary ordinance amendments, with the possible list of restrictions or conditions as follows:

- Limit the maximum size of containers.
- Provide minimum lot size requirements.
- Limit to one single-unit shipping container used as a storage building.
- Prohibit stacking of containers.
- Allow for residential storage use only, and no other use, i.e., cannot be used for living space, playhouse, studio, office, or other non-storage use.
- Prohibit advertisement or labels on the exterior.
- Require containers to be behind the principal building and shielded from view by six-foot high opaque fencing, screening, or landscaping.
- Require siding and roof material architecturally and aesthetically consistent with the primary residential building, i.e., exterior finish, color, roof slope, and roof material.

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

ITEM 1.1., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: SHIPPING CONTAINERS AS RESIDENTIAL ACCESSORY STORAGE STRUCTURES

Jeff Atwell stated he is here about the shipping containers; he thanked the Board for looking into this; his case number is actually in that, 17CE02268; he has two shipping containers that he had to remove because the interpretation of 11-01; he got his property rezoned from GU to AU to help with the size of the accessory structures; he is going to place a roof over both of his to connect them together so it will appear as a single structure; it will be sitting on pillars, not on the ground; it will be strapped to the ground just like a shed; and he hopes the Board will allow for this. He added he is not just thinking about himself, he is thinking about everyone else who has these storage containers that they are using; and he thanked all of the people who have been on his side to get this done and also the staff of Commissioner Pritchett because he has been pestering them for about eight months.

Linden Campbell stated he was a little disturbed at how this was going; he understood the Board is all Republican and some in fact talked about defending business and being business friendly; the prohibitions that occurred here did a lot of damage to small business; the groves are full of small businesses; he would not be surprised if half of them were not out there running small businesses out of their homes; he knows a couple of these specifically were harmed; and he thought Republicans were for smaller government and business friendly, but how it has been does not seem to be. He continued the connexes were their business; this is increasing government intrusiveness; the staff report mentioned a few locals; they referred to Miami which is a Democratic hot spot; and then they went all the way to the west coast of the United States to the socialist centers in San Diego, California and Portland, Oregon for references on how to decide. He added that is a little disturbing to him. He went on to say something that was not mentioned, he stopped and talked to Commissioner Lober and he said people would not want this out on Lansing Island, and he agrees; there should probably be some zoning to prevent it because he does not think those neighbors would be very happy; when moving out into agricultural areas, like a good part of Canaveral Groves, he would estimate probably 20 or 30 percent already have these, although people may not see them, they are there; it is appropriate to agricultural operations; the County gives specific exclusion for steel buildings to residential applications; and he showed a picture of an arch building that is legal by code, whereas, the picture on the top is a container which is made out of the same material, but the difference is the container is only eight or nine feet tall and the other is 25-feet tall. He noted if something is an eyesore to him it is the big one, not the little one. He stated if someone needs a pitched roof it is not hard to put one on it; talking about stacking them, his dad was a trucker and these were just coming into use; look at the ships coming into the port that stack those loaded 10 high on the deck of a ship, so they are incredibly strong; and he mentioned the 20 foot is good for 220 miles per hour loaded.

Chair Isnardi stated the concern was people living in them stacked.

Mr. Campbell stated there are several federal agencies that regulate the paints, materials, and everything; most steel used in this country now originates from out of China and a good part of the paint; so it does not matter if someone is getting a container or numerous other items; and lots of things are made in China so people might want to get rid of some things.

April 9, 2019

Chair Isnardi stated she was more concerned on the engineering like if windows were to be put in those.

Mr. Campbell commented that is a valid concern; the integrity can be disturbed by punching holes in them depending on how big they are; the ones with wood floors, the floors are treated with toxins to prevent infectious agents from being transferred, so unless they are treated they should not be lived in, it would be dangerous; and that is not because it is out of China, it is because of federal regulations requiring pest control.

Commissioner Tobia stated he would like to motion that the County does not process new complaints for shipping containers because the Board put a moratorium on that and he does not know when that would end, but it is consistent with the proposed ordinance; and if the Board comes with Option 2, 3, or a combination of both on adoption of the Code revision, the Board delegates to the Special Magistrate to vacate any order of Findings of Fact for existing cases involving shipping containers used for residential storage facilities.

The Board directed the County not process any new complaints for shipping containers; and delegated to the Special Magistrates to vacate any order of Findings or Fact for existing cases involving shipping containers used for residential storage facilities.

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

Commissioner Lober asked if it would be helpful for a second motion authorizing a continued stay on the enforcement for violations that are in process; he just wants to make sure staff has every tool at their disposal.

Mr. Calkins responded he thinks staff has enough with the motion; and once the Board adopts an ordinance then they can reevaluate those complaints to see where they stand and what action needs to take place.

Chair Isnardi asked if Mr. Calkins has any idea how many of those there are.

Mr. Calkins stated there are seven active Code Enforcement cases since they have developed the interpretation.

Chair Isnardi commented hopefully staff can clear those up.

ITEM I.3., APPROVAL, RE: REVISED SAVE OUR INDIAN RIVER LAGOON PROJECT PLAN RECOMMENDATION FROM THE CITIZEN OVERSIGHT COMMITTEE

Commissioner Lober stated in short the Citizen Oversight Committee (COC) met and he sat in on their meeting, addressed them during the meeting, and gave them the chance to ask questions; initially what was passed left a portion of the money unallocated; this is going back and allocating some of the funds that were up to this point unallocated; they had not gotten any sort of recommendation from the COC; and he believes just as the Board had passed a portion of it before, if there is no controversy and no reason to delay it, and there is nothing to be gained by waiting on this, then he thinks the Board should go ahead and pass this portion as well. He continued this is allocating a good size chunk of what was unallocated, and there will still be

April 9, 2019

some money unallocated when this is done, and he will speak more after public comment.

Commissioner Pritchett commented she would agree with that; she was able to watch the meeting and she thinks the process works; it was brought back to the COC and they were able to come up with some changes, even though they were not what she wanted, at least it followed the majority of what the Board wanted; they came back with some new recommendations and she will look to pass this tonight because she does not want to slow it down any more than it already has been. She believes the due diligence has been done, the process worked, and even though it is not exactly what she would have liked, she thinks this is something to move forward so she will be voting in support of this.

Courtney Barker, City of Satellite Beach Manager, stated she is in support of this Item; she is hoping to get this passed so the community knows that they are moving along and getting these projects done; she expressed her appreciation to Commissioner Lober for attending the meeting; and she congratulated Commissioner Smith on his award from the Marine Resource Council.

M. J. Waters stated she echoes Ms. Barker's support for this; she thinks it was very wise for the people who created this Ordinance to put in an annual review for flexibility to update the plan as needed; she is really pleased to see that the process worked; the COC made their recommendations, brought it to the Board, the Board had questions and concerns so it sent it back, and then it came back and adjustments had been made; to her that shows this is a good process; and she thinks it is really important to have the COC involved and important to the citizens of the community. She added she thinks it is very important to keep this moving forward. She went on to say time and money has been invested in permitting and the processes to get these things going; she thinks keeping those things moving is really critically important because every day hundreds and thousands of people are moving into this County; it is not just solving sins of the past but planning for the people who are coming in the future; and she believes it is time to keep this on track and vote in favor of this.

Lewis Kontnik stated he thinks the process is working; he thinks people want to have the continuous flow; there is a 10-year plan and even more to get done than that; and he asked the Board to adopt it and move forward because there will many more years of this.

Bo Platt stated he echoes the statements made by Ms. Waters and Mr. Kontnik.

George Rosenfield stated muck dredging versus the sewer problem, both are important; the muck needs to be removed and the County needs to stop depositing new muck; the sewage problem needs to be solved, as he does not believe this is an either or problem; if the County fines sewage violators and uses the fine money to go back and make improvements that would save some of the taxpayers money, otherwise, maybe a 50/50 split; he noted that is not scientific but it is better than not doing anything; he knows Virginia Barker, Natural Resources Management Director, has the knowledge and the group is doing fine in their resolution of the matter; and the problem is not political but scientific which is needed the most. He continued to ask the Board to let the Natural Resources Management Director's group have their reigns and continue with their plan.

Commissioner Lober stated for everyone not to assume that there was going to be a motion to follow this; he is not up to anything he just wants to make sure everyone is on the same page; and he noted he is going to have a request at the end for the COC as opposed to a motion directing that it do anything. He inquired if muck is on average one to three percent organic.

Virginia Barker, Natural Resources management Director, responded affirmatively.

April 9, 2019

Commissioner Lober inquired if it is true that raw sewage is generally full of compounds which break down into ammonia which further breaks down into other molecules.

Ms. Barker agreed.

Commissioner Lober stated following Hurricane Irma, excluding municipalities, Brevard County's waste water system discharged approximately 22 million gallons of sewage for which is known; and he inquired if that is Ms. Barker's understanding as well.

Ms. Barker responded affirmatively.

Commissioner Lober inquired if the current pipe in place at the Riverside Drive Force Main is a 24-inch PVC pipe.

Eddie Fontanin, Utility Services Director, responded that is correct.

Commissioner Lober inquired if the Force Main has experienced multiple breaks along the length.

Mr. Fontanin responded affirmatively.

Commissioner Lober inquired if it is true that these breaks resulted in sewage spills that directly or indirectly impacted the Indian River Lagoon (IRL).

Mr. Fontanin agreed.

Commissioner Lober inquired if the Force Main carries raw, untreated sewage for treatment to the wastewater treatment facility.

Mr. Fontanin agreed once again.

Commissioner Lober inquired if as a direct result of this Force Main releasing raw untreated sewage into the Lagoon, that the Department of Environmental Protection has ordered Brevard County to make the necessary repairs and improvements to eliminate the potential of future discharges.

Mr. Fontanin replied it is a part of the consent.

Commissioner Lober inquired if it is correct that Brevard County has no choice but to complete those repairs prior to December 2020 based on that consent order.

Mr. Fontanin responded affirmatively.

Commissioner Lober clarified that is based on the consent order.

Mr. Fontanin agreed.

Commissioner Lober inquired if the pipe that is presently in there has been there somewhere between 10 and 15 years.

Mr. Fontanin stated that is correct.

Commissioner Lober inquired if the pipe's lifespan should have been in the range, give or take five years, of 30 years.

April 9, 2019

Mr. Fontanin replied that would have been his estimation.

Commissioner Lober inquired if it is Mr. Fontanin's understanding that some portions or a portion of this pipe are or maybe were defective.

Mr. Fontanin replied he does not know if it was defective, it is subject to breakage.

Commissioner Lober inquired if it is Mr. Fontanin's understanding that the fabricator or manufacturer of the pipe may have faced lawsuits over alleged defects of this particular variety of pipe.

Mr. Fontanin stated he knows the County went through litigation years ago with regard to a portion of this pipe; and he does not know if this portion of the pipe was under that same litigation.

Commissioner Lober inquired, in respect to that, if it is Mr. Fontanin's understanding that potentially this manufacturing defect may well be largely responsible for the lifespan of this pipe having been reduced to a fraction of what was anticipated.

Mr. Fontanin explained he would have to resort back to what the discussion and finding was through the litigation.

Commissioner Lober advised he is just looking for Mr. Fontanin's best understanding of this, if it is not perfect that is fine; he is just trying to establish why the County is getting 10 to 15 years out of something that should have lasted two or three times as long.

Mr. Fontanin stated that has been the story of what has been conveyed to him to present.

Commissioner Lober inquired if it was conveyed by staff.

Mr. Fontanin responded affirmatively.

Commissioner Lober inquired absent this particular variety of pipe, which may be defective, the County would not ordinarily be replacing pipes 10 to 15 years after initial installation would it.

Mr. Fontanin responded they would not.

Commissioner Lober asked if Mr. Fontanin's plan to upgrade the system involves totally removing the 24-inch existing PVC pipe and replacing it outright with a larger diameter pipe made of a more resilient material.

Mr. Fontanin replied that is correct.

Commissioner Lober asked if in addition to that, he would be installing pressure surge tanks at two existing lift stations along the main.

Mr. Fontanin responded affirmatively.

Commissioner Lober asked if it is Mr. Fontanin's understanding that the brand new larger diameter pipe made out of ductile iron along with the pressure tanks should largely if not completely fix the issue of this particular stretch of pipe being subject to breakage and leaking untreated raw sewage into the Lagoon, and therefore, polluting it.

Mr. Fontanin advised it will greatly reduce the probability of an event occurring.

April 9, 2019

Commissioner Lober asked if it fair to say as a result these measures of reconstructing the Force Main and constructing pressure tanks will result in improvements of the Force Main.

Mr. Fontanin agreed.

Commissioner Lober inquired if the anticipated lifespan of the new ductile iron pipe is more than five years.

Mr. Fontanin responded in the affirmative.

Commissioner Lober inquired generally how long it takes the State to process a loan request.

Mr. Fontanin replied it is quick because they have already been pre-approved, the project has been pre-approved, and it is just a matter of the contract and the documentation being submitted.

Commissioner Lober inquired if the acceptance of the proposed Save Our Indian River Lagoon (SOIRL) Plan with modification a permissible option for the Board of County Commissioners (BOCC) under the SOIRL Plan in the associated interlocal agreements.

Eden Bentley, County Attorney, stated the ordinance provides for inclusion, inclusion and modification, or non-inclusion.

Commissioner Lober stated then the Board can accept and modify it; and he noted that is not what he is proposing at this point nor will it be what he is proposing this evening.

Attorney Bentley advised modification is an option depending on the definition of modification.

Commissioner Lober inquired, with greater specificity, following the COC's submission of a plan to the BOCC, does Ordinance 2016-015 specifically permit modification on part of the BOCC.

Attorney Bentley advised it does use that language.

Commissioner Lober inquired as to the Florida Department of Environmental Protection (FDEP) consent order in lieu of paying a cash fine to the State, does the County instead have the option of implementing environmental enhancement, environmental restoration, or capital/facility improvements.

Attorney Bentley responded she thinks that is what the County is doing.

Commissioner Lober inquired when hurricane season begins.

John Denninghoff, Assistant County Manager, replied June 1.

Commissioner Lober advised he is not making a motion at this point but he does want to ask the COC, for the upcoming workshop, to please have some discussion ready with respect to this Item; he is going to approve the riverside drive item that was earlier on the Agenda that has not yet been addressed, but he would like them to consider including this as part of the SOIRL Plan; he thinks this is extenuating in the sense that it is not routine maintenance; and his plan is to do this so the County can use the money that the County borrows or continues to borrow and spend it to replace even more pipe. He stated he is not looking at shifting the cost from one side to another; he would like the COC to consider it; otherwise, he will move to approve this as listed. He reiterated he is not asking that the Board do anything at this point with respect to the Force Main; he just wanted to put it out there in the record so the folks on the COC are well

April 9, 2019

aware of what he is asking them to do.

Commissioner Pritchett advised the Board already approved that.

Commissioner Lober inquired if the Board already went through it.

Chair Isnardi noted he had stepped away, they waited but then moved on.

Commissioner Pritchett advised one thing that gives her a little hesitation is when it is something on the enterprise fund, that is something they are doing but she does not know if the Board can tax the whole County for bad decisions made in the unincorporated area; she lives in the City of Titusville and she pays that water bill; and when they have blow ups she is paying extra into that because they are not getting SOIRL funds to fix it.

Commissioner Lober stated he understands that; he is not asking for a motion tonight; he would like to give the COC an opportunity to address it; and he noted he does not think it would be fair to let them do public comment and then him ask the Board to accept it with a modification.

Commissioner Pritchett stated she is just letting him know the baseline she has and that is something she struggles with because she feels it is almost an unfair tax; she believes it needs to be corrected; she saw some information where the fees for Brevard County water is almost \$10 less than all the municipalities, so she thinks the Board needs to fix that fee base; and she mentioned that is something she is going to have to loudly vote no on, but she does think it needs to be fixed.

Commissioner Lober stated he is not trying to push that this evening or necessarily later; he thinks it would be a healthy discussion for the Board to have; he is not suggesting to use the \$11 million out of SOIRL even if that is what the COC recommends; he would rather continue to spend the money and improve more of it so there is less stuff going into the Lagoon; and he reiterated he is not pushing to do anything this evening.

Commissioner Tobia pointed out that in Item F.3., the Board only authorized the County Manager to send an application for the loan, it did not authorize the County Manager to go ahead with the loan; should Commissioner Lober want to continue with this, what was approved in Consent does not obligate the Board; and he inquired if that is correct.

Frank Abbate, County Manager, stated it was permission for him to sign and execute the application to submit for the loan.

Mr. Fontanin stated the application was submitted, that process is done and they have been selected; and this motion is to give the County Manager the authority to sign all the documents for the execution of the loan agreements.

Commissioner Tobia inquired if in other words it ratifies the loan.

Mr. Fontanin replied affirmatively.

Commissioner Lober inquired if there is a prepayment penalty.

Mr. Fontanin responded no there is no penalty with those.

Mr. Denninghoff stated in addition, it is a reimbursement loan so the County spends money, then they get the loan money; that is when the loan becomes more active; and if the Board decided not to get the money for the loan because they decided to do something different, then

April 9, 2019

the loan would be reduced by that amount.

Commissioner Tobia stated he feels bad that the Board voted on Consent while Commissioner Lober was not in the room; and he was going to motion to reconsider.

Commissioner Lober stated he does not have a problem leaving it be.

The Board approved a Revised 2019 SOIRLPP, as recommended by the SOIRL COC, that increases funding by \$28.1 million for septic to sewer projects, decreases funding by \$74.8 million that was previously proposed by the COC for muck removal and/or interstitial water treatment, and reserves \$46.7 million available for future allocation; and authorized staff to process any and all necessary budget change requests, for current fiscal year, to comply with the Board's directives.

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

ITEM J.2., REQUEST FOR EXECUTIVE SESSION, RE: BREVARD COUNTY FL V CREWS, ET AL

Eden Bentley, County Attorney, stated she is requesting permission to advertise for an executive session for the case of Brevard County versus Crews, which is the north end of St. John's Heritage Parkway, for April 23, 2019, at 12:00 p.m. or right after the Board meeting ends, whichever occurs first.

The Board approved the cost of advertising for, and the scheduling of, an executive session for Brevard County, FL v. Crews, et al, Case Number 05-2018-CA-018241, to be held on April 23, 2019, at 12:00 p.m. or immediately after the BOCC meeting.

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

ITEM J.3., GOLF CART USE, RE: VIERA EAST AND WEST

Corrina Gumm, Interim Public Works Director, stated this is a citizen's request to allow golf carts through the 1-95 Viera Boulevard Interchange; the Viera Boulevard overpass and interchange with I-95 is owned and managed by the Florida Department of Transportation (FDOT) and is a limited access right-of-way; as such Brevard County is not authorized to permit the use of golf carts through the interchange; the State has established a criteria for the safe operation of golf carts, which the County Code is based on; Brevard County Code Section 106.72 provides minimum requirements when considering whether a sidewalk can be approved for use by pedestrians, bicycles, and golf carts combined; and while the sidewalk meets the eight-foot width requirement, it does not meet the four-foot wide grass shoulder, that would allow golf carts to yield to the other vulnerable users of the sidewalk. She continued along the overpass the sidewalk is physically restricted on both sides by a barrier wall which does not allow the safe

operation of two golf carts side by side or passing each other; approaching the overpass the sidewalk includes a two-foot shoulder on each side; and the slope can be as steep as one-foot vertical for every three feet of horizontal distance from that shoulder. She advised the citizen request suggested a solution could be to allow one-way golf cart travel through the interchange; while that suggestion does resolve the physical constraint issue with the two golf carts attempting to pass one another, there are still a number of safety and feasibility issues that are still present; and in order for FDOT to consider their request, Brevard County will need to submit a proposal to FDOT District 5 Traffic Operations; and the information is included in the staff report attached to the Agenda Item, which includes the one-way golf cart travel.

Ana Maria Tea stated she is a freshman at Viera High School; she thanked the Board for allowing her to present her concerns and hopefully provide a solution; she understands that the final decision to the matter at hand is up to FDOT; and she noted her goal today is to get the Board on her side. She went on to say the golf cart usage in Viera has boomed over the past few years serving as an alternate transportation option for many people; she personally uses a golf cart to get to and from school, to socialize with friends, and to get to and from the golf courses; although a bus is available to her, she is involved in several extracurricular activities that require her to arrive early or stay after school; the golf cart was the solution to this problem of which working parent would drive her; and this is also a problem to many other students. She continued Viera is a master plan golf cart friendly community, but she guesses that was only meant for West Viera leaving East Viera out of the picture; without East Viera there would be no West Viera; furthermore the waste of time and resources used to enforce the current golf cart ordinance is ridiculous; she mentioned a friend of hers was pulled over for going 18 miles per hour on a 15 mile per hour sidewalk showing that the police officer used the speed detector to measure how fast he was going on a sidewalk; after interviewing her parents and other adults asking if they would get pulled over for going three miles per hour over the speed limit, all answered no; currently there are over 1,400 supporters on a petition; and she noted she does not support underage golf cart driving and driving carts exceeding the capacity of which they are built for. She stated she believes those are things that should be enforced; she hopes all of this will be taken into consideration and that the one-way crossing over the I-95 interchange will be supported by the Board.

Tanja Tea stated her and her husband immigrated from Germany in 2002 to the Springs in Suntree, Florida; they have seen their sleepy town grow to a big town; people always use golf carts in their community; it definitely increased over the past few years and there are more people using golf carts; golf carts travel from East Viera to West Viera and vice versa since the bridge opened in 2007; many residents travel to the fields to church, the Avenues, golf courses, and Viera High School; and in all those years she has never seen a golf cart pulled over by police until March of this year. She continued if going over the bridge is a safety concern for the golf carts does that mean there should be the same safety concern for bicycles and pedestrians; a walker has to cross two cross walks to go over the bridge, crossing a street where a vehicle has to enter and exit the interstate; State law gives pedestrians the right-of-way; and she inquired if the police will enforce vehicles to stop. She stated everyone knows how dangerous this is, so why not ban the pedestrians and bicycles as well and build a separate overpass; she inquired if the County and State overlooked progress of a changing community for which golf carts have been part of it; she asked why local and State government is ignoring trends such as golf carts, as a form of transportation and chooses a design taxpayer funded infrastructure that is unsafe for a large amount of people; she knows Commissioner Smith's staff is working hard on a plan to present a model to FDOT allowing one way golf cart travel through the I-95 interchange; and she hopes the Board can see the desire of people traveling from east to west and vice versa using a golf cart. She stated the Board may know a petition allowing golf carts to cross the intersection received over 1,400 signatures; the people are all for safety for themselves and their children; they do not support underage golf cart driving, however, the legal age of driving a golf cart is 14-years old; she does not want a golf cart to cross over I-95 if it is

April 9, 2019

unsafe; communities change especially the smaller ones; not to mention the benefit of new changes often improve a community; and having a golf cart allows for the community with less traffic and creates smaller footprints on the environment. She encouraged the Board to think about if there are 50 golf carts, that is 50 less cars on the road.

Bill Hobson stated he moved here in 2005; in 2007 when the bridge opened up, it really opened up a new area for everyone, because they all avoided the Wickham Road and the Circle from hell; it gave them access to church, schools, shopping, and so much more; for 12 years he has volunteered and coached baseball; the golf cart gave him the ability to drag all that gear and his two kids to the field three times a week; it was a really good advantage; and on the way home he would communicate with his boys on their day and it was a nice event. He mentioned he never thought it was illegal to go over the bridge; in 2008, when he got his first golf cart going over the bridge he saw a sign on one end and a sign on the other end, but nothing in between the east and west side, so it said golf cart friendly; it was not until 2016 the County actually put it in specific writing that people could not go over; from all of his research he finds that all the Commissioners are in favor of more liberal golf cart use in the community; and this is a golf cart community whether people like it or not. He thanked Commissioner Smith for meeting with him a couple weeks ago to hear this issue. He stated for the 10 years he has been going over that bridge he has never experienced a problem of blocking somebody out; people were always courteous; and he advised if cars and bicycles can get along on the coastal waterways, then he thinks the golf carts can as well.

Barbara Gorin stated she thinks what she was going to speak to about the golf carts does not pertain to this issue.

Chair Isnardi inquired what she has to say.

Ms. Gorin stated she is very concerned about the golf cart usage and just watching the kids on Wickham Road; she told a story that happened a few years ago about some kids on a golf cart where they were on a sidewalk and did not wait for the traffic light and just went across the street; she watched them go into Chik-fil-A and followed because they had done a few things that terrified her; she went in and spoke to these kids about how they did not observe the traffic signals; and she asked the children to please be more careful. She noted she thinks when these children are out on their own they need to be extremely careful and the people in vehicles need to be extremely mindful of what they are doing.

Commissioner Lober stated this is an item in which he thinks the Board should give some deference to the Commissioner whose District it mostly pertains; with that said he would approve it if the Board can do so in a safe way; he knows recently there was a TPO meeting with Scott Ellis, Clerk of Court, who was speaking and had discussed one of the fancy new FDOT ideas, and essentially the point and relevance here is it does not matter who has the right-of-way if someone is dead at the end; he would like to support this but he is concerned to a degree that the Board does not do anything to give people a false sense of security; and the last thing he wants to do is try to do the right thing and have a dead kid as a result. He mentioned before he moved to District 2 he lived in Viera East and he remembers a golf cart, vehicle collision on Murrell and it was not pretty; if there are some measures that can be put in place with whatever is approved he would feel much happier about it; but this is in District 4 and his intention is to defer to District 4 Commissioner on this one.

Commissioner Pritchett stated she has a lot of hesitation with this; Brevard County is not authorized to permit the use of golf carts to the I-95 Viera Boulevard Interchange; it is State owned and limited to access of right-of-way; this really is not a County road; she is not sure the Board even has the ability; she thinks if someone hears this and goes on there and gets hurt it opens up a situation; and she reiterated she is just not comfortable with seeing children on golf

carts on top of an interstate.

Commissioner Smith stated he has looked at this in great depth; he has spoken to staff about it; the most reasonable thing they could come up with that may work is to create the one-way situation where golf carts traveling west would go across on the right side and golf carts traveling east would go across on their right side; he would like to ask staff to go forward with approaching FDOT with that idea to see if they can find a way to make that work; he is with all of the Board, it is a scary situation when there are golf carts driven by 14-year olds who do not know the rules of the road; and he can only hope their parents are teaching them before they allow them to use the golf carts. He went on to say it would be horrible if one of these kids or an adult was injured or worse going across the Viera Boulevard Interchange; when it was just a simple bridge going across, going across safely was one thing back then; it is entirely different now because with the diverging diamond there is traffic coming in all directions; it is going to take quite a lot of talent and ability to navigate that; if staff can get FDOT to weigh in he is all for it; and that is what he is asking staff to do. He went on to say the hope is if Spyglass overpass gets approved, maybe they could start from the beginning and get inclusion of golf carts to make them safe, then that would be the next step, in the future. He stated he thinks if the Board gets this approved through FDOT, they still need to work with the idea that Spyglass would be golf cart friendly and accessible.

Commissioner Tobia inquired assuming FDOT gave approval for a plan like this, if there were additional structural costs, who would be responsible for the costs, the State or the County.

Ms. Gumm stated it would definitely be the County; the State is going to require that the County conduct an engineering study to submit to them evaluating all the safety aspects of the golf cart use; it will include a review of crash history in the area, they will want to know the County has considered all the safety aspects; as far as the costs for any bridge modifications, it has already been considered and it was determined that it would be too costly to modify or consider replacing the bridge to accommodate the golf carts; and any additional costs will have to fall on the County.

Commissioner Tobia inquired if the County were to go forward and ask FDOT for that ability, how much staff time would that be for the engineering study, etcetera.

Ms. Gumm responded initially staff is going to write a letter to FDOT on behalf of the Board and request their initial approval or denial before proceeding with any engineering study; and the County would have to get a consultant to conduct the engineering study.

Commissioner Tobia inquired if that only happens after approval.

Ms. Gumm stated she does not think staff would do that until they find out if FDOT would allow it.

Commissioner Tobia inquired if staff received an approval, would they then come back before the Board before going ahead with the study.

Ms. Gumm responded she believes so.

Commissioner Tobia inquired if she recalls when the County put in the request for the modification of the bridge to allow for golf carts that was cost prohibited, what the amount was in dollars.

Ms. Gumm responded she does know, but there was some discussion during the phase.

April 9, 2019

John Denninghoff, Assistant County Manager, stated it would require modification of the bridge, widening of the bridge, and that is an exceptionally costly thing, probably in the millions.

Commissioner Tobia stated he does not mind sending a letter to FDOT, however, if FDOT gave the okay and the Board knew it was on the hook for potentially millions of dollars is that an answer the Board would want to make that decision; and he does not think it is fair to get these people's hopes up that it gets a yes, then the County has to pay to modify it.

Commissioner Smith advised that is not going to be part of the equation; the idea is to get them to come up with some solution with the existing bridge; there is not any idea that the bridge is going to be modified because there is no money to do that; it is strictly regarding the bridge as it exists; and if they can come up with an idea using the existing bridge to allow it.

Commissioner Tobia inquired if staff would only be asking for a safety not a financial commitment.

Commissioner Smith responded affirmatively.

Commissioner Tobia inquired if the letter would clearly state that.

Ms. Gumm advised staff would specifically be presenting the one-way golf cart travel, showing the initial findings of that; and asking FDOT to respond.

Commissioner Tobia inquired if that would require an engineering study.

Ms. Gumm responded it would not.

Mr. Denninghoff advised the County would make the initial request; the State has a process for this that was prescribed; it entails an initial ask by the County; they will then respond with either yes to move forward with an engineering study but it is a conditional yes based on more findings that would come forward with a study; or they could just say no, if they felt it was not going to work. He continued if they say yes to a study then the County does the study; FDOT will provide some parameters to consider as part of that study; the County would get a proposal from a consultant to do that work; and then if the County went forward with a study, then FDOT would review the study and either make a yes or no decision after that. He went on to say they could very well say no at that stage; if they said yes then the County would go through a design process where the County would come up with an actual design; they would still have to issue a permit for that before making any of those changes; and in this case what staff is anticipating asking for is principally comprised of signage and there is some peculiarity associated with the signalized intersections that they would have to address with FDOT. He stated his hopes would be FDOT would be enthusiastic enough to give a real yes in the end or just say no so they would not have to go through the study unnecessarily.

Commissioner Tobia stated FDOT will ask for parameters, so the County would have to get a consultant to do that; and he inquired what the time frame is for the initial request for this to actually be permitted by FDOT.

Mr. Denninghoff responded the County has not done this before; this is a new process; he asked around to some other jurisdictions to see if they had done it; the truth to the matter he really does not know because it is uncharted territory for him; it is chartered in the sense that FDOT has a process; but what is unknown is how their staff is going to view it; and he noted FDOT tends to be very conservative so staff will advocate for it, but in the end FDOT has the final word.

April 9, 2019

Commissioner Tobia inquired once again if Mr. Denninghoff knows if the study costs would be born internally or if that is an outside consultant that would need to be hired for that.

Mr. Denninghoff replied they would need an outside consultant for that; speaking for staff right now, they are dozens of studies behind in getting things completed; and to do something that is a whole new process, this is not the type of study staff would want to be doing internally.

Commissioner Tobia inquired if that would come back before the Board for a Request for Proposal (RFP) for an authorized study should FDOT come back with an affirmative response.

Mr. Denninghoff stated if that is Board direction; they could come back with a proposal for what FDOT states they want in the study.

Commissioner Smith stated staff can cross that bridge when it gets to it.

Commissioner Tobia stated he feels Pineda Causeway has no business having a bike lane; it is not safe, however, there is a former Senate President that made it happen; because the audience gets a go forward with this, he will be voting in the affirmative; he suggested these citizens contact their State representatives and State Senators as they have more sway over FDOT than this Board; and if there is a bike lane over Pineda, then a golf cart over that bridge should be an easy ask.

Chair Isnardi stated she is sorry but she is not comfortable with this; the District 4 Commissioner is working hard on his constituents behalf; she has just seen too many wild drivers and maybe that is their teenagers, or maybe it would be hers children if she had a gold cart, but she is not comfortable even asking for this because she does not believe it is the option; she knows an 11-year old was just airlifted; she knows it is not good for the golf cart community, but that driver was with his parents; and she believes there are golf cart communities in certain areas that are safe for them. She went on to say beach side gets the same requests and they have the highest pedestrian kill rate around; she is not comfortable with this at all; golf carts are made for the golf course; to her it is no different than jumping into a Go-kart and saying people are safe; she asked who is regulating those golf carts; and she advised she was almost hit by a golf cart at Chik-fil-A; and this young man had a whole pile of his friends on with him and they were not paying attention. She noted what she is saying is that safety is a lot more important than a teenager's opportunity to drive a golf cart to Viera high school, in her opinion; she has to drive her 15-year old to school; and this option for one way traffic, would it be a solution if there was a bridge, possibly, but then that is asking the opposite traffic to drive on the sidewalk; she does not know if that is a responsible counter option; and she will not be supporting this because she believes the risk is too great. She stated there are pockets of areas that could be justified in allowing golf carts safely; she mentioned the Viera circle and asked how it is a safe option when no one knows how to drive it; it should never have been two lanes to begin with; and sometimes government does not always make the best decisions, but she will not take a chance with these kid's safety.

The Board directed staff to approach Florida Department of Transportation (FDOT) with the County's idea that all westbound golf cart traffic enter the overpass on the north side, and all eastbound golf cart traffic to enter the overpass on the south side, and to seek FDOT's input.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	John Tobia, Commissioner District 3
AYES:	Bryan Lober, John Tobia, Curt Smith
NAYS:	Rita Pritchett, Kristine Isnardi

ITEM J.4., RESOLUTION, RE: APPLYING STATUTORY REQUIREMENTS TO COUNTY PUBLIC WORKS PROJECTS

Commissioner Tobia stated last year the Board voted 5:0 to harmonize County contracting requirements with those of State requirements; this resolution is even more than what was done with E-verify; rather than requiring the terms be included in the contract, this just states certain items will not be included; all the resolution does is take the requirements that the County already has to follow for projects that use more than 50 percent of State funding and applies it to the County's projects; these requirements simply ensure that the County does not tamper with the free market such as mandating in the County contracts that employees pay a predetermined wage rate; and thankfully the County does not engage in these uncompetitive practices so it would have no immediate impact on the County. He continued the reason this is necessary is because other jurisdictions that have gone this route and up-ended the construction market; an example would be Miami Beach who attempted to go even further than what Statute allows and prescribed a wage rate of \$15 per hour which had been struck down by the courts three times; of course litigation is not free, especially when someone loses, it leads to increased fees and costs; Miami-Dade County, Broward County, and Palm Beach County have all taken steps to go back and go down the path of single sourced labor for particular union work forces; in conclusion, Brevard County, thus far, has taken the conservative path of not meddling with the free market; and this resolution would ensure the County sticks to this path and harmonizes its requirements between County-funded projects with those that are State-funded projects.

The Board adopted Resolution No. 19-059, requiring Public Works project contracts to not include certain provisions which distort the free market and only applies to those projects which use 50% or more of State-appropriated funds.

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

ITEM J.5., RESOLUTION, RE: SUPPORTING SENATOR DEBBIE MAYFIELD'S EFFORTS TO ENSURE SAFETY IN PASSENGER RAIL SYSTEMS

Commissioner Tobia stated a representative of Brightline took issue with something in this resolution regarding the number of derailments that have taken place; while he agreed the number of derailments specified in the resolution was likely accurate, he asserted his company's position that many derailments are technicalities; he will accept this position and amend the resolution to remove that particular reference; while people can quibble with the definition of a derailment, he thinks everyone can agree that death is not a technicality; therefore, he included more details of said deaths in the resolution. He went on to say this resolution is necessary to prevent tragedies like that of Linda Short, who was a 73-year old visitor to Broward County who was hit and killed by a Brightline train; Ms. Short was a mother of two and a grandparent of five

April 9, 2019

when she tragically passed away; in another case Geoffrey King's mother still cries every time she hears a train go by; and in the article *Treasure Coast News* on January 26, 2018, Brightline was quoted as saying safety is Brightline's highest priority. He noted all this resolution does is reiterate this stance; this is critical as the deaths of the Florida East Coast (FEC) Railroad including Brightline Rail shows that Florida's rails are objectively and disproportionately unsafe; in 2017 alone, FEC had 16 fatalities on merely 351 miles of track; in contrast, Indiana, Ohio which has 548 miles of track has yet to have a single fatality; according to the *Miami News* Florida is the second deadliest State next to California; and the last two Brightline deaths according to November 2018, *Sun Sentinel* article, the tragedies were directly related to the speed of the train. He stated some other deaths can be explained away as suicide but this is misleading; other railroads have specifically taken steps to prevent suicides on the railroads by putting up items such as quad grades; instead of going down this path, Brightline has fought lawsuits that demanded these types of improvements; and that is the rationale for the train resolution. He read parts of the resolution aloud.

Commissioner Lober stated in his very brief research he noticed a news story indicates that Ms. Short turned onto the tracks and was hit by a train; in respect to the other individual, it appears they had their car physically on the tracks and nothing was done incorrectly by the train or the utility; he thinks it was mentioned earlier this evening, one way to stop drunks would be to prohibit driving at night; any time there is a form of mass transportation there is going to be fatalities; it does not make it okay and it does not make it nice but if someone stopped all road traffic, it would stop all road fatalities; and if there were more evidence of failings on the part of the utility or part of the operator he could see putting this restriction in place, but from what he can tell, and his understanding with respect to Brevard County, is that it will have sealed crossings once all of the construction is complete, so instead of having two arms there will be four arms that drop down prohibiting someone from getting onto the tracks after the arms are lowered. He added he believes this was at the request of Assistant County Manager, John Denninghoff.

Mr. Denninghoff stated they have essentially asked for that; he has not seen any plans that indicate it will happen at this point.

Commissioner Lober stated it is his understanding there is a commitment to spend half a million dollars over and above what otherwise is being done, to ensure that is put in place; and he inquired if that is accurate.

Mr. Denninghoff advised he is not confident about that.

Commissioner Lober stated it comes down to a question if they have done something wrong and what measures are being taken here, if any, to prevent that from happening.

Commissioner Tobia reiterated in Florida there is 351 miles of track with 16 fatalities; in Indiana, Ohio there are 548 miles of track and zero fatalities; that is statistically significant; there are probably many factors that go into it, but mathematically that cannot be figured out because one is a zero; whether someone accidentally made a turn that may account for one and suicide that may account for one, but a 16:0, he believes there are many other factors that go into this; safety is very important as is supporting Senator Debbie Mayfield in her push to make this safe; and he thinks maybe that is the impetus behind Virgin Rail as they have quoted that safety is very important. He added that is all this resolution does.

Commissioner Lober stated he has no problem passing a resolution that says the Board encourages best operating practices in order to further safety, but this goes beyond that; in terms of Ms. Short, the only reason he brought her up as an example is because this was something that was just brought to his attention in the proposed resolution; he understands

April 9, 2019

where Commissioner Tobia is coming from with respect to Ohio; but he does not think he can say that the correlation indicates there is some causation element there; and whether it is 16 or 20, anything over zero is horribly unfortunate. He continued he does not see that being tied into being the operators fault solely on the basis of how many incidents have occurred; if there is something to show that they have done something incorrectly he would be much more receptive to being less than welcoming to them; however, he just has not seen it to this point.

Commissioner Tobia inquired if Commissioner Lober would be okay if he struck through the additions; would he be more comfortable if he removed the two deaths; he noted it was probably wrong of him to put only two of them down, he probably should have listed them all; and he inquired if he were to take away the two whereas clauses of the tragic losses would he be more comfortable supporting this.

Commissioner Lober stated it depends on what he hears in public comment; it is not that he is unempathetic towards what happened to those folks, he just thinks the manner in which it is included suggests that somehow it is attributable to the train operator and he does not know if that is the case; there are horribly tragic things that take place but it does not mean that FDOT is responsible for that; he would feel better about it, but he does not want Commissioner Tobia to weaken his resolution if it is something he ends up not supporting in the end anyhow. He advised he does not know if he will support it until after he hears some public comment on it because he has not made up his mind at this point. He mentioned Commissioner Tobia may want to hold off on weakening it if he decides not to go along with it, Commissioner Tobia may want to have it passed with the strongest language possible.

Rusty Roberts, Virgin Trains USA, stated he agrees with Commissioner Tobia that safety should be a first priority; and he can assure that safety is mission one for Brightline/Virgin Trains project; as they develop the project, they work closely with both the Federal Railroad Administration (FRA) and Florida Department of Transportation (FDOT) to design the highway crossings to the highest standards of safety required by the FRA; FDOT and FRA worked hand in hand with them working with representatives from every County and municipality, including Assistant County Manager, John Denninghoff, when they were in Brevard County on a crossing by crossing diagnostic review to determine what the best safety measure would be at each crossing; and by that he means they have standards set by FRA which FDOT required them to adhere to, which they have authority to do so. He added they worked with local public works directors and city and county engineers in the common area to figure out what more they can do; they would not object to any resolution that talks about safety and urges this company to operate with the highest safety standards; and they would also want the resolution to applaud this company for doing an innovative thing and bringing public benefit to the State in terms of public transportation. He noted the resolution omits many positive recommendations from the Office of Public Policy Analysis and Government Accountability (OPPAGA) Report and by that he means the resolution was very one-sided; it ignores areas of community partnership, suicide prevention, greater enforcement of traffic laws, funding of State safety equipment, and it incorrectly asserts most glaringly that Brevard County residents through their tax dollars will pay for reconstruction of grade crossings; no government entity has received a bill from them for any grade crossing or reconstruction; and Brevard County will not receive any bill from them for crossing upgrades, in fact this company agreed to pay for the maintenance of these crossings for the next eight years. He stated the resolution calls for the governor to find an alternative route; this project is on largely private railroad property that exists today; if it were possible to move out of the urban area of Brevard County it would greatly increase their cause and make the project feasible, but that ship has sailed; they are starting construction in the next 45 days; the funding is in place and they are ready to move forward with this project; and he commented he appreciates the good intentions of this sponsor, but he would ask the Board to defer action and allow them to work with the Board to build a resolution that is forward-looking, expresses their shared desire for safety, and also allows Brevard County to be served with a train station,

which is already in the predevelopment phase.

Commissioner Lober inquired with respect to the actual text that was proposed, is there any other areas that Mr. Roberts' believes are factually inaccurate or very misleading to the extent that they might as well be factually inaccurate.

Mr. Robert's stated certainly that part he mentioned about the grade crossings; he has stated countless times that they are not billing anyone for the work and the taxpayers have no costs cited from them for the crossings; with regard to the derailment issue, that whole section was about the freight company and it is an entirely different company; the derailment he talked about, that company has had one in 10 years; and the others have had rail yard incidents that are very minor.

Commissioner Lober inquired what that means.

Mr. Robert's stated rail cars are towed to rail yards and they are pushed and pulled and sometimes a wheel will ride up because there are switches everywhere while they move tracks around, it rides off the track a little bit; it does not tip over; and there are no dangers. He went on to say what the resolution also fails to mention is the fact that suicide by train is a major problem; he thinks when talking about 16 deaths, they have 80 percent of the incidents on their railway fatalities as suicide, two where someone was in a car and struck because they were on the tracks; they are installing quad gates; and Mr. Denninghoff will be receiving a new set of plans by the end of April because he knows he is expecting them. He continued everywhere that this train is going, exceeding 79 miles per hour, there will be quad gates; in certain areas where the train is not exceeding 79 miles per hour there will also be quad gates; that is particularly in areas where they have to be careful, like downtown Melbourne; he noted his overall point is that they are not afraid to talk about safety, but they think they need to be truthful about it; it was mentioned early on that Florida is the highest State of pedestrian deaths, so when talking about Indiana, Ohio, that is a very rural area and it is a freight company, not a passenger train; and when talking about pedestrians, last year Brevard County had 22 in one County. He added they are operating in three Counties so, when talking about statistics he believes it needs to be put in perspective. He stated they have taken a lot of lessons learned from their operation in South Florida and they are actually adding additional safety measures in South Florida to find a way to reduce those kinds of deaths; that OPPAGA Report stated that most of the deaths, suicide and other areas, are outside of the railroads control; it is because of human error, trespassing, or suicide; and there have been zero deaths, zero incidents where it was caused by a malfunction of the gates system, signaling system, or the trains.

Adrienne Cronebaugh stated she is with Senator Debbie Mayfield's office; the Senator is in Tallahassee working on this very issue so she could not be in attendance; she thanked the Board for reviewing the Florida Passenger Rail Systems Study that was conducted by OPPAGA that was released this past fall; Senator Mayfield is still working to get FDOT to address gaps in federal and State regulations governing this higher speed rail; this is higher speed and not what people have experienced in this area before; and she sent her appreciation for the support and commitment to the safety of the residents and visitors.

Chair Isnardi inquired if the Board needs to modify that; and if they are paying for the upgrades and maintenance for eight years.

Mr. Denninghoff replied it is his recollection that after eight years the maintenance would return to the typical, which means the County pays for it.

Commissioner Tobia stated he received that information from another government office.

April 9, 2019

Chair Isnardi stated she would be willing to support this 100 percent, she just wants to be sure it is accurate.

Commissioner Tobia stated he will get rid of the two whether Commissioner Lober supports it or not; he will remove the three whereas clauses in orange and remove the 'whereas in Brevard County;' and he made a motion to approve the resolution with those four deletions.

Commissioner Pritchett stated she was going to ask for a couple more changes; it is very lengthy; she likes paragraphs one through six; maybe seven could be removed; on page two she thinks he should drop everything up to the "therefore be it resolved".

Commissioner Tobia inquired if Commissioner Pritchett wants to get rid of the one where it talks about All Aboard Florida has experienced 17 deaths in only 20 months.

Commissioner Pritchett advised that he has factual things in there and what is going on; she knows it is All Aboard Florida but it is not just about All Aboard Florida, it is about high speed rail; and if the Board just states supporting Debbie Mayfield, because she is covering a lot of it.

Commissioner Tobia noted he understands, however, All Aboard Florida is not Virgin, so it is just like a name change. He inquired if Commissioner Pritchett would feel more comfortable if he got rid of the fact that All Aboard Florida has experienced 17 deaths.

Commissioner Pritchett stated she just does not think it has to be in this resolution.

Commissioner Tobia stated that is fine, it is probably on the record.

Commissioner Pritchett stated for Commissioner Tobia to not ever put in her mouth that she is not comfortable with there being 17 deaths that is not what she said.

Commissioner Tobia stated he is not insinuating.

Commissioner Pritchett commented he said it was on the record.

Commissioner Tobia stated he did not put it on the record, this is factual; and he will get rid of everything else down there.

Commissioner Pritchett stated she thinks he can shorten the resolution and make it still do what he wants it to do by making paragraphs one through six and dropping down to where it is supporting Debbie Mayfield's agenda.

Commissioner Tobia inquired if it is the one that starts with "whereas Debbie Mayfield has been resolute in protecting health, safety, and welfare."

Commissioner Pritchett stated he could but it could drop down to "therefore be it resolved that the Board is supporting Senator Debbie Mayfield's resolution coming down."

Commissioner Tobia stated okay.

Commissioner Lober inquired if he could have a minute to reread this with the changes.

Commissioner Pritchett announced she is in support of maximizing safety for the citizens; there are going to have to be some changes and adjustments; she loves what Senator Mayfield is doing in Tallahassee; she was really concerned to find out there was not a mandate on oversight of passenger rail at all right now; she loves that it is in there as number five; and she

April 9, 2019

appreciates so much that this is being worked on right now.

Commissioner Tobia stated just for clarity, he is leaving the first six paragraphs and getting rid of everything up to the "whereas the Brevard County Commission wishes to express its full support."

Commissioner Pritchett stated affirmatively.

Commissioner Tobia stated that is an easy deletion. He will change his motion.

Commissioner Lober stated he is trying to find a way to get on board with the rest of them; he asked if Commissioner Tobia would consider striking the third which appeals to the last item following therefore be it resolved.

Commissioner Tobia responded he would not.

The Board adopted Resolution No. 19-060, supporting Senator Debbie Mayfield's efforts to ensure safe passenger rail systems in Florida.

RESULT:	ADOPTED [4 TO 1]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Kristine Isnardi, Chair Commissioner District 5
AYES:	Rita Pritchett, John Tobia, Curt Smith, Kristine Isnardi
NAYS:	Bryan Lober

ITEM K., PUBLIC COMMENTS

Robert Burns stated he drives that bridge every day and he lives with golf carts in his neighborhood; his daughter has almost been hit by a golf cart; he has almost been hit by a golf cart; he understands they become something that the Viera community lives with, but his first and foremost concern is always safety; no matter how responsible or good a 14-year old kid may be, driving that cart is not designed for an irresponsible adult who is driving a vehicle that hits it; almost 100 percent of the time it is going to be a fatality to children; more often than not, those kids are not driving by themselves, there is usually a gang of them; and there are no seatbelts most of the time. He continued he does not think it is worth the risk to risk the lives of those children for convenience; he understands the frustration but he would be much more frustrated with losing the life of a kid, not because of their responsibility but because of a driver who has airbags and seatbelts.

ITEM L.1., BOARD REPORT, RE: FRANK ABBATE, COUNTY MANAGER

Frank Abbate, County Manager, stated he has one item that relates to a report that the Board received from the Solid Waste Management Department on U.S. 192, the future landfill site project; he gave the Board a rather detailed history report, nine pages, talking about the current status of that in light of the fact that staff received a permit from the Army Corp of Engineers relative to that site on March 15; prior to that, back on February 21, staff had met with the City of Melbourne because from a prior report about the Sarno landfill site and its current status the County needs to be seeking a variance with the City for additional height variance for the landfill site at Sarno; staff did receive an application from the engineers, Outside Engineering Consultant, for that particular variance; that was received on April 2; and staff is preparing to

April 9, 2019

submit the application to the City of Melbourne and they anticipate they will consider that in May. He added he hopes they will get that variance so that will give them some much needed extended life at the Sarno facility. He continued the purpose for him raising this issue now is because the Army Corp draft permit is one that staff has 30 days to provide comments, so they wanted to make sure they got this information to the Board so it was aware of it; after that then staff can no longer make any additional comments; staff does not anticipate making any comments unless they receive different direction from the Board; and at that point it is a matter of executing the permit. He noted staff has not done that; they wanted to make sure they got all the information to the Board; and his purpose this evening is to see whether or not the Board has any interest in staff putting together an Agenda Report for this Item or having a workshop on it, otherwise, staff is ready to proceed.

Chair Isnardi stated she spoke with the County Manager and obviously this is an issue that is very near and dear, and something she feels passionate about; there is no harm nor is there any urgency to sign the permit; the County Manager has agreed to waiting until after the June break to come back with an Agenda Item before they move forward because there are several options the Board can look at that do not involve trucking the trash out to Osceola nor does it involve doing anything major; a couple months will not make a difference; and she wants more time because they have not done the environmental study on the other possible piece of land that is available. She noted there is 68 acres, some of which is being used by St. John's, some is used for retention, but that is all zoned landfill, so that is a possibility; there are a lot of options out there that do not include starting a new landfill at 192; and she wants this Board to be very careful before moving forward, signing that permit, and rezoning that land just so they can say it is more valuable. She added she thinks that is a very dangerous prospect. She went on to say she may not have the votes, she may end up with the votes, she is just not sure, however, she will fight it to the bitter end; the Board always defers to the Commissioner of the District and this is such a big deal to her and her District; it should be a big deal to everybody considering this would be the first thing people see when they drive down 192; they may not see it in the beginning but everyone knows how high that heap becomes; and she does not want Brevard County to be known as being just west of the dump. She reiterated she feels very passionate about this; she thinks there are a lot of people who want to weigh in; and she thinks before the Board pulls the trigger and decides it wants to be in the business of constructing another landfill, she thinks it needs to know its options and if it is making the best decisions. She went on to say she thinks the Board knows where she stands; at the very least she thinks it owes her the opportunity to try and find a better way and a more permanent solution rather than the easy one, 3,000 acres in the middle of Deseret Ranch; she asked the Board to think about the potential for environmental impacts; the Board has talked about wetland mitigation and how they cannot be duplicated; that is what is being proposed in the future at that site, even though it may not happen at the first cell phase; she has looked at some old minutes, she has gone through old workshops, she has looked at statements made by staff versus what reality is today and what it was five years from those statements, she wants to make sure the public is aware, and she wants to have a chance considering how close they are in proximity to St. John's, to the environmental risks that are involved; and she mentioned people never thought this County would be where it is at with the Lagoon today, and she does not want to make bigger regrets later. She advised she thinks any risk is not a good risk; she thinks impacting such a large parcel of land out there and identifying the County with that landfill is a bad idea; and she thinks at the very least the Board owes it to the residents and District 5 to at least look at all possible solutions. She continued on to say staff does not have the environmental study on the land next to Sarno; it does not have a comprehensive evaluation on what, if any, of the 68 acres that the County purchased back in 1990; they do not have a full evaluation on that yet; that is what that was purchased for and now it is being used for stormwater mitigation and St. John's is using it for some dredging material; there may be a piece there that can be used; she has spoken with a few Melbourne City Council people and they are amicable to the height variance; and she noted she would hate to see the Board make a bad decision.

April 9, 2019

Chair Isnardi passed the gavel, and made a motion to hold off on signing that permit and to bring this back to the July 9, 2019, meeting.

Commissioner Lober inquired if there can be a motion to permit the Board to continue beyond 11:00 p.m.

The Board approved to proceed with the meeting beyond 11:00 p.m.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	John Tobia, Commissioner District 3
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

Commissioner Tobia inquired what the implication is, should the Board wait until July to give the County Manager authorization to sign off on this.

Euripides Rodriguez, Solid Waste Management Director, stated he does not think a couple months would make that much of a difference mainly because there are still permits to be obtained; the Army Corp of Engineers is just the last big permit; there are still Florida Department of Transportation (FDOT) permits and other stuff that has to be obtained; not only that, but to be fair to the other options, there are still outstanding questions that have to be answered; and for example, there is an appraisal that is being conducted on the Melbourne landfill that staff does not have the report for yet. He continued staff also does not have the answer on the variance for the height; he believes that kind of information would make the Board's decision better; and he does not know if the Board wants an Agenda Item or if it would prefer a much more free discussion in a workshop environment.

Commissioner Tobia inquired if there is any cost in moving forward at this point. He stated the question by the County Manager was to give authorization to accept or move forward with the Army Corp of Engineers permit.

Mr. Rodriguez stated the Army Corp of Engineer permit, he is authorized to sign, but he has not done that yet; there is no cost in that because they have spent the money to obtain, and they have the permit, with no additional cost or monetary value in that permit; the only one they are waiting for money is a check from County Finance in order to submit the variance for the City of Melbourne, but they were going to do that anyways; and other than that, there is no additional cost.

Commissioner Tobia stated he is on the other side of this argument; he thinks it is ridiculous to make the reference for zoning issues when comparing issues that are Countywide; solid waste is something that is not just in District 5 or District 3; it is not like a height restriction on a hotel in Titusville; what is done with the County's solid waste affects each and every one the Districts; and while many times he defers zoning issues, he will not be deferring to the Commissioner based on him or her not wanting a landfill in his or her District. He went on to say he does not see any harm in moving forward with this; he thinks the end result is the same with Commissioner Isnardi and himself; he does not want to see a dump there; this Board has made some good steps and it is currently working on a Request for Proposal (RFP) for alternative technologies; the Board does not know what will come of that, but he thinks it will be short-sided not to move forward; and his understanding is the County has millions of dollars, in the neighborhood of \$25 million, put into this project. He noted he thinks it would be foolish of the Board not to get the best return on that; and he inquired if it would be fair to say, if the permit was signed off on or authorized, that it would increase the value of that land.

April 9, 2019

Mr. Rodriguez stated it would, because this permit has cost the most amount of time to be able to obtain.

Commissioner Tobia inquired if there is anyway it would decrease the cost.

Mr. Rodriguez responded it would not because they would not have to pay attention to the permit.

Commissioner Tobia stated since this is a County asset, going forward with this permit does not cost County taxpayers any money, in fact in the long run they may see a huge benefit from it whether it is used for a landfill or not; he will respectfully be voting against this; and if this one goes down he will have a motion to go forward with this permit, not spending one dollar on that project but increasing the value to taxpayers and giving the County another option, should other options go to the wayside for one reason or another.

Commissioner Pritchett stated she does not have a problem waiting a couple months to come back with it; with all that being said, she knows it affects the County but it is going to effect Chair Isnardi more than the rest, so she should have more weight on this when the Board starts having conversations; it is a lot of money that the County invested; the Board needs to figure out how to be good stewards of that; she hopes the Board comes back with some good alternatives; she does not want to start spreading this out to other places if it is not necessary; and she is really hoping something can be done with Sarno Road, and that staff can figure out what kind of hurdles the County might have with that other property that is for sale over there. She mentioned she is really looking forward to the County starting to do some more recycling on the construction and some of those other things; maybe there is another piece of land somewhere, she does not know; she hears Chair Isnardi and this is the last thing she wants to do; she believes the County is going to have to hold on to the land in case there are no other efforts; however, she is hoping there are some other ideas. She added she is completely on board with waiting a couple months while Chair Isnardi gets some alternative ideas together.

Chair Isnardi stated as far as talking about it being in her District, it obviously impacts her District the most; she thinks the Board needs to be responsible with the County's solid waste; the County has over \$24 million invested because it spent millions in litigation; she noted for everyone to remember how the County acquired this property; it was sold by Deseret Ranch because the County pursued it through eminent domain and sued them for years and years; first the County applied for a permit before the County even had the land, so they withdrew it; then the County got the land and resubmitted the permit; and waiting a few months to sign that permit the County is not going to lose any money. She explained Commissioner Tobia said he does not want a landfill there either, but once it is zoned landfill, logic would say Deseret Ranch folks are not going to pay \$25 million for a piece of ranch land; there is such a thing as not using it for its intended take; there are a lot of legal questions that she would not even put the County Attorney through until she knows how the Board sits; and she thinks just because the County can, does not mean it should. She went on to say she thinks it is bad enough that the County took that land under the untrue argument, whether well intended or not, that the Sarno landfill was going to fill a long time ago, but the County was able to extend it this long; the County took that land and now it is going to devalue the land for those folks at Deseret Ranch because they are just going to develop it anyways; and she inquired if anyone would want to develop next to a landfill. She commented she does not want people driving into this County and the first thing they see coming from Disneyland is a dump; that does not sound very appealing; she knows the County is going to do a class three first but it is a bad idea all around; she thinks the Board should look for every alternative but this; and she thinks this has become a legacy issue and more of a pursuit on behalf of the County whether it be a Commissioner or staff to move forward instead of looking for the best forward alternative. She stated she believes that there should not be Commission Offices calling Congressman Offices trying to get permits expedited that is just

April 9, 2019

wrong and should never happen unless it comes from the Board; she appreciates the County Manager holding off on moving forward with having this signed, out of respect for the Board and how the Board chooses to move forward; she hopes the Board or at least a majority of it will support holding off on signing that for a couple of months because nothing is lost by doing that; even if it is decided later on that the Board is going to sign that because the majority of the Board decides to, it is not going to make a difference if it is just a couple of months; and of course she cares about what happens at the Sarno landfill but that is already a landfill. She went on to say it just does not make any sense why the Board would want to create another landfill; she appreciates Commissioner Pritchett being open to looking at other options; she does not want this in anyone else's District either, she wants the Board to utilize Sarno to the best possibility, take the land that is zoned landfill and see what can be done with it; and she believes that is what the Board should look at first.

Commissioner Smith stated he has no problem looking at alternatives, he believes that is the Board's purpose; he is always open to options, but he thinks one of the options that the Board needs to look at is that there is no crystal ball and the Board does not know what this County is going to need in the way of a landfill in 25 years; to consider selling this now, takes away that option from the Commission that will be sitting at that point in time; right now all this Board can do is speculate what the conditions are going to be in 25 years; and he believes this is a valuable asset that the Board should not consider selling. He noted he thinks the Board should absolutely look at every option before opting to use it; and he will support Chair Isnardi's motion because two or three months is not going to make a difference.

Commissioner Lober inquired with respect to the money that was spent he does not anticipate by any means that the Board will recover \$24 or \$25 million by selling the land back to Deseret Ranch, but presumably they would recover some of that money were the County to sell the land back, is that not a reasonable assumption.

Mr. Abbate advised he does not think he is in a position to say; he would say if the County has that permit, that the best use in terms of the value of the property would most likely be enhanced; however, he is not an expert to give that type of response definitively.

Commissioner Lober stated it is interesting that with sunshine a lot of the Board is working on the same items and just do not know it; this is one of those instances; he has not talked to all seven of those folks on the town council, but he has spoken with more than one of them including Paul Alfrey, in whose District the Sarno facility is located; with respect for the appetite for variance, he certainly appeared inclined to consider a variance; he does not know if he would be amenable to go into 104 feet as was suggested, but certainly there may be some room up to that point that he would certainly consider; the Vice Mayor did not express any overt opposition to the concept, granted she did not give him the level of certainty that he felt from the councilman keeping in mind that he did not agree to 104 feet, as he believes the proposal is at this point; and he asked the Board to keep in mind having options is good, but his concern is if the Board takes the steps to sign that document that now the County can use this for a landfill, he does not want that to then be transferred to another property owner with them being able to turn it into a landfill. He continued he is not saying that he is willing to write off the difference in value at this point; he thinks Deseret Ranch is certainly well aware that if the County wants to turn this into a landfill it can do that; even if it does not have that signature on a sheet of paper it may factor into what they are willing to pay; and he is not saying give the property back to them or sell it to them at a discount, but if the County does end up selling it there is no reason it cannot be pointed out to Deseret Ranch, although it is abundantly clear, that if the County wants to turn it into a landfill it can, which makes it worth more than it ordinarily would be worth, even though the zoning as it is currently structured may not show that.

The Board tabled authorization for the County Manager or his designee to sign the future County landfill site permits for the Deseret Ranch location until the July 8, 2019, BOCC meeting.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Kristine Isnardi, Chair Commissioner District 5
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

Mr. Abbate asked the Board to clarify if it wants staff to bring back an Agenda Item in July.

Chair Isnardi responded the first meeting in July staff will bring back an Agenda Item; she likes workshops but she has been to enough of them; she was at a workshop in 2016 and she saw how the dynamics were; she would much rather be in the public view and a public venue; and she would much rather give people the opportunity to speak because they do not go to workshops. She thinks workshops are more staff driven and she wants to hear from everybody not just staff. She advised staff to not put a lot on that Agenda.

Mr. Abbate advised he thinks that is when staff is doing the tentative budget; he is not exactly sure what the date is just the middle of July; and he inquired if this was for the first night meeting in July.

Chair Isnardi responded affirmatively and reiterated staff may want to keep the Agenda light if it can.

Mr. Abbate commented the problem with that is they will be just coming back from the one month break so it may be difficult to make it a light Agenda.

Chair Isnardi stated part of her motion was not to sign that permit.

Mr. Abbate noted he fully understands.

Vice Chair Lober passed the gavel back to Chair Isnardi.

ITEM L.3., BOARD REPORT, RE: RITA PRITCHETT, COMMISSIONER DISTRICT 1

Commissioner Pritchett stated the community that was here for the zoning request that went on the other night, she received some responses and one of them blessed her heart; some of them have said they have not liked government for a long time, but after watching this Board the way it is respectful to everyone, they had their faith renewed in local government; and she just wanted to pass that along.

ITEM L.4., BOARD REPORT, RE: BRYAN LOBER, COMMISSIONER DISTRICT 2, VICE CHAIR

Commissioner Lober advised he has a couple things, one is easy and the other is more difficult; his wife and him were at a dog park helping councilman Alfrey build that; they were there for approximately five hours; and he encouraged anyone who is willing to go out in the evening and help work on it as they are trying to get a grand opening in the upcoming days and it is very tight with respect to the upcoming schedule. He stated he had some language that was forwarded to him indirectly by staff based on discussions that the Sheriff has had with them; he is just going to read that along with some minor modifications to make himself more comfortable with it; before he makes the motion he does not want anyone to presume that he is in favor of

April 9, 2019

increasing taxes or that he eventually will, this is just giving additional options; and he read his motion will be as follows, "Based upon the unfunded critical needs that have been identified by the Sheriff, I am moving to authorize the County Manager to prepare, in his tentative budget proposal for Fiscal Year 19/20, multiple options for ad valorem tax rates including an option that may exceed the aggregate rolled back rate in order to provide funding for the critical needs identified by the Sheriff while maintaining existing service levels elsewhere, as well as an option that may reduce service levels in the aggregate rolled back rate while still maintaining the most urgent critical needs identified by the Sheriff." He noted with that he is not agreeing to do that as a finality, but he does want the options available.

Commissioner Pritchett stated she thinks that is appropriate; the Board did ask him to try to stay within the aggregate but it did not have all the numbers; she thinks the Board needs to allow him the flexibility to come back with some things; and she is guessing this has to do with the Sheriff needing a larger budget, so she agrees with him. She added she knows what is going to be in his MSTU and it is his budget; she does not think the County needs to be suffering, so the County Manager needs to come back with some options; and it is going to be a different kind of year but, that is the day people are living in right now.

Commissioner Tobia inquired if this is a bad April fool's joke. He stated this is the budget of the County Commission; if taxes are raised that will be the responsibility, not of the Sheriff, but of the Brevard County Commission, to be extremely clear; he does not know how many of the Board will vote, but to shirk this on the Sheriff, any constitutional office, any Department, the County Manager, County staff is wrong; he will be voting against this because this is the Board's budget and the Board makes the decision; the Sheriff presents a budget and the Board makes the decision whether or not to fulfill it; and there is a State mechanism if the Sheriff does not feel he is getting a fair budget or a budget he feels he deserves. He went on to say, to be clear, no matter what the outcome is, the Board as individuals and as the Commission need to take responsibility for that; he understands these are just options, but they are options he does not want to look at; and unfortunately he would ask the Board not to look at these terrible options, to live within the County's means, and not to support this.

Commissioner Lober stated he just wants to emphasize this is not by any means to say the Board is increasing taxes; he certainly expects there to be options that do not involve a tax increase; all else equal that is where he is inclined to go if he had to vote on a budget right now; however, he wants to see what the options are insofar as having different degrees of impact with the County Departments. He continued the last thing he wants to do is start cutting critical needs in order to try to play this balancing game; he does not want to cut Fire, he does not want to cut Mosquito Control, he does not want to cut the General Fund, he does not want to cut Road and Bridge, and there are certain Departments he does not want to cut at all but that limits the other areas that can be cut, which he is not thrilled about cutting such as Libraries or Parks and Recreation; however, he has always maintained and he anticipates he will always maintain that Public Safety is one of, if not the most important function of government. He went on to say if the County is able to do what it needs to do within a reasonable degree without increasing the tax, then by all means that is where he will be; he does not have any qualms about looking at other options that are not obligating him to take those options; he thinks this is simply providing an additional set of possibilities for the Board to consider; some may vote against it down the road even he may vote against it down the road, he just prefers to see what is out there; and he agrees 100 percent with Commissioner Tobia in that this is on the Board not the Constitutional Officers, when it makes budget adjustments. He stated if it is something where the taxes end up going up, he is going to have to live with that if he supports it; he does not know if he will vote to support that; and the Board has to look to see what the needs are and how the County is able to fund them.

Commissioner Pritchett commented she does not even know if this motion is necessary

April 9, 2019

because the Board gave the County Manager direction to try and stay within the aggregate without knowing any of the variables, so he is going to have to come back with something anyway; that is fine if this gives him the ability to not have any heartburn with what he has to come back with; however, she expects him to come back with some types of options. She stated she believes this is a fairly easy motion and it is responsible because if the Sheriff ends up needing \$10 million because there are terrorist attacks, she is not going to quit doing roads, parks, and everything else; and to make this decision logically the County Manager is going to have to come back with some numbers.

Commissioner Lober asked Mr. Abbate if he feels comfortable that he can do this absent the motion, he will withdraw the motion.

Frank Abbate, County Manager, stated he thinks he clearly needs a motion because as the Board knows he specifically committed to the Board during the workshop that he would not present a budget proposal that went above the aggregate; staff will be very happy to develop it in accordance with this; and he mentioned that was not a staff driven motion, that was the Sheriff wanting to be able to do some of the things he wanted to do.

Commissioner Lober apologized if his words came across differently than what he intended.

Mr. Abbate reiterated he would really appreciate a motion if that is what the Board wants him to do; and he believes the wording gives him the ability to provide options above and below the rolled back and certain MSTUs.

Commissioner Lober advised or potentially multiple options that are below.

Mr. Abbate commented he would anticipate three, but it is too early to tell right now because there is a lot of information he does not have with the Departments only starting to develop their budgets; they will not have any preliminary numbers even from the Property Appraiser until June; and those will all impact where they are but this gives the flexibility to give the Board a variety of things if that is where the Board wants to be.

Commissioner Tobia stated the work that goes into one budget is incredible; and he inquired how much extra time this going to take and if it will increase the workload for the Budget Office exponentially.

Jill Hayes, Budget Office Director, stated if she understands correctly, they are talking about coming back with options before the Board goes on a break in June.

Mr. Abbate advised Ms. Hayes this would be when she submits the tentative budget in July; there are no other budget workshops scheduled; and there really is not a whole lot of time.

Commissioner Tobia stated as much as he respects Mr. Abbate, this comes down to the Budget Office Director who works countless hours to put this together and he just wants to know how much work this is levying on her by asking her to come back with multiple options in a short period of time.

Mr. Hayes apologized for misunderstanding. She stated if this is just talking about options for the ad valorem tax rates and the revenue that it would generate, so they can calculate different ad valorem options for the Board, she advised it is just calculating what millage rate would be required to generate a certain amount of revenue to stay within different levels; and it would not be an entire budget book like the Board receives just options on those ad valorem millage rates.

Commissioner Tobia thanked Ms. Hayes for all the hard work she does to put together just one

April 9, 2019

budget.

Commissioner Pritchett inquired if Commissioner Tobia said the Sheriff could get a hold of the State and raise his income that way.

Commissioner Tobia responded there is a mechanism for the Sheriff's Office should the money appropriated from the County Commission not be to his liking; and there is an appeal process set up with the Department of Revenue where he can appeal the decision from the County Commission.

Commissioner Pritchett inquired if he would then get it from the State.

Commissioner Tobia stated he is quite certain it would come back to the Board; just for the record Brevard County has a wonderful Sheriff and a lot of times the Sheriff and the Commission are on opposite sides and it can get very contentious; obviously that being public safety, the State saw that there needed to be a mechanism to have a third party intervene; therefore, that option is available to the Sheriff should he not receive the budget he thinks is necessary to run his Department.

Commissioner Lober inquired in terms of the additional amount of time that Ms. Hayes would reasonably expect to have to prepare some of these option, if she would measure that in hours, days, or weeks.

Ms. Hayes responded it would be several hours to calculate a scenario on different tax rates; just calculating a scenario would take several hours once she has the information from the Property Appraisers Office; and putting the tentative budget together with all the information from the Departments, that is months of work, in accordance with the workshop and also having options for different tax rates.

Commissioner Lober stated if it is something that is hours he feels a lot better putting that on the Budget Office than something that is going to cripple the office's ability to work; and if he is understanding correctly, this is not going to impact her office to where it cannot handle any other work obligations.

Ms. Hayes responded in the affirmative.

The Board authorized the County Manager to prepare in the tentative budget proposal for Fiscal Year 2019/2020, multiple options for ad valorem tax rates, including an option that may exceed the aggregate rolled back rate in order to provide funding for the critical needs identified by the Sheriff while maintaining existing service levels elsewhere, as well as an option that may reduce service levels within the aggregate rolled back rate while still maintaining the most urgent critical needs identified by the Sheriff.

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

ITEM L.5., BOARD REPORT, RE: JOHN TOBIA, COMMISSIONER DISTRICT 3

Commissioner Tobia stated last week the County received the formal opinion of the Attorney General's Office responding to the County's question whether it has the authority to make the issuance of business accuracy contingent upon the participation of E-Verify; the Attorney General confirmed the County Attorney's analysis that the County does not have the authority to require participation of E-Verify to get said business license; he thanked the County Attorney's Office for their assistance in securing this opinion, which is very important information not necessarily for the Board but for the citizens and law makers; and this opinion leaves no doubts as to why Representative Thad Atman's bill requiring businesses to use the E-Verify system as necessary. He went on to say the County has done everything it can legally do to ensure its own contractors use E-Verify; it is now up to the State to take the next step in making sure legal citizens and residents are treated fairly and modern indentured servitude is not used by corrupt businesses in this County.

ITEM L.6., BOARD REPORT, RE: CURT SMITH, COMMISSIONER DISTRICT 4

Commissioner Smith stated he has a question for the County Attorney; South Tropical trail has recently been repaved and there were speed humps there since the 1990s; now the question exists if that road still qualifies for the speed humps; and before the County puts money into replacing the speed humps he would like to ask staff to look into it to see if it still qualifies for the speed humps.

Eden Bentley, County Attorney, stated she thinks that would be a Public Works issue; and she believes John Denninghoff, Assistant County Manager, is an expert on speed humps.

Commissioner Smith inquired if he needs to make a motion or if he can just direct staff to do that.

Attorney Bentley stated she thinks the County has to look at it and she thinks they have to find that certain criteria exists.

Commissioner Smith stated he understands that; and he reiterated he needs to know if he needs to make a motion or if he can just direct staff to do so.

Attorney Bentley responded there needs to be a motion.

Mr. Denninghoff stated he is assuming Commissioner Smith means under the current rules and Policies that are established by the Board, as opposed to what had existed back then.

Commissioner Smith stated that is correct.

Commissioner Tobia stated he will be voting against this not because of the sponsor but just as a Policy in County Commission District 3 they do not have speed humps and he wants to be consistent.

Commissioner Smith stated he is not crazy about them either, but they were there and before he spends the County's money to put speed bumps back he wants to know whether he has to put them back or if he has the discretion to say they do not qualify.

Commissioner Tobia stated he gets it, he is just doing it for consistency, not against the sponsors.

April 9, 2019

Chair Isnardi stated Commissioner Tobia is doing it to be difficult; Pennsylvania Avenue is the prime example of when, and Mr. Denninghoff will tell people, speed humps are actually needed because there are no sidewalks and nowhere to walk but people fly down that road like it is the Indy 500; when they were removed for resurfacing, the road has to settle for a couple of weeks, and it was chaos deciding on whether they had to go back in; however, she was really glad they did because when they were out, staff did not have to be out there long to see how fast people were driving down that road. She commented she is not a huge fan of them either, but she thinks this is another one of those where it should be referred to the District; and she thinks it is a great idea to study before throwing them back in there.

Commissioner Smith commented he will encourage reflection from those who live there as well.

Mr. Denninghoff stated it occurs to him that they have not done this before so he is trying to anticipate things that might arise; normal policy approach is that there is a citizen driven petition that is developed by the neighborhood and if it qualifies under the technical requirement, has nothing to do with the petition, then staff does the full blown study which talks about the speed of the vehicles and what the crash history is and other things; then it is under the Policy that it is up to the Commissioner of the District to either agree to it or not; and in this particular case, there is no petition and there has not been a petition since the Policy was created. He continued staff can study it now and come up with a full study absent the petition; he does not know if the Board wants staff to get the petition together, they currently do not have someone in the neighborhood that will carry the petition around which is how it is typically done, staff could produce a report to either the Commissioner or the full Board about it, absent the petition; and he advised he is just looking for a little direction so staff is deviating somewhat. He noted he understands the question and he does not believe it would qualify under the current rules for speed humps with the classification of the road, he believes it is a minor arterial road.

Commissioner Smith noted that was what he would anticipate and his office has not had any request but he anticipates at some point, that someone will request some information whether they will get the speed humps and he would like to have something.

Chair Isnardi commented if it is ultimately the Commissioner's decision and he does not think they belong there and the Public Works Director agrees, it could save a lot of aggravation.

Mr. Denninghoff stated he thinks they still need a motion simply because the way they are doing it is when the County resurfaces a road, they restore the speed humps and meet current standards on the speed humps; that has been the Policy and approach; it is consistent with the Policy that the Board has established about speed humps; this is a little different; he believes this is the very first road to receive speed humps in Brevard County; and it predated the establishment of the Policies the County has.

Frank Abbate, County Manager, stated he thinks the motion that was made, he thinks Mr. Denninghoff has the direction without the petition to determine up or down based on the current Policy; and that would provide the information Commissioner Smith wanted.

Commissioner Smith stated his motion stands.

Commissioner Tobia inquired if the motion can be modified that the discretion is with the Commissioner with which it resides.

Chair Isnardi commented it already is.

Commissioner Tobia stated this is going in a different mechanism now, so if that is what the Board intends it needs to be made very clear.

April 9, 2019

Commissioner Smith stated he will amend his motion to add that.

The Board directed staff to evaluate whether South Tropical Trail qualifies for speed humps under the current rules and policies of the Board; and for the discretion to lie with the Commissioner in which the road resides.

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

Commissioner Smith thanked the Marine Resource Council for giving him the award for outstanding service for the Indian River Lagoon by an elected official.

ITEM L.7., BOARD REPORT, RE: KRISTINE ISNARDI, COMMISSIONER DISTRICT 5, CHAIR

Chair Isnardi advised she has a chance possibly to go to Washington D.C., and she asked the Board's permission to allow her to go for a day or two.

Commissioner Pritchett asked if it is for Commission business.

Chair Isnardi responded it is obviously for Commission business; it is about the Spaceport stuff and a meeting at the Pentagon; and she feels those meetings will be a big deal.

Commissioner Lober asked if she has any idea what that will cost.

Chair Isnardi stated she does not; she advised it is just a flight; and she believes her hotel is covered.

Commissioner Lober inquired if it is a private jet.

Chair Isnardi advised she doubts it; she has never even flown first class; and that is an honest admission.

The Board approved expenses for Chair Isnardi to travel to Washington D.C.

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

April 9, 2019

Upon consensus of the Board, the meeting adjourned at 11:41 p.m.

ATTEST:



Scott Ellis
SCOTT ELLIS, CLERK

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

As approved by Board may 21, 2019