

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, December 3, 2020

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:00 PM

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

Zoning Statement

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezoning and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts, or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board takes action on the request. Likewise, if a Commissioner has made a site visit, inspection, or investigation, the Commissioner must disclose that fact before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

B. MOMENT OF SILENCE

Chair Pritchett called for a moment of silence.

C. PLEDGE OF ALLEGIANCE

Chair Pritchett led the assembly in the Pledge of Allegiance.

Chair Pritchett stated she would like to take a moment to mention that Commissioner Smith has pink hair.

Commissioner Smith explained that he is Chairman of the Real Men Wear Pink, which is a subsidiary of the American Cancer Society; he serves on the Board for the American Cancer Society in Central Florida; at the end of August they told him donations were down over \$200 million dollars to the American Cancer Society; and all the charities have been hurting. He mentioned that he knew they were probably not going to raise as much money this year for Real Men Wear Pink as in years past; one of the ideas his staff came up with was that he should issue a challenge that if he reaches \$7,500 in donations that he would dye his hair pink; so he did it and was able to raise \$7,500; and so here he is with pink hair.

Chair Pritchett noted that Commissioner Smith changes the color to green and purple throughout the year as well.

H.6. LAZY RIVER INVESTMENTS (LAURA YOUNG) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RU-1-13 TO AU(L). (20Z00030) (TAX ACCOUNT 3008729)

Chair Pritchett called for a public hearing on a request by Lazy River Investments (Laura Young) request for a change of zoning classification from RU-1-13 to AU(L). Chair Pritchett addressed

Commissioner Tobia by stating she thought the applicant was requesting to table it; and she asked if he was okay with that since it is in his District.

Commissioner Tobia replied yes; and he motioned to table it until the February meeting.

Chair Pritchett responded affirmatively; and she requested for the Item to be read into the record by a representative from the Planning and Development Department.

Jeffrey Baller, Planning and Zoning Manager, read aloud Item H.6., Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L) into the record; and he indicated that the applicant is requesting to table it until the February 3, 2021, Board of County Commissioners Meeting.

There being no further comments or objections, the Board approved to continue item H.6., Lazy River Investments (Laura Young) Requests a Change of Zoning Classification from RU-1-13 to AU(L). (20Z00030) (Tax Account 3008729), to February 4, 2021 Zoning Meeting.

Result: CONTINUED

Mover: John Tobia

Second: Bryan Lober

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

F.1. APPROVAL, RE: AMENDMENT 2 TO CONTRACT FOR SALE AND PURCHASE FOR THE BASIN 1066 DRAINAGE IMPROVEMENT PROJECT

The Board executed and approved the Amendment 2 Contract for Sale and Purchase for the Basin 1066 Drainage Improvement Project.

Result: APPROVED

Mover: Kristine Zonka

Second: Bryan Lober

H. PUBLIC HEARINGS

H.1. FLOR-OHIO REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RES 4 TO NC. (20PZ00089) (TAX ACCOUNT 2851597)

Chair Pritchett called for a public hearing on a request by Flor-Ohio to set forth the eighth Small Scale Amendment 20S.08 of the Comprehensive Plan to change the Future Land Use designation from RES 4 to NC; and she inquired if Commissioner Tobia wanted to hear from the applicant first.

Commissioner Tobia responded affirmatively by stating it would be proper; and he indicated that, absent of any new information, he would be in support of this.

Jack Spira, Attorney for Flor-Ohio, stated his client is requesting a Future Land Use change from the current Land Use, which is RES 4 Residential; the current property zone is BU-1-A Commercial; it has been BU-1 since 1976; and for some reason in 1988, when there was a Comprehensive Plan instated, the designation was changed to Residential. He went on to say he would like to make it consistent with the Commercial that is on the corner of Hollywood Boulevard and Ebert Boulevard; it is on a major intersection; and he mentioned he would answer any questions the Board may have.

There being no further comments or objections, the Board conducted the public hearing and adopted Ordinance No. 20 22, setting forth the eighth Small Scale Amendment 20S.08 of the Comprehensive Plan to change the Future Land Use designation from RES 4 to NC, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, Entitled "The 1988 Comprehensive Plan", setting forth the eighth Small Scale Plan Amendment of 2020, 20S.08, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: ADOPTED

Mover: John Tobia

Second: Bryan Lober

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

H.2. JOHN HALEY REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RU-1-9 TO RU-1-7. (20Z00025) (TAX ACCOUNT 2611673)

Chair Pritchett called for a public hearing on a request by John Haley for a change in zoning classification from RU-1-9 to RU-1-7.

Chair Pritchett inquired if Commissioner Smith would like to hear the one public commenter on this item since it is in his District.

Commissioner Smith responded no, unless they are objecting.

Commissioner Lober stated he wanted to defer his question to Commissioner Smith; he mentioned that he would support it either way; he reported that the requested zoning classification would have a minimum house size of only 700 square feet; it looks like the applicant indicated he was interested in putting a couple of much larger houses there that are approximately 3,000 square feet; the aerials that are included with the Agenda packet show that there are some pretty sizable houses there; and he did not know if there was any desire to

look at a Binding Development Plan (BDP) somewhere between the 700 feet and the 3,000 feet that are proposed, because if it were to end up being a 700 square foot house it might be substantially smaller than anything that is in the area and potentially inconsistent on that basis. He noted that if Commissioner Smith was okay with it, he would be too.

Commissioner Smith responded by saying that he cannot imagine that the applicant has no desire to; these are prime riverfront lots; he referred to what Commissioner Lober reported that there are big houses there; he walks by this every day when he walks his dogs; and it is fine by him.

Commissioner Lober remarked that it will be 5:0 then.

There being no further comments or objections, the Board approved the request by John Haley for a change of zoning classification from RU-1-9 to RU-1-7.

Result: APPROVED

Mover: Curt Smith

Second: John Tobia

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

H.3. JASON A. AND CHRISTINA N. SPINA REQUEST A CHANGE OF ZONING CLASSIFICATION FROM GU AND AU TO ALL AU. (20Z00026) (TAX ACCOUNT 2314129)

Chair Prichett called for the public hearing on a request by Jason A. and Christina N. Spina to change the zoning classification from GU and AU to all AU; she indicated that she had a card for Mr. Spina; she reported this is in her District, and she is comfortable with it; she asked if he wanted to come before the Board to make a comment; and she informed the Board she was good if someone wanted to make a motion.

There being no further comments or objections, the Board approved the request by Jason A. and Christina N. Spina to change the zoning classification from GU and AU to all AU.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.4. REID B. HART AND GAIL SKINNER-HART REQUEST A CHANGE OF ZONING CLASSIFICATION FROM GU TO RR-1. (20Z00027) (TAX ACCOUNTS 2402986 AND 2402987)

Chair Pritchett called for the public hearing on a request by Reid B. Hart and Gail Skinner-Hart to change the zoning classification from GU to RR-1; she inquired if Mr. Hart was in the assembly; she advised that she was comfortable with this Item; and she asked for a motion.

There being no further comments or objections, the Board approved the request by Reid B. Hart and Gail Skinner-Hart to change the zoning classification from GU to RR-1.\

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.5. DONALD MINNICK REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM AU AND EU-2 WITH A BDP, TO ALL EU-2 AND REMOVAL OF BDP. (20Z00028) (TAX ACCOUNT 2112241)

Chair Pritchett called for the public hearing on a request by Donald Minnick to change the zoning classification from AU and EU-2, with a BDP, to all EU-2 and removal of the BDP; she stated she had no public comment card on this Item; and this is a good project for District 1.

There being no further comments or objections, the Board approved the request by Donald Minnick to change the zoning classification from AU and EU-2, with a BDP, to all EU-2 and removal of the BDP.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.7. WATERMARK INVESTORS, LLC (BRUCE MOIA) REQUESTS AN AMENDMENT TO AN EXISTING PUD. (20Z00032) (TAX ACCOUNTS 2317197, 2317198, AND 3017165)

Chair Pritchett called for the public hearing on a request by Watermark Investors, LLC (Bruce Moia) to amend an existing PUD; she stated she had a public comment card from Mr. Moia; and she is comfortable with this Item, as well.

There being no further comments or objections, the Board approved the request by Watermark Investors, LLC (Bruce Moia) to amend an existing PUD.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.8. TROPICAL MANOR HOLDINGS, LLC (KENNETH METCALF) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RU-1-7 AND RU-2-30 TO RU-2-12 WITH A BDP LIMITED TO A MAXIMUM OF 85 UNITS. (20Z00033) (TAX ACCOUNT 2417034)

Chair Pritchett called for the public hearing on a request by Tropical Manor Holdings, LLC (Kenneth Metcalf) to change the zoning classification from RU-1-7 and RU-2-30, to RU-2-12 with a BDP limited to a maximum of 85 units; she indicated that this item was in Commissioner Lober's District, and there is one public comment card; and she inquired if he wanted to hear from him.

Commissioner Lober asked if it was just the applicant.

Chair Pritchett responded yes.

Commissioner Lober explained that based on the fact that there are no more units being added, he is comfortable with it; and he motioned to approve it.

There being no further comments or objections, the Board approved the request by Tropical Manor Holdings, LLC. (Kenneth Metcalf) to change the zoning classification from RU-1-7 and RU-2-30, to RU-2-12 with a BDP limited to a maximum of 85 units.

Result: APPROVED

Mover: Bryan Lober

Second: John Tobia

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

H.9. CLARENCE COOMER REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM AG TO RES 1:2.5. (20PZ00080) (TAX ACCOUNTS 2001246 AND 2001250)

Chair Pritchett called for a public hearing on a request by Clarence Coomer to set forth the seventh Small Scale Amendment 20S.07 of the Comprehensive Plan to change the Future Land Use designation from AG to RES 1:2.5.

Jeffrey Baller, Planning and Zoning Manager, read both items, H.9. and H.10., into the record at once since they are companion applications.

Chair Pritchett stated she did not have any public comments cards on these; she noted that these are in her District; they are easy house cleaning items; and she asked for a motion to approve Item H.9.

There being no further comments or objections, the Board approved the request by Clarence Coomer to adopt the Ordinance No. 20-23, setting forth the seventh Small Scale Amendment 20S.07 of the Comprehensive Plan to change the Future Land Use designation from AG to RES 1:2.5. by amending Article III, Chapter 62, of the Code of Ordinances of Brevard County,

Entitled "The 1988 Comprehensive Plan", setting forth the seventh Small Scale Plan Amendment of 2020, 20S.07, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: ADOPTED

Mover: Curt Smith

Second: Bryan Lober

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

H.10. CLARENCE COOMER REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO RRMH-2.5. (20Z00024) (TAX ACCOUNTS 2001246 AND 2001250)

Chair Pritchett called for a public hearing on a request by Clarence Coomer to change the zoning classification from GU to RRMH-2.5.

There being no further comments or objections, the Board approved the request Clarence Coomer to change the zoning classification from GU to RRMH-2.5.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.11. 4725 FAY BLVD LAND TRUST (CARMINE FERRARO) REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT (20S.10), TO CHANGE THE FUTURE LAND USE DESIGNATION FROM NC TO CC. (20PZ00088) (TAX ACCOUNT 2308841)

Chair Pritchett called for a public hearing on a request by 4725 Fay Blvd Land Trust (Carmine Ferraro) to set forth the ninth Small Scale Amendment 20S.10 of the Comprehensive Plan to change the Future Land Use designation from NC to CC; she requested Mr. Ferraro speak before the Board; she mentioned that she liked this project, but she just had one request; she noted that it is a good fit but is close to the school; she is completely in favor of it; and she asked if he would consider doing a small change on the Binding Development Plan by not having deliveries on the property an hour before school starts, and an hour after dismissal.

Mr. Ferraro responded that he called the Ace Hardware representative and spoke with him; they would be willing to consider this language, but they needed some clarification on it; and he indicated that this does not apply to the Family Dollar, because he cannot control when and how they deliver.

Chair Pritchett stressed it would be for the new project.

Mr. Ferraro confirmed that it would be for the new project only; he inquired if this condition would only be for the 18 wheeler, one large truck, coming each week that would enter through the delivery area or if it would also restrict the small delivery box trucks that come throughout the week and are small enough in size to enter any driveway and are able to park in a parking space; and he mentioned that when he read this to Ace Hardware it seemed like they could not have any deliveries at all to the property or to the business an hour before or after school.

Chair Pritchett explained that the school kids come in and out of the elementary school; there is already a traffic jam of people lined up for picking up and dropping off kids; she reiterated that she thinks it is a good fit for the business, but as far as the traffic of people trying to get their kids to and from school, if a truck is blocking it up it will be adding more insult to injury; and she deferred to Tad Calkins about the large delivery trucks.

Tad Calkins, Planning and Development Director, stated he would recommend the consideration of the driveway on Adams Place; that driveway is not used; they would have the box trucks come in through the other driveway; that should not impede business for them; and the semi-truck is the one he is most concerned about.

Mr. Ferraro confirmed that was the clarification he was looking for; Ace Hardware is okay with that; and they will not do any deliveries at all through that Adams Place south driveway that is being reopened an hour before or after school.

Chair Pritchett exclaimed that was wonderful; she said that was perfect; and she thanked Mr. Ferraro.

County Attorney Eden Bentley inquired with the BDP.

Chair Pritchett indicated with the BDP.

There being no further comments or objections, the Board approved the request by 4725 Fay Blvd Land Trust (Carmine Ferraro) to adopt the Ordinance No. 20-24, setting forth the ninth Small Scale Amendment 20S.10 of the Comprehensive Plan to change the Future Land Use designation from NC to CC, by amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, Entitled "The 1988 Comprehensive Plan", setting forth the ninth Small Scale Plan Amendment of 2020, 20S.10, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: APPROVED

Mover: Bryan Lober

Second: Curt Smith

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

H.12. 4725 FAY BLVD LAND TRUST (CARMINE FERRARO) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM BU-1-A WITH A BDP, TO BU-1 AND AN AMENDMENT TO EXISTING BDP. (20Z00031) (TAX ACCOUNT 2309941)

Chair Pritchett called for a public hearing on a request by 4725 Fay Blvd Land Trust (Carmin Ferraro) to request to change the zoning classification from BU-1-A with a BDP to BU-1 and an amendment to existing BDP.

There being no further comments or objections, the Board approved the request by 4725 Fay Blvd Land Trust (Carmin Ferraro) to change the zoning classification from BU-1-A with a BDP to BU-1 and an amendment to existing BDP.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.13. VARIANCE REQUEST FOR CROSSOVER WIDTH AT CANOVA BEACH DOG FRIENDLY PARK

Chair Pritchett called for a public hearing on a request by Natural Resource Management to approve a variance to Chapter 62, Article XII, Section 62-4213 (a)(4) of the County's Coastal Setback and Control Lines Ordinance for crossover width at Canova Beach Dog Friendly Park, consistent with all variance criteria in Section 62-4209 (5)(c).

Darcie McGee, Natural Resources Management Assistant Director, stated this was a Coastal Setback Variance request from the Parks Department for a crossover width at the Canova Beach Dog Friendly Park; they would like to widen the crossover from six feet to 12 feet to allow two-way passage to minimize dog interactions going in opposite directions; the Sheriff has provided a letter of support; and the proposed project is consistent with all required variance criteria.

Commissioner Zonka reported that she did not have an issue with this item.

There being no further comments or objections, the Board approved the request by Natural Resources Management to approve a variance to Chapter 62, Article XII, Section 62-4213 (a)(4) of the County's Coastal Setback and Control Lines Ordinance for crossover width at Canova Beach Dog Friendly Park, consistent with all variance criteria in Section 62-4209 (5)(c).

Result: APPROVED

Mover: Bryan Lober

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

K. PUBLIC COMMENTS

Michael Bramson, Brevard County Firefighters Union President, stated that in light of many things moving forward in the past couple weeks and months, the biggest thing has been a lot of focus and attention on Brevard County's public safety; the County is in the middle of a pandemic or the trailing end, but it is definitely at the beginning of the flu season; and so there is a lot of attention put on public safety. He added that is what they have been asking for, what they need, and what they are going for in 2021; he indicated they have a couple of requests that the County Manager will be able to brief the Board on; the Union is appreciative of all the efforts that are going towards Public Safety as a whole; and he is here to speak on behalf of the firefighters, but he also wants to include everyone across the board, including the Sheriff's office, as well. He expressed there is a lot of concern about the uncertainty of 2021; regardless of the outcome of the CARES funds, and all the other things moving forward toward Public Safety, the intentions and the support of all five Commissioners, County Staff, and the community, itself, is what they are appreciative of; and regardless of the results, the Union is super happy where it is going. He mentioned that one thing he wants to bring to the attention of Brevard County is in regards to a concern about a word that came up today; a lot of things have happened today; it has been an intense day for them, especially for him; and he wants to bring one thing up that is out of character for him. He went on to say that one thing that has come up on public comment, on Facebook, in the community, in newspapers, in the firefighter community, in the municipalities, in the cities, and everything they do is the term, deserving; he is not here to define or use Webster's Dictionary; and he is not here to explain anything other than what it takes for 9-1-1 to work in Brevard County. He explained that the biggest thing about it is he calls 9-1-1 and these wonderful, magical, super, and awesome things happen at his house; it is a fantastic thing that Brevard County has; without going too far into it, it is Thursday, December 3; and Brevard County has asked 25 firefighters, paramedics, and Emergency Medical Technicians (EMT) to volunteer their time to work an extra 24 hours; and 25 firefighters, paramedics, and EMTs said yes they will donate that time to Brevard County. He noted it was not a donation of time; they were paid time and one-half for their time to do so; five dispatchers were asked to do the same; and they were asked to work eight extra hours to answer the calls. He continued to say after the 30 people were asked to provide their services to Brevard County so that 9-1-1, emergency services, and fire rescue can occur, Brevard County informed six firefighters, paramedics, and EMTs that they could not go home and were mandated to work; those six people were told they had to work that day or face progressive discipline; and that is what 9-1-1 takes to operate in Brevard County in today's environment.

L. BOARD REPORTS**L.4. BRYAN LOBER, COMMISSIONER DISTRICT 2, BOARD REPORT**

Commissioner Lober stated that he spoke with Frank Abbate, County Manager, and believes he is in a good spot; he noted that he will let Mr. Abbate confirm whether his understanding is the same; all of his and Mr. Abbate's concerns have been addressed; and he went on to say that he put out a proposed motion in a memo that he also provided to the Clerk's office and Dave Berman. He explained that he has no qualms to Mr. Abbate's proposed modifications of the original motion; he thinks it resolves all the issues; and the language in there would resolve all issues in respect to trying to implement both the Firefighter Hazard Pay Program, that he discussed a couple times in Commission meetings, and also the additional incentives that Matt

Wallace, Public Safety Director, will provide to the Board detailing exactly what Commissioner Lober is planning to do. He went on to say that he and Mr. Wallace worked together extensively to try to come up with a plan to use some of the funds out of the Coronavirus Aid, Relief, and Economic Security (CARES) Act that were allocated to District 2 to help, not only the firefighters, paramedics, the Emergency Medical Technicians (EMTs), but also to help the department and County in retention and recruitment by offering, among other things, tuition reimbursement and potentially leadership training funds. He advised he plans on spending \$460,000 out of the \$5 million on that; he indicated that he thinks his \$900,000 estimate for the Hazard Pay Program may be a little bit high; he is not certain if it will cost the County that much; and the initial staff estimate he had was \$675,000, but he wanted to add a substantial buffer so the County does not end up in a situation where he underallocated and overpromised. He stated he would let the County Manager take over since the changes in Commissioner Lober's motion are a result of the input Mr. Abbate received from other staff members; and he wants to make a motion that the Board approves the two page proposed motion that he handed out when Mr. Abbate is done presenting.

Mr. Abbate, County Manager, provided to the Board and the Clerk a revised proposed motion; he indicated that Commissioner Lober had provided to the Board a memo and a proposed motion about a week or a week and one-half ago; he had the opportunity to speak with Commissioner Lober about what he was trying to accomplish; and as a result of that discussion, he had follow-up discussions with staff, including the County Attorney's office and the Budget Office to offer revisions that the Board has before them now. He went on to say the revised proposed motion has underlining and striking to the original motion; there are also italics language; the italics language provides specific language that Commissioner Lober had put in his memo that was moved into the proposed motion to make it clearer; and both staff and Commissioner Lober concerns are addressed in the modified motion. He added that this was the best language staff could come up with that would provide the opportunity for the Board to consider what Commissioner Lober is intending to accomplish; he mentioned staff is present to answer any questions; staff appreciates the opportunity to provide this input; and he concurs with Commissioner Lober that staff has brought this proposed motion to the best place they can get it.

Commissioner Tobia stated he appreciates the latitude the individual Commissioners have been given on this pot of money; his issue happens to be with how the \$900,000 appears; and he inquired if Commissioner Lober spoke with any members from the International Association of Firefighters (IAFF) regarding his proposal.

Commissioner Lober replied he made them aware of it, but he has not had any sort of negotiations with them.

Commissioner Tobia inquired if there was any public record between Commissioner Lober and a member of IAFF concerning this proposal.

Commissioner Lober responded he is sure there is.

Commissioner Tobia asked if Commissioner Lober would agree that Hazard Pay is a work related issue.

Commissioner Lober answered depending on how it is defined, he supposes; and it would depend on how it is defined and what particular document is being looked at.

Commissioner Tobia read aloud the Article I, Section IV, Collective Bargaining Agreement with

the IAFF, "the Union further recognizes its obligation to bargain solely and exclusively with the Manager and/or designees and to refrain from any direct negotiation with the legislative body of the County Commission or any of its members regarding work related issues."; and he questioned if in Commissioner Lober's opinion if a member or a representative of the IAFF discussed the institution of Hazard Pay with a single Commissioner be a breach of the Collective Bargaining Agreement of the IAFF.

Commissioner Lober replied based on the limited information he has been given his first blush inclination would be it might or might not; he stated that Commissioner Tobia used the term "bargain" and "negotiation"; if there are bargaining and negotiations that may be a problem, but there is no bargaining nor negotiating based on the limited bit Commissioner Tobia read into the record; and he does not see any issue whatsoever.

Commissioner Tobia explained that this matter reminded him of a proposal a Commissioner gave on October 6 regarding Union negotiations; he advised that he wants to ensure that no Commissioner would facilitate a breach of contract by the IAFF; he added that, at that time, Commissioner Smith stated that Commissioner Tobia's proposal was, "a solution looking for a problem that does not exist"; Commissioner Zonka had said, "If the rules are in place for the Union, they should not be talking to the Board anyway;" and Commissioner Smith had stated, "it would be counterproductive if they did." Commissioner Tobia explained that it is clear there is a situation where a Commissioner is involved in direct communications and negotiations with the Union; it appears that his proposal was not a solution in search of a problem after all; if any member of the Board would like to reconsider their position on his proposal, he has a copy and would be willing to do that; and he has no concern, while he may disagree with how the CARES money is allocated but spent. He continued this is a little bit different in his opinion; this requires a change to a Collective Bargaining Agreement; if the Board makes this motion, it is authorizing or forcing Mr. Abbate to take a position that he does not think is right for the Board's bargaining negotiation, he has no problem with any of the rest of the money, but the \$900,000 requires a change; and if the Board votes on this it would be authorizing pay, a substantial change in the Collective Bargaining Agreement.

Commissioner Lober asserted that Commissioner Tobia mentioned some statements that were correct, but other statements were flatly incorrect; he pointed out that when Commissioner Tobia stated "communications and negotiations" that Commissioner Lober had communication, but he is not seen anything specifically or indirectly that even constitutes negotiation or bargaining; if there are neither of those then there is nothing that appears to be in violation on his or the County's part; it is a one sided obligation with respect to communications that involve bargaining or negotiation, but there is no bargaining or negotiation; and not only is there nothing that prohibits, but there is no reason that there should be a prohibition on communication. Commissioner Lober explained that he does not see this particular proposal interfering with collective bargaining; he spoke with the County Manager about it and voiced his opinion; the Union would be insane not to waive their right to negotiate, as to a Hazard Pay Program, given that they are going to be receiving funds that they deserve on the exposure they have taken upon themselves to face given the nature of their jobs; they would be crazy to say they want something else as well; and he has never sought or anticipated that the Union would be so unthankful and ungrateful to say that \$1,500 is not enough after the Board has been going out of its way to do everything reasonable for. He indicated that he did not think this would cause any sort of turmoil; he has not heard of anything articulated that would suggests why it would cause turmoil; he does not see where there is a conflict with anything that has happened historically or anything proposed to happen in the future with what it is he is proposing or to say that this somehow touches on negotiations or wages; and he pointed out that Matt Wallace, Public Safety Director, or Fire Chief Mark Schollmeyer, could speak on

whether or not they see a problem. He reiterated that he thinks this is a solution in search of a problem as far as the item Commissioner Tobia brought up; and he will be happy to reconsider his position when one can point to him that there is either bargaining or negotiation, but he has yet to hear that.

Commissioner Zonka stated that she thinks the greatest shame of all of this is that she feels terrible for the fire department and the firefighters who are subjected to this; instead of a \$1,500 temporary solution she is sure that they would rather tell their families that they are not being mandatoried again; and she also noted she realizes this is not a Commissioner's problem to solve. She went on to say that she hears over and over, but it is not from someone specifically coming to her to complain; it is just that she has been able to get to know people when she has lived in the community as long as she has; she informed the Board that at Palm Bay Fire Station 1, firefighters have to drive around, because they are not allowed to sleep at the station; and she asserted that it makes her sick. She continued that these are the problems that firefighters care about; she has never negotiated with a firefighter or with the Firefighters' Union; she advised fixing the problems she discussed versus giving the firefighters a little pittance of a \$1,500 check; and she is sure the firefighters would be more grateful for that. She reiterated that she is not saying that Commissioner Lober has to solve those problems; she expressed that she thinks it is pathetic that the Board is so hyper focused on that when it should be demanding or somehow fix the problem within the department; morale is low and firefighters should be able to plan vacations with their families without being forced to work another 24 hours; and it is not two or four hours but 24. She advised that is what she would like to see fixed; it is not part of their contract; maybe as far as what is required of them then maybe, but those are the things the Board should fix. She stated she almost feels bad that the firefighters are all here for \$1,500, when she knows they are not here for that; they are here because they care about the department, the community, and want to see better; she thinks that the Board needs to do better and stop losing firefighters to other municipalities; the firefighters need a place to sleep when they are working in Station 1; that to her is disgusting; she has met with Mr. Wallace and tried to address some of the issues in Palm Bay, but enough is enough; that is the kind of stuff the Board needs to work on first before any contract or \$1,500 petty bonus; and she reiterated the Board needs to make sure it is taking care of the firefighters.

Commissioner Pritchett stated she thinks Commissioner Lober had communication, but she is not sure he negotiated on this; she noted that Commissioners have CARES funds they are trying to get out to the community; she is comfortable with this; she noted that the Board is at a place where it is not running the risk of having any situations of not complying with what the County had to do with the funds Federally; and so she is good with that. She addressed Commissioner Tobia and proposed that if he brought back his motion to the next meeting, she will vote with him on it; she agrees the Board does not need to be negotiating on its own; she would still like to have a workshop to have discussion on things the Board can do to help creatively get the situations taken care of; and she stated she agreed with Commissioner Zonka. She pointed out that she has been hearing the firefighter issues since she served at the city levels; she suggested the City and the County come together so there is no overlap happening in the competition, and everyone is able to serve the community; that is what the firefighters want to do; they want to make people well; and if the Board can figure out some creative way to do that she will be for that as well.

Commissioner Lober proposed the Board pass the motion that was circulated by the County Manager; he mentioned he agreed one hundred percent with Commissioner Zonka that there are much more substantial issues; the \$900,000 he intends to set aside for this will not resolve the issues for a Countywide Fire Rescue department for the size and the extent that it is; he

does not think there is anything in the motion that is mutually exclusive; and it is not his intention for there to be anything mutually exclusive. He stated that as far as moving forward with a fire assessment, he supported that the last time there was any discussion on it; his position has not changed on that; he indicated he is the only one that is not a lame duck; he suggested the Board find a critical need in order to help the firefighters out; and it is reprehensible that the starting pay, he believes is \$13 an hour, for firefighters to go into burning buildings. He reiterated that it is despicable; he understand there is a huge difference when you factor in overtime, whether it is volunteer or mandatory, but to pay \$13 an hour, when minimum wage will soon be \$10 an hour, to go into a burning building and risk ruining their lungs and inhaling toxic fumes or ruining their backs is a frequent issue that will almost continue to occur until something miraculous happens; and he does not think it is okay. He added that \$1,500, especially with the timing coming near the holidays, shows that the Board actually cares and is not trying to squeeze every bit of work and life out of the firefighters to give them the absolute minimum the Board can get away with giving them; he went on to say if the County treats their people right and do right by them, they will be loyal back; and it is a concern of his that there is this system-wide problems with Brevard County Fire Rescue (BCFR). He continued that he would like to show some good faith by spending a six-digit number toward an eight-digit problem to the extent he can; he pointed out that with full disclosure, this has nothing to do with Sunshine; it has to do with what he read in the newspaper yesterday evening; it is his understanding that one of the other Commissioners that has \$5 million dollars was looking to do some small business grants; and he is not looking to say good, bad, or indifferent, but it is his as we've allocated the authority to act on the behalf of the Board to figure out where he believes that needs to be allocated. He further stated the good thing with authorizing this motion is that it frees up the burden on staff in terms of having everything compressed to hit that December 30 deadline; once the Board goes ahead and does the reimbursement, staff will be in a better spot, because now that money will no longer be CARES money, but it will be money that is post-reimbursement so it is not subject to the December 30 deadline; and he noted that earlier this week the County had the first Public Safety Coordinating Committee meeting that they have had in some months. He advised those who attended were Judge Davidson, Judge Brown, Judge Lemonidis, Blaise Trettis, Kent LeBlanc on behalf of Phil Archer's office, Chief DeMorat, a number of Brevard County Sheriff Office (BCSO) staff, Clerk Rachel Sadoff, and her newly announced Chief Deputy Clerk, Jason Arthur, who will be coming on board in February, the Viera Branch Manager, and staff from the Department of Juvenile Justice (DJJ), and the mental health associations; and he pointed out, one of the things he mentioned to them as well, that he is happy to do it out of the \$5 million pot that is applied to District 2, just as he is happy to do this Countywide even if some of it or four-fifths of it benefits other areas apart from District 2, because he thinks it is the right thing to do for the organization, the constituents, and the first responders. He mentioned to Mr. Trettis, Mr. LeBlanc, to the Judges, and to Clerk Sadoff that if they have concerns to reach out; he did hear that the Clerk's office was interested in getting acrylic put in place for their customer service counters so that they would not have their front counter employees who are constantly swamped with people getting exposed to airborne transmissions; the reason they did not get that out of what was available earlier is they could not meet the December 30 deadline; that is a six-digit expense that they were content not to get, because it was not made available to them; and he noted he previously said that he will take funds out of the District 2 pot even if it is for the Moore Justice Center located in District 4. Commissioner Lober went on to say it benefits the whole County, and it is the right thing to do; if it is for the betterment of the constituents by keeping them safe and healthy he is happy to do that out of this; he proposed that passing his motion will enable him to do that as well; he added that he is not trying to tell anyone what to do with the portion that was allocated to them; and his motion frees the Board up to have staff do what they need to do without dropping the ball on anything else without having to hit a December 30 deadline beyond simply getting those funds allocated to the new cost centers or

funds in reimbursement of existing payroll expenses. He continued that he believes it helps with respect to Commissioner Smith's proposal, as he understands from the paper, for small business programs; if it is something where there is any question that it can be done by December 30 or there is some issue with respect to having Tetra Tech vet it, reimbursing the payroll expense or any other eligible expense solves the problem by sticking it in the fund and if it takes until January 15 or February 15 that is okay; and one will be in a better place where there is no clock to race against. He moved to approve his proposed motion; and he stressed he hoped to at least get a second motion or at least another vote on top of that.

Chair Pritchett stated she has a motion on the table and inquired of the Board if there was a second; and she indicated that she would pass the gavel and second it.

Commissioner Lober said he appreciated that.

Commissioner Zonka stated that it is obviously no reflection on these guys; she stressed she never thought the Commissioners should have \$5 million a piece to be able to be little gift fairies of who is deserving or more deserving of money; she indicated she would rather see that \$5 million go into the Public Safety Fund, because she thinks it will make a bigger impact on what can be done for the department; she explained that Commissioner Pritchett wanted to fund Parrish reimbursables, and it is nice and clean. She stressed that she thinks the firefighters are being used; she expressed that \$1,500 is a slap in the face when there are so many other problems going on in the County, with not just mandatory overtime, but with transport and the City of Palm Bay; she indicated she could go on, but she thinks the real problems need to be fixed; and she reiterated that \$1,500 is a slap in the face.

Commissioner Smith stated he liked where Commissioner Lober was coming from, but he does not have the legal mind that Commissioner Lober has; when he looks at this he is concerned that it appears to him the Board is circumventing the intent of the CARES funding by taking the money out and saying it is not CARES funding anymore but a pot of money that the Board can use; he does not know how the Board can protect itself from the Federal Government coming to it in February or June of next year stating the Board did not do what it was supposed to do or use the money for what it was supposed to use it for; he explained that the Federal Government can state that the County circumvented the rules that it put in place; and then the County could be in a real quagmire.

Chair Pritchett inquired from the County Manager if, with the information that Commissioner Lober gave him, he thinks there is going to be a risk to have a problem with the Federal funds.

Mr. Abbate responded he can say unequivocally that any money that any individual Commissioner uses to reimburse eligible payroll or benefit costs for Public Safety in the area that the Board has put forth, which is Brevard County Sheriff's Office (BCSO) Corrections or anything in Brevard County Fire Rescue (BCFR), that those funds being moved from CARES to reimburse those dollars that are in existing budgets from March 1, 2020 through December 30, 2020 are clearly under the rules of the Treasury guidelines; they are clearly funds that are low risk and are permitted under the guidelines provided by the Treasury, and that is extraordinarily clear; that is what the Board would be doing; it would be putting funds that every Commissioner would have just like it did for the Public Safety account; the Board would be putting funds into either the Sheriff or the County budget; and those dollars are low risk and have been vetted through Tetra Tech. He further explained that the second issue that would come up is what to do with the funds that are already part of the budget that is contained in this motion; it is a non-CARES issue, because the Board would take existing dollars in the budget and make a decision on how to allocate it; the Board has heard what the County Attorney had to say about

it before; and what this motion is seeking to do is authorize not only the creation of those funds but also how those funds can be allocated. He reiterated that it is a non-CARES issue, because staff is not dealing with CARES funds anymore; the CARES fund decision was the decision to reimburse the payroll and benefits expenses in the budgets as he has described; he also stated he believes it is not disputed by anyone; and it is very clear in the regulations and guidelines that the Treasury has issued.

Chair Pritchett stated she thought that how the County Manager has written the memo is completely safe; the Board will put the money towards Public Safety; and she inquired how much money Commissioner Lober is allocating to it.

Commissioner Lober replied everything that is unallocated; and it will be substantially the whole \$5 million.

Chair Pritchett questioned whether Commissioner Lober was putting the whole \$5 million into the Public Safety.

Commissioner Lober answered he would put substantially all of it in Public Safety.

Chair Pritchett inquired if the whole \$5 million is going to Public Safety.

Commissioner Lober replied in the end \$500,000 is going to go to Emergency Operations Center (EOC), as is outlined in the motion and the memo he distributed.

Chair Pritchett asked if Commissioner Lober would do her a favor and outline where he is going to place the funds.

Commissioner Lober stated \$500,000 is going to go to the EOC, as is outlined in the motion; it would be toward the new EOC, not the old EOC; it has about \$6 million that has gone to it, perhaps not even a third of what it needs to have full construction; so this would bump it up to approximately 10 percent; \$900,000 would be earmarked to do the Hazard Pay Program for Brevard County Fire Rescue, First Responders, EMT's, paramedics, firefighters; and anyone who is a BCFR employee who responds to calls for service. He indicated that the County Manager has no objection, with instead of it being made retroactive, that it start in January and end in March or February or whatever date; if there is any concern whatsoever, he will defer to staff to figure out how to implement it, whether it be retroactive or looking forward; and that would be the \$900,000 from that. He continued that \$460,000 is the remaining portion that would go toward the Incentive Program to recruit and retain; that would be made available to the individual municipalities that with whom the County shares auto aid agreements with; it would be substantially all of the municipalities; there are two municipalities that the County does not share an auto aid agreement with that are located in his district; and all the other municipalities and districts would be able to make use of this funding except for the Hazard Pay. He reiterated that the incentives for a leadership or Bachelor's Degree program or anything along those lines, such as paramedic school training or EMT school training, could be several thousand dollars for those wanting to attend, provided they go to Eastern Florida State College (EFSC); the goal with that is to make sure to try to focus the money on either people that are either from Brevard or have some ties to Brevard so the County is not reimbursing someone from Pensacola Fire Academy or Isle of Murata Fire Academy; he does not want to pour money into folks who have families and ties and may own property in counties that are outside of Brevard; and he would rather do it for those who would remain here so the money would be most effective. He added that a very small amount of the remainder of the money is going towards things, such as thermometers; he had one for the office, which was

approximately \$90, so his staff could check temperatures on foreheads; miniscule stuff like that which he does not have a precise number for; it is going to be, at most, in the four digit range for this and for the needs of his office and staff; and he mentioned he was looking into doing a small business program as well. He explained he did not get far enough into it to deal with the Florida TODAY or Space Coast Daily, because he did not know how the motion would go; with respect to the other money, the Board can leave it out of the motion; he thinks it is safest to put it into this motion to avoid the December 30 deadline; and his concern is the December 30 deadline which this motion saves the Board from that. He suggested if the Board wants to put the money that he has outlined or if it wants to authorize the motion to be implemented to the extent that it pertains to the money he has outlined, he can live with that; and his only concern is that it is going to force staff to do more work between now and the December 30 deadline.

Chair Pritchett stated that Commissioner Lober detailed \$1.86 million; and she said she thought that is what Commissioner Smith is trying to figure out.

Commissioner Lober explained if that was Chair Pritchett's concern, the Board can just approve those particular expenses.

Chair Pritchett inquired if Commissioner Lober can pull that money out and give it to Small Business Programs.

Commissioner Lober replied no.

Chair Pritchett stated she was uncertain, and Commissioner Smith would have to speak to this; she said that if Commissioner Lober outlined those things as the CARES funds and it is Public Safety, which might as happened as well, but Commissioner Lober is kind of directing where he thinks the funds should go; and she said that was her thoughts.

Commissioner Lober replied yes; he stated if she is more comfortable with him modifying the motion to adopt this, in so far as it pertains to allowing him to deal with those funds that he has just outlined, the approximate \$1.86 million; the biggest things he wants to get done with this motion is the Hazard Pay for the firefighters, and if it ends up being called a bonus, or whatever it ends up being termed, up to \$900,000 for that; the \$460,000 for the incentive programs, which he is happy to have Mr. Wallace speak about it if there is an interest in what that is; and he defers a tremendous toward Mr. Wallace's wisdom as to what the needs of the organization are; that portion would be available to cities in which we share auto aide agreements; then the \$500,000 to the EOC; those are things that he really needs to have separate cost centers of funds to move into; the rest of it he can manage without moving it this way; his preference is to do all of it, but if it is just the \$1.86 he can certainly live with that without a problem.

Commissioner Zonka expressed that her concern is that \$1,500 seems like a pittance if it is \$1.86 million; and she asked why not double it and make it worth it for them.

Commissioner Lober replied if Commissioner Zonka wanted to make a motion since she allocated her \$5 million to the Public Safety Fund, to pull the amount that she is talking about out of the Public Safety Fund from the \$5 million that she put in, and he would happily second that.

Commissioner Zonka remarked why would she; and she stated this is Commissioner Lober's issue, his item.

Commissioner Lober advised he did not second guess in terms of how she determined it would

be best allocated for her district, but to say it is a slap in the face to give someone, who is making \$13 an hour, \$1,500 pre-tax; and he would hope someone would slap me in the face in that fashion.

Commissioner Zonka stated to put his money where his mouth is and make it \$3,000 instead; and he should make it worth it for them, because they are the frontlines.

Commissioner Lober agreed that they are on the frontlines; he explained that he has people telling him their businesses are going close, and they will have to lay people off.

Commissioner Zonka asserted that they have a lot more resources to include monies from the County where they can apply for small business assistance; and the County has offered it numerous times.

Commissioner Lober stated there are residents with six digit losses that qualify for, at most, \$10,000 at this point; and he said he thinks this is the epitome of no good deed going unpunished.

Commissioner Zonka stated there are Federal and State programs and everything else; and these people work for us.

Commissioner Lober questioned if what Commissioner Zonka is saying is she wants to do what she wants to do with her \$5 million that was allocated to her to divy up.

Commissioner Zonka asserted that she gave hers back to Public Safety.

Commissioner Lober explained that is an allocation; that is not giving it back; and it did not originate there.

Commissioner Zonka stated she did not agree to the \$5 million slush fund for each Commissioner; she did not agree that the Board just divy out money to whoever is worthy; she thinks the firefighters are more important; and she loves the Humane Society, but she thinks the firefighters are more important than the Humane Society.

Commissioner Pritchett stated the Board is getting off track.

Commissioner Zonka expressed this is exactly why the Board should not have done this.

Chair Pritchett stated she understands what Commissioner Lober and Commissioner Zonka think; and she understands what Commissioner Lober is trying to do.

Commissioner Zonka stated she knows that \$1,500 will help out; and it would help out her family right now.

Chair Pritchett stated Commissioner Zonka gave \$5 million to the Public Safety Fund, and that was good; and she informed Commissioner Lober that he will have to convince Commissioner Smith to make him more comfortable with the idea.

Commissioner Lober stated if he is comfortable he is happy to leave it there so there does not have to be a discussion on it.

Commissioner Smith stated he likes the idea, but he wanted to get on the record what the

County Manager had to say so that people know that the Board has talked about this; it did not do this haphazardly; and it did not just pick numbers out of the air. He went on to say that he likes the idea of protecting the money beyond December 30; and if the Board does not have a second, he will second the motion.

Chair Pritchett inquired for which motion, if it is the original motion; she asked Mr. Abbate if the Board puts the whole \$5 million in there, does it still have to go to Public Safety; and if Commissioner Lober can take some out after December 30 to use for Small Business.

Mr. Abbate explained as this motion is presented before the Board, it would be able to be allocated into any fund; and if the Board modifies it then he would implement any modifications to it as presented today.

Commissioner Lober asserted that there are two he would be happy having passed; his preference would be to have the \$5 million passed as written; if that is not acceptable to Chair Pritchett or Commissioner Smith, he would ask, as a fall back, the number that Commissioner Pritchett gave earlier, which is the \$1.86 million; and it is basically the expenses that he outlined.

Commissioner Pritchett stated she was fine with the \$5 million; and she asked that when it comes time for him to put it in place to give public record of what the Board does with the funds.

Commissioner Lober replied sure.

Commissioner Smith stated he intends to second the original motion.

Commissioner Lober stated he will go ahead for clarity's sake and withdraw any motion that is standing he has made up to this point; his motion is to go ahead and pass as listed the two page document that Mr. Abbate sent out; it has been given to the Clerk at this point; and hopefully everyone knows what the Board is voting on.

Commissioner Zonka stated that she will support this, because she thinks the firefighters deserve something, but she thinks they deserve better.

Chair Pritchett stated, in all fairness, Commissioner Zonka gave the full \$5 million back to it.

Commissioner Zonka agreed.

Mr. Abbate stated he has to make one thing clear; he wants to make it clear so everyone is clear on this as it relates to where the funds are going; from his perspective, if the Board passes the motion as it is, he will move forward and ask the union for one of two things; one, to waive their rights to bargain; and if they choose not to do that then he believes he has the ability to hear from the County Attorney to make sure that it is accurate moving forward, and that way everybody is on the same page. He continued they would not be bringing back anything to the Board; it would be a memorandum of understanding that he would have the ability to execute what is in written in the document that was proposed; that is how he would be proceeding; the County Attorney is there; and that is authority that the Board would be delegating if the Board chooses to accept this.

Commissioner Tobia stated if the Board listens closely to what the County Manager just said, if the Board passes the motion, the Board forces Mr. Abbate into entering into the Collective Bargaining Agreement; he read aloud, "union further recognizes obligation to bargain solely,

exclusively with the County Manager"; he explained that the Board is forcing the County Manager to make a decision on the Board's behalf; and this is not the time to handcuff. He further stated this is the exact same thing this Board did when it came to negotiations with trash; at some point the Board just needs to do away with the negotiating team altogether if it is going to handcuff them like this and negotiate with the Board itself; it becomes fruitless if one or two members are going to do this on behalf of the Board; and whether it is Commissioner Zonka that wants to do more or someone who wants to do less, this is a Collective Bargaining Agreement that unilaterally a Commissioner has forced the hand of the Board's bargaining group. He further stated it is not a misconception; the Board has heard what the County Manager has said; if the Board passes this motion, it forces the County Manager into changing the Collective Bargaining Agreement; the Board should think about the negotiating position it is putting their staff in that are currently in the Collective Bargaining Agreement right now; and the Board is stating that those opinions do not matter. He went on to say that it is as if the Board is sending the bargaining members into a gun battle with a knife, a plastic knife at that; he reminded the Board he voted against the \$5 million dollars; he does not like it; he thinks it brings up more issues than what it solves; what this \$900,000 does is it forces the Board to change an agreement; the rest he does not care; it can go to the Emergency Operations Center (EOC) or something else; but this is forcing Mr. Abbate to make a decision on the Board's behalf. He further explained if the motion is contemplated the way it is, he going to vote no just for the reason of the \$900,000; the rest he has no problem with; he disagrees the way other Board members spent it, but it did not force the Board to change any ordinance, contracts, nor did it break Federal law or State statute; this requires a change; and for that one reason he has to vote no.

Chair Pritchett addressed Commissioner Lober by saying if he brought up the other item at the next meeting she would be in agreement with him on it; she inquired if the only difference on this is the CARES funds; and if this was General Fund negotiation it would be different, which is why she is more comfortable with it.

Mr. Abbate stated he wanted to be clear, if the County is audited, what the Board is contemplating will not be CARES dollars; the CARES dollars are going to the Payroll and the benefits in the existing budgets and moving Board dollars into these funds; it will not be CARES dollars at that point; and that is the only way they can go beyond December 30.

Chair Pritchett inquired if this is just one time and if later on if there will be new negotiations for the future.

Mr. Abbate replied that was correct, because all the other dollars the Board has authorized to go into the Public Safety Fund will be dollars that will be brought back to the Board to determine how it wants to spend those dollars.

Chair Pritchett explained that it gives Mr. Abbate a little bit more say in how to get money into the hands of Public Safety; she expressed that getting the funds dispersed to stimulate the economy and getting it to the families so they will go out and spend the money in the community; that is what the Board has been trying to do is to get the CARES funds into the community; and she asserted that Commissioner Lober has the first and second motion and the votes.

Commissioner Smith inquired from Attorney Bentley if she would address Commissioner Tobia's concerns.

Attorney Bentley stated that pursuant to Florida Statute and Case Law, it is true that wages are

a mandatory subject of Collective Bargaining; the current agreement does not address the concept of a one-time payment as proposed; the approach would be to have the Union waive any rights they might have under the contract and operate outside the contract or to do a memorandum of understanding and effectively, amend the contract; and County staff does have to address that issue.

Commissioner Smith questioned if the Union is not willing does the motion become null and void anyways.

Attorney Bentley explained that County staff would have to come back before the Board and say the Union did not agree.

Commissioner Tobia inquired for understanding if the money is coming out of the CARES fund, which has certain regulations, and if the Board is putting it in a Cost Center or another pot of money that does not have those same regulations.

Mr. Abbate explained that the CARES money is currently in a fund; the Board would be taking money from that fund and transferring it into existing budgets that cover the payroll costs and benefits of firefighters and corrections officers; and he stated when that money is put in there, the other money that was already budgeted for is getting pulled out and put into the funds the Board is talking about creating from the proposed motion.

Commissioner Tobia stated he just wanted Mr. Abbate's statement spoken, because it is insane that Scott Ellis, Clerk of Court, asserted that the money is getting washed or laundered by moving it from one pot of money that had certain regulations into another pot of money which is then pulled out so that money can remain in place; and he expressed if one cannot get the sarcastic nature of his comment, he pointed out that he is being extremely sarcastic right now.

Commissioner Zonka stated it is hard to take Commissioner Tobia seriously in his costume.

Commissioner Pritchett remarked that he took his gloves off.

The Board of County Commissioners, in regular session on December 3, 2020, authorized allocating all presently unallocated District 2 CARES funding to the reimburse eligible public safety payroll expenditures and to set-aside resulting unspent dollars into newly created funds and cost centers as outlined:

- authorized the creation of new funds and cost centers, as may be required by individual Commissioners from unspent portion of the funds allocated by said Commissioner for reimbursement of public safety payroll expenditures, into which qualifying expenses may be paid or reimbursed without necessitating further authorization by the Board;
- approved finding payment of costs and expenses related to COVID-19 or any other emergency in the County as qualifying expenses and serving a public benefit and purpose for securing trained personnel to respond to medical emergencies, natural disasters, or major accidents impacting Brevard County residents and that two funds are being requested at this time from unspent portions of the District 2 allocation to the public safety payroll reimbursement expenditures to provide such benefits;
- approved creating a cost center or fund in which District 2 will reimburse \$500,000 in qualifying emergency operations payroll and/or other qualifying expenses, that will have a

restriction associated with it, upon its creation, indicating that, absent a majority vote from the Board on or before July 1, 2021, that withdrawals/disbursements from that cost center or fund may only be used for capital expenses related to the construction and/or improvement of the new Emergency Operations Center, and that cost center or fund created will have that restriction explicitly tied to it;

- approved creating a cost center or fund in which District 2 will reimburse an amount equal to the number of full-time equivalent Brevard County Fire Rescue (BCFR) first responders (e.g. Emergency Medical Technicians' (EMTs, Paramedics, Ocean Rescue Division, Firefighters, and similar) times \$2,000, estimating \$900,000, the reimbursement will be tied to BCFR payroll and/or any other qualifying public safety expenses to which staff wishes it to be tied, this cost center or fund will have a restriction associated with it, upon its creation, indicating that, absent a majority vote from the Board on or before July 1, 2021, that withdrawals/disbursements from that cost center or fund may only be used for paying a one-time lump sum (e.g. hazard pay, bonus, or similar) to BCFR first responders in the amount of \$1,500 per full-time equivalent, prorated for those who work part-time, and any remaining funds may be used for any BCFR expense approved by the Board;

- approved the request of any Commissioner, that the County Attorney Office, BCFR, Budget, Human Resources, Housing and Human Services, and County Manager Office staff are directed to timely identify qualifying expenses for reimbursement purposes and to assist in the creation and funding of such funds or cost centers in cooperation with County Finance, this explicitly contemplates staff timely forwarding proposed allocations to TetraTech for review without annotation or comment intended to negatively influence such review;

- approved any Commissioner who allocated CARES funding for the reimbursement of public safety payroll expenditures, who requests the creation of any such fund or cost center may, after its creation and subsequent to its funding with qualifying expenses, cause to be disbursed, from any such fund or cost center, any funds allocated by said Commissioner for any expense(s) for which said Commissioner attests there exists and/or will exist an articulable public health and/or public safety benefit as described;

- authorized the County Manager to approve and execute all necessary Budget Change Requests;

- authorized allocations when providing reimbursement or payment for qualified expenses, are explicitly recognized as resulting in an articulable public health and/or public safety benefit: Any allocation(s) in which funding is made available to first responders, medical practitioners, or medical entities (including hospitals and pharmacies provided such responders, practitioners, and entities are located within Brevard County). In addition, upon hiring by Brevard County, or any municipality within Brevard County with whom BCFR shares an Auto-Aid Agreement, reimbursement is authorized to the new employee of nursing, paramedic, and EMT training program costs (not to exceed the cost of in-state tuition and fees), for purposes of this section, emergency operations personnel may be viewed as first responders; and

- authorized allocations from the newly created funds or cost centers, which may not have to be committed to particular expenditures on or before December 30, 2020, as the funds contained therein would no longer be CARES Act funds given that its deposit into any such fund or cost center would serve as an allocation, and render the resulting funds deposited, no longer falling under the purview of CARES Act requirements.

Result: APPROVED

Mover: Bryan Lober

Seconded: Curt Smith

Ayes: Pritchett, Tobia, Smith, and Zonka

Nay: Lober

L.5. JOHN TOBIA, COMMISSIONER DISTRICT 3, BOARD REPORT

Commissioner Tobia stated he agreed with Commissioner Lober that the County needs to treat its employees right; he thanked the staff for the incredible work they had done; COVID has created unprecedented stress and burdens on the County's dedicated public servants often while dealing with their own issues, such as personal health, school children, parents, and family; and as Commissioners they notice only a small fraction of the things they have done, especially when it comes to the Coronavirus Aid, Relief, and Economic Security (CARES) Act requirement. He noted that Ian Golden, Health and Human Services Director, has dealt with many applications for assistance under the CARES Act that it filled up an entire office space in his department; Mr. Golden and his team have been incredibly helpful in dealing with constituent issues such as rent, food assistance; and he personally visited his office. He mentioned Kathy Wall, Assistant County Manager, who implemented the Small Business Assistance Program with an extreme amount of experience, attention to detail, and diligence; her spreadsheets are the stuff of legend, perhaps only second to Bethany Iliff, Legislative Aide, in his office, because she uses better colors; he complimented Jill Hayes, Budget Office Director, for dealing with the monumental task of the budget process of almost a billion and one-half dollars; and she has carefully monitored the changes of the CARES Act requirements and diligently have been implementing the will of the Board. He expressed that Eden Bentley, County Attorney, has been shepherding the County through the CARES Act to limit its liability while implementing directives with superb legal advice; he mentioned that Matt Wallace, Public Safety Director, has been extremely helpful in assisting organizations in seeking CARES Act eligibility directly through TetraTech; and he noted that Frank Abbate, County Manager, has brilliantly kept all of this together while at the same time juggling conflicting ideas, opinions, and wishes of the Board. He stated the Most Valuable Player (MVP) would have to be John Denninghoff, Assistant County Manager, who constantly tells him no, so he is probably the most important person out there; and he continued to say that he does greatly appreciate all the work that this \$105 million dollars has put on staff. He motioned that in regards to the \$5 million CARES funding previously allocated to District 3 go to the Public Safety Payroll Reimbursement Account; the County Manager be authorized to expend such funds on non-recurring Public County Safety Payroll or Public Safety needs; and should this motion lead to unintentionally violating County Policy and Contractual Agreements, Ordinance, Charters, State Laws, State Regulations, Federal Laws, Federal Regulations, or Federal Constitution, upon implementation, staff is directed to come back to the Board to seek further direction rather than encumber any civil or criminal liability; for any expenditures in excess of a \$100,000 for such funds, the County manager shall present such items to the Board of County Commissioners for consideration in accordance with the process contained in Brevard County Policy (BC) 21, entitled Budget and Financial Policies and through the Agenda process. He noted that, to be clear, he would not have specified \$100,000; he would have given greater discretion to Mr. Abbate over that, but that was Mr. Abbate's suggestion.

Commissioner Smith seconded the motion.

Commissioner Lober inquired from Mr. Abbate what Commissioner Tobia's motion would allow Mr. Abbate to accomplish that otherwise would be more problematic or more difficult.

Mr. Abbate replied that Commissioner Tobia's motion is telling him that the allocation that Commissioner Tobia is giving is something that he has the ability to do consistent with BCC Policy 21; he would be handling the allocation in the same way that staff would do with anything that is through Budget Change Requests (BCR), it would come to the Board if it is over \$100,000 and get the approval before staff makes the expenditures; he asserted that he thought Commissioner Tobia was willing to give him an unlimited amount to do that, and he told Commissioner Tobia he was very comfortable, because he has the ability to bring forth those items for the Board's consideration. He expressed he is happy to do it within the existing parameters that he already has under what the Board has delegated to him; he appreciates what Commissioner Tobia is offering to do, but he does not see any problem; he does not think he can recall anything he tried to submit to the Board for over \$100,000 that the Board has not approved when he is following the parameters of it being Public Safety; and he is comfortable bringing it back to the Board to get that approved.

The Board of County Commissioners, in regular session on December 3, 2020, authorized the County Manager to expend the \$5 million in CARES Act funding, previously allocated from District 3, on non-recurring County public safety payroll or public safety needs and should this unintentionally lead to violations of County Policy, contractual agreements, Ordinance, Charter, State law and regulation, Federal law and regulation, or Constitution, staff is directed to bring back to the Board to seek further direction rather than to encumber any civil or criminal liability; and directed the County Manager to bring back to the Board for consideration any expenditures in excess of \$100,000 from such fund, in accordance with Policy BCC-21, entitled Budget and Financial Policies, or through the Agenda process.

Result: APPROVED

Mover: John Tobia

Second: Curt Smith

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

L.6. KURT SMITH, COMMISSIONER DISTRICT 4, BOARD REPORT

Commissioner Smith stated that Commissioner Tobia stole a little bit of his thunder, because he also wanted to pat all of the County staff on the back such as, Frank Abbate, County Manager, Eden Bentley, County Attorney, Shannon Wilson, Assistant County Attorney, Kathy Wall, Assistant County Manager, Matt Wallace, Public Safety Director, Jerry Visco, Human Resources Director, Ian Golden, Health and Human Services Director, Jill Hayes, Budget Office Director; and he does not know how they have negotiated all this, because they are doing their own jobs without having to jump into spending and directing and making sure the Board stays out of trouble with the other \$105 million. He thanked all the people that supported raising funds for Real Men Wear Pink to further advance the research and in support of breast cancer.

L.3. RITA PRITCHETT, COMMISSIONER DISTRICT 1, BOARD REPORT

Commissioner Pritchett expressed happy birthday to Don Walker, SGTV Director.

Upon consensus of the Board, the meeting adjourned at 6:15 p.m.

ATTEST:



RACHEL M. SADOFF, CLERK



RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONER
BREVARD COUNTY, FLORIDA

As approved by Board April 20, 2021

H.8. TROPICAL MANOR HOLDINGS, LLC. (KENNETH METCALF) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RU-1-7) AND HIGH DENSITY MULTI-FAMILY RESIDENTIAL (RU-2-30) TO MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL (RU-2-12) WITH A BINDING DEVELOPMENT PLAN (BDP) LIMITED TO A MAXIMUM OF 85 UNITS. (20Z00033) (TAX ACCOUNT 2417034)

Chair Pritchett called for the Public Hearing on a request by Tropical Manor Holdings, LLC. (Kenneth Metcalf) to change the zoning classification from RU-1-7 and RU-2-30, to RU-2-12 with a BDP limited to a maximum of 85 units.

Chair Pritchett indicated that this item was in Commissioner Lober's District, and there is one public comment card; and she inquired if he wanted to hear from him.

Commissioner Lober asked if it was just the applicant.

Chair Pritchett responded yes.

Commissioner Lober explained that based on the fact that there are no more units being added, he is comfortable with it; and he motioned to approve it.

Commissioner Tobia seconded it.

There being no further comments or objections, the Board approved the request by Tropical Manor Holdings, LLC. (Kenneth Metcalf) to change the zoning classification from RU-1-7 and RU-2-30, to RU-2-12 with a BDP limited to a maximum of 85 units.

Result: Approved

Mover: Lober

Second: Tobia

Ayes: Pritchett, Lober, Tobia, Smith, Zonka

Send Final
Minutes to
Kmetcalf@stearnsweaver.com
Kenneth Metcalf
850-519-6165
Sent 4/26/21
-CLD